

# LEELA RAMDEEN'S PAPER – SUMMARY TO BE PRESENTED AT 5<sup>TH</sup> WORLD CONGRESS AGAINST THE DEATH PENALTY: 12-15 JUNE, 2013

**Theme:** Challenges for the establishment of a Strong Caribbean Abolitionist Movement and practices and implementation of the death penalty in Trinidad and Tobago

## A. INTRODUCTION

### 1. The establishment of an autonomous regional initiative:

Ladies and Gentlemen, it is indeed a pleasure to be here with you at this important Conference and to share my thoughts on this topic.

I represent the *Greater Caribbean for Life* (GCL). This working group emerged from the First International Conference on the Death Penalty in the Greater Caribbean which took place in Madrid from October 17-19, 2011. It was organized by the Community of Sant'Egidio.

The group comprises:

- Mr. Simeon Sampson SC, President of the Human Rights Commission of Belize (Belize)
- Mr. Mario Polanco, Director of Grupo de Apoyo Mutuo (Mutual Support Group) (Guatemala)
- Dr. Lloyd Barnett, attorney-at-law (Jamaica)
- Mr. Carmelo Campos, member of the International Affairs Committee of the Puerto Rican Coalition against the Death Penalty (Puerto Rico)
- Ms Mariana Nogales, Attorney-at-Law, (Puerto Rico)
- Ms Nicole Sylvester, Attorney-at-Law, St Vincent & the Grenadines
- and me, Ms. Leela Ramdeen, Attorney-at-Law and Chair of the Catholic Commission for Social Justice (Trinidad & Tobago).

GCL aims to:

1. Create a sustainable organisation and network of persons and civil society organisations working towards the abolition of the death penalty and state executions.
2. Educate and make public and visible the issue of the death penalty in the region.
3. Share experiences of the abolitionist struggle in order to fortify communication and cooperation within the regional movements and other regional initiatives.
4. Bring forward campaigns for the abolition of the death penalty in the Caribbean countries which retain the death penalty.

5. Collect and compile actualized information and data on the state of the death penalty in each and every one of the retentionist countries of the Caribbean.
6. Promote regional participation in international events.

GCL has produced a Memorandum of Understanding (MoU) which has been circulated widely – inviting others to stand in solidarity with us. GCL is of the opinion that a large majority of those who are incarcerated should not be in prison and that capital punishment should be abolished, not only in our region, but across the world. It is not a deterrent to crime; it does nothing to alleviate the culture of violence that pervades our societies or to build a just society, and it does not address the root causes of crime.

GCL believes that society has the right to protect itself from those who murder others and destroy the lives of so many of our people. However we believe that all societies must develop methods other than the death penalty – non-lethal means - to provide for the safety and well-being of the public. We oppose the death penalty and continue to work tirelessly for its abolition.

## **2. Contextualising the issue:**

What abolitionists have achieved so far is indisputable. However, there is no room for complacency – particularly as Amnesty International’s 2012 report shows that some countries have resumed executions - *Gambia, India, Japan and Pakistan*: “In 2012, at least 682 executions were known to have been carried out worldwide, two more than in 2011. At least 1,722 newly imposed death sentences in 58 countries could be confirmed, compared to 1,923 in 63 countries the year before. But these figures do not include the thousands of executions that Amnesty International believes were carried out in China, where the numbers are kept secret.” (<http://www.amnesty.org/en/death-penalty>).

As long as the death penalty remains an inhuman spectre against the dignity of the person in any country, we must continue to struggle for its abolition. Global solidarity is essential if we are to defeat this evil.

The Caribbean region is the great “absentee” in the international public debate about the death penalty. The Caribbean is sometimes included or presumed to be part of the American Continent. Even though it is physically located in the Americas, the Caribbean as a region has its particularities that make it different from continental America.

According to Amnesty International’s report on the use of the death penalty, **13 (all English-speaking) of the 58 countries** that retain the death penalty belong to the Caribbean, which

constitutes 1/5 of the countries in the region. Many continue to languish on death row in our region e.g. there are about 44 persons on Death Row in Trinidad and Tobago.

On Human Rights Day (10 Dec 2012), GCL joined with 22 other abolitionist groups in the region to issue a statement calling for the end to the death penalty. Inter alia, the groups stated:

“Representatives of civil society from the Caribbean are calling on governments in the region to take steps towards ending the death penalty. The call is made by representatives of non-governmental organizations from the Bahamas, Belize, Grenada, Guatemala, Guyana, Jamaica, Puerto Rico and Trinidad and Tobago, as well as the Greater Caribbean For Life network and Amnesty International.

“Executions in the Caribbean are rare, but death sentences continue to be handed down by many Caribbean courts often in violation of international human rights law and standards. Many of the criminal justice systems in English-speaking Caribbean countries are struggling with caseloads that far exceed their capacity. Inadequate legal representation, lack of witness protection programmes and poor forensic services are also common. These deficiencies, allied to the police’s lack of adequate training, resources and poor investigative capacity as well as corruption often result in violations of due process or the death penalty being imposed on prisoners suffering from mental disabilities.

“Barbados and Trinidad and Tobago still retain the mandatory death penalty for murder, even if international and regional human rights bodies have found the automatic and mandatory imposition of the death penalty to be an arbitrary deprivation of life as it does not allow the possibility of taking into account the defendant's personal circumstances or the circumstances of the particular crime...a number of governments in the region have recently attempted to pass legislation aimed at facilitating a return to hanging in response to high levels of violent crime...While deeply sympathizing with the victims of violent crime, the undersigned organizations hold that the death penalty does not make societies safer...”

The Greater Caribbean as a region influences the international debate on the death penalty, given that the United Nations General Assembly’s Resolutions on the establishment of a Moratorium on the use and application of the death penalty are opposed en bloc by most of the English speaking Caribbean – accounting for 25% of the opposing vote (note that one or two are abolitionists in practice e.g. Grenada. The last execution took place on the 17th of October 1978 when Charles Ferguson was hanged for murder.

The Greater Caribbean is a diverse region with diverse legal and philosophical traditions. It is the product of the region's colonial past. The Death Penalty came to our region as a colonial imposition.

(The Greater Caribbean comprises: Antigua & Barbuda, Bahamas, Barbados, Belize, Columbia, Costa Rica, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Puerto Rico, St Kitts & Nevis, St Lucia, St Vincent and the Grenadines, Suriname, Trinidad and Tobago, Venezuela (Taken from a Map published by Amnesty International).

Even though the Caribbean has varied traditions that remain from colonial periods, we can, however, make a distinction between the Spanish speaking Caribbean and the English speaking Caribbean. Generally, most of the Spanish speaking Caribbean have abolished the death penalty, sometimes ahead of the times - like Venezuela, which is the first country to abolish the death penalty (1863). The English speaking Caribbean still retains the death penalty in considerable numbers. (*Trinidad & Tobago, Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, St. Kitts & Nevis, Grenada, Guyana, Jamaica, Saint Lucia, Saint Vincent & The Grenadines*). Suriname, a former colony of the Netherlands, still retains the death penalty.

We could expect favourable changes in Suriname, Grenada and Barbados in the next few years. Barbados has made a commitment to abolish the mandatory death penalty since 2009, given the Inter American Court decisions. The Inter-American Court of Human Rights ruled in the case of two convicted killers, Lennox Boyce and Tyrone DaCosta Cadogan, who appealed before the hemispheric tribunal, that an automatic death sentence violated their human rights. On 2 October, 2011, Attorney General Adriel Brathwaite told Barbados' Sunday Advocate newspaper:

“We have had about two or three recent cases where the Inter-American Court of Human Rights, which we are a signatory to, decided that the mandatory death penalty should go and as a result, Barbados has committed that it will address the mandatory nature of the death penalty.” The last executions in Barbados were in October 10 1984 – more than 28 years ago. Three men went to the gallows in a single day – Noel Jordan, Melvin Inniss and Errol Farrell.

Grenada has not carried out executions since 1978 and has a generalized practice of not imposing death sentences. Suriname has not carried out executions since 1982 and in 2011 made a formal commitment to abolish the death penalty in the context of the Universal Periodic Review (UPR).

Regarding the Spanish speaking Caribbean, in Guatemala the death penalty is still included in the penal code - notwithstanding an impediment to apply it given a modification made to the death penalty law in 1997 after the signature of the Inter American Convention on Human Rights (1973) that extends the use of the death penalty in contravention to said Convention that prohibits such extensions. So, Guatemala cannot apply the death penalty unless it modifies its law as it was at the time of signature of Convention. Even though some politicians have argued in favour of reinstalling the death penalty, Guatemala has consistently voted in favour of the Moratorium Resolutions in the United Nations.

## **B. Some Challenges for those who struggle for the abolition of the Death Penalty in the Greater Caribbean region:**

**1.** The **diversity of languages** in the Greater Caribbean constitutes a **challenge** in the creation of a regional movement because it imposes the minimum requirement of English and Spanish as formal languages of the Network or initiative. There is an urgent need for effective networking with e.g. representatives from NGOs, CBOs, FBOs, academia, Governments – including those that have abolished the Death Penalty. Such networking will facilitate coordination, dialogue, the dissemination of information and strengthen the effectiveness of those of us who are working towards the achievement of abolition.

**2.** Another possible **challenge** is **the absence of territorial connection**, meaning that there is no direct land connection within the countries that compose the region and the Caribbean Sea could be seen as a barrier or opportunity which would impose the need to use recent technologies for communication e.g. Skype and email, some of which are not available in all countries. For example, Skype is not allowed in Belize. Although personal interaction with individuals and groups across the region would enhance the movement, this would require resources that a group such as GCL does not currently possess.

**3.** The main **challenge** regarding the establishment of a strong Caribbean abolitionist movement is **securing support** for such a movement in the region, particularly at a time when the crime rate is high and the nature of some crimes lead many individuals, including prominent citizens, to “bay for blood.” We face the same challenges identified by participants at the Roundtable on the Abolition of the Death Penalty organised by the International Commission against the Death Penalty, held in Madrid on 8 Oct 2012: “Participants agreed that the main challenges crystallised around the need to find new arguments and strategic angles to “persuade the unconvinced”. Tangible forward progress will depend on extending the boundaries, building new constituencies

and mobilising them to speak out or act in support of abolition.”  
<http://www.icomdp.org/cms/wp-content/uploads/2013/02/ICDP-report-roundtable-Madrid-8-October-2012-Final.pdf>

Trinidad and Tobago’s (TT) population is about 1.3 million. Between 2002 and 2012, there were **4,070** murders (see further information below). The homicide rate in TT is about 27 per 100,000 persons. Many politicians promote – knowingly or unwittingly, a culture of death by using the death penalty as a “bogyman” whenever there is an upsurge in murders and crime strategies have failed. They often use it as a distraction; as a way of pacifying the public; and/or to make citizens feel that their Government is tough on crime. For example, there have been situations in the recent past in Trinidad and Tobago (T&T) when successive Administrations have promised to hang **everyone** on Death Row. There are about 44 persons on Death Row in T&T. Anthony Briggs, 31, was the last person hanged in T&T - on Wednesday 28th **July** 1999 for killing a taxi driver.

In the midst of apparent hopelessness, citizens follow their leaders and link justice to revenge. It is to be noted that there was a two percent **increase** in the murder rate in TT the year after Briggs was hanged. This is a clear indication that hanging is not a deterrent.

(Note that shortly before Briggs was hanged, nine men were hanged in T&T over 4 days from 4th to 7th **June** 1999. Dole Chadee and 8 members of his gang were all executed for their roles in the 1994 murder of a couple and their two children. And before that, in 1994, Glen Ashby was illegally hanged while he still had appeal procedures pending).

Leaders know that public opinion generally favours the Death Penalty – including some faith communities e.g. some Christian Denominations believe in “an eye for an eye...” One politician told me, “It would be political suicide for the Government to abolish the Death Penalty.” In spite of statements such as this, it is imperative for us to promote a right to life in all circumstances. The challenge for abolitionists, therefore, is to devise strategies to **influence/change the hearts and minds** of leaders and citizens in the region. We must continue with our efforts to work with our respective governments and encourage them to consider seriously alternatives to the Death Penalty.

We cannot promote the abolition of the death penalty without addressing key issues e.g. **crime and violence**, some of which is related to drug trafficking, gang warfare and the easy availability of small arms in many Caribbean countries. Although Tony Best’s article entitled: *Caribbean’s high murder rates fell in 2012* (9.1.13) – (see: <http://www.nycaribnews.com/news.php?viewStory=3278>) - states that homicides took “a nose

dive in Jamaica, the Bahamas, St. Lucia, Jamaica, Barbados and Trinidad and Tobago” in 2012, too many of our people in the region continue to lose their lives through violent means.

Best states: “That indication came from crime statistics released by several law enforcement authorities in the region across the Caribbean. The most significant declines in murders were recorded in Jamaica and Trinidad and Tobago where at least 1,400 homicides took place two years ago but fell by about 200 killings in the two largest English-speaking Caricom nations in 2012...

“In 2012, for the second time in the past five years the number of murders didn’t surpass the 400 mark, according to the Crime and Problem Analysis Branch of the country’s police service. While CAPA figures listed **377** murders in 2012, the Trinidad Express, the nation’s largest paper, put the number at **383**. In 2008 the total number of homicides went through the proverbial roof, reaching 547 only to fall to 507 in 2009. In 2010, there were 473 murders but in 2011 they declined even more, falling to **352**.” He said **in 2012**: “*The rate of killings in Jamaica and Trinidad and Tobago combined tripled New York City’s.*”

The inability of Governments in the region to devise effective strategies to deal with crime must be addressed if we are to achieve our goals. The 2007 Inter Press Service (IPS) report on *Crime and Justice* reported that Criminologist, (now Chair of the Police Service Commission in T&T), Prof. Ramesh Deosaran, has been warning that “Trinidad and Jamaica must deal more effectively with crime or public frustration will be expressed in ever-more vehement calls for extreme measures. “The more things are not done to address crime, the more you will have people calling for drastic action and making statements like 'hang them high', he said.”

**4.** Identifying challenges also provides us with an opportunity to **devise strategies to address these challenges**. All of us involved in the abolitionist movement in the region must:

- a. become advocates for our Governments/communities to **address certain risk factors** that contribute to crime e.g. poverty, urban decay and social exclusion/inequalities/inequities, family disintegration, lack of quality education and employment, poor housing, mental illness, the proliferation of guns, drug/substance abuse, and gang violence. These all contribute to crime and must be addressed more effectively if we are to abolish the Death Penalty. Inter alia, we must support/initiate strategies to create conditions that will promote safer/more secure communities and which will allow people to realize their potential e.g. by promoting equity and equality.

- b. work towards **abolishing the mandatory Death Penalty** in Trinidad and Tobago, Barbados and Guyana – as a first step towards total abolition of the Death Penalty. As Amnesty International has noted, as a result of legal challenges, and in line with the trend worldwide, the mandatory death penalty has now been abolished in nine Caribbean countries and a discretion to impose a lesser sentence has been given to the judges of the Eastern Caribbean, Belize, Jamaica and the Bahamas.

However, in relation to Trinidad & Tobago, in the case of *Charles Matthew (Matthew v The State [2005] 1 AC 433)*, a majority of the Judicial Committee of the Privy Council (JCPC) decided - notwithstanding that the mandatory death penalty was cruel and unusual punishment in violation of entrenched fundamental freedoms and human rights established in the Constitution of Trinidad & Tobago - that it remained protected from constitutional challenge by the operation of the “savings clause” in the Constitution.

As a result, Trinidad & Tobago remains one of only three Commonwealth Caribbean countries (Barbados and Guyana being the other two) that still retains the mandatory death penalty – although, as stated above, Barbados has committed to abolish the mandatory death sentence “to comply in full with the Orders of the Inter-American Court of Human Rights by taking measures to bring its domestic law into conformity with its international obligations to human rights” (Death Penalty Project).

Section 4 of the Offences against the Person Act, Chapter 11:18 of the laws of the Republic of Trinidad and Tobago states that -:“Every person convicted of murder **shall** suffer death.” In February 2011, *The Constitution (Amendment) (Capital Offences) Bill 2011*, which proposed to amend the Constitution in Trinidad and Tobago to categorize murder by degree and to let hangings resume for those convicted and sentenced to hang, was defeated. This Bill which was introduced in Parliament on 14 Jan 2011, sought inter alia, to nullify the effects of the 1993 case of *Pratt & Morgan v AG of Jamaica*.

Briefly, The Judicial Committee of the Privy Council (JCPC) ruled that in any case where the execution of a person is to take place more than five years after sentencing, there would be strong grounds for believing that the delay is such as to constitute "inhumane or degrading punishment or other treatment". In such cases the death penalty should be commuted to life imprisonment. The case of *Pratt and Morgan v AG of Jamaica* has had the effect of making death sentences extremely difficult to carry out in the region.

Since Dr Lloyd Barnet of GCL will be focusing on this case and its effects on hanging in the region, I will not elaborate on it. There have been other cases in which the JCPC has



ruled in favour of the Appellants who have been on death row for less than 5 years and in the 2009 case of Daniel Dick Trimmingham –v- The State (St Vincent & The Grenadines) [2009] UKPC 25, the JCPC “set-down the criteria that must be satisfied before a court can impose a death sentence. First, the death penalty should be imposed only in cases which on the facts of the offence are the most extreme and exception, ‘the worst of the worst’, or ‘the rarest of the rare’. Secondly, there must be no reasonable prospect of reform of the offender and that the object of punishment cannot be achieved by any means other than the death sentence. The character of the offender and other relevant circumstances can be taken into account by way of mitigation but cannot be used against him in determining this second criterion.

“In this case, the Privy Council allowed the appeal on sentence on the basis that the murder fell short of being the ‘worst of the worst’ so as to justify capital punishment. The Court also emphasised that the object of keeping the prisoner out of society even on a permanent basis can be achieved without executing him” (The Death Penalty Project).

The JCPC remains the highest court of appeal for 27 countries, including former Caribbean colonies like T&T. Only 3 countries have replaced the JCPC with the Caribbean Court of Justice (CCJ), which is based in T&T, as their final Court of Appeal: *Barbados, Belize, and Guyana*. The CCJ was meant to be an alternative to the JCPC. There is no evidence, to date, that the CCJ will be a “hanging Court.”

David Rowe, an adjunct professor of law at the University of Miami School of Law and a member of the Jamaica Bar Association, said at a debate on abolition at the University of the West Indies (UWI), Trinidad campus in March 2013, organised by the British High Commission:

“The Privy Council has been viewed by some critics as a court that actively frustrates the execution of the death penalty, which, at least nominally, remains on the books of most Caribbean territories, despite very few hangings in recent decades.’

“Rowe argued that some commentators regard the Trinidad-based Caribbean Court of Justice (CCJ), established in 2001 to replace the Privy Council, ‘as an institutional strategy to re-introduce hanging’” ([www.caribbean360.com](http://www.caribbean360.com)).

TT’s Attorney-General has said (15 May, 2013) that “As soon as the Opposition signals publicly its willingness to support the proposal to abolish appeals to the JCPC for

criminal matters and give jurisdiction to the CCSJ, the Government would bring to Parliament the draft bill within 48 hours.”

TT’s *Constitution (Amendment) (Capital Offences) Bill 2011*, required a three-fourths majority in the House of Representatives and a two-thirds majority in the Senate in order to be passed but did not receive the support of the 11 Opposition Members in the House of Representatives. The PM and her Cabinet are currently planning to lay the Bill in Parliament again in 2013 to amend existing legislation to by-pass/nullify the JCPC’s ruling in *Pratt & Morgan v AG of Jamaica*. – as Barbados has done.

It is to be noted that although the Opposition members did not vote in favour of the Bill, its position as articulated by Opposition Chief Whip Marlene Mc Donald on February 18, 2011, highlight the fact that the Opposition Party, the People’s National Movement (PNM), support hanging. She said: “I want to state categorically, we the Opposition support the law of the land. We say together: hang them high. This is exactly what the population would like to see.” In 2013, the Opposition’s PRO, Senator Faris Al Rawi, also made it clear that the PNM supports the death penalty.

In January 2012, the Prime Minister of Trinidad and Tobago, Hon. Kamla Persad-Bissessar, said her Government was working towards implementing the death penalty as part of a serious crime-reduction tool. And on January 21, 2013 she said: “The majority of the citizenry are interested in having the death penalty implemented. It is part of the law of Trinidad and Tobago, and therefore the lack of support from the Opposition on the last occasion prevented it from going through and so we will try again because we have to find ways to reduce the crime rate.”

A 2011 study by Roger Hood, professor emeritus of criminology at Oxford University, and Dr Florence Seemungal, entitled: *Public Opinion on the Mandatory Death Penalty in Trinidad* ([http://www.deathpenaltyproject.org/assets/17/original/Report\\_Final\\_Text.pdf?1307441474](http://www.deathpenaltyproject.org/assets/17/original/Report_Final_Text.pdf?1307441474)), found that 89 % of the population in Trinidad and Tobago supports the death penalty, although a majority also believes that judges should have discretion in sentencing. 26 % favour the current law, which makes the death penalty mandatory for all murders, whatever the circumstances.

As the Guardian Newspaper reported on Wed 13 March 2013: “36 % of those who supported the mandatory death penalty and 54 % of those in favour of a discretionary system also said that more executions were the **least** likely policy to reduce violent crime.

Three-quarters of those interviewed did not support the mandatory death penalty after it was explained to them.

“The researchers concluded that the findings of the survey, taken in conjunction with two previous studies (in 2006 and 2009), strongly supported the abolition of the mandatory death penalty and its replacement by a discretionary system.” Professor Arif Bulkan of the Law Faculty, University of the West Indies, a member of the Rights Advocacy Project, said: “The studies revealed if you killed someone in T&T, the likelihood of being executed was **under five per cent**” (T&T’s detection rate, is, in fact about 14% only);

- c. lobby for all countries in the Greater Caribbean region to respond positively to the UN call for a **moratorium on executions** with a view to abolishing the death penalty and to seek to increase the number of **State ratifications of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) and to promote its implementation in national law**. As the *Death Penalty Project* states: “Trinidad and Tobago has been a party to the International Covenant on Civil and Political Rights (ICCPR) since 1978. It withdrew from the First Optional Protocol allowing for the right of individual petition to the UN Human Rights Committee in 2000. It has neither signed nor ratified the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty. Whilst a party to the American Declaration of the Rights and Duties of Man, in 1999, Trinidad & Tobago denounced its ratification of the American Convention of Human Rights and its acceptance of the jurisdiction of the Inter-American Court of Human Rights. It has not signed the Protocol to the American Convention on Human Rights to Abolish the Death Penalty”;
- d. **educate citizens on the non-dissuasive effect of the death penalty** and garner their support to see the need for economic resources spent on the death penalty to be redirected on other effective initiatives that may reduce crime and violence and provide restitution to victims. Public education programmes are necessary to convince people that the Death Penalty is not a legitimate means of protecting society; it does not build the common good; fails to promote the dignity of each human person; and diminishes all of us. The majority of the population in the Caribbean retentionist countries approve the death penalty as a way to cope with violent crime. For example, Mr Israel Khan, SC, Attorney-at-Law in TT, during a debate at UWI in February 2011 described the possibility of innocent persons being executed as "collateral damage." Although he agrees that capital punishment does not deter murder, he argues that it is necessary for citizens to have vengeance. This is why any strategies adopted must include an educational component which would aim, inter alia, to change attitudes. If the population is educated on the non-

dissuasive effects of the death penalty and the alternatives to the death penalty - like life with/without parole, we may be able to gain support for our abolitionist cause. By Cabinet Minute No. 2012-2004/07/15 dated July 15<sup>th</sup> 2004, T&T Cabinet agreed to the appointment of a *Parole Introduction Committee* with specific terms of reference. I was a member of that Committee which produced a report after 3 years. It was shelved.

e. **develop strategies for improving the criminal justice system/administration of justice** so that, where appropriate, timely arrests are made and cases proceed swiftly through the judicial system – followed by conviction where cases are proved and appropriate penalties applied. The wheels of justice in T&T currently grind very slowly, with lengthy delays and grave injustices to those who, for example, wait for years on Remand for their cases to be heard. There have been many recommendations made about ways in which our countries can achieve swift justice/improve the criminal justice system e.g. there is a need to:

- (i) increase **law enforcement** as well as **detection and conviction rates** which are currently very low – about 14% in T&T for homicides;
- (ii) enhance the ability of the **police** to undertake their duties more effectively/efficiently and to ensure quality policing e.g. through initial and ongoing training, effective leadership and supervision, systematic performance measurement, adequate equipment/resources, proactive rather than reactive approaches and problem-oriented policing - linked to clear goal setting etc. In a recent interview (May 10 2013 – at a Joint Select committee of Parliament), the Acting Commissioner of Police in TT, Stephen Williams, highlighted the fact that there were 80 vacancies in the Homicide Unit; a shortage of 1,430 Police Officers (total number of Officers in the Service is currently about 6,000); one in every 4 vehicles in the TT Police Service’s fleet is not operational. He said: “Out of those vehicles we have 1,016 operational...349 are not operational because of disrepair, accidents and so on. We are seeking to get up to 1,700 vehicles in our fleet.”

Currently only 300 police vehicles are equipped with **Global Positioning systems** (GPS). All police vehicles should be equipped with GPS and criminal database. New technology will assist in improving detection rates. For example, there is a need to “beef up” **DNA legislation** and the capabilities of the forensic labs in our region with an ability to use foreign facilities if necessary.

The Acting Commissioner of Police in T&T also reported that on a recent statistical analysis on violent crime communities, conducted by an expert from the University of Cambridge, which found a total of **188** “violent **crime hot spots**” in Trinidad and Tobago. (“Hot spot” is defined as a small geographical area of concentration). The challenge is for such information to inform the operations of the National Security Council, Chaired by our PM, and the operations of the Police Service. Being aware of hot spots is not good enough. A Police Service needs to know what its officers should do in such areas.

As the *Centre for Problem-Oriented Policing* states: “Effective police work requires both focused attention and diverse approaches. The least effective policing uses neither element...If diverse approaches are used without focus, it is difficult to apply the appropriate approach to the places and people who most require it. If police are focused on hot spots, but only enforce the law, they limit their effectiveness. A fully effective police agency must take advantage of the details of crime situations to reduce crime opportunities. Crime analysts have important roles in applying both elements.” (<http://www.popcenter.org/learning/60steps/index.cfm?stepNum=3> ). As Prof Ramesh Deosaran says, evidence-driven policing should lead the Police Service to place a community as a “warm spot” and take appropriate action to prevent it from becoming a “hot spot”.

For 4 years I was a member of T&T’s *Police Service Commission* and it was clear to me that major structural, operational and attitudinal changes were necessary if the Service were to meet its goals. Corruption within our various Police Services in the area must be rooted out if we are to increase our capacity to solve crimes.

Joint patrols by Police and members of the Defence Force have been in operation in T&T for years, but currently only police officers deal with arrests. However, the *Defence and Police Complaints Authority Amendment Bill 2013* seeks to precept 1,000 members of the Defence Force and give them the same powers of arrest as police officers. Former chief of Defence Staff, Major General Ralph Brown, says the suggestion to provide soldiers with powers of arrest is "fraught with danger" and he has cautioned the Government to reconsider the option. The entire concept of Community Policing, and indeed the goals of policing, should be reviewed in light of this development. A nationwide survey conducted by the ANSA McAl Psychological Research Centre at the University of the West Indies, TT Campus, between May 10 – 12 2013 comprising persons 18 and over,

highlights the fact that 62% of the 503 respondents polled said that they did not want soldiers to be given powers of arrest.

Of concern also is the fact that while our Governments seem to focus most of their attention on certain crimes, **white collar crime and corruption** at all levels of our societies, rob our countries of resources that could be usefully deployed to address some of the social ills outlined above;

- (iii) streamline **prosecution** and set up special courts such as gun courts;
- (iv) overhaul the penal system in T&T and throughout the region – this includes addressing archaic/appalling conditions in **prisons** where necessary, the needs of deportees, and of those who leave our prisons. There is an urgent need to develop comprehensive programmes to rehabilitate prisoners (within prisons and on their release) and address issues such as cell phones being used by some inmates to continue their lives of crime from behind bars and even to organise “hits” on certain individuals, including prison officers, in society – from behind bars.

On May 10 2013 the Commissioner of Prisons in T&T, Mr Martin Martinez, stated that the proliferation of illegal cell phones in prisons is the biggest challenge facing the prison administration. He said prisoners receive the cell phones between the court and prison. Many believe that prison officers themselves provide cell phones to inmates in return for sums of money. The Commissioner of Prisons said that the prison service was working with other law enforcement agencies to deal with “rogue officers”. He said that out of 4,000 officers, less than 5% could be called “crooked.” The Prison Service is currently examining the possibility of implementing a “suitable” phone system for inmates so that they can keep in touch with their families.

T&T’s Prime Minister said in May that her Government would be introducing cell phone “jammers” and “grabbers”. “Jammers” would block calls from phones smuggled into prisons, while “grabbers” would intercept calls. It is worth noting that, in fact, the previous Administration had introduced these in the prison system in 2008. They were tampered with and never repaired.

It should be noted that excellent recommendations were included in a 2002 report of a Cabinet-appointed Task Force on Penal Reform and Transformation. Sadly, many have not been implemented. The key recommendation was that there should be a *Shift in the Penal System from Retributive to Restorative through the*

*implementation of a Restorative Justice Philosophy'*. A Penal Reform and Transformation Unit has been established within the Ministry of Justice. On Sun 19 May 2013, Prisons Commissioner, Martin Martinez, is reported to have said at a function to promote 180 prison officers, that: "Changing the mindset of prisons officers as well as the general public with respect to the perception of how inmates are supposed to be treated was perhaps the Prisons Service's biggest challenge." Among other challenges were "overcrowding, protection of prisons officers, its ability to attract suitable human resource personnel and general upgrades in physical infrastructure at many prison facilities."

(v) **address inadequacies at T&T's Forensic Science Centres:**

I refer to a report on the T&T centre, titled "An Organisational Process Analysis", conducted in 2011 and reported on in Jan 2012. <http://www.guardian.co.tt/2012-01-24/certain-practices-can-create-room-flaws> . The analysis was conducted by Drs Kwame Darko Atuah and local forensic pathologist Dr Valery Alexandrov. Among the deficiencies was the fact that "The Forensic Pathology Subdivision (FPS) of the Forensic Science Centre, St James, T&T, depends on medical personnel who are mostly not adequately skilled in the field of forensic pathology... The FPS requires **four** forensic pathologists but it has never been able to fill more than two as at present. The FPS performed at least 1,000 autopsies annually, thus giving the workload of at least 500 autopsies per forensic pathologist. The benchmark for a forensic pathologist is 250-plus or minus ten per cent and must be reduced with increasing administrative duties. Where 300 or more are done per forensic pathologist a centre cannot receive accreditation by international standards bodies. This exposes a further point of weakness...The FPS also depended on police investigators with no formal training in forensic pathology to do death scene assessments." The 27-page report reveals key areas that need to be addressed before we rush to the gallows.

On March 18 2013, officials operating under the Occupational Safety and Health (OSH) Act produced a damning report on conditions at the Centre. Inter alia, concerns include "inadequate storage of human remains such as bones and tissue samples." There have been instances in the past where vital evidence has "disappeared" from the Centre e.g. in the case of 11-year-old Akiel Chambers who was found floating in a swimming pool on May 24, 1998. Items of his clothing that might have helped to identify his killer(s) went missing from the

Centre. Also, it is alleged that an anal swab taken from Akiel's body during the post mortem was destroyed by the Centre prior to completion of the case.

On Sat 11 May 2013, T&T's Guardian newspaper reported that "Canadian assistance has been obtained towards operationalisation of T&T's new Forensic Science Centre and for local defence, security and related infrastructure using Canadian products and services."

The Guardian Editorial on Sun 19 May 2013 entitled: Fix the Forensic Centre, highlighted the fact that "on Feb 13 2013, pathologists at the Centre acknowledged that their backlog of bodies awaiting autopsies had begun to exceed their capacity to handle. The pathologists had 30 cadavers to work on that day and well after closing time...Some bodies spent the day in hearses parked outside the Centre before being sent away. Two days later, forensic pathologist Dr Valery Alexandrov called on the government to improve the situation at the Centre. He complained of overworked pathologists, poor working conditions and a working relationship with the police that desperately needed improvement." The Justice Minister is addressing concerns raised;

- (vi) review **Sentencing policies** and consider the introduction of **parole systems**;
  
- (vii) **address the rights of Victims** – including family members of murder victims and secondary victims such as children and family members of those sentenced to death. A **Restorative Justice** approach to the criminal justice system will enhance victims' rights and help to repair harm and bring healing to those impacted by crime, including the offender. Yet many Caribbean countries continue to support **retributive justice**. Our region needs to devise more effective victim support strategies if we are to promote integral human development e.g. counselling, emergency services, retrieval of victims' property, compensation for financial losses, and genuine involvement in the prosecution of cases involving them or their loved ones. (See: The 1985 UN victims' Declaration which lists certain victims' rights).

There is also a real fear that if heinous crimes continue to go undetected, that some victims/citizens may take the law into their own hands.



- f. draw on/ seek to implement the recommendations of key reports e.g. the United Nations Development Programme's (UNDP) Caribbean Human Development Report 2012 entitled: *Human Development and the Shift to Better Citizen Security* (<http://www.undp.org>) which was launched in TT on 8 February 2012. The report reviews the current state of crime as well as national and regional policies and programmes to address the problem in seven English- and Dutch-speaking Caribbean countries: *Antigua and Barbuda, Barbados, Guyana, Jamaica, Saint Lucia, Suriname, and Trinidad and Tobago.*

At the launch, UN Under-Secretary General, Helen Clark, a former three-time prime minister of New Zealand, said Trinidad and Tobago (TT) had relatively low and stable homicide rates from 1990 to 2000 but has seen a substantial rise since. In spite of this, she stated that there is no evidence to suggest the death penalty serves as a deterrent to crime. She said "several of the UN's human rights conventions extort countries to dismantle capital punishment and use other methods to deter crime."

It is interesting to note that at the launch of the report, TT's Prime Minister Kamla Persad-Bissessar identified the Capital Offences Bill 2011, which was defeated in Parliament last year, as one of the pieces of legislation which Government has introduced to contribute "to a more effective and timely delivery of justice to our citizens." She said: "We remain committed to utilising all our resources to bring the full weight of the law down on those involved in criminal activity, within the context of internationally recognised and accepted fundamental human rights for all."

According to the Report, respondents in TT had the least confidence in the police (53 percent having a great deal of confidence or some confidence in the police) and rated police performance as the poorest (17 percent rating the police as good or very good for controlling robbery and 17 percent for burglary). As murders swell, death penalty spin rises."

The Report highlights the fact that the criminal law as it exists in countries such as Trinidad and Tobago, will not help to build a just society. It clearly shows that the "iron fist" does not work and that the criminal justice system as it stands currently blocks sustainable development. Justice is not about trampling offenders into the ground or ignoring the needs of victims for Reparative Justice.

It states that although murder rates are exceedingly high in our region by world standards, Caribbean governments **can** reverse the trend. It calls for regional governments "to beef

up public institutions to tackle crime and violence - including the criminal justice system- while boosting preventive measures."

It "stresses the need to rethink our approaches to tackling crime and violence and providing security on the ground. We need to follow approaches that are centred on citizen security and address the **causes** of this recent increase in violent crime, including social, economic, and political exclusion," said Helen Clark (UNDP's Administrator).

"The new study recommends that Caribbean governments implement youth crime prevention through education, as well as provide employment opportunities that target the marginalized urban poor. A shift in focus is needed it says, from a state protection approach to one that focuses on citizen security and participation, promoting law enforcement that is fair, accountable, and more respectful of human rights.

"The new study also highlights other effects of crime that generally go unreported, such as low educational achievement and poor health among youth, physical and psychological pain, suffering and trauma caused by youth violence, reduced quality of life, the marginalization of youth and negative stereotypes that fuel further aggressive behaviour among young people."

This report provides us with an opportune time to rethink our assumptions about punishment in the region and to embrace legislation and policies that are more in keeping with building the common good and promoting the dignity of the human person. The UNDP report clearly shows that what we are doing is not working. Therefore, there is an urgent need to consider alternatives.

It is worth noting the summary and key recommendations outlined in the report:

**"Document Summary:** Crime has become one of the main challenges threatening economies and livelihoods in Caribbean countries, but the right mix of policies and programmes can halt the problem, according to the Caribbean Human Development Report 2012.

"Violence limits people's choices, threatens their physical integrity, and disrupts their daily lives," said UNDP Administrator Helen Clark at the report's launch ceremony with Trinidad and Tobago Prime Minister Kamla Persad-Bissessar and UNDP Regional Director for Latin America and the Caribbean Heraldo Muñoz.

"This report stresses the need to rethink our approaches to tackling crime and violence

and providing security on the ground. We need to follow approaches that are centered on citizen security and address the causes of this recent increase in violent crime, including social, economic, and political exclusion,” Helen Clark said.

The Report recommends that Caribbean governments implement youth crime prevention through education, as well as provide employment opportunities that target the marginalized urban poor. A shift in focus is needed it says, from a state protection approach to one that focuses on citizen security and participation, promoting law enforcement that is fair, accountable, and more respectful of human rights.

### **Key recommendations from the Report**

- High rates of violent crime can be turned around by achieving a better balance between legitimate law enforcement and preventive measures, with a stronger focus on prevention;
- Governments should create or invest more in units to address gender-based violence and adopt more preventive measures to ensure that violence against girls and women is no longer tolerated
- Because crime harms social cohesion, Caribbean nations must better address youth violence and street gangs, whose crimes are rarely prosecuted
- Public security requires community collaboration.”

While this report only focuses on 7 countries within the region, there is an urgent need for greater, more effective collaboration within and between all countries in the Greater Caribbean if we are to abolish the death penalty.

- g. **work with partners** (e.g. Governments, civil society organizations such as NGOs, CBOs, FBOs, the legal profession, activists, and academia) to move the debate beyond the use of the Death Penalty as a crime prevention measure and instead to explore **effective preventative programming and improved public security** in the region while promoting a restorative approach to the administration of justice.
- h. seek to influence **the media** to work with us to achieve the abolition of the Death Penalty. The media can play a significant role in changing public opinion in relation to the Death Penalty. As the Catholic Bishops (Antilles Episcopal Conference) said in their 2000 Pastoral Letter on Capital Punishment, “sensational crime reporting... is a recipe for fuelling violence and also for encouraging mimic behaviour...The death penalty

simply perpetuates the cycle of violence and is used as a political tool.” See: *Media influence in Capital Cases*: <http://www.capitalpunishmentincontext.org/issues/media> which states, inter alia: “The media wields tremendous influence in our society. Newspapers, radio, television, and new media not only spread information, but also help to determine what topics and stories people talk about.”

- i. **improve the country’s education system.** We cannot consider challenges/preventative measures without focusing on the education systems in our various countries in the region. Moral relativism threatens to overwhelm us. In societies in which “anything goes”; in which role models are few and far between and mentors are often not forthcoming; and in which conscience formation and character building are sorely lacking, there is little motivation for offenders to turn their lives around.

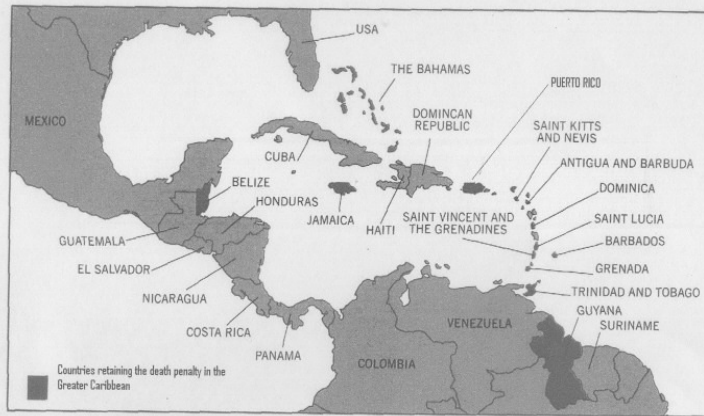
If our education systems at all levels fail to develop in our youths the right kind of values; respect for self and others; an understanding of “right” and “wrong”, we will continue to witness serious crimes being committed in our communities. Bullying and other forms of violence are rampant in many schools. Gangs continue to recruit members from primary and secondary schools. As older gang leaders are murdered, younger ones sometimes take their place in T&T. Effective parenting classes at a national level may go some way towards building family life. Mentoring programmes such as that introduced by T&T Government, must be monitored and evaluated to determine their effectiveness. Our Education systems should instill in youths values that will help us to nurture a peaceful/harmonious society and promote the common good and youths should have opportunities to practise these values e.g. Doing the right thing because it is the right thing to do.

We also need to establish special projects to help truants and school drop-outs. In T&T the Minister of Education has stated that more than 4,000 students drop out of school each year. It is unclear how many join gangs and/or turn to crime.

**Conclusion:** Abolition of the death penalty in T&T and the rest of the Greater Caribbean requires a multi-faceted approach; one that will address all the issues raised above and others. Unless we address these, the high and diverse costs of crime will continue to stand as obstacles in the way of progress – of our people and the region as a whole. And while support from those involved in the global campaign to abolish the death penalty is forthcoming, it is essential that more individuals from within the countries of the Greater Caribbean come on board to join the struggle. Most of all, we must celebrate small steps. We are in this for the long haul.

I thank you.

# END



Adapted from Amnesty International