

# TRINIDAD & TOBAGO

## Country Report: Anti-terrorism laws & policing

### 1. Country summary\*

- a. **Government:** Parliamentary democracy
- b. **Population:** 1.06 million
- c. **Size:** 5 128 sq km
- d. **Region:** Caribbean

### e. General


The Republic of Trinidad and Tobago attained independence in 1962. The archipelago has enjoyed relative political and economic stability since then, notable exceptions being the Black Power revolts led by disaffected black youth in the 1970s and the aborted coup d'état staged by the Jamaat al Muslimeen in 1990. The rise in crime since the mid-1990s due to an increased reliance on the North American drug trade and the burgeoning tourist industry led to the expansion of the country's military and police force.

As one of the most economically prosperous nations of the Caribbean, Trinidad and Tobago has attempted to take on a central position in several multilateral organisations. Trinidad and Tobago became a member of the Organisation of American States (OAS) in 1995. Following September 11, 2001, Trinidad and Tobago demonstrated its commitment to OAS by hosting the Fifth Regular Session of the Inter-American Committee Against Terrorism in 2002. Trinidad and Tobago subsequently ratified the OAS Inter-American Convention Against Terrorism, in which it undertook to consolidate intelligence-sharing agreements with OAS nations and enact national legislation to outlaw terrorism<sup>1</sup> and related activities. T&T enacted the *Anti Terrorism Act* in 2005 in accordance with international obligations.

### Counter terrorism measures in the Caribbean

The Caribbean is the tenth largest trading partner of the USA, a major regional source of migration and visitors to the USA, and an important destination for both tourists and business investments from America. The diplomatic ties, trade alliances and economic dependency on the USA, and the fact that Caribbean countries were seen as a base from where terrorists could carry out their operations, left the Caribbean with little choice but to adhere to the requirements outlined by the USA in the "war on terror". This is in spite of the fact that Caribbean countries have not been victim to any major terrorist attacks in the past. The requirements to implement anti-terrorist policies have proved extremely costly in the Commonwealth Caribbean particularly when the economies of these countries were already in decline.<sup>2</sup>

\* Many thanks to Ramesh Deosaran for his thoughtful review of this report.



In those Commonwealth Caribbean countries with pre-existing anti-terrorism laws, the 2001 attacks on America led to a tightening of the existing laws. Additionally, the Financial Action Task Force on money laundering (FATF) has caused further concerns that the effect of international pressure and measures has been to undermine the sovereignty of some Caribbean states.<sup>3</sup> The FATF added terrorism financing to its remit in 2001. Some measures included establishing “regulatory and supervisory machinery, as well as Financial Intelligence Units for investigating money laundering and machinery for exchanging information with foreign authorities.”<sup>4</sup>

In an example of the heightened security concern in the region, all those Caribbean countries hosting the Cricket World Cup in 2007 (March 11 – April 28) were required to enact special anti-terrorism security legislation for the event. Those countries were Antigua & Barbuda, Barbados, Grenada, Guyana, Jamaica, St Lucia, St Kitts & Nevis, the Grenadines and Trinidad & Tobago. The laws were labeled “sunset legislation” across the region, due to expire after six months in June 2007.<sup>5</sup> The Legal Affairs Committee of CARICOM approved the draft of the legislation titled the *ICC Cricket World Cup West Indies 2007 Bill*, which was used as a model by the nine host venues to pass through their respective parliaments. The temporary security regulations provided for stricter immigration and customs controls and an enhanced police presence, including some foreign armed forces to assist regional and local police. There was debate as to whether it was appropriate to enact such security legislation without public debate about the issues or the implications on local policing.<sup>6</sup>

With the primary emphasis on money laundering and terrorism financing (with the exception of the temporary measures enacted around the 2007 Cricket World Cup), it is difficult to find practical examples of counter-terrorism policing in Caribbean states. No specific examples of anti-terrorism policing in Trinidad and Tobago were found for this report.

#### **f. Relevant legislation**

*Anti Terrorism Act 2005 (ATA)*

#### **2. Law summary**

The ATA aims to create basic terrorism related offences and implement Trinidad and Tobago’s international obligations. Part II establishes the basic offence of “terrorism” (Section 3(1)), and provides for the concurrent application of the ATA and other criminal statutes applying to terrorism related offences (Section 3(2)). Part III (“Convention Offences”) expressly attempts to give effect to, inter alia, the International Convention for the Suppression of the Financing of Terrorism and the International Convention on the Taking of Hostages. The offences created under Part III use the international instruments to which Trinidad and Tobago has become a party to as an express point of reference. Part IV details police powers to detain and gather information relating to offences under the ATA. Part V provides for the extraterritorial application of the ATA. Pursuant to Section 25, the ATA may apply to individuals even where the acts in question have no territorial nexus with Trinidad and Tobago and the individual is not a national of the country. Part VIII allows for the seizure and forfeiture of terrorist property and funds, and affords police officers immunity from civil or criminal suit in relation to such seizure.



### 3. Provisions

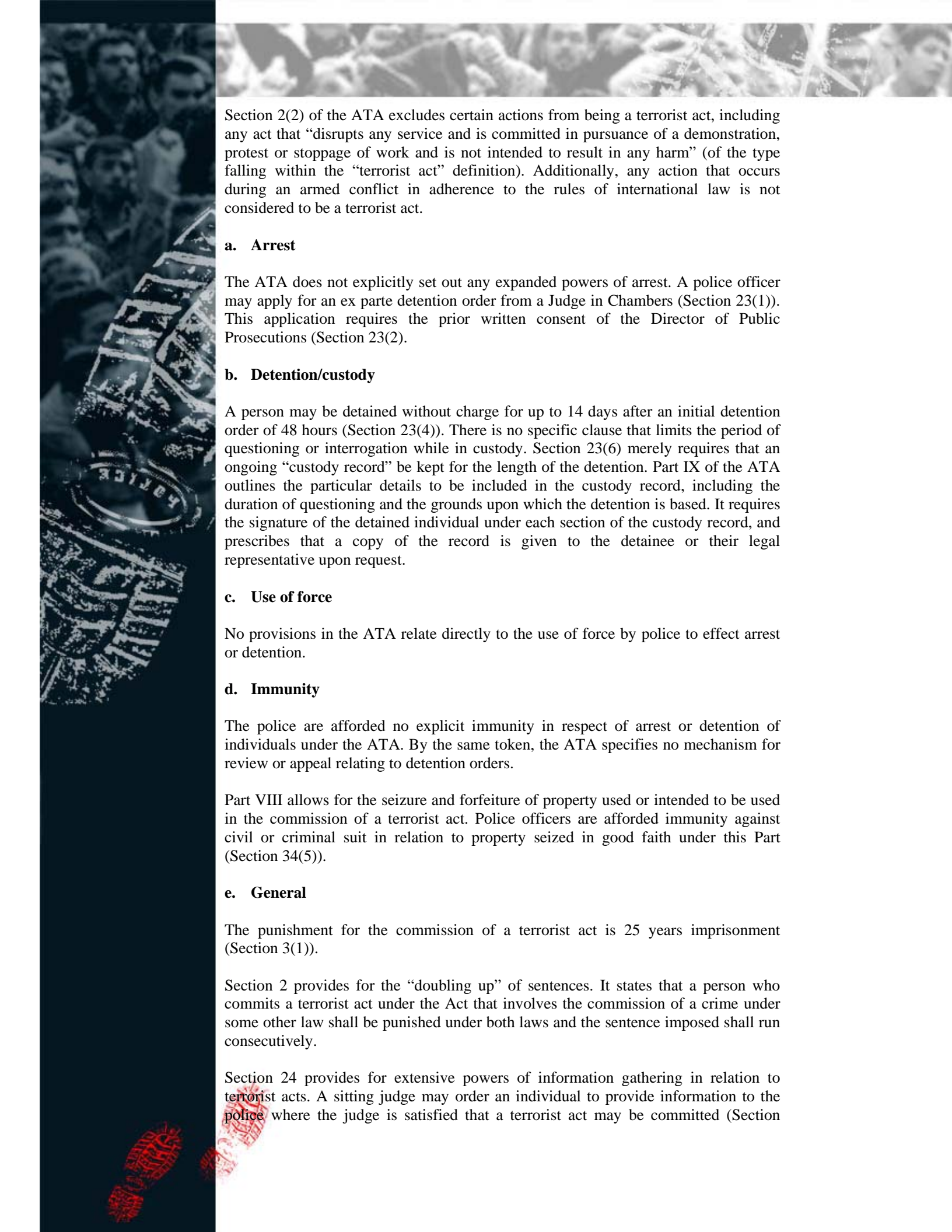
#### a. Definition

Section 2(1) provides the following definition of a terrorist act:

- (a) an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause—
  - (i) loss of human life or serious bodily harm;
  - (ii) damage to property; or
  - (iii) prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure, and is intended to –
- (iv) compel a government or an international organization to do or refrain from doing any act; or
- (v) intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause; or
- (b) an offence under any of the Conventions.

Subsection (b) above imports a series of offences into the legislation by drawing reference to the various international counter terrorism conventions to which Trinidad and Tobago have become party, listed in section 2(1):

- (a) Convention on Offences and certain Other Acts committed on Board Aircraft signed at Tokyo on 14th September, 1963;
- (b) Convention for the Suppression of Unlawful Seizure of Aircraft done at The Hague on 16th December, 1970;
- (c) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September, 1971;
- (d) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14<sup>th</sup> December, 1973;
- (e) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17<sup>th</sup> December, 1979;
- (f) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3rd March, 1980;
- (g) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24th February, 1988;
- (h) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10th March, 1988;
- (i) Protocol for the Suppression of Unlawful Acts against the Safety of fixed Platforms located on the continental shelf, done at Rome on 10th March, 1988;
- (j) Convention on the Marking of Plastic Explosives for the Purposes of Detection, signed at Montreal, on 1st March, 1991;
- (k) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15th December, 1997;
- (l) International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9th December, 1999.



Section 2(2) of the ATA excludes certain actions from being a terrorist act, including any act that “disrupts any service and is committed in pursuance of a demonstration, protest or stoppage of work and is not intended to result in any harm” (of the type falling within the “terrorist act” definition). Additionally, any action that occurs during an armed conflict in adherence to the rules of international law is not considered to be a terrorist act.

**a. Arrest**

The ATA does not explicitly set out any expanded powers of arrest. A police officer may apply for an ex parte detention order from a Judge in Chambers (Section 23(1)). This application requires the prior written consent of the Director of Public Prosecutions (Section 23(2)).

**b. Detention/custody**

A person may be detained without charge for up to 14 days after an initial detention order of 48 hours (Section 23(4)). There is no specific clause that limits the period of questioning or interrogation while in custody. Section 23(6) merely requires that an ongoing “custody record” be kept for the length of the detention. Part IX of the ATA outlines the particular details to be included in the custody record, including the duration of questioning and the grounds upon which the detention is based. It requires the signature of the detained individual under each section of the custody record, and prescribes that a copy of the record is given to the detainee or their legal representative upon request.

**c. Use of force**

No provisions in the ATA relate directly to the use of force by police to effect arrest or detention.

**d. Immunity**

The police are afforded no explicit immunity in respect of arrest or detention of individuals under the ATA. By the same token, the ATA specifies no mechanism for review or appeal relating to detention orders.


Part VIII allows for the seizure and forfeiture of property used or intended to be used in the commission of a terrorist act. Police officers are afforded immunity against civil or criminal suit in relation to property seized in good faith under this Part (Section 34(5)).

**e. General**

The punishment for the commission of a terrorist act is 25 years imprisonment (Section 3(1)).

Section 2 provides for the “doubling up” of sentences. It states that a person who commits a terrorist act under the Act that involves the commission of a crime under some other law shall be punished under both laws and the sentence imposed shall run consecutively.

Section 24 provides for extensive powers of information gathering in relation to terrorist acts. A sitting judge may order an individual to provide information to the police where the judge is satisfied that a terrorist act may be committed (Section



24(3)(b)). A judge may, by order, stipulate the length of questioning and may order an individual to produce any document or thing under his or her control for examination (Section 24(4)). An individual is not excused from furnishing information on the basis that it may implicate them in an offence (Section 24(9)). This section falls short of requiring self-incrimination however: Section 24(10) provides that any information required to be provided by an individual shall not be used against them in any legal proceeding other than in a prosecution for perjury.

---

<sup>1</sup> In the absence of internationally accepted definitions of the terms “terrorism”, “terrorist” and “terrorist act”, in this report these terms refer to either the definition as enshrined in the country’s legislation, or the common use of the term. The use and meaning of these terms is addressed in CHRI’s report “Stamping Out Rights: The impact of anti-terrorism laws on policing” (2007).

<sup>2</sup> Sir Ronald Michael Sanders (2003) ‘National Case Study: Antigua and Barbuda and the Human Rights Impact of Anti-terror Legislation in the Aftermath of September 11’ *CHRI Seminar, Institute of Commonwealth Studies*, 5 June, p. 11.

<sup>3</sup> Ibid, p. 1.

<sup>4</sup> Ibid.

<sup>5</sup> The package of laws enacted includes provisions addressing special measures for tourist visas and copyright during the event in addition to those relating to anti-terrorism and security measures.

<sup>6</sup> *Barbados Free Press* (3 February 2007) “Cricket World Cup: Barbados Government to Give Power, Authority to Armed Foreign Soldiers and Police on Bajan Soil”: <http://barbadosfreepress.wordpress.com/2007/02/03/cricket-world-cup-barbados-government.html>: as on 21 March 2007.