

SENATE*Tuesday, May 24, 2011*

The Senate met at 11.00 a.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**ARRANGEMENT OF BUSINESS**

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas. Panday): Mr. President, in agreement with the other side and in accordance with Standing Order 24, I beg to move that the Senate proceed to deal with Government Business instead of Private Business.

*Agreed to.***TRAFFICKING IN PERSONS BILL**

[Fourth Day]

Order read for resuming adjourned debate on question [May 03, 2011]:

That the Bill be now read a second time.

Question again proposed.

Mr. President: Those who spoke on May 03, 2011, the mover of the Motion, Sen. The Hon. Brig. John Sandy, Minister of National Security; Sen. Faris Al-Rawi; Sen. Basharat Ali; Sen. The Hon. Emmanuel George; Sen. Terrence Deyalsingh and Sen. Dr. James Armstrong.

Those who spoke on May 17, 2011, were: Sen. David Abdulah; Sen. Shamfa Cudjoe; Sen. Helen Drayton; Sen. Prof. Harold Ramkissoo; Sen. Rabindra Moonan; Sen. Dr. Lester Henry; Sen. Corinne Baptiste-Mc Knight; Sen. Dr. Vidhya Gyan Tota-Maharaj; Sen. Dr. Rolph Balgobin; Sen. The Hon. Rudrawatee Nan Gosine-Ramgoolam; Sen. Barbara Gray-Burke; and Sen. Fitzgerald Hinds.

And on Monday 23, 2011 those who spoke were: Sen. Dr. Wheeler, Sen. The Hon. Dr. Bhoendradatt Tewarie, Sen. P. Beckles-Robinson, Sen. Elton Prescott S.C, and Sen. The Hon. Subhas Panday spoke for 19 minutes. He has 26 minutes of original speaking time left. Senator.

11.05 a.m.

Sen. The Hon. S. Panday: Thank you very much, Mr. President. I do not intend to use all the remaining time, but merely to say that this piece of legislation is one of the many pieces which this Government intends to pass in order to deal with

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the issue of crime. This Government intends to maintain the good name of this country, and we hope that after passing this legislation that we shall perform all the other duties, thereafter, to ensure that we do not remain on the stage two watch list, a stage which we have been brought to by the former regime. As I said, the PNM has us where we are today and, this Government intends to take this country forward.

Mr. President, my colleagues will deal with the comments from most of the other contributions. Sen. Prescott SC, I indicated yesterday that I would endeavour to deal with one or two of your concerns. One of his concerns was about the Attorney General being on the task force. We can see that there has been merit to the Senator's observation and, as such, we are prepared to consider removing the Attorney General from the composition. We are listening. This is a Government which listens, this is a Government that is humble, and this is a Government that takes on all comments as far as possible.

Sen. Prescott SC was concerned as to whom does the counter-trafficking unit report. The Government appreciates the challenge that could occur from the counter-trafficking unit reporting to the officials of the Ministry of National Security, as well as to officials of the task force. We propose, therefore, to remove the function of the task force, whereby, the task force is empowered to monitor and give directions to the counter-trafficking unit. It would appear that the Senator wanted to ensure that there was transparency, also separation of functions, and we have taken that on board.

The other issue is the upgrading of the role of the Director of Public Prosecutions. Mr. President, in no way this administration intends to usurp the constitutional functions of the DPP. We are aware that his functions are enshrined in the Constitution and we intend to abide by the law. Also, concern has been expressed about the wording of clause 12(h). Our intent was clear. Depending on the nature of the case, the counter-trafficking unit will take action. If it is a matter of prosecution, they will refer the matter to the DPP, because we know that the DPP is the sole functionary in instituting criminal charges on behalf of the State. If a matter is for repatriation, they will refer the case to the appropriate governmental agencies. If it is a matter for assistance, they will refer the case to the civil society and the international organizations.

The reason for that position is that, as Sen. Hinds indicated, there may be persons coming here and voluntarily taking part in illegal actions. We are going to separate those persons from the true victims. When we separate those persons from the true victims, then we will embark upon this aforesaid course. We

understand, however, the ambiguity that may have resulted, so we are prepared to ensure that the language is clearer as would be seen from the circulated revisions. That, Mr. President, has been circulated to all Senators.

Mr. President, the fourth issue raised by Sen. Prescott SC, is the issue of minimum and maximum penalties. We are advised that there is a minimum penalty stated in the legislation; the stated minimum sentence operates as a maximum sentence. We have sought to apply the principle by including clause 15, which results in the court having to use the stated penalties as a benchmark and, then they can impose the minimum penalty or a penalty that is higher not lower. That is what is stated in the legislation.

When one looks at the legislation, one will indeed see that it is innovative where you state the minimum sentence, where usually the maximum is stated and, according to the Interpretation Act one can move from a lower level up to the maximum.

The fifth concern of hon. Sen. Prescott SC is that this Bill should be sent to a joint select committee. When he made that statement, however, he indicated that if the Bill had been sent to a joint select committee, he would not have raised these points. When we told him that we will not be going to a joint select committee, he said, "Then I will have to speak for a very long time." It is in that situation, that Sen. Prescott SC raised these observations.

Mr. President, subject to correction, I have been advised that the unrevised *Hansard* has been reviewed and there is no recommendation for this Bill to be referred to a joint select committee. The Government is prepared, as we have said, to make several amendments to the Bill and that is the reason we adjourned this Bill from yesterday to today, to ensure that most of the observations which have been made, which led to amendments, would be taken on board. That is in accordance with the recommendations of the Independent and the Opposition Senators. However, there are no matters that are so contentious that we cannot finalize our deliberations today and, as such, I urge that we bring some closure to this Bill.

Sen. Prescott SC spoke about clause 35, in which he stated that clause 35 does not provide assistance to alleged offenders. One of our obligations under the UN Protocol is to render assistance to victims, and Part VI of the Bill, Senator, treats with various forms of assistance to victims within clause 35, existing in that part. We therefore cannot include an obligation to provide interpretation assistance to an alleged offender be in this part. In any event, due process demands that the

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offender is afforded this type of assistance, so there is no need to state same. As in ordinary matters in which persons have been charged with criminal offences, interpreters are provided for those persons who cannot comprehend or speak the English language. It is done as a matter of course, Senator.

The seventh point that the hon. Senator raised was the victim impact statements at clause 26. Hon Senator, a modification is proposed to this clause and we trust that it meets your approval.

Mr. President, hon. Senators, thank you for this opportunity. [*Desk thumping*]

Sen. Subhas Ramkhelawan: Thank you, Mr. President, for giving me this opportunity to speak on this particular Bill, in short form, the Trafficking in Persons Bill, 2011. I do not propose to go over some of the commentaries that have been made by my learned colleagues and Senators in the Senate, and there have been many. I propose, however, just to touch on two aspects of the Bill which will be clause 24 and clause 29.

Let me start, however, by taking the clear position that trafficking in persons is indeed a heinous act. It is an act that must be abhorrent to all right-thinking citizens, not only here in Trinidad and Tobago, but across the world. Therefore, it is very easy to accept in principle that we must support a Bill of this nature. There is no rhyme and there is no reason to stand here in this Senate to say that we are compelled not to support in terms of policy and in terms of principle, and that will be my stand here today. But as I go forward, I wonder in terms of the effectiveness of the Parliament as a whole, whether we are getting it right in terms of our ratification of international treaties, conventions, protocols.

I ask that question because we seem to be jumping at the last moment, at the very last moment in every single instance, when we are required to anticipate, we are coming in very much at the back end of the equation in terms of being able to ratify or support conventions that we have already agreed to coming out of this Parliament.

Apart from this matter of trafficking, I want to bring to the attention of this Senate and the Parliament, the matter of blacklisting by the Financial Action Task Force. It is a very dangerous situation that is developing where practitioners in the area of finance for counter parties are finding that when they go to firms abroad, firms abroad are saying, "We cannot do business with you because Trinidad and Tobago is now being considered a country that is uncooperative." The facts are there and I can produce certain correspondence that we have seen from counter parties saying, we do have a problem.

Now, this goes to the heart; it goes to the heart of the efficiency and effectiveness, that we, as citizens of this country, can carry out business with other players in other nations. I want to bring it starkly to the attention of my friend and colleague, Sen. Brig. John Sandy, that this is not something that may happen, or that is about to happen, or could happen in the near future; this is something that is happening now, dangerous for us, as a nation as a whole. I will share the information with him because we need to get past this. But it is a symptom in terms of financial regulations and international accession to treaties and so on, that we always seem to be way behind in terms of bringing the necessary legislation to Parliament for passing.

Thankfully, as regards trafficking, we seem to be getting it right, but we have not been getting it right in other instances. And so, I bring to the attention, this matter of the Financial Action Task Force blacklisting, or if not, that formal blacklisting that counter parties are saying that Trinidad and Tobago is uncooperative and they will not do business with firms here. If they say that they are not doing business which is one thing, but they will not give them a wide berth of activity. So I make that point.

11.20 a.m.

The issue of human trafficking has already been discussed; whether it be inbound trafficking which is persons coming into Trinidad and Tobago to work under slave-like conditions, or outbound trafficking where persons from Trinidad and Tobago are ferreted out to work under slavish conditions abroad. I think that the greater issue intuitively is one of inbound trafficking rather than outbound trafficking. As a small nation, I think we are able to pick up fairly easily some of these happenings in terms of what is happening on the outbound side but not much so on the inbound side. Maybe we turn a blind eye to some of the happenings that are taking place around us.

My friend and fellow Senator, Hon. Fazal Karim would probably have heard of places close to him in Central—Bagna Trace—where a great deal of activities take place. I do not know if he had visited to find out—*[Interruption]* No, not to participate. I do not know if, as a diligent Senator, he has visited to find out and to assure himself that this is not taking place, or to ascertain whether these things have to be dealt with in a constituency that happens to be very close to his heart. I would not be so bold as to presume that Sen. The Hon. Fazal Karim, a good and wonderful Muslim, would find himself in any such situation, and I would not want to be called under Standing Order 35(5) or some other

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subsection—[*Interruption*] under Standing Order 35(5), to impute any improper motive, but simply to say that he has a duty to verify whether persons might be suspect of being trafficked or persons may be trafficking in that area.

I think apart from Bagna Trace, there is some place—I think the first name is rich and some precious metal or something like that—which is there on the Chase Village run. [*Interruption*] And I see my friend, Sen. Terrence Deyalsingh seems to be very knowledgeable about that part. I do not know how he has become so knowledgeable because he is actually not from central, he seems—I think he is from south, but be that as it may, Mr. President, I do not want to delve into those matters either literally or figuratively.

I want to come to the heart of my contribution which is two clauses that are somewhat troublesome to me in terms of the policy construct and the execution under this present piece of legislation. I turn your attention, Mr. President, to clause 24 of the Bill, and for the benefit of the national community, I will read part of the Bill and seek explanation from my learned friend on the other side, and it deals with the question of forfeiture of assets, and clause 24(1), in particular, stipulates:

“Where a person has been convicted of the offence of trafficking in persons or trafficking in children, and the Court is satisfied that any property, including but not limited to money, valuables and other movable and immovable property of the person convicted was used or intended to be used or was obtained in the course of the crime or any benefits were gained from the proceeds of the crime, the Court shall order that the property or benefit be forfeited to the State to accrue to the Seized Assets Fund.”

11.25 a.m.

Now, I have asked certain learned persons about this particular clause, because it speaks to property rights, and as you would know, under section 4(a) of our Constitution, it speaks to the right of a person to enjoy property and the right, I quote:

“...not to be deprived thereof”

The punchline is:

“except by due process of law;”

As you know, when there are matters such as this, the question of whether a special majority is needed in the forfeiture of property and in the matter of property rights does come up very often. I want to raise that to the Government’s

side, whether in the drafting of this legislation, there is clarification that this piece of legislation, because it deals with property rights and notwithstanding the Constitution speaks “except by due process of law”, I would like it to be recorded that the Government is clear that this piece of legislation does not require a special majority. I want to be able to vote for this piece of legislation without that concern hanging in my head and without that concern before me. I would like the Government to give some clarity as to clause 24(1) and whether it impinges upon the need for some special majority in the Senate.

I turn now to clause 29, and I would turn specifically to clause 29(4). Again, I really ask this question for purposes of clarification for the national community and indeed for myself. Clause 29(4) speaks to a matter of negative resolution by the Parliament, but negative resolution for rules of the court. I was not clear about it, so I will read it into the records and then ask the question. Under clause 29(4), it stipulates:

“The Rules Committee of the Supreme Court may, subject to negative resolution...make rules with respect to the making of an order for restitution...”

This has to do with compensation of victims.

“...an order for restitution under subsection (1) and any other procedure for giving effect to the Order.”

I want it to be clear in my mind what was the nexus between the rules of the Supreme Court and the need for negative resolution by this Parliament. I certainly would like the Government, in giving the explanation, to clarify in my mind this matter of negative resolution. I, of course, feel very uncomfortable even with negative resolution, for matters in the courts, when rules can be made and the rules can pass like a “tief” in the night; if not a “tief” in the night maybe some euphemism, but the rules can slip through the system without the oversight and the review of the Parliament which makes the laws, not the rules. I give way to my friend.

Sen. Panday: Thank you very much, Senator. As you are aware, the Rules Committee which makes the Rules of the Supreme Court, consists of the Chief Justice, justices and the Attorney General; they make the rules. When they make the rules, the rules come to the Parliament as a negative resolution. What happens is that, as we know, the regulations will be subordinate legislation and if one looks at the section about which you speak, it is really about giving a benefit to someone. That really would not create any great problem if you lay it as a negative resolution. You are not taking away rights. You are bestowing benefits.

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In any event, when it is laid, as I said last night, it becomes law. To say that it would slip through like a “thief” in the night, it will be on the Order Paper. It would be there for some time. It will be there for all of us to see and you have not one day, but 40 days in which you can file a Motion to have it debated. So, to say that it will pass like a thief in the night, is to really say that all of us will be sleeping at a particular time. Thank you.

Sen. S. Ramkhelawan: Thank you, through you, Mr. President, for that explanation, but I will not retract my statement that it passes through like a thief in the night, because I know of no matter which is subject to negative resolution in my three or four years here in this Senate—I know of no matter that has been raised that went through the Parliament via negative resolution. I know of no matter, and I stand corrected, if you wish to correct me on that score.

Sen. Panday: Do you remember when Act No. 6 of 2000 was passed for the appointment of a Commissioner of Police? Act No. 6 of 2000, you would remember, was an amendment to the Constitution and there were two sets of regulations which had to be passed. One was, determining the criteria for the appointment of a commissioner of police and the 2006—[*Interruption*] You were not there, okay. Then, there was another one dealing with the process. If one looks at the *Hansard*, one will see that the regulations which dealt with the criteria for the appointment of a commissioner of police was by negative resolution and the criteria for the actual process was by affirmative resolution; Act No. 6 of 2006, an Act to amend the Constitution.

Sen. S. Ramkhelawan: So, Mr. President, I still do not stand corrected because in the four years I have been here, I have not seen a matter requiring negative resolution come through the Senate. I am glad that my learned friend, Sen. Panday has clarified this matter, so that I can speak very clearly that I have not seen it in this Senate. Maybe he should clarify as well, how many matters of negative resolution have come through the Parliament since 2007, over the past four years. I may put it as a question later so that he could clarify that for me.

Mr. President, the question of negative resolution is something—especially when it is related to the court and certain discretions and capabilities are given to the court, might be troubling. There is a balance between effect—there is a trade-off that is necessary to be more effective in terms of the whole question of justice and so on. I am prepared to accept what my colleague and namesake Sen. The Hon. Panday has said for that matter. I await, when we get to committee stage, the matter with regard to clause 24, as to whether or not there is a need for a special majority in the context of property rights.

I also do not agree with him with regard to some of the matters under clause 29, because he said that the court is about giving a benefit, but the court is also about taking away property if you look at subclause (1) and who is going to pay the piper? It is the accused or the convicted person.

These are the two points I want to make, and once they are properly clarified when we go into committee stage I would be more than happy to give my support, without reservation, to this piece of legislation.

Thank you, Mr. President.

Sen. Danny Maharaj: Thank you very much, Mr. President. It is in fact with great honour and a sense of pride that I rise today, on May 24, 2011, one year after the victory of the People's Partnership party that formed the Government. I stand proud. I stand convinced that we are on a path towards progress and I say this country has a great leader in the Prime Minister, the Hon. Kamla Persad-Bissessar. [*Desk thumping*]

Mr. President, we must see the movement of this Parliament, the movement, in terms of the direction and progress of this country, as part of the wider vision that this Government now, together with the country as a whole and with its people, has brought forward to lead this country away from the cliff that the People's National Movement which had our country on the verge of going over that precipice into those rocky waters. This country has been saved and we are veering away from that cliff and we are moving now towards a real path of prosperity.

Underpinning this Bill, the Trafficking in Persons Bill, 2011, is what I believe to be a core human right, a privilege; something, when viewed through the terrain of history, many lives have been lost over and that is the concept of freedom. Many battles have been fought and many lives lost. As we lay this Bill today, with that fundamental underpinning of freedom that we seek to preserve for the citizens of Trinidad and Tobago and by extension, working without international partners, the citizens and the human occupants of our globe, I say so too, a great battle was fought on May 24, 2010 in pursuit of that freedom; that freedom away from suppression, oppression and a dictatorial system of governance.

Mr. President, we must understand that this Bill in itself cannot solve the ills of trafficking in persons, for it must be part of a wider crime-fighting package; a package that must be so well connected, so well interwoven and so systemically correct and institutionally strong, that only when we have these elements coming together we can really fight against the organized criminal elements that have

been in operation for a very long time in this country, who have specialized skills, who have mastered their arts and who attempt to prey on the righteous and those that abide by the rule of law. As such, we must take this Bill, in conjunction with the other pieces of legislation that would work together to really combat crime in this country and fight against that social monster that the citizens of this country have as their number one priority, that is crime, and this Government is committed in the fight against crime.

Our Minister of National Security has shown that commitment in the fight against crime. The Minister in the Ministry of National Security has shown that commitment in the fight against crime and our Prime Minister has placed this as a fundamental focus of this Government in the fight against crime.

11.40 a.m.

This is why we have cooperated so sincerely and so genuinely with Members of the Opposition and Members of the Independent Bench to really work together to solve this widespread and entrenched issue of criminal activity in this country, because we are saying that the good citizens of this country, it is imperative that they have that fundamental right to carry out those acts of freedom: freedom to walk without fear in the streets of Trinidad and Tobago, freedom to park anywhere and feel comfortable being parked anywhere. Freedom to do the simple things—to go to some virgin part of Trinidad and Tobago and walk on our beautiful shores, not being afraid if one would be robbed, or if one's girlfriend would be raped or victimized. We are here to ensure that those freedoms are fully realized by the citizens of Trinidad and Tobago, as such, Mr. President, this Government has embarked on a very ambitious crime-fighting plan that cannot be based and is not based on pure legislation. It must also be linked with the enforcement, the detection of crime, and also the conviction of those who are apprehended and go through the judicial process to be convicted, and hopefully rehabilitated back into society.

So with that entire process stream, if there are any deficiencies in that process stream, the system will falter. And this is why as part of our aim to detect crime, because human trafficking and trafficking in persons, and passing this Bill is really to meet our international obligations. While it may be good on paper, if we do not put the detection systems in place and ensure strong prosecution, then it would really be injustice. I am saying that this is why when you go along the highway and you see the construction works taking place, and the 13 surveillance bays being built, you are talking about a serious Minister of National Security, [*Desk thumping*] you are talking about a People's Partnership Government which is bent on fighting crime in this country, Trinidad and Tobago.

If you look further we saw that we passed the Interception of Communications Bill, 2010, and this is a critical Bill that relates to the Trafficking in Persons Bill, 2011, because it gives legitimacy to the process of intercepting information that may relate to criminal activity directly revolving around human trafficking, that can be adduced before a court of law, and as such, aid in the conviction and prosecution of those who are engaged in this very brutal and very inhumane type of criminal endeavour.

Mr. President, we must understand that human trafficking as the conversation in the Senate would have revealed, is very complex, complicated, diverse and far-reaching in terms of the global network, international systems that are set up to move individuals that are subjected to this crime.

11.45 a.m.

What the Bill always does is give the Government of Trinidad and Tobago an extra armour, an extra weapon to go after the criminals. Those that are involved in human trafficking may also be involved in other types of crime, such as the movement of weapons and drugs. We need to understand that the criminal organization may not just have one type of operation taking place. Their operations might be multifaceted, so by having and utilizing this Bill, if we convict, prosecute and put away a human trafficker, we may also be putting away a drug trafficker or a weapons dealer. It is an extra weapon in the fight against crime in this country.

We have known of cases internationally where drug lords and mafia kings were sent away for tax evasion. So we are strengthening the vehicles, the institutions and the legislation that give the law reform system greater teeth to bite into the criminal element. We are here to take them out and we mean business.

Furthermore, what struck me—and I would say not surprisingly—about the contributions of those on the Opposition Benches is that they always seem so skewed, so misdirected and so selective in their extraction of information for presentation in this Senate. There is a rumour going around now; there is a new disease in town and it is called the Fitzgerald Hinds syndrome. It is where students, when they are given a question or presentation to make, are so irrelevant that they fail to answer the question being asked or the presentation they have to give. It is the Fitzgerald Hinds syndrome. It is a very serious thing and I appeal to Sen. Al-Rawi probably to assess himself. I notice that after a good start in the Senate, his last couple contributions, I believe he may be suffering from the syndrome.

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We became signatories to the protocol on this Trafficking in Persons Bill on September 16, 2001 and it was ratified on December 06, 2007. We are in 2011, and we are one year into Government. So, for the last 10 years, what was really taking place in this country? And they come to this Parliament, this Senate, and make what I define as noise about this Government having this legislation placed last minute. For 10 years they have been here and they are saying that so much of our legislation is coming last minute.

We have been performing very highly. If we consider the number of Bills being passed in this Senate within one year, I say that we are one of the most expeditious governments ever to serve this nation. Ten years! I wonder if they ran out of ink. I wonder if their computers had a malfunction, or they could not run this legislation as a project through UDeCott, that is why for 10 years we had absolutely nothing doing in relation to this and they now come to this Senate with their suits steam pressed, smiles on their faces, bobbing up and down and asking what are we doing. I think that is the height of hypocrisy.

Mr. President, I would like to quote from the *Guardian* article of Saturday, December 20, 2008. "Warning! There are human traffickers out there." The last two paragraphs it was cited:

"But a US Department of State report of 2007 said virtually nothing had been done by the T&T Government to combat human trafficking.

"The Government has not designated a specific agency to combat trafficking or sponsored any public awareness campaigns to address the issue during the year 2007."

Not me; I did not know say that.

A US State Department Report on Trafficking in Persons, 2009, says:

"Additional reporting suggests that men from China and Guyana may be trafficked to Trinidad and Tobago for labor exploitation in construction and other sectors."

And there were recommendations to the Trinidad and Tobago Government. Mr. President, the US State Department Report on Trafficking in Persons 2010, within this report, under "Prosecution", it is said:

"...the government made no discernable progress in its prosecution and punishment of sex and labor trafficking offenders during the reporting period.

The lack of comprehensive legislation that would make human trafficking a crime and would ensure protection of trafficking victims was a significant limitation in the Government's ability to prosecute trafficking offenders and address human trafficking in Trinidad and Tobago during the reporting period."

Under protection, the Government made minimal progress in protecting victims during the reporting period. Again, in the report, it says:

“The government did not provide foreign trafficking victims with legal alternatives to their removal to countries where they may face hardship or retribution.”

Mr. President, it is clear that Members of the Opposition have so tailored their contributions, probably involuntarily because I do not want to impute improper motives; having selected not to give the true picture of the incompetent, inefficient and ineffective system of governance that ruled this country from 2001—2010. It is clear.

We are here to listen to reasonable, fair, appropriate, substantial and relevant contributions to intake, assimilate, integrate into forming good legislation for the benefit of Trinidad and Tobago. Once that is said, we will take it on board; but they come and they talk about bulldozing this and that. They talk about new party symbol. If I wanted to engage in that type of behaviour, I would have talked about the rumour that the PNM has a new mascot and it is a Rottweiler with a pink dress; but I do not want to get into those things because this Senate is not about having those kinds of conversations. This Senate is about intelligent conversation. This Senate is about good governance. This Government is about good governance. This Cabinet is about good governance. The Prime Minister of Trinidad and Tobago is about good governance.

I am saying here today that we are doing a good job. I am saying that better can always be done. This is a five-party coalition Government and our critics said that we would not last three months, and we are stronger than ever and we are building momentum and will solve the issues that face the common citizens of Trinidad and Tobago—better roads, better bridges, better health care systems. We are going to spark up this economy. We are going to ensure that there are opportunities for upward mobility; there are more opportunities for education and tertiary development; all the essential ingredients in the pursuance of that dream of happiness and freedom to reach for the skies and dream the unbelievable dream.

We are here to stay, Mr. President. I thank you very much.

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Thank you, Mr. President. This honourable Senate sat on May 03, May 17, as well as yesterday and 22 Senators supported the Government’s call to action in relation to the Trafficking in Persons Bill before us. They were excellent contributions, worthy contributions, which assisted us and continue to assist us in legislating in this honourable Senate.

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This is one of the things that I enjoy in this Senate. There is a kind of collaboration and camaraderie that exists that makes this House worthy of its name. Most of our contributors—and I emphasize most—are in sync with what we are trying to do for our people in Trinidad and Tobago.

I am grateful for the opportunity to respond to most of the salient recommendations made by our friends on the opposite side, from the Opposition Bench as well as the Independent Bench.

12 noon

Legislation is late and ownership of the Bill was raised by my dear friend Sen. Al-Rawi. Mr. President, Senators of the other side, in this Senate and the other place, have repeatedly referred to the legislation being late and have even sought to claim ownership of this Bill. I remain perplexed at this accusation of delay which has been levelled at the Government with regard to this Bill, especially, as I have been consistent in my contributions in both Houses as it pertains to the chronology of events that informed the drafting of this Bill. [*Desk thumping*]

The previous administration, Mr. President, ratified the critical governing convention and equally significant protocols in 2007. To my mind, ratification is not to be given lip service, it should signal that we are ready to initiate the process to establish the requisite legislative and administrative mechanisms that would give effect to this ratification.

We on this side, acknowledge that work was done over the last few years by the previous administration. However, it could have been done with a greater degree of alacrity and purpose. Abolition of 21st Century slavery should have been prioritized. That is the bottom line. It is unkind, therefore, for my friends on the other side to defend their complacency yet criticize the Government for bringing legislation just a little more than six month after Cabinet approved the overarching policy. [*Desk thumping*] Yes, Mr. President, six months!

In most instances, policy must inform the drafting of legislation. And the policy was, in fact, approved on September 22, 2010 with the instructions given to draft. It is my understanding that the first draft of the Bill was ready by December 2010, that is, within three months of a Cabinet approval. After intense meetings among stakeholders leading to several redrafts, the Bill was placed on the agenda of the Legislative Review Committee in February 2011, yet again, this Bill was critiqued at several sessions, and what we have here is the result of those discussions.

This clearly counters the Opposition's assertion that this Bill was drafted by the PNM government. Mr. President, records do not attest to this assertion. [*Desk thumping*]

Sen. Ramlogan: That is right. Set the record straight.

Sen. The Hon. Brig. J. Sandy: Yes, there is the Caricom model legislation which was drafted during the tenure of the previous administration, following involvement of government officials, however, no instructions were given to draft domestic legislation until Cabinet conveyed its approval in September 2010.

Mr. President, I hope that this honourable Senate now stands elucidated on this issue. But even as I say that, Mr. President, who did what, is of little import, in the context of this troubling situation. I stress that this legislation is a Trinidad and Tobago initiative and is for the benefit of all mankind. We can all proudly assume ownership of this legislation.

We are told that the Opposition was not told that the legislation was being debated on that day. Sen. Al-Rawi's comment has been noted. However, I wish to point out that notwithstanding notice of a scheduled debate, this Bill was posted on the Parliament website last month. So the Opposition was not ignorant of the existence of the Bill. Further, by its own admission, the Opposition had prior knowledge that immediate attention was required on account of our TIPS Status in 2009. Finally, the Opposition would have been privy to the passage of the Bill in the Lower House, and would have known that the next stage of the debate would have been in this honourable Senate. [*Crosstalk*]

Sen. Ramlogan: Where is Sen. Al-Rawi?

Sen. The Hon. Brig. J. Sandy: Non-inclusion of smuggling. Mr. President, the Government recognizes that the issue of smuggling is another migratory issue that requires attention. The approved policy framework does not speak to the necessity to give effect to the migrant smuggling protocol, however, it was decided that smuggling can be the subject of another piece of legislation, so that sole focus could be placed on the trafficking protocol at this time.

Mr. President, my colleagues on the other side identified that the major distinction between trafficking in persons and smuggling, is the issue of consent, and they are correct. Trafficked victims do not consent to be trafficked and exploited, however, people voluntarily agree to be smuggled and it is because of this distinction it is more feasible to have separate legislation. Trafficking affects human dignity and is a crime against the individual. But smuggling is a crime

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against the State, as breaches are usually with regard to illegal entry. And we know of the cases, Mr. President, where people are lured into false belief that they are being taken to somewhere for a better life or for better jobs, they do that voluntarily. It is a different issue.

12.05 p.m.

Only recently, we heard at the Mexican-American border, there were a number of persons from Latin America, and they were going there for a better life. We would refer to that as “smuggling of persons” as opposed to “trafficking”.

Mr. President, we maintain that smuggling is more of a border issue and, accordingly, the Immigration Act is the governing legislation on the issue of entry into Trinidad and Tobago. The Government is, in fact, reviewing a draft immigration policy, as we speak, and once finalized, the Immigration Act will be amended to treat with issues of migrant smuggling.

They refer to the use of Ministers to create policy; the national task force. Mr. President, had the Members of the Opposite side listened to our contributions, they would have understood why we have chosen to include Ministers on the task force.

Mr. President, this Bill treats with the horrendous act of slavery. We, therefore, see it as our moral and civil obligation to be involved in the policy development process. At the end of the day, it is the Ministers who approve policy. This clause was not thrown into this Bill. Cabinet approved the recommendation that was embodied in the policy framework, and it was also supported by the Legislative Review Committee. This Government wants the highest level of representation on this committee, and although a Minister’s current portfolio is, indeed, demanding we commit to having this clause to playing an integral role in deliberations. This is not the first time that this is being done. The United States of America as well as Guyana, carry similar provisions in their legislation.

Mr. President, in addition to not listening to the contributions, my dear friend, Sen. Al-Rawi did not read the Bill in a comprehensive manner.

Sen. Ramlogan: Where is Sen. Al-Rawi? He disrespected the Parliament.

Sen. The Hon. Brig. J. Sandy: My friend had submitted that development and implementation of policy should be in the hands of those who are involved in the business of policing and other applications of coercive powers of arrest.

Mr. President, clause 7(2) reflects that Ministers are not the only persons on the national task force. There are other persons who must be there to guide and drive the process, and the clause references law enforcement and immigration officials, among others. It is clear that senior public officials and persons involved in the actual operations are included. Rest assured, therefore, that all appropriate persons will be on this task force.

Mr. President, my dear friend was incorrect when he said that Ministers are only held accountable once every five years. Are all Ministers not accountable to the people of Trinidad and Tobago on a daily basis? We are subject to public critique and parliamentary scrutiny as exists here so very often, which includes annual reporting and even being summoned before a joint select committee. Further, when there are criminal components, the National Security Council operates as an oversight.

As for disciplining Ministers, it is an accepted principle that wherever there is a power to appoint, there is an implied power to remove. Surely, then, a Minister can be relieved of his duties on the national task force. My friend, therefore, has expressed unwarranted fears about accountability, especially as this Government has demonstrated its steadfastness with respect to taking decisive action as necessary.

My dear friend also spoke about entry, search and seizure under clause 13. The hon. Senator suggested that we adopt a form which would allow us to stop and search. Mr. President, this is already enshrined within the Police Act. So, it is respectfully submitted that there is no need; there is no requirement to stipulate this power in this legislation.

Mr. President, the Government accepts the recommendation with respect to inspection under warrant and has circulated its suggested revision for consideration at the committee stage.

Mr. President, both Sen. Al-Rawi and Sen. Beckles-Robinson are of the view that the definition of “organized criminal groups” should be compared with the one in the Anti-Gang Bill. First of all, for the benefit of Sen. Beckles-Robinson, there is a definition—she indicated that she had not seen it—of “organized criminal group” in clause 3 of the Bill. I would like to point out that at one of our Legislative Review Committee meetings, the hon. Attorney General did ask for us to review the definition of “gang” in the Anti-Gang Bill. Action was taken, and the definition before us is in alignment with the one for gang in the Anti-Gang Bill.

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Sen. Al-Rawi also suggested that the additional sentence proposed should be mandatory, and not discretionary as it is set out in a Bill, where a convict had sexual intercourse with someone under 12 years of age. I wish to remind this honourable Senate that for some penalties, we have insisted on a minimum penalty and the Judiciary will be bound by these. As imposing additional sentences is not common in our jurisdiction, we needed to afford the Judiciary some measure of discretion to take into account the sentences already proposed and all relevant circumstances. We have full confidence that the Judiciary will promote justice and send the required message to offenders when sentencing, but will defer to changing the word “may” to “shall” as suggested.

My colleague, Sen. Deyalsingh, asked the question whether this is the correct legislation. The hon. Senator queried whether we have drafted the correct legislation, and that is premised on the fact that we do not have conclusive information to determine whether we are a country of origin also known as “source country”, an in transit country or a destination country. I wish to state that we cannot wait to determine the status of our country in the trafficking process before finalizing any legislation, but I would join with the Senator when he said one person trafficked is too many. I totally agree with him.

Accordingly, the Bill is comprehensive enough to treat with the legal issues of human trafficking no matter our status, and when the national task force and counter-trafficking unit come into being, the requisite research would be conducted and action taken to eliminate vulnerabilities.

The issue of smuggling was addressed in the submission pertaining to Sen. Al-Rawi, but it was noted that Sen. Deyalsingh agrees that different legislation is required.

The tier status: Sen. Deyalsingh mentioned that the tiering speaks of two things: robustness of the legislative framework and the size of our human trafficking problem. Mr. President, I have been informed that the country’s placement on the tier system is based more on the extent of the Government’s action to combat trafficking in persons than it is on the size of the problem, hence the actions that this Government is taking.

Further, the recommendations of the State Department in its 2010 report listed in order of importance, were as follows:

- (1) Draft and enact legislation that prohibits all forms of human trafficking and formalizes victim protection measures.

- (2) Encourage victim's assistance in the investigation and prosecution of trafficking offences.
- (3) Develop formal procedures to guide officials in identifying trafficking victims and referring them to available services.
- (4) Vigorously investigate and prosecute trafficking offences and convict and sentence trafficking offenders.
- (5) Intensify efforts to ensure that victims receive access to appropriate victim services.
- (6) Implement a national awareness campaign that addresses all forms of trafficking.

All of these are identified in our draft action plan.

Sen. Deyalsingh: Mr. President, through you, the draft action plan; as you know in the Palermo Convention, there are three protocols: the first one deals with human trafficking which we are dealing with now; the second protocol deals with migrant smuggling and the third protocol deals with the illegal or the manufacture of small firearms, something like that. In the draft that you are speaking about, could you indicate if there is some schedule to bring legislation to deal with the second and third protocols that I have just mentioned? Thank you.
[Crosstalk]

Sen. The Hon. Brig. J. Sandy: Apart from due consideration, I can even tell the Senator more, and that is they are being considered now up at the LRC, because it does not come in isolation.

Sen. Ramlogan: We are one step ahead as usual.

Sen. The Hon. Brig. J. Sandy: The contribution of the learned Sen. Basharat Ali—always a sober contribution—spoke of the functions of the task force and said it should be re-delineated. The hon. Senator has circulated suggested text, and we agree to some components as noted from the circulated list of amendments to be approved during the committee stage.

Sen. Dr. Armstrong, referring to the victims of trafficking, expressed concern that a great deal of emphasis has been placed on trafficking for prostitution, but there is a phenomenon that is developing with regard to labour exploitation. Mr.

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President, I would like to remind this honourable House that the purpose of trafficking is exploitation, and we have included a very broad definition which encompasses situations such as:

- keeping a person in a state of slavery;
- subjecting a person to practices similar to slavery;
- compelling and causing a person to provide forced labour or services;
- keeping a person in a state of servitude, including domestic servitude; and
- deriving a benefit through the abuse of another person which, of course, includes that element of prostitution.

Accordingly, if persons are trafficked for the purpose of exploitation, the Bill provides the necessary protection. If, however, the hon. Senator is speaking about exploitation and false promises, closer attention would have to be placed on labour and, perhaps, migration practices as well as laws.

With respect to the social benefits that may be accessed by victims, Sen. Dr. Armstrong touched on a very fundamental issue, the financial cost to be expended. Mr. President, this Government is acutely aware of its constraints, and the Bill is worded in such a way that any social benefit that may be provided must be to the extent that is determined by the Minister to whom the responsibility for social development has been assigned. Additionally, a person has to be identified as a victim before such benefits could be assessed. In this regard, the role of civil society and NGOs could be of great assistance.

The contribution of my dear friend, Sen. Shamfa Cudjoe: She spoke of the eradication of brothels and the controlling of the problem. Indeed, this Government, through the Trinidad and Tobago Police Service, intelligent agencies and entities being established under this legislation will be paying greater attention to those establishments that surreptitiously operate as brothels. We must play a greater part in removing the environment that fosters exploitation and illegal activity. Of course, in order to control the problem, we must encourage men and women to desist from engaging in activities that are illegal and dangerous but, of course, Mr. President, we are well aware that the trade of prostitution is usually reported as the world's oldest profession. So this is something that could be difficult to eradicate. Also it is anticipated that the public awareness programmes amongst other initiatives will definitely be geared towards prevention and prosecution, which will signal to the local and international community that we are addressing as well as forestalling the problem.

12.20 p.m.

The Senator also spoke about improving the witness protection programmes and providing legal aid to victims. Mr. President, these two issues now fall under the remit of the Ministry of Justice, and as the hon. Minister is a member of the Task Force, he will be able to make all relevant decisions that would strengthen the criminal justice system, not just for trafficked victims, but for all citizens of Trinidad and Tobago.

With respect to conducting public awareness campaigns, as I indicated before, the hon. Member is asked to note that provision has been made for this, as well as periodic evaluation thereof.

The contribution by Sen. Drayton is always interesting and carries worthy observations. The Senator spoke of the penalty being too low for obstructing police officers and other persons when a warrant is being executed. In response, the Government took into account section 59 of the Police Service Act, which has a similar provision but the penalty was actually lower—a fine of \$10,000 and imprisonment for two years. We sought to increase that by saying the penalty will be \$15,000, and imprisonment for three years. We think that this would be an appropriate deterrent whilst maintaining a measure of harmony with the Police Service Act.

The Senator also said that the penalty should be higher with respect to the Kidnapping Act. The penalties are indeed higher, especially as we have sought to impose minimum penalties. There is a fixed maximum penalty in the Kidnapping Act, which means that the judge has a discretion to impose a punishment that is even less than what is set out in that legislation. With this trafficking in persons legislation, we used the Kidnapping Act as a benchmark, however, we have stated that for the trafficking offences, the judge cannot impose a penalty lower than what we have set out. The court has no choice but to impose the stated penalty or higher, which will result in the imposition or sentences which will be higher than those set out in the Kidnapping Act.

Inclusion of the Ministry of Health in the Children's Authority. The Government sees the merit in making these inclusions and this amendment will be circulated for approval during committee stage.

Sen. Drayton also observed that the Minister of National Security should not be a member of the Task Force if he is receiving reports that he would have to table in Parliament. Mr. President, firstly, as this is a transnational criminal issue, the Minister of National Security has a critical role to play in ensuring that

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international obligations are fulfilled. Secondly, the Minister of National Security will not be supervising himself; quarterly and annual reports are submitted to the National Task Force by the Counter-Trafficking Unit, however, the Minister is not laying these reports in Parliament. Clause 45 of the Bill, outlines the components of the annual report, so the Minister would need to analyse all of the reports of the Counter-Trafficking Unit, and extract those salient and factual matters that must inform the annual report. There is, therefore, no conflict of interest as is alluded to by the hon. Senator.

Additionally, Sen. Baptiste-Mc Knight referred to the obligation to facilitate employment and not provide employment as indicated in clause 6(1)(b). I am advised that the obligation under the protocol is to provide appropriate employment, and this is reflected in the Bill. She also spoke of development of plans in various languages being onerous. We concur with the Senator's observation and the necessary amendment will be proposed.

12.25 p.m.

The Senator also observed that clause 6(1)(h) is repeated. We are prepared to delete this clause, but make particular reference to the development of policies in earlier reference to collaboration with civil society.

Another observation by Sen. Baptiste-Mc Knight was the need for definition of "public corruption" in clause 6(1)(i). The drafters have circulated an amendment, in this regard, for approval by the committee.

The Senator observed that the task force should not review only the public awareness programmes, but should also review the training programmes. Again, we concur and, in fact, we propose to amend the provision to reflect that all programmes developed in pursuance of this legislation are subject to evaluation and review.

Mr. President, Sen. Baptiste-Mc Knight also referred to the Minister of Planning, Economic and Social Restructuring and Gender Affairs and the Minister of Finance, as well as the Children's Authority being included as members of the task force. We agree to these inclusions.

Finally, she observed that there should be an indication of what the authorized officers were required to do at clause 11. In this regard, a revised clause is to be circulated.

Mr. President, yesterday afternoon we were granted the experience and expertise of our learned State Counsel, with respect to some of the observations made. While sitting here, going through the document and listening to him, I

could only keep shaking my head, because of the worthy contribution made by Sen. Prescott SC. [*Desk thumping*] Of course, they were dealt with by Sen. The Hon. Panday this morning.

My dear friend, Sen. Ramkhelawan, started his contribution speaking about the Financial Action Task Force. I would like to reiterate that the situation in which Trinidad and Tobago has found itself, is one that we inherited. At present, we are working assiduously and feverishly to get out of that status. He also spoke about the negative resolution, and that was discussed by Sen. The Hon. Panday as well.

I would like to refer Sen. Ramkhelawan's observation in clause 24(1), but draw his attention to 24(3). I am advised that forfeiture is in accordance with the Proceeds of Crime Act, which was passed with a special majority and, as such, 24(1) does not require a special majority.

Mr. President, I thank you again for the opportunity to move the Trafficking in Persons Bill through this honourable Senate. It is a significant legislative initiative that will impact several lives in the years to come. When this nation commences the implementation of this Bill, I would like to caution, however, that we must not confuse exploitation with trafficking. Exploitation is a significant component of trafficking; however, there are other elements that must be proven before we can declare there is a trafficking incident. For the sake of clarity and emphasis I would wish to recall three words: action, means and purpose. [*Interruption*]

Sen. Cudjoe: Hon. Minister, if it is convenient would you please give way? I want to ask a quick question. I thank you for giving way.

You just said that the FATF position was inherited. I want to note that the tier placing is not inherited; it is therefore based on the action or inaction of the Government over the reporting period. You said that rightly earlier, that it was based on the action or inaction of the Government.

The reporting period is between May of 2010 and May 2011 and, of course, the report is issued in June of each year. So we are expecting a trafficking in persons report from the US Department of State in June 2011. Before you wind up, because I recognize you are winding up, my question is: What has been the action of this Government between May 2010 and May 2011 to prevent us from being placed on a Tier 2 or Tier 3 Watch List?

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The reason we have come to the Parliament to debate this at this time, is to prevent us from being placed on the Tier 2 Watch List or Tier 3. [*Crosstalk*] As you said before, this is based on the action. I want to know what actions has the Government taken between May 2010 and 2011.

Thank you, Mr. President. [*Crosstalk*]

Sen. Ramlogan: We are dealing with human trafficking, you know!

Sen. The Hon. Brig. J. Sandy: Is your question on FATF or on this Bill?

Sen. Cudjoe: My question is on this Bill, because the Trafficking in Persons Report 2011 is going to be issued in June 2011, which is next month. It is based on the performance and actions of the Government. Drafting and presenting this legislation is one of the five recommendations from the Trafficking in Persons Report and the committee that treats with that. So what have been the actions of this Government from May 2010 to May 2011, which is the reporting period for the Trafficking in Persons Report? What has been the action between that time? We are going to be placed into a tier—[*Interruption*]

Sen. Ramlogan: “Yuh go take the whole hour now.”

Sen. Cudjoe:—depending on our action within that time. Do you understand what I am saying?

Sen. The Hon. Brig. J. Sandy: Mr. President, I will simply say to my dear colleague that this is the initiation of some of that action to which she spoke, an action that was not taken by the previous administration. [*Crosstalk*] [*Desk thumping*]

Sen. Ramlogan: You outlined all the steps already, including this legislation. “We draft it and bring it.”

Sen. The Hon. Brig. J. Sandy: The action involves recruitment, harbouring, transfer, transporting or receiving. The means involves coercion, deception, fraud, force, et cetera.

The People’s Partnership, with the input of the Opposition and that of civil society as well as other governments, shall ensure that awareness is at an optimum. The innocent are protected and assisted. The perpetrators are prosecuted. Collectively, we represent the solution to curtailing the demand for and the supply of humans to be traded. I take this opportunity to thank all Senators for their overwhelming support.

I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Question committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 2 ordered to stand part of the Bill.

Clause 3.

Question proposed, That clause 3 stand part of the Bill.

Sen. Panday: Mr. Chairman, I beg to move that clause 3 be amended as follows:

Insert in the appropriate alphabetical sequence the following definition:

““premises” include any building, room, vessel, vehicle, aircraft, enclosure or place;”

Mr. Chairman: Hon. Senators, the amendment for consideration is the inclusion of an additional defined term in the alphabetical order appearing after the definition of “practices similar to slavery”.

Sen. Al-Rawi: Mr. Chairman, no objection per se. Could I kindly request, has there been a further circulation of the type?

Sen. Panday: Yes, Sir. I apologize to you. We withdraw all the previous amendments and we will go with the one that was circulated this morning.

Sen. Al-Rawi: Should it please you, just for clarification, I do have a copy of the document circulated this morning, but the first amendment proposed relates to the definition of “premises”.

Sen. Panday: I think you probably have the wrong one. [*Crosstalk*]

Sen. Ramlogan: No, that is correct.

Sen. Beckles: I have the same amendment.

Mr. Chairman: That is under consideration right now.

Sen. Al-Rawi: Thank you, I just wanted to be sure that I was literally on the same page. Thank you, hon. Leader. I have the copy from my colleague.

Sen. Panday: I apologize to you.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Sen. Al-Rawi: Mr. Chairman, I know we are anxious to move quickly, but if you could just allow us a moment to get there. This is just a request, hon. Leader of Government Business. I am grateful for the amendment for “premises”, as we had suggested.

Sen. Panday: Be aware that is in accordance with current legislation with other pieces like the—

Sen. Al-Rawi: Yes, that is the context in which we had proposed the amendment in our contributions. I thank you. I am just wondering whether any thought was given to a tightening of the definition for “organized criminal group”, because part of the recommendations we had offered for consideration was along the lines of the anti-gang legislation.

Sen. Panday: Yes, Sir; it came along the lines of the anti-gang legislation.

Sen. Ramlogan: That is, in fact, consistent with the anti-gang legislation, the definition there.

Clauses 4 and 5 ordered to stand part of the Bill.

12.40 p.m.

Clause 6.

Question proposed, That clause 6 stand part of the Bill.

Sen. Panday: Mr. Chairman, in clause 6 there is an amendment. Mr. Chairman, in clause 6, delete the entire clause 6(1)(a), and substitute the following:

- (a) “to establish policies and develop a national plan of action, consisting of a comprehensive set of measures—”,

Next line,

- “(i) for the prevention of trafficking;
 (ii) for the identification of and assistance to and protection of victims; and
 (iii) the prosecution of traffickers, in partnership with non-governmental organizations, inter-governmental organizations and other States to coordinate the implementation of the national plan;”

Mr. Chairman, before I move on, this amendment takes into account the contributions of Sen. Prescott SC and Sen. Basharat Ali.

Sen. Al-Rawi: And none of mine.

Sen. Panday: And, Sir in 6(a)(i)—the new 6(a)(i)—after the word “trafficking”, “in persons and trafficking in children”, and if Sen. Al-Rawi so desires, we will have to read that to him.

Sen. Al-Rawi: Through you, Mr. Chairman, in congratulating the People’s Partnership on its one-year anniversary, and today being a day of generosity, I am sure that it would not hurt you to admit that the Opposition has been very helpful in proposing amendments of this type. Thank you.

Sen. Panday: And I say, thank you.

Sen. Ali: Mr. Chairman, I wish to withdraw my proposed amendments in favour of what was proposed here. Thank you.

Sen. Panday: Yes. We have acknowledged it, Sir, thank you.

Sen. Dr. Armstrong: Mr. Chairman, in the debate I raised a concern about 6(1)(b).

Sen. Panday: 6(1)—.

Sen. Dr. Armstrong: (b). To develop plans in consultation with representatives with civil society to provide victims of trafficking, and it says, “with appropriate housing, employment, education and training opportunities”. Why are we obligated to do this and it is not something that is reflected as a temporary arrangement or something where feasible? Now, while this is actually in the protocol, a number of states have indicated that they will not be obligated to that particular article within the protocol, but here it seems that we are, as I indicated earlier, we are treating it as if the person really is a refugee, and not someone who is trafficked. Now, I know in other parts of the Bill reference is actually made to repatriation. What I want to suggest here is that we include something that says where feasible, where appropriate. In other words, where it says, “victims of trafficking with appropriate housing”, I would say, “if appropriate”.

Sen. Ramlogan: Or “where necessary”.

Sen. Dr. Armstrong: Or “where necessary”, rather than making it an obligation on our part.

Sen. Ramlogan: A mandatory obligation. Or else people could actually abuse that.

Sen. Dr. Armstrong: Exactly.

Sen. Ramlogan: And exploit it.

Sen. Dr. Armstrong: And there is one other—

Sen. Panday: Senator, could you go back to that clause—which clause are you speaking about?

Sen. Dr. Armstrong: 6(1)(b).

Sen. Al-Rawi: It could be a mandatory obligation that can be invoked so he is suggesting a fetter upon it so that we do not find ourselves obliged to provide things on a permanent basis.

Sen. Panday: Sure, and what is the amendment please, Senator?

Sen. Dr. Armstrong: I was going to say “where feasible”.

Sen. Panday: Okay, so you are changing from “with” to “where”.

Sen. Dr. Armstrong: “Where appropriate”, “where feasible”.

Sen. Panday: Yes, Sir.

Sen. Dr. Armstrong: Any language like that would—

Sen. Panday: In those circumstances, Mr. Chairman, line 3 of 6(1)(b), delete the word “with” and substitute the word “where”.

Sen. Dr. Balgobin: No, it does not work.

Sen. Al-Rawi: Respectfully, that would not work. Just read the clause as a whole because you will see that it will become disjointed with that amendment. If we just take a moment to consider it, perhaps.

Sen. Ali: Mr. Chairman, when we signed this protocol we did not lodge an exception, so whatever the protocol says is what we should follow. Am I correct? That is how I understand it. When we ratified that convention we did not submit any comments on that one therefore we are bound by the protocol. This is how I read it, and therefore, we cannot go with—

12.45 p.m.

Sen. Dr. Armstrong: Mr. Chairman, at the time I agree with Sen. Basharat Ali, that we did not express—from the research that I have done—any reservation. However, the article which is actually Article 6 of the protocol, it is in my view discretionary anyhow.

Sen. Ramlogan: It is for guidance.

Sen. Dr. Armstrong: Perhaps one should go back and look at the actual Article 6 of the protocol.

Sen. Panday: Where it says, “trafficking in persons” including “appropriate cases”.

Sen. Beckles: If you read this section—

Sen. Sr. Armstrong: It says “In appropriate cases”.

Sen. Panday: But you are saying it creates an option or discretion on the part of the State.

Sen. Dr. Armstrong: Yes, and the existing—if you look at the protocol itself. Perhaps look at Article 6 of the protocol, at least the version that I have it does say “In appropriate cases”.

Sen. Ramlogan: Yes. I want to support what the Senator is saying. I think if we—may I propose if we say, “to develop plans in consultation with representatives of civil society to provide as and when necessary”, and you continue.

Sen. Dr. Armstrong: Or use the same language of the—

Sen. Ramlogan: I do not like the repetition of appropriate twice, so if we say “to provide as and when necessary victims of trafficking”, then you continue, then that would be grammatically okay.

Sen. Dr. Armstrong: Okay.

Mr. Chairman: “To provide as and when necessary”—

Sen. Beckles: The concern seems to be that this section makes it mandatory, but, in essence, what the Government is doing or the task force is doing is developing plans. If that word is not there it would make a whole difference, but it really is not saying that it is mandatory to provide victims of trafficking and whatever with housing, employment and whatever. The section is crafted in such a way that it is really discretionary and not mandatory, because it is plans that you are developing.

Mr. Chairman: I think that is accepted, you consider it discretionary and we have some—

Sen. Beckles: It is not that you need to change anything because you are not saying that you have to give them houses, it is that you are developing plans and you are consulting them to do it.

Sen. Al-Rawi: Mr. Chairman, if I could, I join in the general discussion because we are not coming to heart. I think we are all working at the same purpose to get to one point. Perhaps the Attorney General, if you could consider this, the “as and when necessary” is interesting, but I think that it may be a bit on the side of allowing the Government to be compelled to do something, and I am just wondering if you would consider victims of trafficking, switch the word “with” to “where”, so “where appropriate” and therefore that preserves a discretion, a wide discretion—so “victims of trafficking where appropriate with” and maybe—

Sen. Ramlogan: You have to put “where appropriate”?

Sen. Al-Rawi: Yes, and maybe—

Sen. Ramlogan: “Where appropriate”.

Sen. Al-Rawi: Yes “where appropriate, with” and then you—

Sen. Ramlogan: It is six of one, half a dozen of the other, it does not matter.

Sen. Al-Rawi: “With suitable”, I was thinking of “with suitable”, because suitable may import the temporary basis.

Sen. Panday: My advice is yes, you can accommodate that. Although there is a school of thought which says that the protocol says that there is an obligation to provide housing.

Sen. Al-Rawi: But on a temporary basis, so I think that if we included the word “suitable” we could import the temporary.

Sen. Panday: Yes.

Sen. Dr. Armstrong: Mr. Chairman, there was one other—well, it is really an addition to this section and I do not know whether it should follow immediately, but I was thinking that the national task force should, perhaps, be given another function, because references have been made to the whole business of repatriation in other clauses and I was wondering whether we should have a new (i) that says—

Sen. Ramlogan: You are going back to 6(1)(a).

Sen. Dr. Armstrong: Well, yes; it is under 6(1), I do not know whether it should be (a), (b), (c), (d) or what, but I am suggesting that we should consider adding an additional function for the task force which would be, “to assist trafficked persons or victims of trafficking to return to their respective countries

using the proceeds of assets of the convicted perpetrator or of the fund” that is referred to further on. In other words, what I want to do is to give the task force a function, an additional responsibility in the planning or whatever to assist the persons that are victims of trafficking.

Sen. Ramlogan: I hear you on that. I hear you on that and it might be useful to slot in something to deal with that, but if we could take it one at a time. Let us deal with (b) first and get it out of the way and we would come to that after if you do not mind. (b), the suggestion was made that it can read “to develop plans in consultation with representatives of civil society to provide”, or if you wish “as and when necessary victims of trafficking with appropriate house”, et cetera, or we can simply say, “to provide victims of trafficking” and delete the word “with” and you say, “victims of trafficking where appropriate, with suitable” and you go down the road. I prefer the “as and when necessary” myself, actually, but it does not matter, they are both leaning in the same direction. Can we say, “to develop plans in consultation with representatives of civil society to provide as and when necessary”—

Sen. Al-Rawi: Just for consideration—sorry, Attorney General—my difficulty with “as and when necessary” is that I could say it is necessary and therefore be invoked.

Mr. Chairman: Concede and you could put “where appropriate”

Sen. Ramlogan: Yes, I have. Take off “with housing”.

Mr. Chairman: “Where appropriate, with suitable housing”.

Sen. Ramlogan: That is correct.

Sen. Panday: Mr. Chairman, in the penultimate line in that same 6(1)(b), after the word “assistance” delete “in a language the victim can understand”.

Mr. Chairman: We want to go back to 6(1)(a) where you wanted to consider the inclusion of the repatriation question.

Sen. Ramlogan: Yes, Sen. Dr. Armstrong, if we look at 6(1)(a) in the amendment, I believe what you are proposing could in fact come in under (a)(iv) and we add in the repatriation—

Mr. Chairman: “To assist in the repatriation”—

Sen. Ramlogan: “Of victims”. All right, so we add (iv) “to assist in the repatriation of victims”. The rest in terms of how you do it and the “where you source the funds”, I do not believe that would be appropriate to put in the function.

Sen. Al-Rawi: Hon. Attorney General, through you, do you think that perhaps in the amended version (a)(ii) where it says, “for the identification of assistance to and protection of victims”—is it not reasonable to say that repatriation is included in assistance? And my difficulty with zeroing on only one of the remedies, the repatriation, is that we are unnecessarily fettering or obliging ourselves to repatriate which may not be suitable. I prefer to think that the phrase, “assistance to” is wide enough to cover all of the remedies that the Bill contemplates be it by way of compensation, aggravation of damages, repatriation, et cetera. So my preference would be to recommend that Sen. Dr. Armstrong’s concern is a valid one and that it is perhaps met in the amended version.

Sen. Ramlogan: If Sen. Dr. Armstrong is happy with that, I am happy with it. I was really trying to accommodate the Senator because it is an important function to identify.

Sen. Dr. Armstrong: The impression that I have is that the functions that we have described or prescribed so far are really to try to accommodate the victims, but we have not specifically addressed a function to repatriate the victim.

Sen. Ramlogan: The reason I would support Sen. Dr. Armstrong is that I know from personal experience, Mr. Chairman, that there are a number of persons who are detained in our immigration centres for, perhaps, overstaying their time and even a number of persons who have been caught in the prostitution trade and we forget about them after we see them in the newspapers, but these people languish in these detention centres for an awfully long time.

In fact, you may recall at some stage there were a number of persons from countries on the African continent who had been discovered in Trinidad and they had been agitating—I was one of the persons who had agitated to seek their welfare in private practice as a lawyer to have them returned to their home country, because their only crime was that they overstayed their time in Trinidad. And oftentimes when it comes to the human trafficking trade what you may find is they may hold them under an immigration violation for illegally entering the country rather than charging them under the human trafficking sometimes.

But insofar as they recognized, as authorities, that there may be an element of human trafficking involved, even if they charge under the immigration detention provisions or they even detain them for that purpose, they may at least have the question of repatriation frontally, because in the past it has been a moot question as to who pays to send them back home. Does the State of Trinidad and Tobago find this money, and if it is 20 prostitutes you then do it? Sometimes the

embassies themselves from the returning home country wash their hands clean and say, “Well, you know, we doh know how they come here and we eh hah nothing to do with how they going back”.

So it is a humanitarian problem and I would like to approach it from a compassionate window and that is why I wanted to identify the question of repatriation, because in substance and reality it is in fact a problem and it might focus the spotlight on that issue.

Sen. Panday: Hon. Attorney General, I agree with you, save and except clause 39 of the Bill, “Where victims of trafficking do not remain in Trinidad and Tobago, the Minister and the Minister to whom responsibility for foreign affairs has been assigned shall facilitate the safe return of the victims of trafficking...” So it has been taken care of in clause 39.

Sen. Ramlogan: Sen. Dr. Armstrong, I presumed that is why you wanted it listed as part of the function.

Sen. Dr. Armstrong: You see this is why I am saying it should be part of the—it is mentioned in other parts. It is mentioned in three parts of the Bill, actually. It is mentioned.

Mr. Chairman:—[*Inaudible*] demand of the task force from doing it, it “assist”, might be comprehensive, but—

Sen. Al-Rawi: It might be superfluous, but no harm.

Sen. Dr. Armstrong: Very good.

Mr. Chairman: We are back to, I think in this point we dealt with—I have reached 6(1)(h) as renumbered, is that where we are?

Sen. Panday: In (g) after the word “appropriate”—

Sen. Prescott SC: Mr. Chairman, before you leave 6(1)(a) may we just have the language used for (iv) in new 6(1)(a)?

Mr. Chairman: In the renumbered—well we have to take out the “and” after the (ii) and we have to put a “;” after the end of (iii)—insert the “and” there and then “(v) to assist in the repatriation of victims,”.

Sen. Prescott SC: May I suggest it simply read “for the repatriation of”—“consisting of a comprehensive set of measures for the repatriation of”—consistent with the other three provisions?

Mr. Chairman: The actual substantive provision talks about facilitate, I do not know if we should repeat the word.

Sen. Dr. Balgobin: Mr. Chairman, if I may, that was actually a question that I had; we ought to be careful not to task the national task force with the job of actually doing this when their job should be to facilitate or to develop a plan for it to be done; because the rest of clause 6 really treats with planning and coordinating not actually doing.

And clause 39, as Sen. Panday pointed out, really tasks that with a line Minister's responsibility. So I concur with Sen. Prescott's SC suggestion that we structure it simply as he has said and keep it within the ambit of a policy position at planning which is captured under the amended 6(1)(a) as you have put it forward here.

1.00 p.m.

Mr. Chairman: So it will now read, "(iv) for the repatriation of victims". Is that the consensus?

Sen. Al-Rawi: If necessary, but remember repatriation is not always the best option for a victim of trafficking. But insofar as—I understand the argument to be let us create a function, (a) to focus minds—

Sen. Ramlogan: I think Sen. Beckles-Robinson has made the point before, that, it is really to develop policies and plans for this so that the discretion will come, then.

Sen. Al-Rawi: In the event that it is necessary. The discretion can come then. Okay.

Mr. Chairman: You have to delete paragraph (c).

Sen. Panday: Delete in paragraph (b), Mr. Chairman, after the word "assistance" in the penultimate line, "in a language the victim can understand"; delete that. Yes, thank you.

Sen. Prescott SC: On the proposed amendment for (c), have we—shall it be read first, because I do have a comment.

Sen. Panday: Sorry, Sir.

6(1) Delete paragraph (c) and substitute the following paragraph:

"(c) to review, evaluate and revise, if necessary, the national counter trafficking plan".

Sen. Prescott SC: [*Inaudible*] This national counter-trafficking plan before.

Sen. Dr. Balgobin: I have here, delete, the word “developed”, it has to be developed first unless one exists—*[Interruption]*

Sen. Ramlogan: I think we need to review, evaluate and revise, the national counter-trafficking plan. It presumes that one will have to come into existence. *[Interruption]*

Sen. Dr. Balgobin: You must first develop, though. You have to develop.

Sen. Ramlogan: Well we will say develop. To develop, review, evaluate, yes; “to develop, review, evaluate and revise the national counter-trafficking plan”.

Sen. Prescott SC: A national counter-trafficking plan.

Sen. Ramlogan: (a), the—all right that is fine.

Mr. Chairman: So the formulation under consideration for replacement of “c” is, “to develop, review, evaluate and revise if necessary a national counter-trafficking plan.”

Sen. Panday: Mr. Chairman, I have been advised that in the case of a national plan of action to say; to develop—sorry we go back to 6(1)(a), please? It goes to synchronize the law.

6(1) “(a) to establish policies and develop a national counter-trafficking plan of action, consisting of a comprehensive set of measures”.

So we insert between national plan the words “counter-trafficking”. That makes it—*[Interruption]*

Sen. Prescott SC: What was the thinking behind that suggestion? Is a national plan not a sort of broader, more embracing—? *[Interruption]*

Sen. Ramlogan: Sen. Panday, no. I agree with you, Sen. Prescott SC. No, no, leave it and do it as how we are doing it now. Mr. Chairman, we will continue on the path we had embarked on subsequently.

1.05 p.m.

Mr. Chairman: So it is “to develop a national counter-trafficking plan and to review, evaluate, and revise same, if necessary” or revise same if necessary—I do not know what you want. *[Interruption]* For (c).

Sen. Drayton: For (c)?

Sen. Dr. Balgobin: So we are leaving (a) as it is?

Sen. Ramlogan: We are leaving (a) as is.

Sen. Dr. Balgobin: (c) says what now?

Sen. Ramlogan: For the national plan, as Sen. Prescott SC pointed out, is perhaps a little more panoramic in its scope. [*Interruption*] [*Laughter*] I am learning from you, my friend.

Sen. Panday: National counter-trafficking plan is different from the plan of action, they are two separate things.

Sen. Ramlogan: What is the problem?

Mr. Chairman: So the wording as I have it—the formulation is (c), to develop a national counter-trafficking plan and to review, evaluate and revise same if necessary.

Sen. Panday: Mr. Chairman, 61(h) is really editorial, delete and renumber paragraphs (i) to (k) as (h) to (j).

Mr. Chairman: (h) as you see it there in the Bill is to be deleted.

Sen. Dr. Balgobin: So we are settled on 6(1)(c)?

Mr. Chairman: (e)? I cannot hear you.

Sen. Dr. Balgobin: So we are settled on 6(1)(c)?

Mr. Chairman: (e)?

Sen. Dr. Balgobin: (c).

Mr. Chairman: Yes, I have put forward a formulation, I did not get any push back. What is under consideration now is the deletion of the whole of (h) and the renumbering of the paragraphs that follow to (h), (i) and (j). [*Interruption*] We are looking at the renumbered (h) now.

Sen. Panday: The renumbered (h), delete all the words occurring after the words “including the” and substitute the following words “persons in the public”—

Mr. Chairman: Still looking for the including the—I do not see that in the—

Sen. Panday: Pardon me, Mr. Chairman.

Mr. Chairman: Previous (i) becomes (h) correct? Yes, all right. And then on the following page 10 you want to delete including the—I see. So we want to delete “the role of public corruption in facilitating trafficking”, correct?

Sen. Panday: Yes.

Mr. Chairman: And you are going to insert what words?

Sen. Panday: “Persons in the public sector who facilitate trafficking in persons and trafficking in children and the role of corruption in such facilitation.”

Sen. Drayton: “Persons in the public sector who facilitate...”

Sen. Panday: “Trafficking in persons and trafficking in children.”

Mr. Chairman: Is it that children are not people too or—

Sen. Panday: The short title, Mr. Chairman, speaks about Trafficking in Persons Act—

Sen. Al-Rawi: I think it is the bifurcation of offences point. There are two offences, trafficking in persons and trafficking in children, so I accept.

Mr. Chairman: Is there a penalty?

Sen. Al-Rawi: Yes. So I am okay with that. I am just questioning here “and the role of corruption in such facilitation,” because when the clause is read as a whole: “to measure and evaluate the progress of Trinidad and Tobago in the areas of trafficking prevention protection, and assistance to victims of trafficking and prosecution and enforcement against traffickers, including the”—including persons in the public sector [*Interruption*] “and enforcement against traffickers including persons in the public sector who facilitate trafficking in persons and trafficking in children and the role of corruption in such facilitation.”

1.10 p.m.

So prosecution and enforcement, how does that fit with the words “and the role of corruption in such facilitation”?

Mr. Chairman: Well, they evaluated the progress.

Sen. Al-Rawi: So evaluation could tie it to there?

Sen. Panday: They are measuring and evaluating the progress.

Sen. Al-Rawi: So it to measure and evaluate—

Sen. Panday: The progress—

Mr. Chairman: The role of the corruption in such instances.

Sen. Drayton: Something is wrong with that. We are saying “to measure and evaluate the progress of Trinidad and Tobago in the areas of trafficking

prevention...” So if we are following the line to “measure and evaluate the progress of Trinidad and Tobago” and we are saying including “persons in the public sector who facilitate trafficking in persons and trafficking in children”, to measure and evaluate the progress—

Mr. Chairman: The subject we are including is the word “traffickers”. Traffickers including persons in the public sector, who facilitate trafficking in persons and trafficking in children and the role of persons in such facilitations.

Sen. Drayton: My question is: How do you measure and evaluate the progress of that?

Mr. Chairman: The subject is not progress. The subject is traffickers.

Sen. Al-Rawi: It could perhaps be assisted, and I am just saying this for logical examination of clause, but not for amendment. “To measure and evaluate the progress of Trinidad and Tobago in...”, if you were to put in an imaginary colon here, (i), just to understand the break-up—

“(i) the areas of trafficking, prevention, protection and assistance to victims of trafficking;

(ii) prosecution and enforcement against traffickers, including...”

Sen. Drayton: Okay. Yes.

Sen. Al-Rawi: And now it makes sense. So I think if you look at it in that imagination scenario—

Mr. Chairman: If you had a chapeau to it would help.

Sen. Al-Rawi: Yes, if you had a chapeau it would make sense. But I do not think it is necessary insofar as—

Mr. Chairman: The graphics would help.

Sen. Al-Rawi: The graphics would certainly help.

Sen. Beckles: Are you taking off the comma?

Mr. Chairman: Do you want to look at those graphics?

Sen. Panday: Yes, we would concur that.

Sen. Beckles: Mr. Chairman, you would have to take off the comma after “traffickers” for it to make sense.

Mr. Chairman: So in the “areas of”, we put “;”. Is that the idea? (i) trafficking; (ii) prevention—is it that?

Sen. Panday: No, Sir. Trafficking prevention, protection and assistance of victim.

Mr. Chairman: Then (ii) will be assistance to victims of trafficking?

Sen. Panday: No, Sir.

Sen. Al-Rawi: “Victims of trafficking; and (ii) prosecution and enforcement against traffickers, including...” and then the rest of the amendment as drafted. That would be clear.

Sen. Drayton: So prosecution and enforcement against traffickers will be (iii)?

Mr. Chairman: The technocrats are telling us how many factors there are. Where do you want the (i) and (ii) to come in? Can you tell us?

Sen. Panday: “(i) trafficking prevention;
(ii) protection and assistance of victims of trafficking;”

Mr. Chairman: After trafficking?

Sen. Panday: Yes, Sir. “(iii) prosecution and enforcement against traffickers;” and then we continue.

Mr. Chairman: Which will be all part of (iii). Correct? So I will formulate that amendment for consideration.

Sen. Dr. Bernard: I am sorry I missed catching your eye because I had some points that I am sure Sen. Brig. Sandy would have looked at. I looked at the Anti-trafficking Policy Index which in fact scored us very low. We were down to seven. They have a three by five—a fifteen point—scale and, in fact, a lot of our Caribbean neighbours are also low down with Jamaica at 12. But they used three broad categories, and I think we have been faithful to two of them so far. The broad categories were Prosecution Index, Protection Index and Prevention Index. Is there a way that we can in that clause—seeing that we want to measure and evaluate—measure what we are doing by way of prevention?

Mr. Chairman: In fact, the amendment we are now formulating addresses that issue because it is subdivided into three categories that fall under the protocol.

Sen. Dr. Bernard: I think the point I was really hoping to make was the educational one where we would also measure what we have done by way of building public consciousness.

Mr. Chairman: Well the next one deals with that. The new (i):

“to evaluate all public awareness programmes to ensure their effectiveness;”

Sen. Dr. Bernard: Okay. That can take care of it. But if, to just get a word on this index, this index showed—I suppose later on we can look at it—whether we should not give Caricom some kind of leverage in what we say further down, but I will stop at this point.

Mr. Chairman: Thank you. So (h) as formulated in this amendment will read:

“to measure and evaluate the progress of Trinidad and Tobago in the areas of:

- (i) trafficking prevention;
- (ii) protection and assistance to victims of trafficking; and
- (iii) prosecution and enforcement against traffickers, including persons in the public sector who facilitate trafficking in persons and trafficking in children and the role of corruption in such facilitation.”

Sen. Panday: Clause 6(1)(i) as renumbered; delete and substitute the following paragraph:

“(i) to evaluate all programmes developed pursuant to this Act to ensure their effectiveness,”

Mr. Chairman: Part of what Sen. Dr. Bernard was saying is that the protocol required you to in fact have a public awareness programme. The way we have reformulated it, seems to take out that education component.

Sen. Al-Rawi: Mr. Chairman, respectfully, for your consideration, “all programmes” includes public awareness programmes, one could argue—

Mr. Chairman: In definition?

Sen. Al-Rawi: Well logically, not in definition—one could argue—I do accept that it is important in legislation to flag the—

Mr. Chairman: Because it is in protocol, it seems to me that you would want to address it.

Sen. Al-Rawi: Yes.

Sen. Ramlogan: Yes. I think because it is identified separately in the Protocol, I tend to agree with Sen. Dr. Bernard that it may be wise to just have the spotlight focus on that as a specific identified area.

Sen. Beckles: Actually, when you look at all the reports from year to year, the education component is one of the main components for evaluation. So you really need to put that as something separate.

Sen. Ramlogan: Agreed. I think it should be highlighted.

Sen. Dr. Bernard: It should stand on its own. In fact, we are not doing well in the Caribbean because we have not paid credence to that aspect seriously.

Sen. Ramlogan: In terms of education?

Sen. Dr. Bernard: Yes.

Sen. Panday: So can we say, “to evaluate all programmes, including public awareness programmes developed pursuant to this Act to ensure their effectiveness”?

Mr. Chairman: It would not do any harm.

Sen. Ramlogan: Well, look at (j). Does (j) not say, “to evaluate all public awareness programmes to ensure their effectiveness”? In clause 6(1)(j).

Sen. Drayton: That is now (i), I think.

Mr. Chairman: That is what we are considering right now.

Sen. Ramlogan: That is what I am saying, it was there before.

Mr. Chairman: And then we took it out.

Sen. Ramlogan: We can leave (j) as it was and simply add this new (i) as a separate one. We can leave old (j) and this new one you want to insert, put in as (k) or (l).

Sen. Panday: I have been advised that before (j) we should insert—
[*Interruption*]

Sen. Ramlogan: Mr. Chairman, we shall leave old (j) and we will now insert that after (j)

Mr. Chairman: So a new (j)—

Sen. Ramlogan: No, the old (j) remains as is and there will be a new (k). The old (j) will remain as is:

“to evaluate all public awareness programmes...”

Mr. Chairman: So you will introduce the new (i)?

Sen. Ramlogan: That is correct.

Mr. Chairman: All right.

Sen. Beckles: Could you just repeat what is (i) again, please?

Sen. Ramlogan: It is in the circulated list of amendments.

Sen. Beckles: I thought you had made a change to it. So you are leaving what is there circulated as is?

Sen. Ramlogan: That is correct.

Mr. Chairman: Just to let Senators know what the formulation is at present. We have just finished (h). We are going to introduce a new (i), which is as per the amendments circulated, and then the next paragraph will remain as (j) and the following one will remain as (k). Correct?

Sen. Panday: Sure.

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Sen. Panday: Mr. Chairman, I beg to move that clause 7 be amended as follows:

Delete clause 7 and substitute the following clauses:

“7(1) The Task Force shall comprise the Ministers responsible for foreign affairs, labour, social development, national security, justice.”

Mr. Chairman, we wish to delete “health, education and gender affairs and finance” from that subclause (1) and insert subclause (2) that:

“That the task force may”—

Mr. Chairman: I am not sure where you want to insert that.

Sen. Panday: “The Task Force shall comprise the Ministers responsible for foreign affairs, labour, social development, national security and justice.”

Sen. Prescott SC: What about finance which comes at the end of the sentence? Is that coming off?

Sen. Panday: The reason why we took off the rest—[*Interruption*]

Sen. Prescott SC: Is it coming off?

Sen. Panday:—is because that task force will become so large, unwieldy, that we may never get those Ministers to come together and the task force may not be able to be operational.

Sen. Prescott SC: So delete finance?

Sen. Ramlogan: Yes. I think because it is an interministerial committee, it may be wise to keep it small. I think the technocrats have advised well on that one. However, we have compensated for that loss, Senator, by virtue of the co-opting provision which will now allow us to co-opt representatives from Ministries as and where necessary, and one would assume that if finance has a role to play that they would have a senior representative from finance on that committee.

Sen. Al-Rawi: That will also be assisted by the proposed amendments to the Ministry of Justice as it relates to the provisions that it is intended to receive.

Sen. Ramlogan: That is correct.

1.25 p.m.

Mr. Chairman: Do you want to introduce the new phrasing to subclause (3)? This is part of the same clause.

Sen. Panday: Yes.

Mr. Chairman: So we have reached there; you have to tell us what it is.

Sen. Panday: Clause 7(2) speaks to:

“The Task Force shall also comprise—

- (a) head of the Central Authority;
- (b) the Chairman of the Board of the Children’s Authority;
- (c) other appropriate government officials with responsibility for law enforcement,...

[Interruption] On the circulated list.

“intelligence, immigration, social development, health, education, gender affairs, finance, foreign affairs, labour and justice, who shall be appointed by the Chairman on the recommendation of the respective ministers, who shall hold office for two years but may be eligible for reappointment; and

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- (d) representatives from non-governmental organizations who shall be appointed by the Chairman on the recommendation of any of the ministers referred to in subsection (1) who shall hold office for two years but may be eligible for reappointment.”

And now, Mr. Chairman, we are including a subclause (3).

Sen. Prescott SC: Before we go to subclause (3), in (c) and (d), the reference to the period of their office, I think you should say “and who shall”.

Sen. Ramlogan: Sure.

Sen. Prescott SC: It is a formula that is used in both (c) and (d), the last clause be preceded by the word “and”, so you remove the comma.

Sen. Panday: Yes, thank you.

Sen. Dr. Bernard: Mr. Chairman, I am not happy with education not being a core ministry in that regard. We say public awareness programmes but we are speaking about public education, it is more than just posters and jingles. It is education involving curriculum input, involving what Sen. Karim wants to do by way of educating the public via media during the day, and so on.

I think that they are essential to this, more so that it is an important protocol that is measurable by the international community so that Minister of Education or the Minister of Science, Technology and Tertiary Education should be at the helm of this development.

Sen. Ramlogan: Senator, I appreciate this dovetails and follows from your earlier contribution on the need for public awareness, and that particular deficiency in the Commonwealth Caribbean in respect of that issue, I agree with you on that score. But permit me to point out that the Minister of Social Development for example, and the Minister of National Security, they would also have a communications unit in their respective ministries that would no doubt liaise with the Ministry of Education to ensure that we feed into the nodes of the system, the relevant information to ensure there is public education and awareness on this particular issue.

One would also expect that the Ministry of Education will have co-opted a senior official. The problem I want you to bear in mind is a practical one and it is this, you simply will not get all these ministers to meet, to have a quorum to meet in terms of the ministers, but you are much more likely to have a functioning committee, through, if you allow, senior representatives who quite frankly are the

ones who will be responsible for the execution and implementation of the policies and programmes that the task force wishes to have implemented and introduced as it were.

So that it may serve us better in substance and reality to have it the way it is, and to confine it, and have the senior reps co-opted onto that committee. I think that would perhaps more effectively meet your concern. To put the minister down on paper might lull us into a false sense of security and comfort when in practice and reality that may not happen.

1.30 p.m.

Sen. Panday: Hon. Attorney General, Sen. Dr. Bernard, (3) will take care of that; (3) which I hope to introduce. It says:

“The Chairman may, for the purposes of the performance of the functions of the Task Force, co-opt any other Minister as the Task Force sees fit.”

Sen. Al-Rawi: Mr. Chairman, when we are finished with this issue there is another point to observe.

Sen. Panday: Sen. Dr. Bernard, the reason for this is Guyana has passed this legislation since 2005, and because they could not have implemented it, they remain in the Tier 2 Watch List and as such we are learning from that experience to ensure that we can implement.

Sen. Dr. Bernard: I am still worried. Therein lies the rub, because I am thinking that at the level of policy—it is easy for us to say “all right, the Minister of Education will have his technocrat involved, but at the level of policy, as it relates to how do we deal with this body of knowledge that we have to impact on our society, do we go by way of media, electronic media? How do we develop it? Do we make a curriculum input? But I would give way to the wisdom.

Sen. Ramlogan: Out of deference to your persistence, I think we will include the Minister of Education, more so, having regard to the time as well. We will include the Minister of Education and if he does not attend, we shall refer him to you.

Sen. Dr. Bernard: Okay.

Mr. Chairman: I want to ask the question before we proceed. This formulation of the names of the Ministers appears both in clause 7(1) and, of course, in 7(2)(c), is it in both places it comes out?

Sen. Panday: No.

Mr. Chairman: Clause 7(1) says:

“The Task Force shall comprise the Ministers responsible for foreign affairs, labour, social development, national security, justice, health, education, gender affairs and finance.”

Then it says:

“The Task Force shall also comprise...”

And if you look at (c); other government officials appropriate to these areas.

Sen. Ramlogan: I think it is a duplication.

Mr. Chairman: In this case, it is civil servants, I take it.

Sen. Panday: Indeed.

Sen. Al-Rawi: Mr. Chairman, that is the exact point that I was coming to, the use of the words “government officials” in the manner that you have and there is another subset of it. I am concerned that the task force should have—and just for your thought—law enforcement persons, and I do not know that members of the police service actually are government officials. I am concerned that the law enforcement aspects, the on-the-ground operational people, are not part of this task force. If you remember, Mr. Chairman, the task force as it is currently constructed actually resides in the old SAUTT before it was disbanded. I am just wondering, insofar as we are populating this now—

Sen. Panday: It is in (c); “other appropriate government officials with responsibility for law enforcement”.

Sen. Al-Rawi: Yes, but that is a government official for law enforcement, that is not a member of the police service, which is my point. Persons who have coercive powers of arrest, that is what I am driving at.

Sen. Ramlogan: No, but the law enforcement with respect—with responsibility for law enforcement, the obvious choice there will be the police. But what you do, is you widen the scope of that, so that you would have a police officer, an immigration officer and a customs officer, because the concept of law enforcement is one that is wider than the police service, but there is no need to identify the police service, per se, because obviously they would be the first port of all when one deals with the question of law enforcement and officials. Remember it says “government”—plural—“officials with responsibility for law enforcement”. So you will draw now from that pool, customs, immigration, police officers and the like.

Sen. Al-Rawi: That is my point. Is a police officer a government official? He is not.

Sen. Ramlogan: Oh, I see what you are getting at.

Sen. Al-Rawi: I agree with you.

Sen. Ramlogan: Well, we can take off the word “government”.

Sen. Al-Rawi: Yes.

Sen. Ramlogan: That is fine, there is no need—

Sen. Al-Rawi: That is what I was coming with.

Sen. Ramlogan: Sure, that is fine. We can take off the word “government”.

Sen. Prescott SC: You should substitute some word for “government” be it public or other.

Sen. Al-Rawi: A police person is a public officer, in a sense. I could understand that.

Sen. Ramlogan: Other appropriate public officers.

Sen. Brig. Sandy: Servant of the State?

Sen. Deyalsingh: No, no. Suitable public officials.

Sen. Ramlogan: Other appropriate public officers.

Sen. Al-Rawi: I think that is it.

Sen. Moheni: One question, in reference to “other persons with the relevant expertise”, this will refer to whom? Could that not include law enforcement?

Sen. Panday: Where are you?

Sen. Moheni: Lower down the same list.

“...and other persons with the relevant expertise, who shall be appointed by the President...”

Sen. Panday: You are looking at the wrong amendment. Not the Act, we are looking at the amendment which has been circulated today. It includes—

Sen. Beckles: Can I ask the Attorney General? I have a little concern. You have “The Task Force shall comprise” and “The Task Force shall also comprise” and then you have (b) and (c). Just for my own clarification, is it that you have a ministerial committee and you have all these other persons? I am not sure in my mind how it is working. The way it is drafted.

Sen. Ramlogan: I think what the Ministry of National Security had in mind is that the Ministers would attend, but, obviously, as is the norm, they would have a technocrat, a senior public official in support. You would have a Minister and a nominee, but they also wanted to provide, in addition to that, for—you might have a senior technocrat from somewhere where the line Minister does not have to attend. For example, customs, the line Minister is the Minister of Finance. He might not be needed, but you might want to have the customs official. The idea would be an inter-ministerial committee that is reinforced and supported by senior public officials supporting the line Ministers, or even coming without the line Ministers. I think that is the intention.

Sen. Beckles: How you structure it, in terms of (1) and (2) where you say “shall comprise” and “shall also comprise”—

Sen. Ramlogan: You mean the wording?

Sen. Beckles: Yes, because to my mind, at the end of the day, I do not know what the intent is but it clearly, by combining the two “shalls”—

Sen. Ramlogan: I agree with you.

Sen. Beckles:—it appears as though the task force—

Sen. Ramlogan: What you are saying is, the task force really is meant to comprise the Ministers, but the technocrats really are not meant to be—

Sen. Beckles: That is how I understand it.

Sen. Ramlogan: And I agree with you. What we should say, “The Task Force may include”?

Sen. Beckles: Yes.

Sen. Ramlogan: Would that satisfy you?

Sen. Beckles: That is fine. I just want to be clear that we are not encompassing all of those people because then you would never be able to function.

Mr. Chairman: “The Task Force may co-opt” rather than—.

Sen. Ramlogan: Yes, I think so.

Mr. Chairman: Then you do not want them to be included. You may co-opt.

Sen. Ramlogan: They are not members of the task force.

Mr. Chairman: The task force is the people themselves.

Sen. Panday: “The Task Force may co-opt” and then we go down.

Mr. Chairman: I still ask the question, you had focused, Attorney General, on what Ministers form part. Therefore, I am asking the question relative to whether health, gender affairs and finance—

Sen. Ramlogan: They have come out.

Mr. Chairman:—are coming out of clause 7(1).

Sen. Ramlogan: Yes. The Ministers will now be foreign affairs, labour, social development, national security, justice and education. Sen. Dr. Bernard.

Sen. Dr. Bernard: Thank you.

Mr. Chairman: The subset of that is that health, gender affairs and finance come out of paragraph (c). Is that the idea?

Sen. Ramlogan: Yes.

Sen. Panday: You can leave that. The officials could be there. Yes, the officials can attend.

Mr. Chairman: All right, very good.

Sen. Prescott SC: A question to the Minister: Were the head of the central authority and the Chairman of the Board of the Children’s Authority meant to be included in the ministerial team?

Mr. Chairman: It would appear not, the ministerial team is supposed to be only Ministers and these will be co-opted as necessary.

Sen. Prescott SC: They are not regarded as essential to the—

Mr. Chairman: That is what I am told.

Sen. Panday: The team is an inter-ministerial team and they may co-opt those people.

Sen. Prescott SC: So that they may equally be left out?

Sen. Panday: Yes.

Sen. Prescott SC: Is that what you want to achieve?

Sen. Ramlogan: Well, no—

Sen. Panday: Or, they may be included on the contrary.

Sen. Ramlogan: The problem here is this, as Sen. Beckles-Robinson quite rightly pointed out, and I agree with her on this, the task force really is meant to comprise—it is an inter-ministerial committee that is there to deal with strategic policy direction and overall policy matters. What you have is a support team from the public service that will lend support and facilitate the work of that task force. Therefore, the wording of it cannot be that it shall also comprise these people. You follow?

Sen. Prescott SC: I accept that. I think I am not making myself clear though. It appeared to me, by the introduction of those two offices, there must have been some thinking behind it, some rationale for requiring those two offices to be present and one wonders if they could not be made compulsorily members of that second group; that lower end.

Sen. Ramlogan: Which two offices?

Sen. Prescott SC: The head of the central authority and the Chairman of the Board of the Children’s Authority.

Sen. Ramlogan: It would not be appropriate, Sir, with the greatest of respect for the reason that an inter-ministerial committee seldom—

Sen. Prescott SC: Sorry, the second level, forgive me. Having completed the inter-ministerial team, your second-level grouping, could they not mandatorily include those two offices?

Sen. Ramlogan: Let me put it this way, in practice and in reality one would expect that they would be there. You may recall that this is a concession to a point you made yesterday, whereby you made the point that the Attorney General, perhaps, may not wish to be part of that committee, having regard to the constitutional role of the Attorney General. What I did was to substitute instead “the head of the central authority”. But, the Minister of Justice is in fact a member of the committee, so that function is preserved.

Sen. Prescott SC: He may determine that his officers should—

Sen. Ramlogan: Indeed. Are you happy with that explanation? Excellent.

Sen. Dr. Armstrong: Hon. Attorney General, you know what is puzzling me a bit with this composition of—you just said that it is really an inter-ministerial body. I do not want to go ahead too far, but when you look at clause 8, the person who is in charge of that is to be appointed by the President. Is that something that is normal for the President to appoint—

Sen. Ramlogan: One of the Ministers?

Sen. Dr. Armstrong:—a Minister? Why not just the Cabinet? Why bring the President into it then, if that is the configuration that you want?

Sen. Ramlogan: I had flagged that for attention when we come to it next, because I agree with you.

Sen. Dr. Armstrong: Okay, thank you.

Sen. Ramlogan: Because in my view, the obvious choice to lead this committee would be someone like the Minister of National Security or the Minister of Justice and that is a matter for Executive discretion and it ought not to involve the Head of State.

Sen. Drayton: I am very glad that was picked up, because that was the reason—it was not from the point of view of conflict of interest—that I had mentioned the role of the Minister of National Security, because I would have thought it odd that he is a member of an inter-ministerial task force and the prospects of someone else being appointed as the chairman and then—

Sen. Ramlogan: We would solve that inconsistency. Sen. Brig. John Sandy is not one to shy away from work and I shall superimpose and parachute him as the chairman of this committee for all times.

Sen. Panday: Hon. Attorney General, go back to (c):

“other appropriate public officers”

Our experts have advised us that if you use the word “officials” you would only mean public servants and not contract workers.

Sen. Ramlogan: No, that is not correct.

Sen. Panday: That is not so?

Sen. Ramlogan: No, that is not correct.

Sen. Prescott SC: We are not creating employment here.

Sen. Ramlogan: No, that is the point. I do not think so. The Constitution does say that you can have contract public officers. It is just that they are not to be appointed by the Public Service Commission, because they are contracted staff, but a contract officer remains a public officer.

Sen. Panday: Okay.

Sen. Ramlogan: So, that is fine.

Mr. Chairman: I would formulate the amendment for consideration.

Sen. Ramlogan: If you want, out of an abundance of caution, “other appropriate public officers whether on contract or otherwise”, because I know how the public service interprets and this is going to be a sticking point; “whether on contract or otherwise”, to make it absolutely clear.

Mr. Chairman: So, if I might formulate the amendment, the intention is that the whole of the existing clause 7 will be deleted and replaced by clause 7 as set out in the amendment circulated.

1.45 p.m.

I do not propose to read the entire amendment, I will take it as read having been circulated. I intend to identify the amendments to the amendment if you like. So in 7(1) we are deleting “health, education, gender affairs and finance”, and we are putting after “justice”, “and education”. In subclause (2) we are deleting “shall also comprise” and it will now read “The Task Force may co-opt”. In paragraph (c) we are deleting “government officials” and we are replacing it with “public officers, whether on contract or otherwise;” and we are introducing in the penultimate line of (c) the word “and” before “who”.

Sen. Panday: And also in (d).

Mr. Chairman: And similarly in (d) we are introducing the word “and” before “who” in the third line before the last. We are also introducing a new subclause (3) which will read “The Chairman may, for the purposes of the performance of the functions of the Task Force, co-opt any other minister as the Task Force sees fit.”

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clause 8.

Question proposed, That clause 8 stand part of the Bill.

Mr. Chairman: Do you have an amendment?

Sen. Panday: No please, Sir.

Sen. Al-Rawi: Just a question on clause 8, and just for clarification more than anything else, “...a Chairman of the Task Force appointed by the President...”? ”

Sen. Ramlogan: Remember that we just dealt with that; Sen. Prescott SC had raised it and we said that we will delete that. So we will put instead “There shall be a Chairman of the Task Force appointed from among the Members who shall comprise the Task Force under section 7(1)”. But it did not say appointed by whom.

Mr. Chairman: I do not know if you want to say the Minister of National Security shall be the Chairman—

Sen. Ramlogan: Well, I do not know if you want to put it.

Mr. Chairman: Well, it is statute, so you might want to leave more flexibility, okay. So the amendment to clause 8 is that we delete the words “by the President” in line (2).

Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clause 9.

Question proposed, That clause 9 stand part of the Bill.

Sen. Panday: Mr. Chairman, delete subclauses (4), (5) and (6).

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Sen. Al-Rawi: Just for clarification, I have no discomfort in that, I mean I felt discomfort in regulating what a secretary should do, but is it to meet flexibility that you would just leave it open, to functions of a secretary? So we are not going to let—

Sen. Ramlogan: It is for flexibility.

Sen. Al-Rawi: It is for flexibility? Okay, I am comfortable with that, thanks.

Sen. Dr. Bernard: This deals with archival material and documentation that may be needed for any form of litigation, how are we to know this is happening if we take all of this out?

Sen. Ramlogan: Those are operational matters that one would normally not put in legislation, but rest assured that every committee—we do not have it for—it is not something you will normally see in an Act of Parliament, but that would be an operational matter what they would normally take care of themselves to protect the integrity of their own operations.

Sen. Al-Rawi: Just through you, Mr. Chairman, it is not that its absence is going to mean that it is not done, it must be done, that is good management in any event, that is why I used the word flexibility so that you did not need to legislate it, but it is not because it is not there that it would not be done. .

Clause 10 ordered to stand part of the Bill.

1.50 p.m.

Clause 11.

Question proposed, That clause 11 stand part of the Bill

Sen. Panday: Mr. Chairman, I beg to move that clause 11 be amended as follows:

- A. Delete subclauses (1) and (2) and substitute the following subclauses:
 - (1) There shall be established a Counter-Trafficking Unit within the ministry responsible for national security, which shall be headed by a Director who shall be—
 - (a) a public officer appointed by the Public Service Commission; or
 - (b) an officer on contract engaged by the Permanent Secretary in accordance with the Guidelines on Contract Employment established by the Chief Personnel Officer for such purpose and who shall hold office for three years but may be eligible for reappointment.
 - (2) There shall be a Deputy Director who shall be—
 - (a) a public officer appointed by the Public Service Commission; or
 - (b) an officer on contract engaged by the Permanent Secretary in accordance with the Guidelines on Contract Employment established by the Chief Personnel Officer for such purpose and who shall hold office for three years, but may be eligible for reappointment.
- B. In subclause (4) insert after the word “comprise” the words “positively vetted,”
- C. Renumber subclause (6) as (5) and subclause (5) as (6).
- D. In subclause (6) as renumbered insert after the words “authorized officer” the following words “for a specific period and purpose”.

Sen. Al-Rawi: Just out of an abundance of caution, allow us the opportunity because it does meet the concerns in the debate. Just a moment. [*Laughter*] I am being gracious this morning, Sen. Panday.

Mr. Chairman: I think it is a good, effective and efficient practice, Sen. Al-Rawi.

Sen. Al-Rawi: Thank you, Mr. Chairman, I am guided.

Question put and agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

Clause 12.

Question proposed, That clause 12 stand part of the Bill.

Sen. Ramlogan: Mr. Chairman, we are proposing that clause 12 be amended as follows:

- A. In paragraph (f), insert after the word “receive” the words “, correlate and analyze”.
- B. In paragraph (h), delete the words “institution of prosecutions;”.
- C. Renumber paragraphs (i) to (r) as (j) to (s).
- D. Insert a new paragraph (i) as follows:

“(i)to refer all matters requiring the initiation of criminal prosecutions to the Office of the Director of Public Prosecutions;”.
- E. In paragraphs (q)(i) and (ii) as renumbered insert after the word “citizens,” wherever it occurs the word “residents” in each paragraph.

Sen. Panday: Except in 12A, the words are not correlate, but “collate and analyze”. At the top of page 5.

Sen. Prescott, SC: May we use the English spelling of analyze?

Sen. Ramlogan: With the “s” instead of a “zee”?

Sen. Prescott, SC: Instead of a “zed”.

Sen. Ramlogan: The grammar police have caught us, so we shall defer to the English version of the spelling.

Sen. Dr. Armstrong: I was a little confused here with respect to 12(h). In the protocol itself, there is reference, I think in Article 15, to dispute resolutions going to the International Court of Justice, and Trinidad and Tobago, when it signed, did not issue any declarations or reservations with respect to that, so I think we are obligated.

I could not find the conduit anywhere in the Bill and I do not know if this is where it is supposed to happen. How do you then refer these matters? It says here “to...government agencies, civil society, international organizations.” Is this where this should be done or should it not go from foreign affairs? It says here under (h):

“Where necessary, to refer possible cases of trafficking...”

Sen. Ramlogan: Let me put it this way. Those would be operational matters that would differ from State to State. If perchance the international protocols, treaty obligations and procedures are such that it has to go through the Ministry of Foreign Affairs, all that would happen is the unit would refer it to the Ministry of Foreign Affairs which would transmit it.

Sen. Dr. Armstrong: Why have this in here then, where it says civil society or international organizations for requisite action?

Sen. Ramlogan: I think that is consistent with the legislation that we have looked at elsewhere. The fact that the counter-trafficking unit may make the reference to the international body, there is nothing wrong with that. Bear in mind that the—

Sen. Dr. Armstrong: Oh, they can? A counter-trafficking unit going directly to an international agency?

Sen. Ramlogan: Your point is that you want them to go via the Ministry of Foreign Affairs.

Sen. Dr. Armstrong: Well, I would think so. The impression I am getting here is that with this unit there is a direct link and I am not sure that that is appropriate.

Sen. Ramlogan: Fair enough.

Sen. Drayton: That is a matter that could be treated in the regulations as an operational matter.

Sen. Ramlogan: Sen. Dr. Armstrong, would you oblige on this and allow us to deal with this in the regulations? It is a procedural point as opposed to substantive law; but it is an important point that will go toward procedural issues and we will take note accordingly. I so advise.

Mr. Chairman, permit me just to treat with Sen. Prescott SC to thank him for his comments in relation to subparagraph (h). There is a headline in today's newspapers, which deals with his contribution from yesterday.

Permit me to say, for the record, that it was never the intention of the Government to undermine or in any way whittle away the powers given to the Office of the Director of Public Prosecutions. The sole and exclusive jurisdiction given by the Constitution to the Office of the DPP to initiate, continue or discontinue criminal prosecutions is something that the Government respects and, therefore, we move with great dispatch to excise from (h) that aspect that dealt with the criminal prosecutions and to put it in a separate Bill, consistent with the constitutional position whereby the DPP is the sole public officer to deal with these matters, hence the reason for amendment (d).

We thank you for that observation. I just wanted to reiterate for the record, the Government's commitment to upholding the rule of law and respecting the constitutional jurisdiction of the Office of the Director of Public Prosecutions.

Sen. Dr. Bernard: The last day, the point was made as to whether the task force should see the evidence collated or gathered by the counter-trafficking unit. It is vague. It does not tell us where the evidence goes next.

Sen. Ramlogan: Those are operational matters that would not form part of the law. They will not be part of the Act of Parliament. They will come in the regulations, if at all.

Sen. Dr. Bernard: I believe that the task force should not see that evidence.

Sen. Ramlogan: Why not?

Sen. Dr. Bernard: Well, the evidence could be contaminated.

Sen. Ramlogan: You mean from the Counter-Trafficking Unit, it should not go to the task force? Normally, a report will go to the task force for onward transmission. It comes back to Sen. Dr. Armstrong's point earlier. If you wish to procedurally refer the matter via the Ministry of Foreign Affairs, for example, the report will come to the task force and they refer it to the Ministry of Foreign Affairs.

Sen. Dr. Bernard: I see the need for a referral. I do not know where.

Sen. Ramlogan: Senator, I do not share the fear of contamination if the task force sees it. This is a high level task force; there would be implications of national security; there may be implications for the central authority and one

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must, at the end of the day, trust the role of the task force in this matter. The task force will not initiate prosecution. Contaminated how? What are they going to do? Alter the evidence?

Sen. Dr. Bernard: It is like Caesar's wife. We must be above reproof. We need to be above reproof in the context of total transparency. This is evidence that can be used in a court of law or will be used no doubt.

Sen. Al-Rawi: If I could lay your fears to rest by saying that the current system under the National Security Council is that the head of the Security Council is the Prime Minister, the Minister of National Security and others and they would currently be receiving reports.

I am happy for the position of concern, but we have to recognize that it is an inevitability that they will be involved anyway and, with the separation of powers going to the DPP properly for prosecutions, we do have adequate safeguard as contemplated by the Constitution in particular.

I accept the concern, but I think that the current system has operated well enough and I do not think that we are crossing that bound.

Sen. Ramlogan: I am thankful for the support of my colleague from the Opposition Bench on this matter.

Mr. Chairman: The question is that clause 12 be amended as per the amendment circulated, with the additional amendment as follows:

- A. In paragraph (f), insert after the word "receive" the words " , collate and analyse".

Question put and agreed to.

Clause 12, as amended, ordered to stand part of the Bill.

Sen. Al-Rawi: Just for clarification, have we defined "premises" broader? In the interpretation section, have we dealt with the issue of premises?

Sen. Ramlogan: Yes.

Sen. Al-Rawi: Thank you very much.

Clauses 13 to 15 ordered to stand part of the Bill.

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Sen. Ramlogan: Mr. Chairman, I beg to move that clause 16 be amended as follows:

Insert after paragraph (d), the following words and subparagraphs:

“by means of—

- (i) threats or the use of force or other forms of coercion;
- (ii) abduction;
- (iii) fraud or deception;
- (iv) the abuse of power or the abuse of a position of vulnerability; or
- (v) the giving or receiving of payment or benefits to achieve the consent of a person having control over another person.”.

Sen. Al-Rawi: Just to tidy up the draft, the heading, Part V, I think should come before clause 14 because clause 14 is an offence—criminal offences and related provisions.

Sen. Ramlogan: Point taken. It is something they would normally deal with in the cleaning up, but the heading, Part V, needs to come before clause 14.

Question put and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

Clause 17.

Question proposed, That clause 17 stand part of the Bill.

Sen. Ramlogan: Mr. Chairman, I beg to move that clause 17 be amended as follows:

Insert after paragraph (d), the following words and subparagraphs:

“by means of—

- (i) threats or the use of force or other forms of coercion;
- (ii) abduction;
- (iii) fraud or deception;
- (iv) the abuse of power or the abuse of a position of vulnerability; or
- (iv) the giving or receiving of payment or benefits to achieve the consent of a person having control over another person.”.

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Question put and agreed to.

Clause 17, as amended, ordered to stand part of the Bill.

Clauses 18 to 20 ordered to stand part of the Bill.

2.05 p.m.

Clause 21.

Question proposed, That clause 21 stand part of the Bill.

Sen. Ramlogan: Mr. Chairman, I beg to move that clause 21 be amended as circulated:

21	<p>A. In subclause (3), delete the word “may” and substitute the word “shall”.</p> <p>B. In subclause (5)(d) delete the word “or”.</p> <p>C. In subclause 5(e) delete the comma after the word “Service” and substitute a semi-colon and the word “or”.</p> <p>D. Insert after subclause (5)(e) the following paragraph:</p> <p>“(f) any other official or public officer having the coercive power of arrest under any other written law,”</p>
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Sen. Dr. Bernard: Just bear with me; a little bit of clarification here. In the context of the definition of human trafficking, the Palermo Convention 2000, it comes near the end, speaks of:

“Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

This may have been covered, this is why I asked to bear with me. So that when I went into the preamble and we were looking at the language of the Bill, I saw “illicit removal of human organs”, and I got the feeling that we were going to

interrogate or investigate that aspect of it; the whole question of human organ trafficking which, in essence, as the Japanese sociologist Awire calls it, is “social cannibalism.”

Now, when I read 21 what I observe is that we skirt that issue of trafficking of organs. [*Interruption*]

Sen. Panday: Hon. Senator, there is human transplant legislation in force and it is covered there.

Sen. Dr. Bernard: It is covered there? Okay, thank you.

Sen. Dr. Armstrong: The only thing that I—I raised this in the discussions where it says under (g), with respect to “the court may impose an additional term of imprisonment of up to 15 years.” Is that what was really intended because—in that case it becomes 15 + 15. If you look at 16, 17—not less than—is that what was intended?

Sen. Al-Rawi: That is consistent with the kidnapping and anti-gang legislation and, also, I believe it is probably what was intended. Just wondering, as we are going through all of these amendments and having heard Sen. Maharaj, in particular, offer licks on the Sen. Fitzgerald Hinds syndrome, I wonder if he is aware that 90 per cent of these amendments were in our contributions. Perhaps you should read them. [*Crosstalk*]

Sen. Panday: Amendment 21 is yours. [*Crosstalk*]

Mr. Chairman: Sen. Dr. Armstrong, do you still have concerns? Your light is on.

Sen. Dr. Armstrong: No, if that is what was intended that would make it 30 years that is the observation that I was making, up to 30 years.

Question put and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clauses 22 to 29.

Question proposed, That clauses 22 to 29 stand part of the Bill.

Sen. Al-Rawi: We are going a little quickly and I am happy for it, but clause 27—the use in 27(2), of the words “acquiesced in”. Just asking if we are still comfortable with that. [*Crosstalk*]

Sen. Deyalsingh: Was that not taken out?

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Sen. Al-Rawi: Is it out?

Sen. Ramlogan: It is also something known—it is a term known in company law as well and elsewhere in the law. So we are comfortable with that. Thank you very much.

Sen. Al-Rawi: It is out?

Sen. Ramlogan: Sorry?

Sen. Al-Rawi: It is out?

Sen. Ramlogan: No it is in. I said we are comfortable with it.

Sen. Panday: We are comfortable with it. [*Laughter*]

Sen. Ramlogan: I will ask you to acquiesce in this acquiescence, please.

Sen. Al-Rawi: My difficulty is that acquiescence is a civil law concept which is very easy one to achieve. We have adopted in other revisions that we have done to the FIU and other positions, we have taken the opportunity—even in the Bill that we did last night, Data Protection Bill, to remove the “acquiesced in” as it related to bodies corporate.

Sen. Ramlogan: What is your point?

Sen. Al-Rawi: My view is that it should be removed. [*Crosstalk*]

Sen. Deyalsingh: It is very broad.

Sen. Al-Rawi: You see “assented to”, I am okay with because you have participated, but “acquiesced in”—[*Interruption*]

2.10 p.m.

Sen. Ramlogan: But acquiescing is important. You see, you may not be able to prove actual assent, but you may be able to prove some constructive form of acquiescence and that also captures it, or else the prosecution will find themselves in an invidious position. I think the criminal courts are quite capable of dealing with that.

Mr. Chairman: You still have beyond reasonable doubt, I take it?

Sen. Ramlogan: Indeed, of course.

Sen. Ramkhelawan: Mr. Chairman, if I may, I would like, through you, to raise this question again with the hon. Attorney General which is clause 29(4).

Mr. Chairman: We have not reached 29(4) as yet.

Sen. Ramlogan: We are about to go there, we are not quite there.

Sen. Ramkhelawan: I will hold my question until. [*Crosstalk*]

Mr. Chairman: We did that already. Would you tell us what your concern is?

Sen. Ramkhelawan: Well, in clause 29(4), I was trying to understand it. The Rules Committee of the Supreme Court makes rules and those rules are subject to a negative resolution of the Parliament. My question was, does it give the Rules Committee certain carte blanche authority to make rules and then they come to the Parliament for negative resolution? I just want clarification and an explanation for my own edification.

Sen. Ramlogan: Well, that is nothing new though. That is a procedure that has always been in place, and I suppose it is there out of recognition for the doctrine of separation of powers, whereby we would allow the Rules Committee to deal with matters of court procedure or anything to deal with quasi-judicial bodies that deal with their procedures, we will allow the judicial arm of the State to have an input in that. The Executive arm of the State will normally not get involved in that. Suffice it to say, we retain the final say in the matter, because negative resolution does mean that if there is something that concerns us we can, of course, raise it and deal with it.

Mr. Chairman: What I might say in relation to negative resolution, because I knew you had some concerns about that Senator, is that there is a committee that considers it, and that is where, perhaps, a small committee—Sen. Prescott SC, the Vice-President, Sen. Beckles-Robinson and I are on the committee. We in fact, went there and said, “Look, you need to make amendments to this resolution, because we found some things.” I know you mentioned that in the last four years you have not seen anything but, perhaps, this committee has acted as a buffer, and that is why nothing has come before the Parliament, because we have made those amendments and reviewed those questions of negative resolution.

Sen. Ramkhelawan: Mr. Chairman, I will hold my question and revisit it at some other time.

Sen. Ramlogan: Thank you very much, Senator. Let us move on, Sir.

Clauses 22 to 29 ordered to stand part of the Bill.

Clauses 30 to 35 ordered to stand part of the Bill.

Clause 36.

Question proposed, That clause 36 stand part of the Bill.

Sen. Panday: Mr. Chairman, clause 36 is amended as follows:

Delete all the words after the word “concerns”.

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Question put and agreed to.

Clause 36, as amended, ordered to stand part of the Bill.

Clause 37.

Question proposed, That clause 37 stand part of the Bill.

Sen. Panday: Mr. Chairman, clause 37 is amended as follows:

A. Delete subclause (1) and substitute the following subclause:

“(1) Victims of trafficking who are not nationals of Trinidad and Tobago, and their accompanying dependent children, may receive such social benefits including—

- (a) appropriate housing, education and training opportunities;
- (b) psychological counselling;
- (c) legal assistance and legal information; and
- (d) medical assistance, as may be determined by the Minister to whom the responsibility for social development has been assigned.”

B. Delete subclause (2) and substitute the following:

“(2) Victims who are participants in the Justice Protection Programme may have the option to communicate with and receive visits from family and friends, subject to the terms and conditions of the programme.”

C. Insert after subclause (4), the following subclause:

“(5) Justice Protection Programme referred to in subsection (2) has the meaning assigned to it the Justice Protection Act.”

Sen. Prescott SC: For the purpose of tidying up, in the new subclause (5), the word “in” should appear before the words “the Justice Protection Act”. It is just a bit of tidying it. That is all. Have you seen it?

Sen. Panday: That is on page 7, Sir. In the penultimate line, “assigned to it in” Insert “in”. Thank you very much, Senator.

Mr. Chairman: So the amendment for consideration is both the deletion of “protection” in subclause (2) and the introduction of the word “in” before “the Justice Protection Act” in subclause (5).

Trafficking In Persons Bill

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Question put and agreed to.

Clause 37, as amended, ordered to stand part of the Bill.

Clause 38 ordered to stand part of the Bill.

Clause 39.

Question proposed, That clause 39 stand part of the Bill.

Sen. Panday: Clause 39 is amended as circulated:

A. In subclause (1), —

(a) insert after the words “do not” the words “desire to”

(b) delete the word “dependants” occurring after the word “accompanying” and substitute the words “dependent children”

Question put and agreed to.

Clause 39, as amended, ordered to stand part of the Bill.

Clauses 40 to 43 ordered to stand part of the Bill.

Clause 44.

Question proposed, That clause 44 stand part of the Bill.

Sen. Panday: Mr. Chairman, clause 44 is amended as circulated:

A. In subclause (2) insert after the words “liaise with the” the words “Children’s Authority and other”.

B. In subclause (3), delete and substitute the following chapeau: “The Counter-Trafficking Unit, in consultation with the Children’s Authority, shall develop special programmes for child victims including”

Sen. Al-Rawi: Thank you sincerely for including it. Thank you.

Question put and agreed to.

Clause 44, as amended, ordered to stand part of the Bill.

Clauses 45 to 47 ordered to stand part of the Bill.

Clause 48.

Question proposed, That clause 48 stand part of the Bill.

Sen. Panday: Clause 48 is amended as follows:

Delete paragraph (b) and substitute the following paragraph:

“(b) by a national of Trinidad and Tobago anywhere, whether in Trinidad and Tobago or elsewhere; or”

Sen. Dr. Armstrong: Sorry, I just need clarification with respect to clause 48, and the fact that as I was raising earlier, the business of the protocol—Article 15 of the protocol where we did not have a reservation or declaration and, therefore, the jurisdiction for any dispute with the interpretation of the protocol, we are obliged to go to the International Court of Justice. Am I correct in assuming that? Is that a correct interpretation? Therefore, how does clause 48 fit in with that obligation?

Sen. Panday: Our instructions are that it is clear when it says:

“A Court in Trinidad and Tobago shall have the jurisdiction to try an offence under this Act where the act constituting the offence has been carried out—

- (a) wholly or partly in Trinidad and Tobago;
- (b) by a national of Trinidad and Tobago anywhere; or
- (c) by a person on board a vessel or aircraft registered in Trinidad and Tobago.”

Sen. Dr. Armstrong: The fact that we did not make a declaration or express any reservation at the time of signing the protocol—because a number of countries have said that they are not going with that provision or that requirement in the protocol. My understanding is, because we did not make a reservation or a declaration in that regard that disputes with respect to interpretation of the protocol or in carrying out the protocol would have to go to the International Court of Justice. I am simply asking for the legal luminaries to look at Article 15 of the UN Protocol and assist me in understanding whether what we have here—

Sen. Panday: Any dispute between two or more state parties concerning the interpretation for application, those will go to the International Court of Justice.

Sen. Dr. Armstrong: Okay, fine. Thank you very much.

Sen. Al-Rawi: Mr. Chairman, in any event, if there is ambiguity as to a jurisdictional point and in this case, we are talking about original jurisdiction of a court of record, whether it is the international courts or the local courts, I think we must err—well, we must, first of all, ground the jurisdictions in our courts.

Sen. Panday: In our local courts.

Sen. Al-Rawi: Secondly, if there is a dispute, you can always seek a declaration under Part 71 of the Civil Proceedings Rules as to the meaning of this particular position, or take some other relief, but I think we are safe on this ground. My own view is to state interpretation under the protocol that binds us.

Sen. Panday: We agree with you. Thank you.

Mr. Chairman: Senator, I wonder whether in clause 48(b) whether after “anywhere” you should say “whether in Trinidad and Tobago or elsewhere”. I am not sure if “anywhere” conveys that.

Sen. Panday: It says “by a national in Trinidad and Tobago..”.

Mr. Chairman: “Whether in Trinidad and Tobago or elsewhere”.

Sen. Panday: Yes. Thank you Sir.

Mr. Chairman: Clause 48 is amended with the insertion at the end of clause 48(b) the words “whether in Trinidad and Tobago or elsewhere”.

Question put and agreed to.

Clause 48, as amended, ordered to stand part of the Bill.

Schedule.

Question proposed, That the Schedule stand part of the Bill.

Sen. Panday: The Schedule is amended as circulated:

A. In paragraph 1—

(a) Renumber subparagraphs (c) to (f) as (d) to (g);

(b) Insert after subparagraph (b), the following subparagraph:

“(c) psychologists”.

B. In paragraph 2, delete the word “(d)” in the chapeau and substitute the number “(e)”.

Question put and agreed to.

Schedule, as amended, ordered to stand part of the Bill.

Question put and agreed to, That the Bill, as amended, be reported to the Senate.

Senate resumed.

Bill reported, with amendment, read the third time and passed.

Adjournment

Tuesday, May 24, 2011

2.25 p.m.

ADJOURNMENT

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, I wish to thank all Senators for their contribution on this Bill, and in particular the Senators who proffered those amendments—I see Sen. Al-Rawi smiling; Sen. Baptiste-Mc Knight is not here; I also wish to thank her and all Senators.

Mr. President, I beg to move, that this honourable Senate be adjourned to Tuesday May 31 at 11.00 a.m., when we shall do the Justice Bill, and after that, at 1.30 p.m. probably start Private Members' Day.

Indian Arrival Day Greetings

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, on behalf of the Government, I wish our Indian brothers and sisters, happy Indian Arrival Day, and to indicate that their contributions to the development of the society have not gone unnoticed, and hope and pray that they will continue in that light. Thank you. [*Desk thumping*]

Sen. Penelope Beckles-Robinson: Thank you very much, Mr. President. I too would like to join with other Members of this Senate in wishing my Indian brothers and sisters, happy Indian Arrival Day. We know that in Trinidad and Tobago there are several celebrations that are held which clearly demonstrate that we have a very diverse society, multi-ethnic, multireligious—and that the Constitution continue to recognize people's rights to their freedom of religion, freedom to worship and freedom to associate.

On behalf of my colleagues on the Opposition Bench, we would like to wish them all success on Monday—a very peaceful and holy holiday; one that will continue to allow us as a country to reflect on the contributions of our brothers and sisters who came from India and contributed towards the development of Trinidad and Tobago. Thank you.

Sen. Basharat Ali: Mr. President, after this long spell, I had forgotten that Indian Arrival Day is in fact on Monday, so I am not prepared. But I have lived for a good part of Indian Arrival Day already, because 1845 was the year when the first vessel, the *Fatel Rozak*, came to this country and I come from a little rural community which was mainly Indian, and that is Aranguez in San Juan, and Indian Arrival Day has been celebrated there for years and years, but now that it is an official holiday, we all join together and enjoy it. So, we are very proud of our

heritage, those of us who come from that origin; my forefathers came as indentured labourers and here I am sitting in this honourable House. [*Desk thumping*] So it shows the progress we have made in the time since then.

2.30 p.m.

I believe the Indian community has done quite a remarkable job in the development of this country, and has been doing its part in the administration of this country, seeing that successive governments have been basically based on people of a certain ethnic origin.

I think Trinidad and Tobago, more and more, is getting to that situation where we recognize each other and join with each other to celebrate, and still recognize our differences in terms of religion and everything else.

My religion, Islam, in fact says that God created us and made us different, so we may recognize each other. I think Sen. Karim will bear to that. So we are integrating, and as we do we share our culture. All the elements have come here with their culture. The Indian culture has been strong, because probably they were an isolated society, so things like the music of India has been with us. It has been changed and we have soca chutney and everything else. The food is pretty well the same; I think we all look forward to Indian delicacies and Indian cuisine.

As we celebrate on Monday, on behalf of all the Members of my Bench, and that is a mixed bag, I wish the other Members of the Senate and the national community a most happy Indian Arrival Day.

Thank you.

Sen. Subhas Ramkhelawan: Mr. President, I want to endorse all that has been said with regard to Indian Arrival Day, and extend my best wishes to all the citizens of this country on this day which celebrates the arrival of our East Indian ancestors. But that is not the point on which I rose.

I wanted to get some clarification from the Leader of Government Business with regard to this matter of a Private Members' Day on the next sitting. We have had a situation for the entire session where the majority of the sessions addressing Private Members' Day have been truncated, most of them ending at 4.30. As a result, there are a number of motions on the agenda that have not been addressed, including the question of campaign financing, raised by the hon. Sen. Drayton, including the matter of tertiary education, a Motion raised by Sen. Prof. Ramkissoon and one other matter I think is related to the Police Complaints Authority.

Indian Arrival Day Greetings
[SEN. RAMKHELAWAN]

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I appeal to the Leader of Government Business, since we are now on the second matter of Private Members' Day, which is the matter of constitutional reform, to give us the undertaking that at least this Motion will be completed and wound up, and that sufficient time be given for this to be done.

On at least three occasions on Private Members' Day, we have acceded to his request for other matters to come before the sitting regarding private motions. It would be a travesty, at the very least, if we could not complete two motions and if we go into recess with a situation that a matter as important as a discussion on constitutional reform, would be left undone.

So I appeal to the Leader of Government Business to allow, if we have another matter, as I expect we will, together with the continuation of the Private Members' Motion, that we run the session until the matter is wound up, especially since I expect that this would be the last Private Members' Day for this session.

I make that appeal, or else it may seem to be a disrespect of a very high order to Private Members, that only two hours per month, or thereabout, is allowed for Private Members' Day. It suggests something of a scant disregard. I am sure that is not the intention of my honourable colleague, the Leader of Government Business.

So I ask and appeal once again, that when we take this matter, the last Private Members' sitting, we have this undertaking that the matter on constitutional reform will be taken to its conclusion. Thank you, Sir.

Sen. The Hon. S. Panday: Mr. President, comments from hon. Sen. Subhas Ramkhelawan have been noted, and as to the importance of the Motion, indeed I think all the motions are very important, and it is not for the Government to interfere in Private Members' Day, to determine which motion comes first, which comes second. I would say that all the motions on the Order Paper are very important, and your comments have been noted.

Mr. President: Hon. Senators, I take this opportunity to join in the sentiments expressed to our brothers and sisters on Indian Arrival Day. Certainly I think it is an opportunity when praise and thanks may be given for arriving here in Trinidad and Tobago. So we wish to offer them all the blessings that come with that day, that it might be a holy day. No doubt, they have introduced a rich diversity to the

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culture of Trinidad and Tobago, and we are all the better for it. We have much to thank our Indian brothers and sisters for in terms of what they have contributed to Trinidad and Tobago.

I may mention, of course, that I will not be here on Tuesday. I will be somewhere else.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 2.37 p.m.