



REPUBLIC OF TRINIDAD AND TOBAGO

ADDRESS

BY

**SENATOR THE HONOURABLE JENNIFER BAPTISTE-PRIMUS
MINISTER OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT**

AT THE

**NATIONAL STAKEHOLDER CONSULTATION
ON THE FOREIGN LABOUR CONTRACTS ACT, CHAPTER 88:11**

HYATT REGENCY TRINIDAD, PORT OF SPAIN

FRIDAY MARCH 29, 2019

SALUTATIONS

MS. NATALIE WILLIS - PERMANENT SECRETARY (AG.), - MINISTRY OF LABOUR & SMALL ENTERPRISE DEVELOPMENT;

MS. KEVAR WILLIAMS – DEPUTY PERMANENT SECRETARY (AG.), - MINISTRY OF LABOUR & SMALL ENTERPRISE DEVELOPMENT;

MS. CLAUDIA COENJAERTS, DIRECTOR, INTERNATIONAL LABOUR ORGANIZATION DECENT WORK TEAM AND OFFICE FOR THE CARIBBEAN;

MS. JEWEL ALI, HEAD OF OFFICE, INTERNATIONAL ORGANIZATION OF MIGRATION;

GOVERNMENT OFFICIALS;

ESTEEMED REPRESENTATIVES OF BUSINESS AND LABOUR;

SPECIALLY INVITED GUESTS;

LADIES AND GENTLEMEN.

GOOD MORNING

LADIES AND GENTLEMEN, I START TODAY'S PROCEEDINGS ACKNOWLEDGING THE MELTING POT THAT IS TRINIDAD AND TOBAGO. IN A COUNTRY AS CULTURALLY RICH AS TRINIDAD AND TOBAGO IS, WE ARE MORE THAN INCREDIBLY LUCKY THAT ALL OF THESE CULTURES WITHIN OUR SHORES MORE THAN SIMPLY CO-EXIST IN PEACE AND HARMONY BUT INTERMINGLE AND POSITIVELY ENHANCE OUR DAILY LIVES, CREATING LEGACIES THAT HAVE INFLUENCED WHAT WE EAT, HOW WE OPERATE AND WHY WE ARE THIS TWIN ISLAND REPUBLIC.

ONE OF THE THINGS WHICH THE LARGE MAJORITY OF TRINIBAGONIANS HAVE IN COMMON IS THAT WE ARE ALL DESCENDANTS OF MIGRANTS, AND EVEN MORE SPECIFICALLY, LABOUR MIGRANTS. IN TRINIDAD AND TOBAGO WE CELEBRATE THIS FACT TWICE ANNUALLY WHEN WE CELEBRATE PUBLIC HOLIDAYS SUCH AS INDIAN ARRIVAL DAY AND EMANCIPATION DAY. THESE CELEBRATIONS SIGNIFIES THE IMPORTANCE TO WHICH LABOUR MIGRATION HAS

PLAYED IN OUR HISTORY AND OUR VERY EXISTENCE AS A PEOPLE. THIS IS ALSO OUR LOCAL TESTAMENT TO THE FACT THAT MIGRATION IS INEVITABLE.

LADIES AND GENTLEMEN, THE PIECE OF LEGISLATION THAT WE ARE HERE TO DISCUSS TODAY, THE FOREIGN LABOUR CONTRACTS ACT, CHAPTER 88:11, CAME INTO FORCE ON FEBRUARY 10, 1900, AS THE THEN FOREIGN LABOUR CONTRACT ORDINANCE. FOR THE MATHEMATICS WHIZZES AMONGST US, I AM SURE YOU OULD HAVE ALREADY CALCULATED THAT THIS WAS ONE HUNDRED AND NINETEEN YEARS AGO. LEGISLATION THAT IS OLDER THAN EVERY CITIZEN OF OUR COUNTRY.

TRINIDAD AND TOBAGO WAS AT THAT TIME STILL UNDER BRITISH COLONIAL RULE AS A CROWN COLONY OF THE GREAT BRITISH EMPIRE, WITH A GOVERNOR AT ITS HEAD. WE HAVE CERTAINLY COME A LONG WAY FROM THAT TIME AS TODAY WE HAVE A FEMALE PRESIDENT AS

OUR HEAD OF STATES AND WE ARE NO LONGER UNDER THE RULE OF THE BRITISH.

AT THAT TIME, ONE HUNDRED AND NINETEEN YEARS AGO, THERE WAS A "LABOUR SHORTAGE" IN TRINIDAD AND TOBAGO WHICH CAME ABOUT DUE TO THE END OF THE SLAVE TRADE. AFTER THE END OF THE SLAVE TRADE, VARIOUS ETHNIC GROUPS WERE USED TO TRY AND SOLVE THIS "LABOUR SHORTAGE" INCLUDING; THE PORTUGUESE, THE FREED AFRICANS FROM AFRICA AND THE AMERICAS; AND EVEN THE CHINESE. NONE OF THESE PROVED TO BE A VIABLE ALTERNATIVE TO THE USE OF AFRICAN ENSLAVED LABOUR AND ULTIMATELY EAST INDIAN INDENTURED LABOURERS WERE USED TO FILL THE DEARTH.

WITH BLEAK LIVING AND WORKING CONDITIONS IN THE COLONY OF TRINIDAD AND TOBAGO IN 1900, THE WORKING POPULATION SOUGHT OPPORTUNITIES IN OTHER ISLANDS OF THE CARIBBEAN AND MANY MIGRATED TO THE NEIGHBOURING TERRITORIES. MANY TURNED TO

ECONOMIC MIGRATION AS A MEANS OF ESCAPING THE POVERTY AND OPPRESSION THEY FACED IN TRINIDAD AND TOBAGO AND THIS MASS OUTWARD-MIGRATION THREATENED THE ECONOMIC WELL BEING OF TRINIDAD AND TOBAGO. SURROUNDING TERRITORIES FLOURISHED AND WITH OTHER ECONOMIES ADVANCING THEMSELVES, THE COLONIAL GOVERNMENT FOUND IT IMPERATIVE TO USE THE POWER OF THE LAW TO CONTROL THIS MASS EXODUS.

MANY OF THESE FLEEING LABOURERS HEADED TO PANAMA TO WORK ON THE RAILWAYS AT FIRST, AND THEN THE CONSTRUCTION OF THE PANAMA CANAL. IT IS ESTIMATED THAT BETWEEN THE YEARS 1881 TO 1914, A TOTAL OF 200,000 WEST INDIANS JOURNEYED TO PANAMA FOR THIS LARGE SCALE PROJECT. THE WORK TO BE COMPLETED REQUIRED THOUSANDS OF WORKERS AND AN INTERNATIONAL RECRUITMENT DRIVE WAS UNDERTAKEN. WORKERS OF ALL SKILLED CLASSES AND NATIONALITIES WERE CALLED UPON TO WORK ON THE CONSTRUCTION OF THE CANAL. AS THERE WAS A DEMAND FOR WORK,

MANY WEST INDIANS CHOSE NOT TO REFUSE THIS “ONCE IN A LIFETIME” OPPORTUNITY. SO, IN ORDER TO TAKE CONTROL OF THE SITUATION, THE FOREIGN LABOUR CONTRACT ORDINANCE, WHICH SUBSISTED FROM 1894 AND 1898, WAS ENACTED BY THE LEGISLATIVE COUNCIL AS ORDINANCE NO. 3 OF 1894. THE ORDINANCE WAS WORDED IN A WAY THAT CONTROLLED THE OUTMIGRATION FROM THE COLONY UNDER THE GUISE OF SAFEGUARDING THE INTERESTS OF THE MIGRATING LABOURERS. IT EVEN CONTAINED A PROVISION WHEREBY THE LABOURERS HAD TO BE WARNED OF THE RISKS ASSOCIATED WITH MIGRATING TO THE PARTICULAR FOREIGN COUNTRY. THE MOST CRUCIAL ASPECT OF THE 1894 ORDINANCE WAS THAT IT OUTRIGHTLY PROHIBITED MIGRATION FROM TRINIDAD AND TOBAGO TO FOREIGN COUNTRIES FOR WORK PURPOSES, UNLESS THE PERMISSION OF THE GOVERNOR WAS SOUGHT AND OBTAINED. ULTIMATELY, THE ORDINANCE PROHIBITED THE FREE MOVEMENT OF PERSONS AND WAS SEEN AS HARSH AND OPPRESSIVE.

ON FEBRUARY 10, 1900 CRUCIAL AMENDMENTS WERE MADE TO THE ORDINANCE AS ITS PROVISIONS MADE COMPLIANCE DIFFICULT. THE AMENDMENT TO SECTION 2 OF THE ORDINANCE ENSURED THAT THE ORDINANCE WOULD REMAIN IN ABEYANCE UNLESS BROUGHT INTO FORCE AGAINST SOME PARTICULAR COUNTRY NAMED BY THE GOVERNOR. CONSEQUENTLY, THE ORDINANCE WOULD ALWAYS BE PRESENT, BUT WOULD ONLY BE PUT INTO FORCE TO MEET SOME SPECIAL REQUIREMENT. IN THIS WAY, UNLESS THE ORDINANCE WAS IN FORCE AGAINST SOME PARTICULAR COUNTRY, COMPANIES WOULD BE FREE TO HIRE LOCAL LABOURERS WITHOUT THE NEED FOR THE PERMISSION OF THE GOVERNOR.

AFTER THE COMING INTO FORCE OF THE ORDINANCE IN 1900, A TOTAL OF FIVE PROCLAMATIONS WERE MADE AGAINST TERRITORIES AS FOLLOWS:

- I. BRAZIL - PROCLAMATION NO. 31 OF 1910
- II. LIBERIA - PROCLAMATION NO. 14 OF 1914

- III. CUBA- PROCLAMATION NO. 10 OF 1923
- IV. NETHERLANDS, WEST INDIES - G.N. 115/1945
- V. FRENCH GUIANA - G.N. 128/1946

FOR VARIOUS REASONS, THE COLONIAL GOVERNMENT FOUND IT NECESSARY TO PROHIBIT THE MIGRATION OF WORKERS FROM TRINIDAD AND TOBAGO TO THESE TERRITORIES. IT WAS OFTEN THE CASE THAT A MASS MIGRATION OF WEST INDIAN LABOURERS TO THESE TERRITORIES HAD BEGUN IN OTHER COLONIES LIKE BARBADOS AND JAMAICA. THE THREAT OF THIS MIGRATION FEVER SPREADING TO LOCAL LABOURERS, IF SUCH MIGRATION HAD NOT ALREADY BEGUN, WOULD HAVE PROMPTED THE COLONIAL GOVERNMENT TO MAKE THE PROCLAMATIONS AGAINST THESE TERRITORIES FORCING WORKERS TO REMAIN AT HOME.

WHEN THE ORDINANCE WAS IN FORCE IT MEANT THAT ANY COMPANY, FIRM, OR ORGANISATION WISHING TO HIRE PERSONS FROM TRINIDAD

AND TOBAGO, IN THE PARTICULAR FOREIGN COUNTRY PROCLAIMED AGAINST, THE HIRING ENTITY HAD TO ABIDE BY VERY STRINGENT OBLIGATIONS. THE ORDINANCE ITSELF WAS VERY SHORT AND ONLY CONTAINED NINE (9) SECTIONS AND TWO (2) SCHEDULES. THIS ORDINANCE HAD SERIOUS CONSEQUENCES WHEN PROCLAIMED AGAINST A PARTICULAR FOREIGN COUNTRY. SECTION 3 WAS THE MOST CRUCIAL AS IT PROHIBITED THE MIGRATION OF PERSONS FROM THE COLONY TO THE FOREIGN COUNTRY PROCLAIMED AGAINST, UNLESS GRANTED WRITTEN PERMISSION OF THE GOVERNOR. AS YOU CAN NOTE, LADIES AND GENTLEMEN, THIS WAS A CLEAR RESTRICTION ON THE FREE MOVEMENT OF PERSONS FROM THE COLONY. THE CONSEQUENCE OF BREACHING SECTION 3 WAS HARSH, AS PERSONS COULD FACE IMPRISONMENT OR A FINE OF £100 (WHICH AT THE TIME WOULD BEEN A TREMENDOUS FEE AND IS WORTH THE EQUIVALENT OF TTD \$102,844.49 TODAY). CERTAINLY NOT POCKET CHANGE FOR ANY OF US PRESENT HERE TODAY.

AFTER THE 1946 PROCLAMATION AGAINST FRENCH GUIANA, INTERESTINGLY ENOUGH, NO FURTHER PROCLAMATIONS WERE MADE AGAINST FOREIGN COUNTRIES UNDER THE ORDINANCE. WITH NO PROCLAMATIONS BEING MADE, THE ORDINANCE WOULD HAVE REMAINED IN ABEYANCE. BY THE LATE 1940S AND 1950S, ANTI-COLONIAL SENTIMENTS IN TRINIDAD AND TOBAGO HAD REACHED A FEVER PITCH. SLOWLY BUT SURELY, THE WORKING CLASS HAD BEGUN TO TAKE CONTROL OF THE POLITICAL, SOCIAL AND ECONOMIC AFFAIRS OF THE TERRITORY. AND WE ALL KNOW, NOT TOO LONG AFTER, TRINIDAD AND TOBAGO WOULD HAVE TAKEN THE NECESSARY STEPS TO BECOME AN INDEPENDENT NATION, BY 1962. AUGUST 31, 1962 TO BE EXACT.

UNDER OUR NEW HAT AS AN INDEPENDENT NATION, THE ORDINANCE BECAME THE FOREIGN LABOUR CONTRACT ACT, CHAP. 88:11 ("THE ACT"). THE CURRENT ACT IS A NEAR VERBATIM COPY OF THE ORDINANCE, SAVE AND EXCEPT FOR CHANGES MADE TO

ACCOMMODATE THE COUNTRY'S REPUBLICAN STATUS. REFERENCES TO THE GOVERNOR WERE THEREFORE CHANGED TO THE PRESIDENT AND THE CURRENCY WAS CHANGED FROM BRITISH POUNDS TO TRINIDAD AND TOBAGO DOLLARS. INTERESTINGLY ENOUGH, THE ENTIRE PREAMBLE WAS CHANGED AND NOW READ, "AN ACT RELATING TO FOREIGN LABOUR CONTRACTS".

DESPITE ATTAINING INDEPENDENCE, THE ACT RETAINED MUCH OF ITS SUBSTANCE SINCE 1900 WITH ONLY FEW MINOR CHANGES TO ITS ORIGINAL FORM. SINCE GAINING REPUBLICAN STATUS IN 1976, THERE HAS BEEN LITTLE TO NO REFERENCE TO THE ACT. IT HAS BEEN LARGELY ABSENT FROM THE HANSARD DEBATES OF THE PARLIAMENT OVER THE YEARS AND THERE HAS BEEN NO RECORDED PUBLIC INTEREST IN THE ACT. THERE HAVE NEVER BEEN ANY AMENDMENTS TO THE ACT AND SINCE 1946, THERE HAVE BEEN NO FURTHER PROCLAMATIONS MADE UNDER THE ACT OR ANY OPERATIONALIZATION OF IT. THIS HAS SERIOUSLY CALLED INTO QUESTION THE UTILITY AND RELEVANCE OF

THE ACT TODAY. WHILST THE ACT HAS REMAINED STAGNANT FOR ALL THESE YEARS, WE CAN ATTEST THAT TRINIDAD AND TOBAGO HAS DEVELOPED AND PROGRESSED SIGNIFICANTLY SINCE 1900.

LADIES AND GENTLEMEN, WE CAN DEDUCE THAT THE ORIGINAL PURPOSE OF THE ACT WAS TO CONTROL THE MOVEMENT OF THE WORKING CLASS POPULATION AND WAS A DIRECT RESPONSE TO THE “PANAMANIAN PROBLEM”. IT WAS AN ACT WHICH INTENDED TO RETAIN THE WORK FORCE IN TRINIDAD AND TOBAGO TO UNDERTAKE THE LABOURIOUS TASKS ON THE PLANTATIONS AND IN THE OILFIELDS AND REMINDS US OF THE POVERTY AND OPPRESSION AT THAT TIME. A TIME WHERE THE POPULATION OF TRINIDAD AND TOBAGO WOULD HAVE BEEN AROUND 270,000 PERSONS, A MERE ONE-FIFTH OF THE TOTAL POPULATION TODAY AND WOULD NOT EVEN BE ABLE TO FULFILL CURRENT LABOUR FORCE DEMANDS. OUR COLONIAL RULERS NEEDED TO ENSURE THAT THERE WAS A WORKING POPULATION AS SLAVERY, INDENTURED LABOUR AND THE WAVES OF MIGRANTS TO

TRINIDAD HAD LARGELY ENDED. A MASS EXODUS FROM TRINIDAD AND TOBAGO AT THAT PERIOD, WOULD HAVE SEVERELY AFFECTED THE STABILITY OF THE ECONOMY. HOWEVER, THIS IS CERTAINLY NOT THE CASE TODAY.

LADIES AND GENTLEMEN, IN ACCESSING WHAT WE FACE TODAY, THE WORDS OF WILLIAM LACY SWING, FORMER DIRECTOR GENERAL, INTERNATIONAL ORGANIZATION FOR MIGRATION SUMS UP THE GENERAL CONSENSUS, AND HE SAYS AND I QUOTE *"MIGRATION IS NOT SO MUCH A PROBLEM TO BE SOLVED AS A REALITY TO BE MANAGED"*. THIS MANAGEMENT MUST OCCUR WITHIN THE FRAMEWORK OF OUR FUNDAMENTAL HUMAN RIGHTS GIVEN LIFE TO AT AN INTERNATIONAL AND NATIONAL LEVEL. WITH GAINING INDEPENDENCE, TRINIDAD AND TOBAGO BECAME A MEMBER STATE OF THE UNITED NATIONS (UN). WITH MEMBERSHIP TO THIS BODY, WE ARE BOUND BY THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, WHICH STATES AT ARTICLE 13 THAT

“(1) EVERYONE HAS THE RIGHT TO FREEDOM OF MOVEMENT AND RESIDENCE WITHIN THE BORDERS OF EACH STATE.

(2) EVERYONE HAS THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO HIS COUNTRY.”

FURTHERMORE, TRINIDAD AND TOBAGO IS ALSO BOUND BY THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) OF DECEMBER 21, 1978, WHICH REQUIRES COUNTRIES TO RESPECT THE CIVIL AND POLITICAL RIGHTS OF INDIVIDUALS, INCLUDING THE RIGHT TO LIFE, FREEDOM OF RELIGION, FREEDOM OF SPEECH, FREEDOM OF ASSEMBLY, FREEDOM OF MOVEMENT, ELECTORAL RIGHTS AND RIGHTS TO DUE PROCESS AND A FAIR TRIAL.

IN ADDITION, THE PRINCIPLE OF FREEDOM OF MOVEMENT IS ALSO ENSHRINED IN THE CONSTITUTION OF TRINIDAD AND TOBAGO. SECTION 4(G) STATES,

“IT IS HEREBY RECOGNISED AND DECLARED THAT IN TRINIDAD AND TOBAGO THERE HAVE EXISTED AND SHALL CONTINUE TO EXIST, WITHOUT DISCRIMINATION BY REASON OF RACE, ORIGIN, COLOUR, RELIGION OR SEX, THE FOLLOWING FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS, NAMELY FREEDOM OF MOVEMENT...”

THE ACT THEREFORE STANDS IN STARK CONTRAST TO THESE MODERN DEVELOPMENTS AND CONFLICTS WITH THE PRINCIPLE OF FREEDOM OF MOVEMENT.

SINCE 1946, NO FURTHER PROCLAMATION HAD BEEN MADE AGAINST ANY FOREIGN COUNTRY UNDER THE ACT YET IT STILL REMAINS ON THE BOOKS, OVER SIXTY TWO YEARS LATER.

AS A DEMOCRATIC NATION, TRINIDAD AND TOBAGO IS FOUNDED ON THE RESPECT FOR EACH PERSON AND THEIR RIGHTS AND FREEDOMS.

TRINIDAD AND TOBAGO NATIONALS ARE FREE TO LEAVE THEIR COUNTRY AND OVER THE YEARS, MANY HAVE TAKEN UP OPPORTUNITIES ABROAD IN SEARCH OF A "BETTER LIFE". THE PRINCIPLES UNDER THE ACT RESTRICT FREEDOM OF MOVEMENT AND IN A MODERN, PROGRESSIVE SOCIETY LIKE OURS, ANY RESTRICTION ON THE FREEDOM OF MOVEMENT SHOULD BE REASONABLY JUSTIFIABLE.

IN CLOSING, LADIES AND GENTLEMEN, INDIAN POLITICAN, VAYALAR RAVI ONCE SAID *"MIGRATION – WHETHER EMIGRATION OR RETURN- AT THE MICRO-LEVEL IS AN INDIVIDUAL CHOICE, AND GOVERNMENT ... HAS A ROLE ONLY TO FACILITATE THE DECISION OF THE INDIVIDUAL."*

AS WE DELIBERATE TODAY I URGE ALL TO KEEP THESE WORDS IN MIND AND PLACE THE MATTER IN THE APPROPRIATE CONTEXT WHEN LOOKING AT THE ACT IN TODAY'S NEW AGED WORLD.

I THEREFORE LOOK FORWARD TO THE RESULTS OF YOUR COLLECTIVE ENGAGEMENT TODAY.

BEFORE I TAKE MY SEAT, I WOULD LIKE TO CONVEY MY CONGRATULATIONS AND THAT OF THE MINISTRY OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT TO THE BAPTIST COMMUNITY AS THEY CELEBRATE SHOUTER BAPTIST LIBERATION DAY TOMORROW AND I PRAY LADIES AND GENTLEMEN THAT YOUR DISCOURSE WILL BE VERY PRODUCTIVE.

I THANK YOU.