



**PERMANENT MISSION OF THE REPUBLIC OF TRINIDAD AND TOBAGO  
TO THE OFFICE OF THE UNITED NATIONS, GENEVA**

**Note No. 10/2015**

The Permanent Mission of the Republic of Trinidad and Tobago to the Office of the United Nations in Geneva and its Specialized Agencies in Europe presents its compliments to the Office of the High Commissioner for Human Rights, Special Procedures, and with reference to the latter's Note Verbale dated September 19, 20147, transmitting a questionnaire on the responsibilities of sub-national governments with respect to the right to adequate housing, has the honour to submit the attached completed questionnaire from the Government of the Republic of Trinidad and Tobago.

The Permanent Mission of the Republic of Trinidad and Tobago further wishes to express its regrets for the late submission of the attached questionnaire.

The Permanent Mission of the Republic of Trinidad and Tobago to the Office of the United Nations in Geneva and its Specialized Agencies in Europe avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, Special Procedures Branch, the assurances of its highest consideration.

**Geneva, January 19, 2015**



## Questionnaire on the responsibilities of sub-national governments on the right to adequate housing

### A. Distribution of responsibilities related to the right to adequate housing

1. Please identify the levels of Government (national, Provincial,/state, municipal) primarily responsible for the following (where primary responsibility is shared please check more than one):

	National /Federal	Provincial /State	Municipal	Explanatory Notes
Housing Programme	Yes	Yes		<p>(National)</p> <ul style="list-style-type: none"> <li>- The Trinidad and Tobago Housing Development corporation (HDC)</li> <li>-The Land Settlement Agency (LSA)regularisation of tenure to families who were in unauthorised occupation of State land</li> </ul> <p>(Provincial)</p> <ul style="list-style-type: none"> <li>-Tobago Housing Development Programme</li> </ul>
Income Support (eg: Transfer payments to individuals, welfare, social security and/or rent subsidies/supplements)	Yes	Yes		<p>(National)</p> <ul style="list-style-type: none"> <li>-Lower Mortgage Rate for Lower income households.</li> <li>- The Beneficiary Owned Land Programme; funded by the Inter-American Development Bank (IDB), and provides financial aid to persons who are in legal possession of residential land and wish to construct a home.</li> <li>-The IDB Home Improvement Subsidy</li> <li>-The Home Improvement Grant</li> </ul>

				<p>-The Housing Repair Grant</p> <p>-Rent to own Programme</p> <p>(Provincial)</p> <p>-Tobago Home Improvement Grant and Subsidy Programme</p>
Tenancy and security of Tenure Legislation	Yes	Yes		<p>The Land Settlement Agency (LSA) has been mandated to regularise and deliver security of tenure to families who were in unauthorised occupation of State land prior to January 1st 1998, and to contain further squatting on State land in Trinidad and Tobago.</p> <p>Legislation which governs the LSA and the regularization of State land is the <b><i>State Land (Regularisation of Tenure) Act, Chapter 57:05</i></b></p> <p>Legislation which governs tenancy and security of tenure is the <b><i>Land Tenants (Security of Tenure) Act Chapter 59:54</i></b></p> <p><b><i>The Tobago House of Assembly Act, Chapter 25:03</i></b> governs the Tobago House of Assembly (THA) which is responsible for carrying out the law in relation to tenancy and regularization of land in Tobago.</p>
Infrastructure (eg:Water/ Sanitation, electricity)	Yes	Yes	Yes	<p><b><i>The Water and Sewerage Act, Chapter 54:40</i></b> establishes the Water and Sewerage Authority which is responsible for providing for the development and control of water supply and sewerage facilities at a national level.</p>

				<p><i>The Trinidad and Tobago Electricity Commission Act, Chapter 54:70</i> establishes an electricity commission for T&amp;T to enable the commission to generate and supply electrical energy.</p> <p>The Tobago House of Assembly (THA) is also responsible for the management of public utilities in Tobago.</p> <p>The Ministry of Local Government deals with certain infrastructural development and sanitation at a municipal level.</p> <p>Citizens can benefit from three components of assistance under the Utilities assistance programme (water, electricity and Solar Energy)</p>
Prohibition of discrimination in housing	Yes	Yes		<p>(National)</p> <p>The HDC allots housing based on specific criteria:</p> <ul style="list-style-type: none"> <li>• 75% is reserved for public applicants through a random selection system.</li> <li>• 10% is reserved for the Joint Protective Services - Police, Army, Prisons and Fire Services.</li> <li>• 15% is assigned to deal with special emergency cases, senior citizens and physically challenged persons</li> </ul> <p>(Provincial)</p> <p>Houses are constructed by the THA and offered at cost price to eligible citizens of Trinidad and Tobago who are resident in Tobago.</p>

2. **What are the primary bases for the allocation of responsibilities among different levels of government? Please identify the appropriate provision(s) and provide a copy or link if possible.**

The primary base for the allocation of responsibilities is through National framework legislation:

- **The Housing Act, Chapter 33:01** which establishes the Trinidad and Tobago Housing Development Corporation
- **The Tobago House of Assembly Act, Chapter 25:03** which establishes the Tobago House of Assembly which is responsible for inter alia housing, infrastructure development, and public utilities in Tobago
- **The Trinidad and Tobago Electricity Commission Act, Chapter 54:70** establishes an electricity commission for T&T to enable the commission to generate and supply electrical energy.
- **The Water and Sewerage Act, Chapter 54:40** establishes the Water and Sewerage Authority which is responsible for providing for the development and control of water supply and sewerage facilities at a national level.
- **The State Land (Regularisation of Tenure) Act, Chapter 57:05** governs the Land Settlement Agency (LSA) and the regularization of State land.
- **The Land Tenants (Security of Tenure) Act Chapter 59:54** which governs tenancy and security of tenure.

The relevant link for access to legislation is: [http://www.legalaffairs.gov.tt/Laws\\_listing.html](http://www.legalaffairs.gov.tt/Laws_listing.html)

3. **What role does the national level government play in relation to housing and related programmes? How is compliance with the right to adequate housing structured between the national and sub-national levels? If possible please kindly provide concrete examples of how these roles and compliance mechanisms are operationalised.**

The legislation as indicated above provides the framework in which these services are provided. That is, the legislation usually sets up a public corporation which carries out the service. The public corporation is subject to oversight from a government ministry. The government ministry is responsible for devising and monitoring the overall policies, programmes and strategies in relation to the provision of housing, public utilities, sanitation etc. and the public corporation is responsible for implementing the policy.

At the sub-national level, i.e. the Tobago House of Assembly, is governed by the *Tobago House of Assembly Act, Chapter 25:03* which assigns it specific responsibilities in relation to Tobago

such as housing, infrastructure development and management of public utilities. In relation to all other programmes, policies and strategies, Government policy is administered and implemented through the public corporations.

An example of how this mechanism is operationalized through the national level is through the Government's housing strategy. The Ministry of Housing and Urban Development develops the Government's overall housing policy which must be consistent with the *Housing Act, Chapter 33:01*. This policy is implemented through the Trinidad and Tobago Housing Development Corporation (HDC). The functions of the HDC include:

- Provision of affordable and acceptable housing units and associated community facilities for low and middle income persons in HDC housing developments;
- Stimulation of private sector activities with respect to home construction;
- Rationalizing and restructuring of its mortgage portfolio;
- Management and maintenance of its housing estates, and
- Acquisition of land for housing development.

At the sub-national level, the Tobago House of Assembly (THA), which has a certain level of autonomy given to it by the Act, created the Tobago Housing Development Programme to assist first-time home buyers. Houses are constructed by the THA and offered at cost price to eligible citizens of Trinidad and Tobago who are resident in Tobago.

**4. Where sub-national governments hold key responsibilities in relation to the right to adequate housing please describe how programmes and policies are coordinated nationally and what responsibilities remain with national level institutions.**

The Tobago House of Assembly, as a sub-national government has key functions and responsibilities given to it by the *Tobago House of Assembly Act, Chapter 25:03*. These functions and responsibilities are identified in Schedule Five of the Act and include housing, infrastructure, public utilities and social welfare. Specifically for housing, oversight is maintained by the Ministry of Housing and Urban Development for implementing Government policy in Trinidad and Tobago. However to access the service, persons in Trinidad may go to the Housing Development Corporation (HDC) offices located in Trinidad but for persons in Tobago, access to the service is provided through the Tobago Housing Development Programme administered by the Tobago House of Assembly.

In relation to public utilities, the Ministry of Public Utilities maintains oversight over the public corporation responsible for the distribution of electricity (i.e. the Trinidad and Tobago Electricity Commission) and develops the Government policy in relation to electricity. In terms

of the provision of water, the Ministry of the Environment and Water Resources maintains oversight over the public corporation (the Water and Sewerage Authority) which is responsible for the distribution of water supply nationally. As regards administration of water and electricity on a sub-national level, the Tobago House of Assembly through its Division of Infrastructure and Public Utilities (DIPU) also works in coordination with the Water and Sewerage Authority and the Trinidad and Tobago Electricity Commission and assists with the service delivery of water and electricity for the people of Tobago. However, overall responsibility for electricity and water is still maintained by the public corporation.

In relation to the provision of social welfare, support services and grants for individuals, the Ministry of Housing and Urban Development as well as the Ministry of the People and Social Development creates the Government policies and programmes in relation to social welfare, support services and grants. At a national level, for persons in Trinidad, these programmes and policies such as the Beneficiary Owned Land Programme or the Home Improvement Grant or the Housing Repair Grant is administered through the offices of the Housing Development Corporation or through the Social Welfare Division. At a sub-national level, the Tobago House of Assembly administers similar programmes for the persons in Tobago.

**5. Where housing and related programmes are administered by sub-national level governments by whom and how are these programmes funded? Are conditions attached to the funding which seeks to ensure the resources are spent in a way that protects the rights to adequate housing? How is this monitored?**

The Constitution of the Republic of Trinidad and Tobago established the Tobago House of Assembly Fund which shall consist of such monies as may be appropriated by Parliament for the use of the Assembly and such other monies the Assembly may lawfully collect. As such, the Parliament allocates every year from its annual budget, money to go to the Tobago House of Assembly Fund for use by the Assembly. All expenditure incurred by the Assembly is paid out of the Fund.

In order to determine the appropriate allocation of funds to the Assembly, under the *Tobago House of Assembly Act, Chapter 25:03*, the Chief Secretary (after receiving approval from the Assembly) submits draft estimates for the approval and consideration of Cabinet. Cabinet is then mandated to give due consideration to the financial and developmental needs of Tobago in the context of what is fair and practical. In order to determine what is fair and practical, Cabinet considers inter alia:

- (a) Physical separation of Tobago by sea from Trinidad and Tobago's distinct identity;
- (b) Isolation from the principal national growth centres;

- (c) Absence of the multiplier effect of expenditures and investments (private and public) made in Trinidad;
- (d) Restricted opportunities for employment and career fulfillment; and
- (e) The impracticability of participation by residents of Tobago in major educational, cultural and sporting facilities located in Trinidad.

## **B. Accountability of Sub-National Governments**

### **1. Are sub-national governments legally accountable to the right to adequate housing on the basis of any of the following?**

- International Human Rights Law – No
- Constitution/National Bill of Rights – Yes
- National or sub-national legislation- Yes
- State level or municipal level bill of rights – No
- Inter-governmental agreements – No
- Conditional financing (eg. Budget transfers from national level to sub-national) - Yes

### **2. With respect to the above and where applicable, please identify:**

#### **(i) the relevant provision**

Section 141A-D of the Constitution which establishes the Tobago House of Assembly and the Tobago House of Assembly Fund

Tobago House of Assembly Act Chapter 25:03 which governs the Tobago House of Assembly

#### **(ii) the sub-national levels of government to which the legal provision applies**

The Tobago House of Assembly which governs the affairs of Tobago

#### **(iii) the means of enforcement (eg: courts, tribunals, national human rights institutions, including ombudsmen, administrative mechanisms, etc.) and examples of how these means have been applied**

The primary means of enforcement would be through the High Court. Remedies may be obtained through the *Judicial Review Act, Chapter 7:08*, whereby a person who has been



adversely affected by a decision of a public authority or public corporation (such as the Tobago House of Assembly) acting in accordance with any law may apply for judicial review of that decision.

An example of judicial review filed against a decision of the Tobago House of Assembly (THA) was the “Milsherv Project”. In 2012, the Attorney General filed for judicial review of THA Chief Secretary’s decision to enter into a \$143 million BOLT (Build, Own, Lease, and Transfer) arrangement for the development of the Milsherv Administrative Centre in Milford, Tobago. However, in 2013, the Court ruled in favour of the resumption of the construction of the project. Subsequently, the case was then converted from a judicial review matter to a construction/ interpretation summons to consider the powers of the THA in relation to the specific type of arrangement called BOLT. The Court considered handing down this decision for the purpose of public interest although it was now an academic point. The Court held that the THA could not enter into a BOLT type of agreement except in accordance with the THA Act and the Central Tenders Board Act.

Another means of enforcement is through the Office of the Ombudsman established under the Constitution and also governed by the *Ombudsman Act, 1977*. The Ombudsman investigates complaints made by individuals concerning administrative acts or decisions of Government agencies. The Ombudsman may refer matters to the authority competent to take disciplinary action or other proceedings where there is evidence of any breach of duty, misconduct or criminal offence on the part of any officer or employee of any government department or authority.

- 3. Are sub-national governments involved in state reporting to international human rights monitoring mechanisms and in implementing recommendations? (eg. UN treaty monitoring body, Universal Periodic Review). If so, how? Please kindly provide an example.**

The International Law and Human Rights Unit of the Ministry of the Attorney General is mandated with the responsibility for state reporting to international human rights monitoring mechanisms. The Tobago House of Assembly, as a sub-national government, is not directly involved in this process, however, the Ministry of the Attorney General will request specific information and data from relevant government agencies, as required, including the Tobago House of Assembly, when drafting human rights reports.

- 4. Apart from the legal and international accountability described above, what political or institutional accountability mechanisms are in place in your country**

through which sub-national governments are held accountable to standards or requirements linked to the implementation of the right to adequate housing (eg. Government review procedures, ombudsman/national human rights institutions, and local human rights councils). Please provide any useful examples of how these have been used and, if possible, assess the outcome.

As regards political accountability, the Tobago House of Assembly is made of up 12 Assembly men who are elected in accordance with the *Representation of the People Act, Chapter 2:01*. There are also 4 Councillors that are appointed. Of the 12 Assemblymen, a Chief Secretary and Deputy Chief Secretary are elected from among their number. Immediately after the appointment of the Chief Secretary and Deputy Chief Secretary, the President appoints a Minority Leader i.e. the Assemblyman who, in his opinion, commands the support of the largest number of Assemblymen who do not support the Chief Secretary. In this regard, the Minority Leader represents the opposition voice at the sub-national government level in the Tobago House of Assembly. As such, his role is one of keeping the Chief Secretary and the other Assemblymen politically accountable.

Political accountability may also be substantiated through the central government. As indicated above, in terms of the expenditure of the Assembly, the Chief Secretary submits draft estimates for Cabinet approval.

Institutional accountability is also maintained through the Dispute Resolution Commission established under the *Tobago House of Assembly Act, Chapter 25:03*. This Commission undertakes to resolve disputes between the Assembly and the Government on budgetary allocations to the Assembly. Under section 57(1) of the THA Act, "the Commission shall comprise of the Ombudsman or such other person with judicial or quasi-judicial experience as may be agreed to by the Government and the Assembly, as Chairman and four other members, two of whom shall be appointed by the Government and two by the Assembly." Further, the membership of the Commission shall be reconstituted in respect of each dispute, with the exception of the Chairman.

Another accountability mechanism is that of the Integrity Commission established under the Constitution and also governed under the *Integrity in Public Life Act, Chapter 22:01*. The Integrity Commission is mandated under the Constitution to ensure that persons in public life and persons exercising a public function comply with the laws governing integrity in the fulfillment of their duties and responsibilities to the people they serve. As such, the Chief Secretary of the THA and all the other elected Assemblymen are accountable to the Integrity Commission as persons in public life in relation to the fulfillment of their duties and responsibilities to the people of Trinidad and Tobago.

In addition, the Equal Opportunity Commission established under the *Equal Opportunity Act, Chapter 22:03* allows for a person who alleges discrimination to have his matter addressed through conciliation or in certain circumstances adjudicated at the Equal Opportunity Tribunal. As such, a person who faces discrimination by the sub-national government (i.e. the Tobago House of Assembly) may seek to obtain redress through the Equal Opportunity Commission in accordance with the scope of the Act.

5. Please kindly identify what in your view may be the three most significant challenges in your country to effective accountability of sub-national governments to the right to adequate housing as guaranteed under international human rights law and identify key strategies or ideas for addressing these challenges.

One challenge in relation to the effective accountability of sub-national governments (i.e. the THA) is that of the lack of “teeth” in relation to the accountability mechanisms in place. For example, the Integrity Commission is given powers in terms of investigation in corruption offences. On the other hand, its resources are limited and do not reflect the enormity of the responsibility that it is charged with. As such, the Integrity Commission should be equipped with adequate resources in which to carry out its functions.

Another challenge is that of the enforcement mechanisms. Individuals may seek redress through the Courts i.e. judicial review or through the Ombudsman. However, many persons may choose not to seek redress through the Courts because of the fact that it is a costly exercise as well as the fact that it could take a long time, sometimes years, for a matter to be fully ventilated through the Court. Also, the powers of the Ombudsman are also limited, in that he can only make a recommendation to the offending official or institution in relation to a complaint made.

To address the issue of seeking to litigate the matter through the Courts, one recommendation may be to broaden the scope of legal aid to allow persons who may not be able to afford litigation costs to be able to access legal aid for matters relating to violations of their right to adequate housing. In relation to the powers of the Ombudsman, it is recommended that more powers be given to the Ombudsman such as may be consistent with a national human rights institution or similar institution.

**Prepared by:**  
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