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12. Illegal Immigration into Trinidad and Tobago: Human Rights and Justice

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Introduction

The history of human civilization is the history of migration. Human civilization is replete with instances of migratory patterns occasioned by a variety of circumstances, which have rendered our world a global village and rendered migrants “global people whose horizons and allegiances, education and enterprise, family and friendship are both portable and elastic” (Chamberlain 1998). Within the Caribbean region, historical evidence points to the establishment of settlements and trade routes linking the islands with each other, as well as to North, Central, and South America. Following on these established patterns, Europeans, Africans, and others arrived and added to the diversity and the multicultural and multiethnic character of Caribbean societies.

Like the rest of the world, the Caribbean is caught up in the phenomenon of migration and globalization, and the Republic of Trinidad and Tobago, in particular, is both a supplier and receiver of migrants via legal and illegal means. The phenomenon of Caribbean migration, and by extension Trinidad and Tobago’s situation, is encapsulated in the following: “From the start, the Caribbean was global, linking as it did Europe and the Americas, Africa and Asia. It was diasporic, both the resting place and the launch pad for migrants” (Chamberlain 1998, 4).

Against this historical background, this presentation will examine the phenomenon of illegal immigration into Trinidad and Tobago within recent times, and it will highlight some of the social and legal dimensions of the phenomenon as well as human rights and justice issues. While this paper does not attempt to provide an in-depth analysis of all the issues surrounding illegal immigration, recent incidents drawn from newspaper reports covering the period April to May 2011, in which there were no less than twenty reports on illegal immigration, are sufficiently varied so as to provide some understanding of the issues. Such newsworthy incidents are often reported in the print and electronic media. While the attendant drama surrounding the illegal immigrants who are caught attract attention, provoke outrage in some instances, and concern in other quarters, the human rights issues are often subsidiary to the legality/
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Illegality question. From a scholarly perspective, the present situation of illegal immigration into Trinidad and Tobago merits investigation and research, which may be supported by documentary sources on illegal immigration from the immigration department records, police records, and media reports.

Migratory Patterns in Trinidad and Tobago

The multiethnic character of Trinidad and Tobago’s society reflects a long history of European colonialism and plantation economy structures based on enforced migration of Africans and Asians, followed by the migration of Chinese, Syrians, Lebanese, free Africans from the United States, as well as persons from the Caribbean territories. “Trinidad has traditionally attracted migrants from neighboring [English-speaking] West Indian territories…. Within the region, the number of Grenadians, Vincentians, and Barbadians who have moved over time into Trinidad is significant” (Valtonen 1996, 998–99). “Inequalities in wages and job opportunities trigger movements” (Bach 1987, 136). Pool, cited by Valtonen, observed “that there are many differences in the objectives of migrants destined to Trinidad…[suggesting] that those who move to adjacent Trinidad are less educated and do not initially plan to remain permanently” (Valtonen 1996, 999).

Today Trinidad and Tobago with its relative economic prosperity, political stability, geographic location between North and South America, good transportation links, and porous borders is proving to be extremely attractive to migrants. According to statistics emanating from the Ministry of Justice, Line Ministry for the Immigration Department, an average of 150 persons are detained each month for illegally entering Trinidad and Tobago. The majority of them come from Venezuela, Colombia, Nigeria, and the Ivory Coast. “Many of them are persons looking for a better way of life and still see Trinidad as the gold coast of the Caribbean” (Volney 2011).

Within the past five years, there has been a noticeable increase in the number of illegal migrants to Trinidad and Tobago. Apart from the usual Caribbean migrants, it is common to come into contact with Latinos serving in retail shops, to distinguish African and Caribbean security personnel, or to count the number of Chinese restaurants and businesses that have mushroomed almost overnight throughout the country.

Based on the official statistics for the five-year period, covering 2004–2009, of the total number of 2,992 illegal immigrants from sixty-three countries, a significant number emanate from Guyana, Jamaica, Colombia, China, Venezuela, Africa, and the Dominican Republic. However, these statistics are only an indicator of the scope of the problem and partially represent those without legal status, since the official record of illegal immigrants in any country eludes accuracy owing to the clandestine nature of the activity.

While the issue of illegal immigration impacts the social, cultural, and legal landscape of any society, most states provide for the treatment of the
issue through their immigration laws and immigration departments, which usually fall under the purview of a ministry of national security. Trinidad and Tobago’s Immigration Act controls the movement of nationals and foreigners alike. Notwithstanding the existence of the Immigration Act of Trinidad and Tobago, illegal immigrants who are determined to enter the country find assistance in its porous borders and/or unscrupulous nationals, as many reports indicate.

Sex Workers and Human Trafficking

In 2007 an exposé in the *Trinidad and Tobago Guardian* described a transaction at a brothel that accommodated the sex work of illegal Latin American immigrants. According to the article, the men who frequented the establishment were “of all races, shapes, ages and sizes.” In response to such an exposé, the then-assistant commissioner of police, Gilbert Reyes, commented: “The matter of prostitution and the illegal entry of immigrants into unauthorized ports is being investigated.” Ironically, in this same article, photographs of two illegal immigrants who were deported earlier in the year were held among twenty women arrested by police (Clarke, December 12, 9).

No doubt, the investigation referred to by Gilbert Reyes continues into 2011. In spite of frequent raids and attempts to stem the flow of illegal immigrants for purposes of engaging in prostitution, the problem continues unabated as is evident from the reports in April–May 2011. Associated with prostitution is the business of human trafficking, which renders most of the women as victims.

On May 20, 2011, the *Trinidad and Tobago Guardian* reported on the rescue of eleven foreign nationals who were suspected victims of a human trafficking ring. These women from South America, who were found at houses in two different locations within the country, came to Trinidad and Tobago seeking employment. Upon their arrival in the country, their passports were seized, and they were forced into prostitution. The women were held at the detention center in Aripo and questioned by immigration authorities.

Further reports also revealed the multimillion-dollar business being operated in the country and identified localities where the selling and renting of women took place, such as Limousine, El Dorado, Tunapuna; a hotel in Chase Village; and a hotel at Agnes Street, Marabella. The price of spending an evening with a worker ranged from TT$2,000–3,000, and it was also possible to buy a person for TT$20,000 (A. Ramdass 2011).

During a debate on the Human Trafficking Bill, Julien’s “Victims Treated Like Criminals” (2011) raised the issue of culpability in cases of human trafficking and prostitution. According to the report, in too many instances the women, who are treated like criminals, are themselves the victims. Moreover, some of the authorities are complicit in this type of activity since they frequent the establishments and partake of their services. Apart from being treated as
criminals, most of the women do not have access to social services because they are trafficked from South America, do not speak English, and are unable to access translators and interpreters. In addition, workers face other human rights issues such as employers’ retention of their earnings and exposure to health risks such as AIDS. These same issues were raised in 2007, when in response to the report in the *Trinidad and Tobago Guardian* (Clarke, December 12, 9), Hazel Brown, coordinator of the Network of NGOs of Trinidad and Tobago, said “sex workers should be treated as workers. It should be treated as work and women in that business should have rights as other workers. They are excluded from protection and rights. They have a right to decide. They need to be protected from violence and other issues. She said the women should be in control of their own income.” In the same article, Grace Mohammed, the president of the board of directors of South AIDS Support, said “with sex, everything is a factor. As long as you are having unprotected sex with someone you are at risk.”

Although prostitution and its associated activities remain illegal in Trinidad and Tobago, migrant sex workers are entitled to protection arising from United Nations conventions and conventions of related UN agencies. Article 23 of the UN Declaration on Human Rights recognizes the “right to work” as a basic human right, while Article 7 of the UN International Covenant on Economic, Social and Cultural Rights recognizes “the right of everyone to the enjoyment of just and favourable conditions of work...fair wages...safe and healthy working conditions.” The United Nations adopted the International Convention on the Protection of the Rights of All Migrant Workers and Their Families (ICMW) in 1990, and it came into force in July 2003. Additionally, the International Labor Organization (ILO) Convention No. 143 of 197 (C143), concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, imposes an obligation on states “to respect the basic human rights of all migrant workers.”

Despite these conventions, sex workers remain a vulnerable group due to their status and the illicit nature of their activities, and they continue to suffer abuse and discrimination at the hands of employers, law enforcement authorities, and the general population.

**Voluntary Migrants**

Trinidad and Tobago with its relative prosperity has proved particularly attractive to voluntary migrants. With the “many legal obstacles to entry...migrants, including asylum seekers, have increasingly resorted to illegal entry and unauthorized stays, and ever-larger numbers use the services of smugglers to evade the system compounding their vulnerability to exploitation and ill treatment” (Bhabba 2005). Caribbean nationals in particular slip into Trinidad and Tobago or overstay their visas and find employment in security services, agriculture, construction, and the retail trade. It was therefore not
surprising to read “15 Jamaicans Held: No Work Permits” (R. Ramdass 2011), in which a crackdown on a security firm netted Jamaican nationals who were employed without work permits. The Jamaicans were arrested, charged, and fined. Interestingly, these persons who entered the country since 2008 were permitted to stay for three months, but never returned after the expiration of their permission. In the same court, a Nigerian national was charged and fined for entering the country illegally. In his defense, he claimed to have lost his passport, but checks with the immigration officers revealed that there was no record of his entry into the country. Fraudulent passports and work permits are other ways illegal immigrants enter Trinidad and Tobago as illustrated by “Guyanese Remanded in Custody” (Paul 2011) and “No Bail for Guyanese with Fake T&T Work Permit” (Braxton-Benjamin 2011).

Once in the country, illegal immigrants are vulnerable to exploitation, many finding employment in sectors that offer little protection to workers. Apart from earning less than minimum wages, some of them are forced to work unreasonably long hours in poor and unacceptable conditions. Immigrants from Africa can be found in the security sector while those from the Caribbean find employment in agriculture, construction, and retail trade.

**Chinese in Trinidad**

Within recent times the large influx of Chinese and the corresponding mushrooming of Chinese businesses—in particular, restaurants, supermarkets, groceries, casinos, private members’ clubs, and other retail establishments—attracted much attention from the authorities, the media, and the general population. Investigative reports reveal the extent of the illegal immigration, as well as associated illegal activities, such as human trafficking and gun and drug trade.

“The majority of the business owners and workers admitted to having no work permits but insisted they had ‘legal papers’ to remain in T&T.” One immigrant was reported as saying: “We now come to Trinidad two weeks ago and we set up business. We have no work permit. Is husband, me and son. We come to operate restaurant” (Kowlessar 2011).

Questions arise as to how the illegal immigrants are allowed to work without work permits and how they sustain themselves. It is believed that fraud and bribery within the Immigration Department are involved in securing work permits. According to police officers working in an intelligence unit, thousands of dollars are normally shelled out to secure work permits. “We have heard that as much as $100,000 is paid to get work permits, depending on the number of Chinese who are brought into the country to work in restaurants and groceries” (Kowlessar 2011). “Some of the Chinese immigrants say they paid as much as $6,000 for citizenship and $5,400 annually for work permits” (Sookraj, May 9, 2011), which are in excess of the fees established by the Immigration Act of Trinidad and Tobago. In spite of the purchase of work permits, there are those who are nevertheless detained and deported.
While there are associations like the Toy Shan Association, the Chung Shan Association, the Chinese Civic Association, and the China Society that render assistance and provide accommodation to Chinese immigrants, some of the immigrants have been found to be living and working in squalid conditions. Illegal Chinese immigrants who “‘slave’ in thriving casinos, Chinese supermarkets, restaurants and private members’ clubs” work between twelve to fifteen hours daily “and are given strict instructions not to speak or interact with local citizens.” Moreover, visits to some of the Chinese establishments by health inspectors have found workers, “some of whom live in the business places, sleeping inside cupboards and on top of kitchen tables” (Sookraj, May 9, 2011, A8–9).

Apart from breaches of the Immigration Act of Trinidad and Tobago by the illegal immigrants and others who aid them, exploitation of workers occurs in violation of the Minimum Wages Act of Trinidad and Tobago, when workers are paid less than the legally stipulated TT$12.50 hourly rate. National Insurance remittances for employed persons are also withheld from the National Insurance Board in clear violation of the National Insurance Act of Trinidad and Tobago, which imposes an obligation on employers to protect workers through pension provisions. Additionally, human rights are being violated when these two articles are not being followed. Article 23 of the United Nations Declaration provides for an individual to have the right to “just and favourable conditions of work…to just and favourable remuneration for himself and his family…supplemented, if necessary, by other means of social protection.” Article 7 of the United Nations International Covenant on Economic, Social and Cultural Rights recognizes “the right of everyone to the enjoyment of just and favourable conditions of work,” ensuring in particular, fair wages and remuneration, safe and healthy working conditions, rest, leisure and reasonable limitation of working hours and periodic holidays with pay.

**Implications of Illegal Immigration**

The issue of illegal immigration has implications for the individual immigrant as well as the nation in myriad ways. At the individual level, illegal immigrants are often subjected to trafficking, human rights abuses from employers and state authorities, fines, incarceration, detention, and deportation. At the national level, illegal immigration raises serious security concerns, such as the possibility of terrorism due to the ease of entry into the country, the infiltration of the country by criminal cartels and consequently increased criminal activities, the undermining and strangulation of legitimate business enterprises in the country, and the increase in “several questionable new businesses” (Sookraj, May 17, 2011).

Trinidad and Tobago’s location between North and South America, its proximity to Venezuela, coupled with its relative prosperity and porous borders make it an attractive location for illegal immigrants, which raises serious
concerns about the nation’s security. In addition to harboring migrants bent on residing permanently in Trinidad and Tobago, the country serves as a transit point for migration to Europe and North America.

The entry of illegal immigrants is also linked to human trafficking and drug, gun, and ammunition trade. In addition, the existence of corrupt officials and unscrupulous individuals and business persons enables the exploitation of these illegal immigrants. Economic migrants, who enter into seemingly legitimate arrangements with individuals and businesses for jobs, have their passports confiscated by the unscrupulous business persons, thereby denying these migrants the chance to regularize their status and are forced to work and live in unsatisfactory conditions. One case highlighting the possibility that migrants were victims of a human trafficking ring is when a group of Indian nationals, who, lured to Trinidad by a business man, had their passports seized and were threatened, abused, and exploited. Unable to speak English, they were unable to communicate with anyone and were therefore forced to endure severe hardship and exploitation. Their plight was brought to the attention of the authorities when an Indian national resident in Trinidad, with similar experiences, intervened on their behalf, and they were eventually assisted to return to India (Hassanali 2011).

In the case of women, many are coerced into prostitution and the sex trade. Cases of these have been reported in “Cops Rescue ‘Victims’ of Human Trafficking” (Trinidad and Tobago Guardian, May 20, 2011) and the U.S. State Department’s 2010 Trafficking in Persons Report, which identifies Trinidad and Tobago as a destination, source, and transit country for women and children subjected to trafficking in persons, specifically forced prostitution, and, children and men in conditions of forced labor. Some women and girls from Colombia, Dominican Republic, Venezuela, and Suriname who had been in prostitution in Trinidadian brothels and clubs have been identified as trafficking victims.

Human trafficking is one of the most pernicious evils perpetrated on humanity, and evidence points to its existence in Trinidad and Tobago. However, prior to April–May 2011, there had been no legal framework to identify such a crime or to deal with it in a comprehensive manner (Allaham 2011). Reports also suggest that human trafficking is linked to the illegal entry of Chinese immigrants into Trinidad and Tobago and that such trafficking is being controlled by the Triad, an organized criminal enterprise in China (Sookraj, May 17, 2011, A12). “Speculation is rife that Chinese immigrants are involved in illicit activities, such as prostitution, gambling, trafficking” (Trinidad and Tobago Guardian, May 9, 2011).

Responses to the Problem

Dealing with illegal immigration and its associated problems requires a multifaceted and proactive approach. While authorities in Trinidad and Tobago
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acknowledge that detention, fines, and deportation do not adequately address the issue, a more proactive approach to dealing with the problem must be instituted. Mindful of the country’s vulnerability to organized crime and terrorism due to its geographic location, the first line of defense is in the proper policing of the country’s borders. The Coast Guard is required to be more diligent in their patrol activities to prevent human smugglers trafficking in persons and other prohibited cargo from landing in Trinidad and Tobago. As one police officer was reported saying, “if Trinidad really wants to deal with the human trafficking, gun trade and drug problems, then all that needs to be done is to monitor every boat that leaves Trinidad and goes to South America” (Sookraj, May 9, 2011).

The *Trafficking in Persons Report 2010* recommended that the government of Trinidad and Tobago

draft and enact legislation that prohibits all forms of human trafficking and formalizes victim protection measures; encourage victims’ assistance in the investigation and prosecution of trafficking offenses, including through provisions for legal alternatives to victims’ removal to countries in which they would face retribution or hardship and provisions ensuring that identified victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked; develop formal procedures to guide officials in identifying trafficking victims and referring them to appropriate services; vigorously investigate and prosecute trafficking offenses, and convict and sentence trafficking offenders; intensify efforts to ensure that all trafficking victims receive access to appropriate victim services; and implement a national awareness campaign that addresses all forms of trafficking. (U.S. Department of State 2010)

So far the government has drafted and enacted legislation, but much work remains to ensure the other recommendations are met.

In seeking to address the illegal immigration problem, the government of the Republic of Trinidad and Tobago has utilized a variety of measures, such as enacting legislation to deal with human trafficking, restructuring migration management, improving and strengthening border security, utilizing technology for patrol and other crime fighting measures, building capacity to recognize potential security risks, and training of immigration officials.

The government of Trinidad and Tobago has been working with the International Office on Migration (IOM), which has an office in Trinidad and Tobago, to enhance the capabilities of the Immigration Department and other law enforcement agencies. The IOM has also provided advice, information, and technical services to the government of Trinidad and Tobago and has assisted with several projects on migration issues.

**Conclusion**

Illegal immigration into Trinidad and Tobago will continue to be a source of concern to the government, the media, and the population. Much work
remains to be done to protect the borders and minimize the nation’s vulnerability to criminal cartels. However, in instances where illegal immigrants are caught, care must also be taken to ensure that their fundamental human rights are recognized and preserved. Moreover, agencies of the state that are responsible for monitoring businesses must ensure that such businesses are properly licensed; are paying taxes, National Insurance, and the Minimum Wage; and are adhering to sound industrial practices thereby protecting the illegal immigrants. The granting of work permits to non-nationals should only be done if the position cannot be filled by nationals according to the Immigration Act of Trinidad and Tobago. Notwithstanding the legal status of non-nationals, Trinidad and Tobago is obligated to ensure their safety, security, and protection while in the country.

REFERENCES


