



## 2<sup>nd</sup> Report

JOINT SELECT COMMITTEE ON

# FINANCE AND LEGAL AFFAIRS

on an

**Inquiry into the Status of Un-proclaimed Legislation  
(Part 1)**

**The Planning and Facilitation of Development Act,  
2014**

**and the Data Protection Act, Chapter 22:04**

FIRST SESSION (2020/2021) OF THE 12<sup>TH</sup> PARLIAMENT

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# 2<sup>nd</sup> REPORT

OF THE

JOINT SELECT COMMITTEE ON  
FINANCE AND LEGAL AFFAIRS

ON

AN INQUIRY INTO THE STATUS OF  
UN-PROCLAIMED LEGISLATION

PART 1

THE PLANNING AND FACILITATION OF DEVELOPMENT ACT, 2014  
THE DATA PROTECTION ACT, CHAP. 22:04

**Date Laid: HoR:**

**Senate:**

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## ACRONYMS AND ABBREVIATIONS- PLANNING AND FACILITATION OF DEVELOPMENT ACT, 2014

Abbreviation	Term
CDFC	Complex Development Facilitation Committee
DCC	Development Control Committee
DPA	Director of Personnel Administration
EMA	Environmental Management Authority
MCs	Municipal Corporations
MPD	Ministry of Planning and Development
MoAGLA	Ministry of the Attorney General and Legal Affairs
MoRDLG	Ministry of Rural Development and Local Government
PAFD	Planning and Facilitation of Development Act
PwC	Pricewaterhouse Coopers
NPA	National Planning Authority
NSDS	National Spatial Development Strategy
SCD	Service Commissions Department
TCPD	Town and Country Planning Division

## ACRONYMS AND ABBREVIATIONS- THE DATA PROTECTION ACT, CHAPTER 22:04

Abbreviation	Term
DPA	Data Protection Act, Chap. 22:04
FOIA	Freedom of Information Act
EU-GDPR	European Union General Data Protection Regulation
LRC	Law Reform Commission
MoAGLA	Ministry of the Attorney General and Legal Affairs
MPADT	Ministry of Public Administration and Digital Transformation
MTI	Ministry of Trade and Industry
OIC	Office of the Information Commissioner
OPM-C	Office of the Prime Minister- Communications Division
SEW	Single Electronic Window

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## MEMBERS OF THE COMMITTEE



**Mrs. Hazel Thompson-Ahye**  
Chairman



**Mr. Clarence Rambharat**  
Vice Chairman



**Mr. Keith Scotland, MP**



**Ms. Jayanti Lutchmedial**



**Mr. Marvin Gonzales, MP**



**Mr. Saddam Hosein, MP**



**Mr. Terrence Deyalsingh, MP**



**Mr. Hassel Bacchus**

## THE COMMITTEE

### COMMITTEE MANDATE AND ESTABLISHMENT

1. Section 66A of the Constitution of the Republic of Trinidad and Tobago declares, that not later than three months after the first meeting of the House of Representatives, the Parliament shall appoint Joint Select Committees to inquire into and report to both Houses in respect of Government Ministries, Municipal Corporations, Statutory Authorities, State Enterprises and Service Commissions, in relation to their administration, the manner of exercise of their powers, their methods of functioning and any criteria adopted by them in the exercise of their powers and functions.
2. Pursuant to the foregoing provision, motions approved in the House of Representatives and Senate on November 20, 2020 and November 17, 2020, respectively, the **Joint Select Committee on Finance and Legal Affairs** was established.
3. Standing Order 91 of the Senate and 101 of the House of Representatives outline the general functions of a Committee of this nature. They are as follows:
  - a. to examine Bills and review all legislation relating to the relevant Ministries, Departments or Bodies or as may be referred to it by the House;
  - b. to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration and operations of the assigned Ministries, Departments or Bodies;
  - c. to study the programme and policy objectives of Ministries, departments or bodies and the effectiveness of the implementation;
  - d. to assess and monitor the performance of Ministries, Departments and Bodies and the manner of the exercise of their powers;
  - e. to investigate and inquire into all matters relating to the assigned Ministries, Departments and Bodies as they may deem necessary, or as may be referred to them by the House or a Minister; and

- f. to make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

### SPECIFIC AREAS OF RESPONSIBILITY

4. The Joint Select Committee on Finance and Legal Affairs is mandated to inquire into areas related to Finance, Planning, Trade, Tobago Affairs, Office of the Prime Minister, Attorney General, Justice and Legal Affairs as listed in Appendix IV and V of the Standing Orders of the House of Representatives and Senate respectively.

### POWERS OF THE COMMITTEE

5. Standing Orders 101 of the Senate and 111 of the House of Representatives delineate the general powers of the Committee which include:
  - a. to send for persons, papers and records;
  - b. to sit notwithstanding any adjournment of the House;
  - c. to adjourn from place to place;
  - d. to report from time to time;
  - e. to appoint specialist advisers either to supply information which is not otherwise readily available, or to elucidate matters of complexity within the Committee's order of reference;
  - f. to communicate with any other Committee on matters of common interest; and
  - g. to meet concurrently with any other Committee for the purpose of deliberating, taking evidence or considering draft reports.

### MEMBERSHIP

6. The Committee comprises the following members:
  1. Mrs. Hazel Thompson-Ahye – Chairman
  2. Mr. Clarence Rambharat – Vice-Chairman
  3. Mr. Keith Scotland, MP
  4. Mr. Marvin Gonzales, MP
  5. Mr. Saddam Hosein, MP<sup>1</sup>
  6. Mr. Terrence Deyalsingh, MP

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<sup>1</sup> Mr. Saddam Hosein, MP replaced Mr. Dinesh Rambally, MP w.e.f. November 12, 2021

7. Ms. Jayanti Lutchmedial
8. Mr. Hassel Bacchus

### SECRETARIAT SUPPORT

7. The following officers were assigned to assist the Committee:
  - i. Mr. Julien Ogilvie - Secretary
  - ii. Mr. Brian Lucio - Assistant Secretary
  - iii. Ms. Terriann Baker – Graduate Research Assistant
  - iv. Ms. Ria Rampersad – Graduate Research Assistant

## EXECUTIVE SUMMARY

At its 2<sup>nd</sup> Meeting held on November 27, 2020, the Committee resolved to pursue an inquiry into the State's strategy for implementing un-proclaimed legislation passed by Parliament during the last 20 years. It was anticipated that subject to the number of laws to be reviewed, this inquiry would be conducted over multiple Parliamentary sessions. In this regard, the Committee agreed to begin its post-legislative scrutiny exercise with the Planning and Facilitation of Development Act, 2014. At the Committee's 5<sup>th</sup> meeting held on March 19, 2021, the Data Protection Act, Chapter 22:04 was identified as the second law to be reviewed and would constitute Part 1 of the inquiry.

These two pieces of legislation were prioritised not only because of the resultant *enforcement gap* manifest in the lack of proclaimed provisions but also due to the *length* of delay, a decade hence in the case of the Data Protection Act, Chapter 22:04 and seven years where the Planning and Facilitation of Development Act, 2014 is concerned.

The inquiry process involved gathering and collating oral and written evidence from primary and secondary stakeholders. As far as possible, the Committee ensured that oral and written evidence received were relevant to the terms of reference to the inquiry. In this regard, the Committee obtained evidence from key government stakeholders, listed as follows:

### ***Planning and Facilitation of Development Act, 2014 (PAFD, 2014)***

- i. The Ministry of Planning and Development (MPD); and
- ii. The Ministry of the Attorney General and Legal Affairs (MoAGLA).

### ***Data Protection Act, Chapter 22:04 (DPA, Chapter 22:04)***

- i. The Office of the Prime Minister; and
- ii. The Ministry of the Attorney General and Legal Affairs (MoAGLA).

Based on the evidence received from the stakeholders listed above, the Committee was able to gain a comprehensive understanding of the sources of delay with respect to the full proclamation of the aforementioned pieces of legislation.

The absence of institutional and administrative requirements along with staffing the requisite statutory bodies and the enactment of subsidiary legislation (Regulations and Orders) have been the primary impediments with respect to the full implementation of the *PAFD Act, 2014*. It was observed that the challenges that are hindering the full implementation of the *DPA, Chapter 22:04*, had more to do with inadequacies within the existing legislation and its unsuitability to effectively achieve its intended purpose. Some of the issues which the Committee took into account were as follows:

- i. The MPD was adamant that the *PAFD Act, 2014* was indeed fit for purpose and did not require further amendment. A one-year time frame was proposed by the line Ministry to implement the **missing requirements to operationalise the law. Some of the key pre-requisites included** the following:
  - a. Finalisation of staffing arrangements related to the deployment of staff from the Town and Country Planning Division to the relevant stakeholder agencies;
  - b. Capacity building of staff of the Municipal Corporations to undertake their new roles and functions related to the processing of applications for simple developments;
  - c. Executive recruitment and establishment of the scope of duties of the National Planning Authority;
  - d. Completion of subsidiary legislation to give full effect to the *PAFD Act, 2014*;
  - e. The *Data Protection Act, Chapter 22:04*, presented far more complexity in terms of the causes of delay as the *existing legislation was found to be lacking in many regards, particularly given the rapidly changing and data-driven technological environment.*

## SUMMARY OF RECOMMENDATIONS

The following are key recommendations proffered by the Committee:

### **PAFD ACT, 2014**

- i. The response of the MPD must provide to the Parliament a status update on the following: a timeline of proposed dates to meet with key stakeholders in the determination of staffing arrangements and decisions taken at those meetings, the executive recruitment of the NPA and the drafts of the following pieces of subsidiary legislation- Use Class and Development Orders as well as the National and Sub-division Codes;**
- ii. The MoRDLG should collaborate with the 14 Municipal Corporations with the aim of conducting a Training Needs Assessment for staff of each Municipal Corporation in order to identify the gaps in skill level/capacity development of personnel who are expected to execute responsibilities related to the regulation of development activities;**
- iii. The MPD prioritise the implementation of Monitoring and Evaluation (M&E) strategies in conjunction with the full proclamation of the PAFD Act, 2014. These initiatives should aim to integrate the lessons learnt from the experiences of stakeholder agencies through routine reporting exercises that are shared and reflected upon by all actors in the development planning process<sup>2</sup>;**
- iv. The MPD in conjunction with the MoRDLG consider the preparation of a handbook to streamline and strategise the enforcement measures to be undertaken by officers within the Spatial Planning Units of the Municipal Corporations;**

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<sup>2</sup> Maina, B. (2004). Monitoring and evaluation of support to decentralisation and local governance: Kenya case study. Discussion Paper No. 61. European Centre for Development Policy Management. Accessed: June 11, 2021. Available: <https://ecdpm.org/wp-content/uploads/2013/10/DP-61-Monitoring-Evaluation-Decentralisation-Local-Governance-Kenya.pdf>

- v. **The Committee sees merit in the creation of a suitable arrangement which will facilitate robust inter-agency communication. This arrangement may include quarterly meetings of the NPA, representatives of the fourteen (14) MCs and the Tobago House of Assembly to enhance inter-agency dialogue.**

#### **DPA, CHAPTER 22:04**

- i. **The Committee is of the view that multiple stakeholder agencies working towards a common goal must implement processes that facilitate information exchange and dialogue. An appropriate Communication strategy should be developed and implemented to foster dialogue among the OPM, the MTI, MoAGLA and MPADT with a view to adopting a well-informed and definitive position on the way forward for Data Protection Legislation in Trinidad and Tobago.**
- ii. **The Committee sees the merit in the creation of a classification system, by way of policy or legislation, to guide the treatment of data.**
- iii. **The Committee advises that the OPM emphasise the benefits that would be derived from enhanced data protection legislation in order to build private sector support and buy-in for the proposed reforms. The benefits<sup>3</sup> highlighted should include:**
  - a. **Building of consumer trust which in turn boosts online trade;**
  - b. **Reduction of bureaucratic processes and procedures;**
  - c. **Provisions to ensure that SMEs can compete in the digital market;**
  - d. **Simplification of international data transfers;**
  - e. **Provisions to ensure long-lasting data protection solutions which can augment returns on investment.**
- iv. **The Ministerial Response of the OPM should provide the Parliament with a status update on the proposed plan/strategy for implementing a comprehensive public**

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<sup>3</sup> Sweet, E. (2016). 'The new EU General Data Protection Regulation-benefits and first steps to meeting compliance.' ISACA Journal. Accessed: June 18, 2021. Available: <https://www.isaca.org/resources/isaca-journal/issues/2016/volume-6/the-new-eu-general-data-protection-regulationbenefits-and-first-steps-to-meeting-compliance>



education and awareness raising initiative that would enable citizens to understand their privacy rights.

- v. Following in the vein of the HIPCAR framework, model guidelines can be proposed at a regional level to build a local data economy, encourage the development of technical standards, increase interoperability and ensure data integrity<sup>4</sup> as part of a region wide initiative. The Committee recognises that:
- a) There is value in open data flows between countries as *'Countries that regulate data processing too rigidly and with specific restrictions on cross-border data transfers provide reciprocal restrictions by other countries, resulting in reduced access to global data and technology,'* and
  - b) Piloting key initiatives in the data governance regime can be driven by policy initiatives at the level of CARICOM.

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<sup>4</sup> World Economic Forum. (2020). 'A roadmap for cross-border flows: future proofing readiness and cooperation in the new data economy. White Paper. Page 10. Accessed: June 17, 2021. Available: [http://www3.weforum.org/docs/WEF\\_A\\_Roadmap\\_for\\_Cross\\_Border\\_Data\\_Flows\\_2020.pdf](http://www3.weforum.org/docs/WEF_A_Roadmap_for_Cross_Border_Data_Flows_2020.pdf)

## INTRODUCTION

### BACKGROUND

- 1.1. A Bill is a legislative proposal for a new law or a proposal to amend an existing law that is presented to Parliament for its consideration<sup>1</sup>. After a Bill has been passed in both Houses it is presented to the President for assent, or approval, which converts the Bill into an Act<sup>2</sup>. Once **Presidential Assent** has been obtained, the Act is certified by the Clerk of the House<sup>3</sup> printed and published in the *Gazette* which outlines the Act number, Short Title and date of Assent. **An Act, although assented to, does not necessarily come into immediate operation**<sup>4</sup>.
  
- 1.2. Some laws have a commencement provision which is customarily found in Section 2 of the Act. The **commencement provision specifies when the Act is to come into effect. This may be the date of assent by the President, a date to be fixed by proclamation**, or otherwise provide for an implementation schedule which outlines the different sections or parts to come into effect at different times<sup>5</sup>. Presidential Proclamations have the force of law<sup>6</sup>.
  
- 1.3. Un-proclaimed provisions are those provisions not yet brought into operation by proclamation. This may be because of a need to coordinate legislation, to make subsidiary legislation before an Act can be brought into operation or to put in place administrative arrangements before the legislation can commence<sup>7</sup>.
  
- 1.4. Proclamation is made at the request of a Minister in the Executive<sup>8</sup> which may have an effect on Parliament's sovereignty as the dates are determined by the former and not the latter<sup>9</sup>. Un-proclaimed legislation is generally regarded as being un-ideal in the pursuit of legislative reform primarily for the following reasons:
  - a. Calls into question the relevance and appropriacy of legislation to respond to the evolving needs of society<sup>10</sup>;

- b. Delegates the power to make laws away from Parliament to the Executive<sup>11</sup>; and
- c. Casts doubt and uncertainty over the passage of legislation more so in relation to the authenticity of reason for the creation of laws<sup>12</sup>.

1.5. However, there may be sound reasons for delays to proclamation. These generally pertain to a need for finalisation and operationalisation of legal and administrative antecedents which are deemed necessary pre-cursors for full proclamation<sup>13</sup>.

## **OBJECTIVES**

1.6. In view of the above, the Committee agreed that its inquiry will be guided by the following objectives:

**1. To determine:**

- i. The factors that are contributing to the delay in the full proclamation of the Planning and Facilitation of Development Act, 2014 and the Data Protection Act, Chapter 22:04 respectively;**
- ii. The sections of the Act that require more time and/or input for operationalisation;**
- iii. The sections of the Act that can be implemented without delay; and**
- iv. The impact that the delay in the full proclamation of the Act has had on national planning and development.**

## THE PLANNING AND FACILITATION OF DEVELOPMENT ACT, 2014

1.7. The Committee saw it fit to identify and analyse the reasons for the seven year delay in the full proclamation of the Planning and Facilitation of Development Act, 2014 (PAFD Act, 2014) as *“Legislation... provides the structural framework and legal controls for rational, intelligent and informed land use decision-making and links the different disciplines that characterise the planning process<sup>5</sup>.”*

1.8. The PAFD Act, 2014 will upon full proclamation, replace the Town and Country Act Chap 35:01 and establish a National Physical Planning Authority (National Planning Authority, NPA). The PAFD Act, 2014 will also create synergies with the Environmental Management Authority (EMA) with respect to environmental interests in planning and development, as well as the devolution of authority to process applications for simple developments to the Municipal Corporations (MCs).

1.9. The PAFD Act, 2014 seeks, *inter-alia* to:

- i Decentralise the administration of planning, devolution of development planning and control functions to MCs;
- ii Simplify the certification and adoption processes in the preparation of development plans;
- iii Enhance the enforcement and provision of stricter penalties through an increase in fines, immediate compliance orders and development repair orders for contravention of land use regulations; and
- iv Further Government’s National Development Strategy, Vision 2030, delivering good governance (Theme II) and placing the environment at the centre of social and economic development (Theme V).

1.10. The Proclaimed sections of the Act are highlighted in Table 1 whilst the un-proclaimed sections of the Act are outlined in **Appendix III**.

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<sup>5</sup> Wilkinson, G, K. (1985). “The role of legislation in land use planning for developing countries.” Legislative study number 31 Food and Agriculture Organisation of the United Nations. Page 6. Accessed: June 23, 2021. Available: <http://www.fao.org/3/AK467E/ak467e.pdf>

**Table 1: The Planning and Facilitation of Development Act, 2014- Proclaimed Sections**

Part	Section	Sub Heading
<b>Part I- Preliminary</b>	1	Short title and commencement
	2	Act inconsistent with the Constitution
<b>Part II- Interpretation and purpose</b>	3	Interpretation
	4	Objects and purposes of the Act
<b>Part III- General administration</b>	5 (1)	General responsibility of the Minister
	6	Establishment of the National Planning Authority
	13 (1)	Departments and offices of the National Planning Authority
<b>Part V- Development Control</b>	Section 31 (1)	Subject to section 33, the Minister may, by Order, provide for the grant of permission to develop land under this Part, and the Development Order may include provisions with respect to – (a) any development specified in the Development Order; (b) any class of development specified in the Development Order; or (c) any land specified, or such description of land as is specified, in the Development Order
	Section 31 (3)	Development allowed by a Development Order may be subject to such conditions and limitations as may be specified in the Development Order.
	Section 31 (4a and b)	Development orders: A. in case of any erection, extension or alteration of any building, require the approval of the National Planning Authority or a planning authority with respect to the design or external appearance of the building; B. in case of any development of any specified class, exclude development in any particular area or exclude any particular project.
	Section 33 (1)	Publicising of certain applications
<b>Part X- Supplemental</b>	Section 107	Power to make regulations

## CONDUCT OF THE INQUIRY

1.11. At its Meeting held on March 16, 2021, the Committee convened a *Public Hearing* with the following entity:

- The Ministry of Planning and Development.

1.12. The Minutes of the Meeting during which the public hearings were held are attached as **Appendix I** and the Verbatim Notes as **Appendix II**.

## SUMMARY OF EVIDENCE, FINDINGS AND RECOMMENDATIONS

### CONTEXT OF THE PAFD ACT, 2014

#### *Relevance of legislation*

- 2.1. The *Ministry of Planning and Development (MPD)* advised that following a comprehensive review exercise in 2016, the intent of the PAFD Act as originally outlined in 2014, remained relevant. Notwithstanding that it was passed under a previous administration, having maintained the full support of the present Government, the focus of the *MPD*, being the line Ministry responsible for the legislation's implementation, was to provide the requisite institutional arrangements.
- 2.2. The main aim of the PAFD Act, 2014 is to improve the effectiveness of the development planning process. This embodies the orderly, progressive and sustainable development of land as a finite resource through the decentralisation of the administration of planning and control functions and simplification of the certification and adoption processes vis-a-vis the preparation of development plans. The composite goals of the PAFD Act are highlighted in Textbox 1.

#### *Textbox 1: Primary aims of the PAFD Act, 2014*

*'When fully implemented, the PAFD will allow for, inter alia: the decentralisation of the administration of planning and control functions to Municipal Corporations, simplification of the certification and adoption process in the preparation of development plans. The intent of this Act is to facilitate more extensive enforcement mechanisms and provide for strict penalties for contravention of land use regulations.'*

*Deputy PS Marie Hinds- Ministry of Planning and Development, Verbatim Notes JSCFLA Public Hearing March 19, 2021, page 5*

- 2.3. The PAFD Act, 2014 will repeal and replace the Town and Country Act, Chapter 35:01 in itself, a remnant of centralised decision-making held over from the colonial era. Not only will the Act integrate the participation of local government in the planning process but will be better able to respond to contemporary changes in land

administration such as poverty, access to land, informal settlements, community and sustainable development.

#### *Role of the Town and Country Planning Division (TCPD)*

2.4. The TCPD is currently the authoritative body that determines the suitability of a building application in accordance with the approved spatial planning policy. All applications are screened by the TCPD who in turn networks with the relevant stakeholder agency to ensure that proposals meet the criteria of the established classification code<sup>6</sup> before onward submission to the MCs. The TCPD is also empowered to effect the following functions:

- i Follow the guidance of the Land Acquisition Act, Chapter 58:01 pursuant to the compulsory acquisition of land;
- ii Assess development projects based on environmental impact and requirements for a Certificate of Environmental Clearance; and
- iii Ascribe to established land use policies/plans, spatial planning guidelines and site development standards.

#### *Adherence to the National Spatial Development Strategy*

2.5. An example of the enduring relevance of the PAFD Act, 2014 is its nexus with the National Spatial Development Strategy (NSDS) for Trinidad and Tobago. The NSDS was an update to the pre-existing National Physical Development Plan established on December 19, 2013<sup>7</sup>, which sought to provide a national framework with clear spatial planning guidelines to be followed by all planning authorities inclusive of the MCs in their determination of developmental plans<sup>8</sup>.

2.6. The NSDS is currently used by the TCPD as the national planning framework to guide the review and development of regional and local plans, land use policies and spatial planning guidelines.

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<sup>6</sup> Agricultural, forestry, fishing, residential, office, trade, industrial, institutional, protective/health, welfare services, utilities, transport, warehousing/communication and recreation/vacation.

<sup>7</sup> Cabinet Note 3556 dated December 19, 2013

<sup>8</sup> National Spatial Development Strategy for Trinidad and Tobago. A Planning Framework to govern physical development. Core strategy and regional guidance.



## *Major Provisions of the Act*

### **The Development Control Committee**

2.7. The Development Control Committee (DCC) is intended to be a permanent standing committee of the NPA with responsibility to coordinate and expedite the development approval process through the provision of final approval or binding advice on behalf of stakeholder agencies. Full proclamation of the PAFD Act, 2014 will also confer additional powers to the Director of Planning to serve as the de-facto Chairman and refer applications to the DCC (see **Appendix IV** for details on these enhanced duties). These additional areas of responsibility to be ascribed to the Director of Planning was also a deliverable outlined in a consultancy actioned by Pricewaterhouse Coopers (PwC) on behalf of the MPD. The proposed composition of the DCC is outlined in **Appendix V**.

2.8. Interim arrangements to enact these duties are currently facilitated by the Complex Development Facilitation Committee (CDFC) who is tasked with the assessment of proposals for major private and national development projects using a coordinated approach. The composition of the CDFC is also outlined in **Appendix V**.

### **Automation and digitisation of development planning**

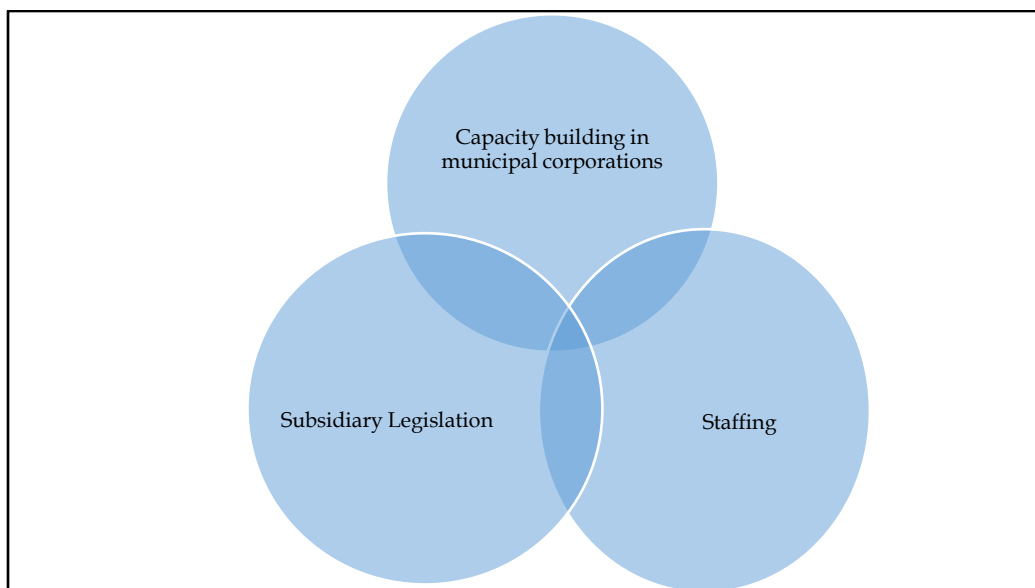
2.9. Decentralised planning is also part of a larger imperative to improve the overall delivery of customer service within government agencies. This is being achieved by way of the MPD's pilot project *DevelopTT*- launched officially in March 2020, the platform allows for both the simultaneous processing of applications by relevant stakeholder agencies and the submission of complaints. The drive towards automation has also been accompanied by the digitisation of TCPD records as well as updates to spatial guidelines.

## OBJECTIVE 1: THE FACTORS THAT ARE CONTRIBUTING TO THE DELAY IN THE FULL PROCLAMATION OF THE PAFD ACT, 2014

### *Factors influencing full Proclamation*

2.10. An implementation schedule formulated by the MPD revealed that a time frame of just over three hundred (300) man days was required to advance the full proclamation of the PAFD Act, 2014. These outstanding elements pertained to the completion of institutional arrangements as well as the completion of subsidiary legislation. A condensed overview of the outstanding issues pertaining to the overall institutional readiness of the entities involved is highlighted in Figure 1.

*Figure 1: Factors influencing the full proclamation of the PAFD Act, 2014*



### *Interdependent legislation*

#### **The Miscellaneous Provisions (Local Government) Reform Bill, 2020**

2.11. The Miscellaneous Provisions (Local Government) Reform Bill, 2020 is unique in that passage of this legislation will give rise to several provisions outlined in the PAFD Act, 2014. Therefore, full proclamation of the PAFD Act, 2014 will depend to a certain extent on the capacity of the MCs to execute their new responsibilities in

line with the Act. The objective was for MCs to undertake their new responsibilities to process applications for simple developments as soon as they were capable of so doing, these enhanced duties are outlined in Table 2.

**Table 2: Miscellaneous Provisions (Local Government Reform) Bill, 2020-Proposed areas of responsibility of Municipal Corporations**

Section	Provision
3 (vxi)	Insertion of a definition for simple development
35 A (1) (g)	Each corporation shall establish a Spatial Planning and Building Inspectorate
35 (F)	The Division of the Corporation with responsibility for spatial planning and building inspection shall be responsible for the various regional planning initiatives
69 (h)	Appointment of Standing Committees- the Spatial Planning and Building Inspectorate
124 (A) (1)	Applications for developments - Complex developments to be forwarded to the Minister with responsibility for planning and development

Capacity building within municipal corporations

2.12. The MPD highlighted their active participation in the upskilling of staff of the MCs to undertake these proposed responsibilities using a two-pronged approach. Top-down decision making was evidenced by the establishment of a PAFD Implementation Committee and creation of a comprehensive plan of action with key stakeholders from the MPD, Ministry of the Attorney General and Legal Affairs (MoAGLA) and Ministry of Rural Development and Local Government (MoRDLG). Support for a bottom-up approach was also manifest through the creation of bespoke courses designed specifically to build the capacity of local government stakeholders as MCs were expected to undertake greater enforcement measures within their respective municipalities as part of the new mandate.

### Enhanced enforcement

2.13. Enforcement is a critical aspect of development planning as it seeks to ensure that this is done in accordance with the legal requirements<sup>9</sup>. Increased oversight of indiscriminate planning is a key advancement to be realised within the legislation as building inspectors and planning officers within the fourteen MCs are earmarked to assume enforcement functions upon full proclamation of the PAFD Act, 2014. An overview of these presumptive roles are outlined in Textbox 2.

#### *Textbox 2: Example of enhanced enforcement of the PAFD Act, 2014*

*'... There is an opportunity for many more eyes to be on the ground and seeing what is happening as opposed to a centralised agency that currently exists...'*

*Deputy PS Marie Hinds- Ministry of Planning and Development, Verbatim Notes JSCFLA  
Public Hearing March 19, 2021, page 32*

### **The Urban and Regional Planning Profession Act number 22 of 2020**

2.14. The Urban and Regional Planning Profession Act No. 22 of 2020 provides for the regulation of the Urban and Regional Planning Profession through the creation of a Council for Urban and Regional Planners. Assented to on July 03, 2020, this Act was necessary to provide an independent viewpoint in the consideration of applications. Upon full proclamation of the PAFD Act, 2014, the stamp of a Listed Professional would be deemed as a bona fide application without the normal scrutiny of the NPA.

### Nexus with existent legislation

2.15. Operationalisation of the PAFD Act, 2014 is also linked to several other pieces of existing legislation including:

- The Public Health Ordinance, Chapter 12 No. 4;
- The Integrity in Public Life Act, Chapter 22:01;
- The Tobago House of Assembly Act, Chapter 25:03;
- The Municipal Corporations Act, Chapter 25:04;

<sup>9</sup> Thomas, D. (2001). 'The importance of development plans/land use policy for development control.' Prepared for the USAID/OAS Post-Georges Disaster Mitigation Project, Workshop for building inspectors. Accessed: June 16, 2021. Available: <http://www.oas.org/pgdm/document/bitc/papers/dthomas.htm>

- The Environmental Management Act, Chapter 35:05;
- The Land Tribunal Act, No. 15 of 2000; and
- The Land Tribunal (Amendment) Act, No. 9 of 2018.

### Subsidiary legislation

2.16. Regulations to advance specific measures<sup>10</sup> of the PAFD Act, 2014 were also, still outstanding and would include the following pieces of legislation:

- Land Sub-division Code;
- Built and Natural Heritage Order;
- Tree Preservation Order; and
- Control of Advertisements Regulations.

### *Role of the MoAGLA*

2.17. The input of the MoAGLA was sought from the MPD via the submission of a report dated June 2018<sup>11</sup> seeking recommendations on the proposal for a new organisational structure within MCs, as well as the drafting of statutory instruments inclusive of the following:

- i. ***Subsidiary legislation***- Comprising Regulations and two (2) Orders (passed in 2015). These will not come into force until there is full proclamation of the Act and a commencement clause inserted in each instrument to that effect. These are itemised as follows:
  - **The Planning and Facilitation of Development (General Development) Order** (Legal Notice No. 171 of 2015). Made under section 31 of the PAFD Act;
  - **The Planning and Facilitation of Development (Use Classes) Order** (Legal Notice No. 172). Made under section 31 of the PAFD Act; and
  - **The Planning and Facilitation of Development (Application Fees) Regulations** (Legal Notice No. 173 of 2015). Made under section 107 of the PAFD Act.
- ii. ***Amendments to the PAFD Act, 2014***- Following an internal review performed by the MPD, amendments to the PAFD Act as well as an amendment to the Environmental

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<sup>10</sup> Law Central Alberta. 'Statutes and Regulations.' Accessed: June 16, 2021. Available: <https://www.lawcentralalberta.ca/en/statutes-and-regulations>

<sup>11</sup> Report entitled PAFD and Local Government

Management Act, relevant to the creation of a Commissioner with a planning discipline, Chapter 35:05 were passed in 2019;

iii. *The Urban and Regional Planning Profession Act, No. 22 of 2020.*

#### Administrative/staffing arrangements

2.18. Since full proclamation of the PAFD Act, 2014 seeks to decentralise decision-making responsibility from central to local government authorities<sup>14</sup>. The deployment of staff to the various MCs proved to be a complex undertaking as the full complement of human resources did not fall under the remit of a single authority. Some personnel fell under the different statutory bodies (subject to oversight by various Salaries Review Commissions), whilst others were under the remit of the Director of Personnel Administration (DPA). Furthermore, there were challenges with identifying the 'fit' and necessity of personnel in certain roles and functions within individual stakeholder agencies; a process made all the more tedious with the simultaneous consideration of remuneration packages.

2.19. Finalisation of these arrangements would involve formal agreement between stakeholder bodies including the MPD, MoRDLG, Chief Personnel Officer (CPO), DPA and the Public Services Association; as well as formal agreement and capacity building at the level of the Tobago House of Assembly (THA). The complexity of the matter is highlighted in Textbox 3.

#### *Textbox 3: Negotiations for the finalisation of staff deployment of the TCPD*

*'We also have to do the very challenging thing of figuring out how do you deal with staff because the Municipal Corporations do not really have the technical capacity so there has got to be a way to transition staff. You have to get the DPA involved, the CPO involved, as well as the unions.'*

*Deputy PS Marie Hinds- Ministry of Planning and Development, Verbatim Notes JSCFLA Public Hearing March 19, 2021, page 8*

### *Executive Recruitment of the NPA*

2.20. Another element of staffing in need of reconciliation was related to the governance and structure of the National Planning Authority (NPA). PwC was awarded the consultancy to identify the organisational structure and recruit the executive staff of the NPA with finalisation expected within three (3) months. It was noted that staff was intended to occupy contract positions in the first instance with a gradual incorporation of positions onto the establishment.

2.21. The NPA is tasked with the framing of comprehensive development policies and is envisioned to work in tandem with the spatial planning units of the MCs. Upon full operationalization, the NPA would consult with the Minister in order to establish Special or Joint Planning Authorities. The former would be responsible for development control and planning, while the latter would be tasked to undertake specific and time bound tasks that are cross-institutional (involving two or more MCs). The NPA would also be responsible for the development of a yet to be finalised framework to assess the environmental impact of land development, in conjunction with the EMA. Other responsibilities of the NPA will include, *inter-alia*:

- Processing of complex developments;
- National development priorities, policies and goals;
- Socio-economic needs of citizens;
- Requirements for environmental sustainability;
- Population growth, impacts of climate change; and
- Best use of relevant land area.

## OBJECTIVE 2: THE SECTIONS OF THE ACT THAT CAN BE IMPLEMENTED WITHOUT DELAY

### *Proclaimed sections*

2.22. The MPD rationalised that the sections of the PAFD Act, 2014 that are presently proclaimed by *Legal Notice No. 151 of 2015*, see Table 1, represented the immediately actionable aspects in the short to medium terms. These amendments were assented to on January 25, 2019, of which the MPD stressed the need for adequate operationalisation in order to facilitate full proclamation. These amendments were viewed as a re-affirmation of the appropriacy of the PAFD Act, 2014 and the MPD appeared resolute that further amendment would not be required. These sentiments are reiterated in Textbox 4.

#### *Textbox 4: The MPD's view of amendments to the PAFD Act, 2014*

*'And honestly, we would really want to avoid having to go back to the Act at this stage based on all that we are saying, we are about implementation and operationalisation.'*

*Dr. Ancil Kirk-Assistant Coordinator Town and Country Planning Division, JSCFLA Public Hearing March 19, 2021, page 35*

## OBJECTIVE 3: THE SECTIONS OF THE ACT THAT REQUIRE MORE TIME AND INPUT FOR OPERATIONALISATION

### *Pending implementation measures*

2.23. Accordingly, those sections of the Act that have not yet been proclaimed were those which could not feasibly be operationalised. Several intermediary measures were thus enacted in order to ensure continuity pending full implementation. The MPD reiterated that in spite of the apparent sufficiency of these interim measures, all stakeholders were working assiduously to ensure that full proclamation was achieved. Some of these interim arrangements currently in place are outlined in Table 3.



**Table 3: MPD interim measures pending full proclamation of the PAFD Act, 2014**

Interim arrangements	Proposed capacity under the PAFD Act, 2014	Functions
Complex Development Facilitation Committee	Development Control Committee	Authorises and approves development plans including complex national development plans
Director of TCPD in addition to Assistant Directors and Coordinators	Director of Planning	The role of the Director of Planning will be expanded upon full proclamation
The MPD had the ability to establish boards/committees through Cabinet appointments	Special/Joint Planning Committees	To undertake specialised, time bound or inter sectoral development plans
Requirement of a CEC	Complex developments would fall to the NPA whilst simple developments not requiring a CEC would fall to the MCs.	To determine the environmental impact

## **OBJECTIVE 4: THE IMPACT THAT THE DELAY IN THE FULL PROCLAMATION OF THE ACT HAS HAD ON NATIONAL PLANNING AND DEVELOPMENT**

### *Consequential gaps in the planning process*

2.24. The Committee sought to examine the effects of the delay in the PAFD Act on the national planning and development system. In this regard, the Committee was advised that the main consequence has been a delay in the implementation of the following:

- Full delegation to municipal corporations to process simple applications;
- Wider decentralisation of the development planning and development control functions;
- Performance of the enhanced duties of the Director of Planning (see **Appendix IV**),
- Implementation of third-party rights in the exercise of planning functions;
- Enhanced roles for specialised organisations in the exercise of planning functions; and
- Use of registered professionals in the planning approval process;
- Inefficiency and protraction in the processing of applications for land use development;
- Outdated and archaic institutional arrangements for land use planning and development.

## **FINDINGS**

**2.25. Based on the forgoing evidence, the Committee has made the following findings:**

- i A minimum delay of one year was anticipated to address the primary hurdles affecting full proclamation of the PAFD Act, 2014 which may be categorised as follows:
  - a) Finalisation of staffing arrangements related to the deployment of staff from the TCPD to stakeholder agencies;
  - b) Institutional capacity building of Municipal Corporations to undertake their new roles and functions related to the processing of simple applications;
  - c) Executive recruitment and identification of the scope of duties of the NPA;
  - d) Completion of subsidiary legislation primarily: Use Class and Development Orders, National Building and Sub-division Codes;
- ii The Committee noted that full proclamation of the PAFD Act, 2014 is targeted to improve certainty, transparency and enforcement in the development planning process. However, there has been little mention of monitoring and evaluation tools to assess the performance and progress of these initiatives<sup>12</sup>;
- iii Notwithstanding the move towards full proclamation of the PAFD Act, 2014 and repeal of the TCPD Act, Chapter 35:01, the primary implementation challenge remains enforcement, a function that the Municipal Corporations, are proposed to strengthen. However, confirmation of the role Municipal Corporations will perform in development planning processes remains

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<sup>12</sup> Maina, B. (2004). Monitoring and evaluation of support to decentralisation and local governance: Kenya case study. Discussion Paper No. 61. European Centre for Development Policy Management. Accessed: June 11, 2021. Available: <https://ecdpm.org/wp-content/uploads/2013/10/DP-61-Monitoring-Evaluation-Decentralisation-Local-Governance-Kenya.pdf>

- uncertain given that the Miscellaneous Provisions (Local Government) Reform Bill, 2020 is still being considered by the Parliament;
- iv The efforts to provide training and capacity building within the Municipal Corporations are duly noted, however it is essential that the methodology used to dispense such training is properly formulated with a view to achieving maximum knowledge and skill acquisition;
  - v The MPD indicated that whilst preliminary assessment of the best organisational fit for staff within stakeholder agencies had commenced, discussions with the relevant Trade Unions had not yet been initiated;
  - vi The Committee noted that outside of collaborative projects *vis-a-vis* the Special and Joint Planning Authorities, there appeared to be a gap in the facilitation of routine and proactive dialogue between the National Planning Authority (NPA) and Municipal Corporations (MCs). Whilst the *DevelopTT*<sup>13</sup> platform allows a certain degree of interaction between stakeholder agencies, there must be alternative measures to facilitate dual communication between vertical (the NPA) and horizontal (MCs) agencies<sup>14</sup>.
  - vii The MPD appeared convinced that no additional modifications to the PAFD Act, 2014 are required pursuant to further adjustments following amendments made in 2019. The Ministry reported that in the unlikely event that additional changes were required, such measures should only be considered by way of delegated legislation such as regulations;

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<sup>13</sup> Government of the Republic of Trinidad and Tobago. 'DevelopTT.' Accessed: August 16, 2021. Available: [https://www.developTT.gov.tt/ttacps\\_app/mvvmc/eservices/acpsPublicService.login](https://www.developTT.gov.tt/ttacps_app/mvvmc/eservices/acpsPublicService.login)

<sup>14</sup> Local Government Association and Newgate Research. (2020). Lessons learned in communicating devolution. Accessed: June 11, 2021. Available: <https://www.local.gov.uk/publications/lessons-learned-communicating-devolution>

## **RECOMMENDATIONS**

**2.26. Based on the foregoing, the Committee submits the following recommendations:**

- i. The response of the MPD must provide to the Parliament a status update on the following:**
  - a A timeline of proposed dates to meet with key stakeholders in the determination of staffing arrangements and the decisions taken at those meetings, if applicable;**
  - b The executive recruitment of the National Planning Authority;**
  - c The drafts of the following pieces of subsidiary legislation: Use Class and Development Orders and the National and Sub-division Codes.**
  
- ii. In anticipation of the assignment of additional responsibilities to Municipal Corporations upon the full proclamation of the PAFD Act, 2014, the MoRDLG should collaborate with the 14 Municipal Corporations with the aim of conducting a Training Needs Assessment for staff of each Municipal Corporation in order to identify the gaps in skill level/capacity development of personnel who are expected to execute responsibilities related to the regulation of development activities. Perhaps lessons can be drawn from the ongoing efforts to implement the new Public Procurement regime which also required the institutional development of several state bodies including Municipal Corporations.**
  
- iii. The MPD prioritise the implementation of Monitoring and Evaluation (M&E) strategies in conjunction with the full proclamation of the PAFD Act, 2014. These initiatives should aim to integrate the lessons learnt from the experiences of stakeholder agencies through routine reporting exercises that**

are shared and reflected upon by all actors in the development planning process<sup>15</sup>.

- iv. The MPD in conjunction with the MoRDLG consider the preparation of a handbook to streamline and strategise the enforcement measures to be undertaken by officers within the Spatial Planning Units of the Municipal Corporations.
- v. The Committee sees merit in the creation of a suitable arrangement which will facilitate robust inter-agency communication. This arrangement may include quarterly meetings of the NPA, representatives of the fourteen (14) MCs and the Tobago House of Assembly to enhance inter-agency dialogue.

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<sup>15</sup> Maina, B. (2004). Monitoring and evaluation of support to decentralisation and local governance: Kenya case study. Discussion Paper No. 61. European Centre for Development Policy Management. Accessed: June 11, 2021. Available: <https://ecdpm.org/wp-content/uploads/2013/10/DP-61-Monitoring-Evaluation-Decentralisation-Local-Governance-Kenya.pdf>

## THE DATA PROTECTION ACT, CHAPTER 22:04

- 3.1. The primary aim of the Data Protection Act Chapter 22:04 (DPA Chap. 22:04) is to outline the parameters to govern the use of consumers' personal data and to provide legal safeguards to prevent its mis-use. The Act thus provides for the protection of consumers' data by both public and private bodies through the establishment of the Office of the Information Commissioner (OIC), to conduct audits and provide compliance and enforcement measures. The Act also provides for the adoption of general privacy principles which would guide the treatment and storage of personal data held by public and private entities.
- 3.2. The rationale for assessing the extent to which the State is prepared to implement the DPA Chap. 22:04 is similar in the basis of choice for the PAFD Act, 2014. However, there is a difference, in that the issue of relevance has been called into question given that the intervening decade has resulted not only in cross border legislative requirements but technological evolutions that now require the Act to provide for data governance and sharing as well as the use of data in emerging technologies.

### *Pioneering legislation*

#### **The European Union General Data Protection Regulations (EUGDPR)**

- 3.3. Pioneering legislation in the form of the European Union General Data Protection Regulation (EU GDPR) benchmarked the standards that countries pursuing similar legislation should meet, not only for trade purposes but also to facilitate open data flows, which necessitated amendments to the existing DPA, Chap. 22:04. However, uncertainty over the extent to which compatibility with the EUGDPR would be required of local businesses and the abounding challenges that would arise due to small size and limited resource capacities remained unresolved.

## Harmonisation of ICT Policies, Legislation and Regulatory Procedures in the Caribbean (HIPCAR)

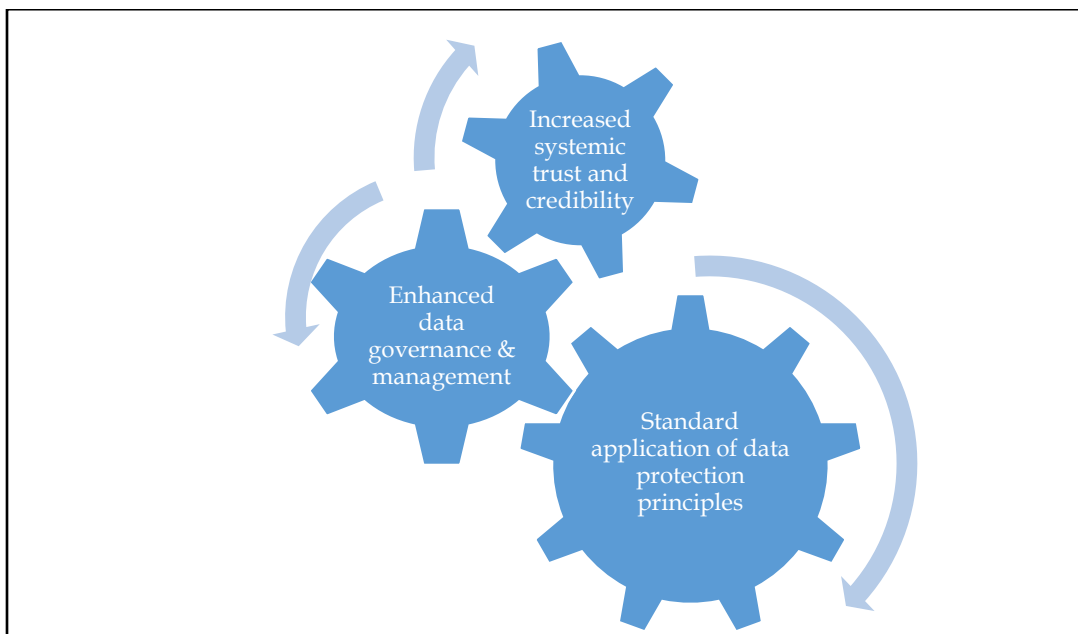
3.4. The HIPCAR Project was launched in 2008, a collaboration between the International Telecommunications Union (ITU), European Union (EU), Caribbean Telecommunications Union (CTU) and CARICOM. The Project sought to develop an inter-related model legal framework to address the challenges associated with the creation of an information society.

3.5. One of the six model frameworks dealt primarily with access to public information, privacy and data protection. Key outcomes of this endeavour was the creation of Model Policy Guidelines and Legislative Texts for Privacy and Data Protection. By written submission dated May 25, 2021, the Office of the Prime Minister (OPM) *noted* the recommendations of the HIPCAR initiative and acknowledged its *potential* for use as a guide.

### Consultancy to review and amend the DPA, Chapter 22:04

3.6. Owing to areas of mutual interest between the OPM and the Ministry of Trade and Industry (MTI) relevant to the need for harmonisation of the MTI's Single Electronic Window (SEW) with the EU GDPR, amendments to the DPA, Chap. 22:04 became a deliverable of mutual benefit. The proposed amendments would require the implementation of data governance principles for the enhancement of data management and promote a greater degree of appreciation and understanding of data use within organisations. The consequential effect of these changes would lead to improved consumer trust through transparent and accountable practices. These are visualised in Figure 2.

*Figure 2: Benefits to be derived from the implementation of amendments to the Data Protection Act*



3.7. A collaborative approach was thus undertaken and a consultant retained by the MTI at a cost of USD 70,000. The consultancy entailed a comprehensive review of the legislation, using funding accessed under an Inter-American Development Bank (IADB) loan for the strengthening of the SEW for Trade and Business Facilitation (TTBizLink).

### **Inter-Ministerial collaboration**

3.8. Consequently, in January 2021 a meeting was held between the OPM, MoAGLA, Ministry of Public Administration and Digital Transformation (MPADT) and a representative of the Law Reform Commission (LRC). Herein, the OPM informed partner Ministries of their stewardship role in the undertaking of this project with the MPADT providing peer review. However, by written submission dated April 19, 2021, the MoAGLA advised that a review of the DPA was underway and that draft legislation was being considered. This information appeared to be at variance



with the details provided by the OPM who reiterated that the entire DPA Chap. 22:04 was being evaluated by the Consultant retained via the IADB loan. A timeline for the consultancy was also provided by the OPM, indicating start and end dates of December, 2020 and September 09, 2021 respectively, with the following deliverables achieved to date:

- Inception Report- December, 2020;
- Gap analysis report- January, 2021; and
- Stakeholder consultations and Regulatory Impact Assessment- March, 2021.

3.9. Presently a few sections of the existing Act are Proclaimed, these are highlighted in Table 4 whilst the un-proclaimed sections of the Act are outlined in **Appendix VIII**.

*Table 4: The Data Protection Act, Chap. 22:04-Proclaimed Sections*

Part	Section	Sub Heading
Part 1- Preliminary	1-6	(1) Short title and commencement, (2) interpretation, (3) Act binds the State, (4) object of the Act, (5) inapplicability of the Act,(6) general privacy principles
Part II- Office of the Information Commissioner	7-18, 22,23, 25 (1), 26 and 28	(7) Office of the Information Commissioner, (8) Appointment of Information Commissioner, (9) Powers of Information Commissioner, (10) Functions of Information Commissioner, (11) Deputy Information Commissioner, (12) Resignation or removal of Information Commissioner and Deputy Information Commissioner, (13) Remuneration of Information Commissioner and Deputy Information Commissioner, (14) Seal of Office of the Information Commissioner, (15) Service of documents, (16) Execution of documents, (17) Staff of the Office of Information Commissioner, (18) Delegation, (22) Expenses and accounts of the Office of the Information Commissioner, (23) Statements made to Commissioner not admissible, (25) (1) Restrictions on disclosure of information by Commissioner and staff, (26) Protection of Commissioner and Staff, (28) Commissioner to publish list of equivalent jurisdictions.

### CONDUCT OF THE INQUIRY

3.10. At its Meeting held on April 16, 2021, the Committee convened a Public Hearing with the following entities:

- Office of the Prime Minister

3.11. The Minutes of the Meeting during which the public hearings were held are attached as Appendix VI and the Verbatim Notes as Appendix VII.

### **OBJECTIVE 1: THE FACTORS THAT ARE CONTRIBUTING TO THE DELAY IN THE FULL PROCLAMATION OF THE DPA, CHAPTER 22:04** *Deficiencies in the DPA, Chapter 22:04*

3.12. In 2018, the Government sought to undertake a comprehensive review of Data Protection legislation and found it to be discordant with best practice established in the EU GDPR and otherwise deficient in several other areas. These deficiencies embody three core sources of challenge which are classified as follows:

#### A. Lack of expressed provisions

The OPM conducted two rounds of stakeholder consultations on the Act, prior to the start of the consultancy in November<sup>16</sup> 2019 and subsequently in March<sup>17</sup> 2021 (see **Appendix IX** for the list of stakeholders consulted) in which a number of gaps were identified. Disquiet over the existent legislation centred on issues which included, *inter alia*:

- The extent to which international standards, such as ISO 27701 relevant to a Privacy Information System, be incorporated and applied locally;
- The requirements to achieve compliance inclusive of the cost and length of time for implementation;

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<sup>16</sup> November 5-6, 2019

<sup>17</sup> March 15-16, 2021

- The need for policy directives related to the development of sector/industry specific codes and data classification standards;
- Lack of exemptions for certain categories of expression: journalistic, literary and/or artistic.

**B. Lack of an appropriate legislative framework**

Not only was the current legislation found to be lacking in the clarity and uniformity of definitions but there were also gaps in the cross referencing between connected pieces of legislation such as the Freedom of Information Act, Chapter 22:02, and the Electronic Transactions Act, 22:05. Most importantly, there was a fundamental absence in the form of an information management system for the categorisation of data.

**C. Failure to consider technological advancements**

The DPA, Chap. 22:04 did not likewise, make reference too, nor provide sufficient guidance regarding the use of novel technologies for consumer marketing, tools that the private sector appeared keen to integrate within their internal operations. Concerns over the use of electronic marketing, online privacy, the right to erasure, open data, cloud services, notification of breaches or safeguards for data matching and the creation of meta data were not addressed. The Permanent Secretary (PS) of the OPM succinctly identified these omissions outlined in Textbox 5.

***Textbox 5: Shortcomings of the Data Protection Act, Chapter 22:04***

*... 'The consultant would have identified numerous shortfalls or things that need to adjust in the Data Protection Act. Some of the things would have covered like the development of technology over time... so there are some things in the Act-remember it is between 2011 and 2021, that is a long time when you are dealing with information technology... and then you have some issues that would have been raised at the stakeholder consultation... so we are not looking to implement the Data Protection Act as it currently stands, given that we are fully aware that a consultancy is going on and these deficiencies... have been highlighted.'*

*PS Maurice Suite- Office of the Prime Minister, Verbatim Notes JSCFLA Public Hearing April 16, 2021, page 16*

*Shifts in ministerial portfolios*

3.13. Since partial proclamation in 2012 to present, the line Ministry responsible for the DPA Chap. 22:04 changed seven (7) times and presently resides with the Office of the Prime Minister. The common thread between these various shifts is that the portfolio to retain the DPA Chap. 22:04 always included the input of the Ministry with responsibility for Communications. This alignment seemed fitting given that there is some linkage between the Freedom of Information Act (FOIA), Chap. 22:02, (which is the responsibility of the line Ministry for Communications) and that of data protection, as the implementation of the latter may result in several amendments to the FOIA, Chap. 22:02.

## OBJECTIVE 2: THE SECTIONS OF THE ACT THAT CAN BE IMPLEMENTED WITHOUT DELAY

### *Proclaimed sections*

- 3.14. At present, the only sections of the Act that can be operationalised are those that are currently proclaimed. These provisions, Part I Sections 7 to 18, 22, 23, 25 (1), 26 and 28 of Part II relate primarily to the Office of the Information Commissioner (OIC). Despite its proclamation, however, appointments have not been realised and neither the Information Commissioner nor the complement of staff have been recruited. The consequence being that there are no audits or enquiries being conducted into the activities and compliance of both public and private bodies.
- 3.15. In terms of regulatory impact, the MoAGLA also advised that several pieces of legislation were linked to the DPA, Chap. 22:04 and that certain exemptions were made in respect of the following pieces of legislation as a result:
- The Tax Information Exchange (United States of America) Act 4, of 2014;
  - The Income Tax Act, Chap. 75:01 (Act No. 6 of 2020);
  - The Tax Information Exchange Act, 5 of 2020
  - The Mutual Administrative Assistance in Tax Matters Act, 7 of 2020.

### *Office of the Information Commissioner (OIC)*

- 3.16. With respect to this particular provision in the legislation, stakeholders raised concerns with the wide berth of powers granted to the Information Commissioner, the entity responsible for the provision of administrative support and assurance of compliance, under the current legislation. Such concerns were raised as the OIC could impose its authority on the Cabinet and Judiciary among other public bodies (DPA Chap. 22:04 Section 20 (3)).

## OBJECTIVE 3: THE SECTIONS OF THE ACT THAT REQUIRE MORE TIME AND INPUT FOR OPERATIONALISATION

3.17. The OPM therefore surmised that considering the potential for multiple changes, pending the completion of the Consultancy, as well as the outstanding elements to facilitate compliance, it would be imprudent to identify any additional areas that could be proclaimed. Details on the pending measures for implementation are outlined below.

### *Compliance*

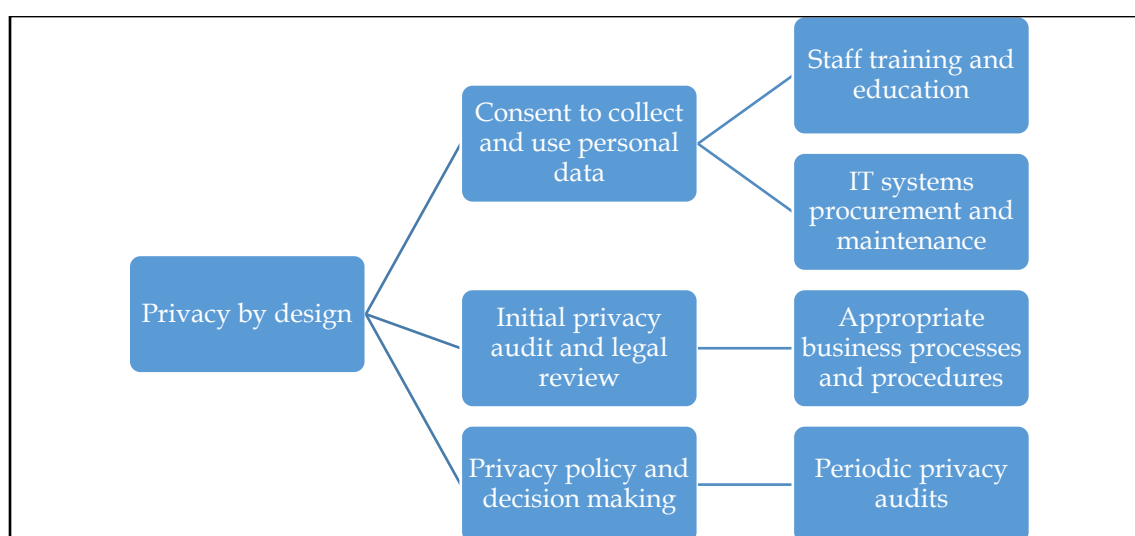
3.18. Though an estimate of the actual cost of compliance for public service entities had not yet been undertaken, there was a general level of unpreparedness on the part of both the public and private sectors to comply with the provisions of the DPA Chap. 22:04. ICT upgrades to provide access to software with adequate levels of encryption, storage facilities, additional staff and expenses toward a comprehensive communication and training strategy were identified as sources of need. Furthermore, the lack of symmetry in the rules defined for the public and private sectors, the latter being subject to voluntary codes of conduct as opposed to the prescriptive rules ascribed to the former, was also a source of concern.

### **Requirements of the Private Sector**

3.19. For the private sector the measures would require a layered approach to implementation encompassing pre, post as well as maintenance procedures. There was thus significant apprehension on the part of stakeholders regarding the sufficiency of the timeframe to achieve compliance. Notwithstanding the absence of industry codes to regulate conduct, statutory exemptions were earmarked to be outlined for the regulation of data in the health and financial sectors, also identified as priority in this regard.

3.20. The impact that the imposition of penalties for non-compliance could have on small businesses might in fact be counter-productive thereby requiring that a case by case approach be undertaken to ensure that the promotion of conformity was achievable. The compliance measures proposed for the private sector are categorised in Figure 3.

*Figure 3: Private sector requirements for harmony with data protection principles*



### Requirements of the Public Sector

3.21. For the public sector the requirements are envisioned to be more holistic in nature essentially targeted toward providing an appropriate enabling framework for implementation and action. A collaborative approach between the OPM and MPADT is proposed to ensure public sector readiness. These initiatives will include:

- *Establishment of the Office of the Information Commissioner;*
- *Public education and awareness campaign;*
- *Regulation of data privacy and protection;*
- *Impact assessments;*
- *Information sharing agreements (Memoranda of Understanding to guide confidential information sharing between government agencies).*

### *Need for public education and awareness*

3.22. Notwithstanding the awareness raising initiatives that were conducted by the OPM to sensitise public authorities about the general privacy principles. An extensive education drive is still required upon amendment to the Act for entities to understand their obligations and institute the requisite re-alignments. This was a position that the OPM believed to be well-founded, given that the results of the consultancy would reveal the gaps that would require further engagement. The MPADT was also assisting in this regard as this Ministry was in the process of preparing various policy guidelines that would complement the DPA's implementation such as the Open Source, Remote Working, Data Strategy and Open Government Policies.

### *Absence of a culture of awareness of data protection issues*

3.23. There were concerns that there was a general absence of citizens' awareness and appreciation of the mis-use of their personal data. Whilst respect for privacy was one that was generally accepted by all, less was known by citizens about the impact of data manipulation on privacy rights. These findings were linked to data which indicated that many persons were 'unbanked' and consequently, may be unaware of the how their privacy rights could be infringed.

### *Readiness of the public and private sectors*

3.24. Notwithstanding a deadline date of September 2021 for the completion of the Consultant's report and draft legislation (regulations), the OPM advised that the actual timeline for full implementation would be contingent on the readiness of the public and private sectors to meet the requirements as set out in the Act. This would in part also be influenced by the success of public education and sensitisation initiatives.

### *An approach to Data Sovereignty*

3.25. Given the absence of a clear stance on data sovereignty, finalisation of an approach to the treatment of data obtained within the local jurisdiction is expected to be



clarified in the amended legislation. The OPM indicated that a ‘soft approach’ would be preferred owing to the small size and low influence of Trinidad and Tobago in comparison to some of the larger informational technology corporations and entities involved in data governance. Consensus on a region wide stance on data sovereignty may also be possible at the level of CARICOM.

## **OBJECTIVE 4: THE IMPACT THAT THE DELAY IN THE FULL PROCLAMATION OF THE ACT HAS HAD ON NATIONAL PLANNING AND DEVELOPMENT**

### *Indeterminacy on core concerns*

3.26. The OPM also reiterated that all aspects of the current DPA, Chapter 22:04 were under review with an expected completion date of September, 2021. However, mention was made of specific areas of investigation including data classification, information sharing, enforcement, Regulations and balancing the requirements of the DPA and that of the FOIA, Chap. 22:02. The latter of which is of particular concern, as removing secrecy under the FOIA, Chap. 22:02 will require a careful equilibrium between the objectives of transparency in government and the need for adequate data protection.

### *The consequences of a lack of a data protection regime*

3.27. The OPM was of the view that though important, delays in the full proclamation of enforceable data protection legislation did not stymie the larger implementation efforts of the Government, specifically in relation to its E-governance initiatives. Notwithstanding this view, lack of proclamation has resulted in a number of gaps in terms of providing a guaranteed measure of data protection. These shortcomings encompassed a **lack of clear guidelines or rules of procedure** to govern the following:

- An authority to ensure that privileged information is not misappropriated;
- Stipulated timeframe for the retention of personal information by public bodies e.g. medical records;

- Clear guidelines for the classification of data (inclusive of data that is deemed 'high risk') as well as an adequate level of data protection (outside of the general privacy principles);
- Industry specific codes to guide the use of data by various sectors.

## **FINDINGS**

### **3.28. Based on the foregoing evidence, the Committee has made the following findings:**

- i Although model Caribbean regional guidelines for a legislative framework for data protection is available in the *HIPCAR framework*, the OPM, appeared indecisive on whether Trinidad and Tobago is ready to pursue those recommendations in seeking to modify the existing Act;
- ii Notwithstanding efforts to undertake a Cross-Ministerial collaborative approach to amending Data Protection legislation, there appeared to be a breakdown in communication between the MoAGLA and OPM regarding each entity's role and function;
- iii Key legislative pre-cursors to provide a suitable foundation for the classification of data were not realised in advance of the passage of the DPA, Chap. 22:04. Notwithstanding an organisation's adherence to the General Privacy Principles, there is no system in place to guide the categorisation of data according to sensitivity and importance;
- iv The findings of the Consultant's initial report suggested that in spite of the interest of many private sector enterprises in the use of artificial intelligence to improve business performance, such a feature appeared to have low implementation support for widespread use in the Public Service;

- v Based on the multiplicity of stakeholder concerns it appears that the perception of legislation to regulate Data Protection is being viewed by the majority of stakeholders as an economic encumbrance as opposed to business facilitator, sentiments which may have an impact on the rate of compliance;
- vi Despite the guidance that a Readiness Assessment would provide in terms of determining the status quo with respect to the current provisions for data protection, the OPM did not find it worthwhile to undertake such a study in advance of the consultancy, being of the view that the Report of the Consultant would be far more instructive in guiding the way forward;
- vii Data obtained by the OPM in relation to amending the Data Protection legislation point to citizens' low awareness of how data could be mined from various public sources of information and used in business planning and marketing; and
- viii The OPM alluded that a 'soft' approach may be undertaken with respect to data sovereignty and information stored by third parties in local or foreign based cloud systems<sup>18</sup> due to the lack of leverage that smaller jurisdictions such as Trinidad and Tobago have in international ICT governance.

## **RECOMMENDATIONS**

**3.29. Based on the foregoing, the Committee submits the following recommendations:**

- i. The Committee is of the view that multiple stakeholder agencies working towards a common goal must implement processes that facilitate information**

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<sup>18</sup> Hummel, P, Braun, M, Tretter, M. and Dabrock, P. (2021). 'Data sovereignty: a review.' *Big Data and Society*, 8 (1). Accessed: June 10, 2021. Available: <https://journals.sagepub.com/doi/full/10.1177/2053951720982012>

exchange and dialogue. Therefore, an appropriate Communication strategy should be developed and implemented to foster dialogue among the OPM, the MTI, MoAGLA and MPADT with a view to adopting a well-informed and definitive position on the way forward for Data Protection Legislation in Trinidad and Tobago.

- ii. The Committee acknowledges the value of a system for the classification of personal data that is held by third parties and thus acknowledges the merit in the creation of a classification system, by way of policy or legislation, to guide the treatment of data.
- iii. The Committee advises that the OPM emphasise the benefits that would be derived from enhanced data protection legislation in order to build private sector support and buy-in for the proposed reforms. The benefits<sup>19</sup> highlighted should include:
  - a. Building of consumer trust which in turn boosts online trade;
  - b. Reduction of bureaucratic processes and procedures;
  - c. Provisions to ensure that SMEs can compete in the digital market;
  - d. Simplification of international data transfers;
  - e. Provisions to ensure long-lasting data protection solutions which can augment returns on investment.
- iv. Pending the completion of amendments (if any) to the Data Protection Act, the OPM in collaboration with the Ministry of Digital Transformation should undertake a comprehensive public education and awareness raising initiative that would enable citizens to understand their privacy rights, how they work and what they should expect from organisations with respect to the use of their

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<sup>19</sup> Sweet, E. (2016). 'The new EU General Data Protection Regulation-benefits and first steps to meeting compliance.' ISACA Journal. Accessed: June 18, 2021. Available: <https://www.isaca.org/resources/isaca-journal/issues/2016/volume-6/the-new-eu-general-data-protection-regulationbenefits-and-first-steps-to-meeting-compliance>

data<sup>20</sup>. The Ministerial Response of the OPM should provide the Parliament with a status update on the proposed plan/strategy for implementing this recommendation.

- v. Following in the vein of the HIPCAR framework, model guidelines can be proposed at a regional level to build a local data economy, encourage the development of technical standards, increase interoperability and ensure data integrity<sup>21</sup> as part of a region wide initiative. The Committee recognises that:
- A. There is value in open data flows between countries as *'Countries that regulate data processing too rigidly and with specific restrictions on cross-border data transfers provide reciprocal restrictions by other countries, resulting in reduced access to global data and technology<sup>22</sup>,* and
  - B. Piloting key initiatives in the data governance regime can be driven by policy initiatives at the level of CARICOM.

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<sup>20</sup> Information Commission Office- European Conference of Data Protection Authorities. (2015). Data protection rights: What the public want and what the public want from Data Protection Authorities. Accessed: June 18, 2021. Available: <https://ico.org.uk/media/about-the-ico/documents/1431717/data-protection-rights-what-the-public-want-and-what-the-public-want-from-data-protection-authorities.pdf>

<sup>21</sup> World Economic Forum. (2020). 'A roadmap for cross-border flows: future proofing readiness and cooperation in the new data economy. White Paper. Page 10. Accessed: June 17, 2021. Available: [http://www3.weforum.org/docs/WEF\\_A\\_Roadmap\\_for\\_Cross\\_Border\\_Data\\_Flows\\_2020.pdf](http://www3.weforum.org/docs/WEF_A_Roadmap_for_Cross_Border_Data_Flows_2020.pdf)

<sup>22</sup> World Economic Forum. (2020). 'A roadmap for cross-border flows: future proofing readiness and cooperation in the new data economy. White Paper. Page 4. Accessed: June 17, 2021. Available: [http://www3.weforum.org/docs/WEF\\_A\\_Roadmap\\_for\\_Cross\\_Border\\_Data\\_Flows\\_2020.pdf](http://www3.weforum.org/docs/WEF_A_Roadmap_for_Cross_Border_Data_Flows_2020.pdf)

The Committee respectfully submits the foregoing for the consideration of the Parliament.

Mrs. Hazel Thompson-Ahye,  
**Chairman**

Mr. Clarence Rambharat  
**Vice-Chairman**

Ms. Jayanti Lutchmedial,  
**Member**

Mr. Keith Scotland, MP  
**Member**

Mr. Saddam Hosein, MP  
**Member**

Mr. Terrence Deyalsingh, MP  
**Member**

Mr. Hassel Bacchus  
**Member**

Mr. Marvin Gonzales, MP  
**Member**

November 19<sup>th</sup>, 2021

# APPENDICES

## APPENDIX I

### Inquiry into the PAFD Act, 2014-Minutes



**MINUTES OF THE FIFTH MEETING**  
**JOINT SELECT COMMITTEE ON FINANCE AND LEGAL AFFAIRS,**  
**12<sup>TH</sup> PARLIAMENT**  
**HELD ON FRIDAY MARCH 19, 2021**

**The Meeting was held virtually via Zoom**

**PRESENT**

Mrs. Hazel Thompson-Ahye	Chairman
Mr. Clarence Rambharat	Vice-Chairman
Mr. Terrence Deyalsingh, MP	Member
Mr. Keith Scotland, MP	Member
Mr. Marvin Gonzales, MP	Member
Mr. Hassel Bacchus	Member
Ms. Jayanti Lutchmedial	Member

**ABSENT/EXCUSED**

Mr. Dinesh Rambally, MP	Member
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**Secretariat**

Mr. Julien Ogilvie	Secretary
Mr. Brian Lucio	Assistant Secretary
Ms. Terriann Baker	Researcher
Ms. Ria Rampersad	Researcher

The following are the main issues arising from discussions with the **Ministry of Planning and Development (MPD)**:

**About the Planning and Facilitation of Development Act, 2014- (PAFD Act, 2014)**

- i. The Planning and Facilitation of Development Act, 2014 (PAFD Act, 2014) would provide for the following:
  - Decentralisation of planning and control functions to Municipal Corporations;
  - Simplification of the development planning process; and

- Greater degree of enforcement and sanctions for contravention of land use regulations;
- ii. The MPD established an implementation committee relevant to the full proclamation of the PAFD Act, 2014, which comprised key representatives from the Ministry of Planning and Development, Ministry of Rural Development and Local Government and Ministry of the Attorney General and Legal Affairs. The achievements of the Committee thus far include the completion of an implementation schedule and comprehensive action plan;

#### **The PAFD Act, 2014 pending procedures for full proclamation.**

- i. The full readiness of Municipal Corporations to undertake the responsibility to process applications for simple developments;
- ii. Staff transition and deployment from the Town and Country Planning Division (TCPD) to Municipal Corporations;
- iii. The implementation of accompanying codes and regulations such as the *Use Classes Order* (subsidiary legislation) and *Development Codes*;
- iv. The recruitment of staff for the National Planning Authority (NPA);
- v. The MPD estimated that the entire process would require over three hundred (300) man days, with the proviso that each entity involved in the process may be hindered in some measure by the internal intricacies of their inner operations, which the MPD has no control over;
- vi. The MPD gave the assurance that the Ministry continued to facilitate the process of implementation through the provision of budgetary funding under the PSIP;

#### **Responsibility for simple and complex developments**

- i. The fourteen (14) Municipal Corporations were still engaged in capacity building exercises to build their competencies to process applications for simple developments;
- ii. The MPD had prepared bespoke courses to upskill the staff of the Municipal Corporations, to which the latter were in the process of including additional input to improve on their expertise;
- iii. Simple developments include billboards or advertising signs, outlines or final planning permissions not requiring a Certificate of Environmental Clearance, change of use residential or building developments not exceeding 500m square, land sub divisions and engineering operations;
- iv. Complex developments are all aspects of development external to the above mentioned criteria and fall under the remit of the NPA;

#### **Inter-dependent Legislation**

- i. The Town and Country Planning Act, Chapter 35:01 remains in effect until it is repealed upon the full proclamation of the PAFD Act, 2014;
- ii. The provision to empower Municipal Corporations to undertake simple developments is also captured in the Miscellaneous Provisions (Local Government Reform) Bill, 2020<sup>23</sup>;
- iii. The intent is to effect an incremental appropriation of powers as each Municipal Corporation would be at varying stages of readiness;
- iv. The full proclamation of the PAFD Act, 2014 would also create a number of synergies with other pieces of legislation/proposed legislation such as the Urban and Regional Planning Profession Act, 2020, Miscellaneous Provisions (Local Government Reform) Bill, 2020 and the Integrity in Public Life Act, Chap. 22:01 the latter of which would be applicable to the staff of the NPA;

### **Transition of Staff**

- i. The categories of staff proposed for transition and deployment are subject to different employment arrangements. As such, discussions must be held with various statutory bodies, inclusive of the Director of Personnel Administration and the Chief Personnel Officer in order to determine the way forward;
- ii. The nature of discussions had not progressed to the level of a determination of salaries required for staff earmarked for the Municipal Corporations and the input of the Trade Unions had not yet been sought;
- iii. The Ministry had sought the advice and learnings from other public sector agencies that shared similar experiences with the devolution of powers such as the Ministry of Health and the Telecommunications Authority of Trinidad and Tobago;

### **Executive Recruitment of the NPA**

- i. The Executive Recruitment of the NPA was at a more advanced stage. Price Waterhouse Coopers (PwC) was hired by the MPD to identify, determine the roles of and recruit the executive staff of the NPA. This exercise should be ordinarily completed within a three (3) month time frame;
- ii. Though the exact structure had not been finalised, the MPD would know more during a meeting scheduled for April 2021;
- iii. Positions would be based on contract in the first instance with a gradual shift to permanency on the establishment;

### **The PAFD Act, 2014- Fitness for Purpose**

- i. The MPD gave an assurance that the PAFD Act, 2014 is fit for purpose moreso since amendments which reflected evolutions in spatial planning were made as recently as 2019;

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<sup>23</sup> The Miscellaneous Provisions (Local Government) Reform Bill, 2020. Accessed: April 12, 2021. Available: <http://www.ttparliament.org/legislations/b2020h14g.pdf>

- ii. The suitability of the legislation is re-assured through the passage of complementary legislation, that is the Urban and Regional Planning Profession Act, 2020 which was a necessary pre-cursor to the implementation of the PAFD Act, 2014;
- iii. This piece of legislation would allow for registered planning professionals to participate in the process of development planning;
- iv. The MPD was also active in updating its policies, codes, regulations and systems to ensure that processes were streamlined upon full proclamation;
- v. A Small Building Code was in effect but adaptations were scheduled for both the subdivision code and National building code, the latter of which would be strengthened in terms of enforcement upon the installation of the NPA;

#### **Current enforcement measures for development planning**

- i. The existing Town and Country Planning Division serves as the current development planning administration and enforcement body and is guided by the National Spatial Development Strategy;
- ii. Some of the interim measures that had been initiated as part of capacity building within the TCPD in this regard included updates to spatial guidelines, the digitisation of TCPD records and rollout of the DevelopTT platform;
- iii. Stronger enforcement measures are anticipated upon full proclamation of the PAFD Act, 2014 through the role of the NPA, additional oversight on the ground by officers of the Municipal Corporations and through the Development Control Committee;
- iv. A similar body entitled the Complex Facilitation Development Committee presently performs the work of the Development Control Committee with the Minister of Planning at the helm;
- v. Despite the extensive interim measures, the MPD advised that they were indeed committed to achieving full proclamation;

#### **Refinement of the legislation**

- i. The MPD may consider the granting of persons reporting indiscriminate development planning, a percentage of the associated fine, in the event that the accused is found to be liable.
- ii. Whilst the Ministry did not plan for any further amendments, this measure could perhaps be pending legal review, be included by appropriate means; and
- iii. Likewise, the MPD vowed to engage the input of the Ministry of the Attorney General and Legal Affairs to ensure that there were no legislative gaps which might prevent full proclamation.

## **ADJOURNMENT**

- 8.1 The Chairman thanked Members, staff, the viewing/listening public and adjourned the meeting.
- 8.2 The meeting was adjourned at 11:54 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

April 12, 2021

**APPENDIX II**  
**INQUIRY INTO THE PAFD ACT, 2014-**  
**VERBATIM NOTES**

VERBATIM NOTES OF THE FIFTH VIRTUAL MEETING OF THE JOINT SELECT COMMITTEE ON  
FINANCE AND LEGAL AFFAIRS HELD (IN PUBLIC) ON FRIDAY, MARCH 19, 2021, AT 10.10 A.M.

<b>PRESENT</b>	
Mrs. Hazel Thompson-Ahye	Chairman
Mr. Keith Scotland	Member
Mr. Clarence Rambharat	Member
Mr. Marvin Gonzales	Member
Ms. Jayanti Lutchmedial	Member
Mr. Hassel Bacchus	Member
Mr. Terrence Deyalsingh	Member
Mr. Julien Ogilvie	Secretary
Mr. Brian Lucio	Assistant Secretary
Ms. Terriann Baker	Researcher
<b>ABSENT</b>	
Mr. Dinesh Rambally	Member

**MINISTRY OF PLANNING AND DEVELOPMENT**

Mr. Ric Ali	Deputy Permanent Secretary (Ag.)
Ms. Marie Hinds	Deputy Permanent Secretary (Ag.)
Dr. Ancil Kirk	Assistant Coordinator Town and Country Planning Division

**Madam Chairman:** I would like to welcome you to the fifth meeting of the Joint Select Committee on Finance and Legal Affairs. This morning we convene our first public hearing pursuant to the enquiry into the State's strategy for implementing unproclaimed legislation passed by Parliament during the last 20 years. So in fact, our research has shown that there are actually 10 pieces of such legislation. But today's session will focus on the implementation of the Planning and Facilitation of Development Act which is a 2014 piece of legislation.

I would like to remind you of the key guidelines for our virtual meeting. Certain specific guidelines apply. Ensure that you mute your microphone when you are not speaking to help to keep background noises to a minimum. Adjust your camera so that your face is clearly visible. Ensure that notifications from your cell phone or any other electronic device in your vicinity are muted during the course of the meeting. I think we have been doing well so far for the past few meetings.

Members of the listening and viewing audience are invited to post or send your comments via the Parliament's various social media platforms, Facebook page, *ParlView*, the Parliament's YouTube channel, and Twitter.

I would particularly like to welcome the only entity we have with us this morning, the Ministry of Planning and Development. And if I may just digress a bit and put on my teacher's hat to explain because remember we have viewing audience, listening audience and people may not clearly understand what is happening here, what is the import of what we are looking at.

Now, you have been looking I am sure at the Parliament channel and you have been seeing members of the legislature, both Houses of Parliament passing Bills, and one will be tempted to think that once a Bill is passed in the Parliament, that Bill becomes law. Generally, a Bill will become law after it receives the assent of the President, but there are times and you would actually see it within the Bill itself where the Bill says that it will come into operation on such date as is fixed by the President by proclamation.

So, when the Bill is proclaimed – the Bill having been passed is proclaimed – then it will become law. But that is not always the end of the matter. Some pieces of legislation, and if I may use as an example

the Children's Authority Act, it says:

"This Act..." – except those sections referred to in subsection 2 – "...come into operation on a day fixed by the President by Proclamation."

Now, this section 2 calls into question a number of sections, "...1, 2, 3,4..." so and so which:

"...came into operation on 5<sup>th</sup> December..."

But there were other sections which do not or did not come into operation right away. And what would happen is that you will see a notice of proclamation which tells you that this Act comes into force on a particular date.

So when we passed the domestic violence amendment legislation it came into force once it received proclamation. But other pieces of legislation, once it awaits proclamation we have to wait for that proclamation. Also, what happens is that you may have partial proclamation, you may have what is called as well an, "Implementation Schedule" at times. So the Act itself may say that this section will come into force now, another section will come into force at another time, and so on.

And a case in point is the – not in Trinidad but I remember the Scotland Children Act had an Implementation Schedule which said well, this would come into force, this section at such and such a time. And if we had done that with the Children Act because we were not ready with all of the infrastructure, it would have, you know, saved us a lot of time, a lot of money, you know, that we had to pay out because certain things were proclaimed – certain things came into force and the necessary infrastructure was not there.

So those are various strategies, you have partial proclamation and sometimes you proclaim and then you realize that, you know, you are just not ready. And sometimes it seems that somebody may have forgotten to do certain things, so that the Act is lying there and we are wondering what is happening with it. So having reviewed the pieces of legislation that have been passed, we were of the view that we ought to do something about it to bring some of it so very important into force.

So what we are doing this morning is inquiring into various – into this piece of legislation. And before I go there, to tell you the enquiry objectives, I am going to ask the officials to introduce themselves and then we will introduce ourselves to you. So we start with Ms. Marie Hinds.

[Introductions made]

**Madam Chairman:** And I am Hazel Thompson-Ahye, and I am Chair of this Committee, the JSC on Finance and Legal Affairs, and I now call on members to introduce themselves.

[Introductions made]

**Madam Chairman:** The objectives of this enquiry are four in number: To determine the factors that are contributing to the delay in the full proclamation of the Planning and Facilitation of Development Act, 2014; to determine the sections of the Act that can be implemented without delay – perhaps we should say further delay; three, the sections of the Act that require more time and/or input for operationalization and; the impact that the delay in the full proclamation of the Act has had on national planning and development.

So I will now call on Ms. Hinds, Deputy Permanent Secretary, Ministry of Planning and Development to make brief opening remarks, maximum of two minutes.

**Ms. Hinds:** Good morning again, Chair. Chairman and members of the Joint Select Committee on Finance and Legal Affairs, as well as the viewing public, the Ministry of Planning and Development thanks you for the opportunity to discuss the implementation of the Planning and Facilitation of Development Act, 2014, and looks forward to the further guidance and recommendations that may proceed from this discourse.

When fully implemented, the PAFD will allow for, inter alia: the decentralization of the administration of planning, devolution of development planning and control functions to municipal corporations, simplification of the certification and adoption process in the preparation of development plans. The intent of this Act is to facilitate more extensive enforcement mechanisms and provide for stricter penalties for contravention of land use regulations. This Act represents a significant reform initiative that is designed to bring services relevant to the development of land closer to the people.

In addition, the full proclamation of the PAFD Act would further assist with the effective implementation of government's framework as articulated in the National Development Strategy known



as *Vision 2030*, particularly under Theme II, “Delivering Good Governance and Service Excellence” as well as Theme V, “Placing the Environment at the Centre of Social and Economic Development”.

Madam Chair, the proclamation of key sections of the PAFD Act by Cabinet in 2015, particularly section 6 referring to the “Establishment of the National Planning Authority” and section 13, “Departments and officers of the National Planning Authority”, was made to facilitate the operationalization of non-legal mechanisms which in the view of this Ministry are necessary before the rest of the Act can be proclaimed.

The Ministry then established a PAFD implementation committee which comprised the key representatives from the Ministry of Planning and Development, as well as the Ministry of Rural Development and Local Government. Some of these were the major stakeholders in the first instance. The work of the committee began with the development of an implementation schedule, a comprehensive plan of action which we have shared with our key stakeholders, the Ministry of Rural Development and Local Government and even the Office of the Attorney General and Legal Affairs.

The work is multifaceted and it requires dedicated resources to which we regrettably admit we did not always have. Notwithstanding the above, much has been accomplished to date in an effort to partially achieve the intent of the Act while grappling with a myriad of complex issues pertinent to full proclamation. This would include efforts by the Town and Country Planning Division to transform its services to the public in three significant areas. Namely, improving service delivery, digitization of TCPD records and applications, and the automation of the construction permitting system known as DevelopTT. The division has updated policies and created new spatial guidelines that will be handed over to the municipal corporations once they are ready to receive same.

In closing, Madam Chair, I would like to thank you again for this opportunity to meet with the Committee. My team stands ready to provide further information that would assist the Committee on our fruitful discussions on this important enquiry. Thank you.

**Madam Chairman:** [*Technical difficulties*]—at these laudable objectives that you have enunciated and the work that you said—the implementation committee and so on that we have not advanced further. So, I do hope that at the end of the day we will get further enlightenment as to where the hurdles are that need to be jumped. Because as you have said in your paper, the current planning legislation is outdated, unable to effectively and efficiently respond to today’s development issues of poverty, access to land, informal settlement, local economic development, sustainable development, climate change impacts, community participation, and local government empowerment. And there is an increasing amount of development occurring without relevant planning permission, and consequently the land use planning system may be perceived as not functioning effectively.

So, we proceed and hopefully at the end of the day we would be a little nearer. Because I am a little concerned when I read that:

Although proclamation would assist in improving the integrity and efficiency in the development planning process, the Ministry in the interim has the ability to establish special boards or committees through Cabinet appointments to undertake specific activities as required.

I am getting a sense that somehow there is some comfort with what is existing now. We are making out, we are making out, but that is not what you said in the beginning and that is not how I think generally it should be perceived. So we want to marry the objective—the laudable objectives to the view that “we going okay”, because we are not going okay. Especially with these climate changes and things that are happening in the environment and the expertise that we need to work at to make ultimately a better Trinidad and Tobago. So let us proceed and see how it goes. Members? Has Ms. Hinds answered all the questions already?

**Mr. Rambharat:** Maybe I could ask the opening question, Madam Chair? The Committee was obviously taken aback a bit in the written submission which the public has not seen, that the team has not been able to commit to a date or a timeline for full implementation of the legislation, and a part of it has to do with the operationalization of the national planning body. So would you be able to identify for us what remains to be done in summary in terms of full proclamation—taking us to full proclamation of the legislation? And what sort of time frames are involved in getting there?

**Ms. Hinds:** Thank you for that question, member. Maybe I could share with you the seven components that we thought necessary when we were creating the implementation strategy. I do need you to understand—I understand what you are saying in that the national planning authority, it is the key responsibility of the Ministry of Planning and Development to implement that part especially. But it goes hand in hand with what is happening at the level of local government. When the national planning authority is in fact established, we also have to have municipal corporations who are ready to take on their part of the responsibility.

Let me explain. Applications will then be submitted through the relevant municipal corporation, their responsibility according to the PAFD Act and according to the local government reform policy would be to process simple applications. Complex applications will then be forwarded to the national planning authority. Therefore, both sides of the coin have got to be institutionally ready to proceed with full proclamation. So, one of the things that must happen, I think we put it in our response, particular organizational structures have to come into place. National planning authority is one, but on the other side in terms of the municipal corporations, we are talking about their spatial planning units also need to be developed.

A certain level of capacity, analysis and strengthening has to take place. As such, what the Ministry of Planning and Development did, is craft a capacity building programme and then we handed that over to our colleagues at the Ministry of Rural Development and Local Government, and they decided that they wanted to add some more courses—we could call it that—a bit more they thought their people will be needing. It is still with them and they are working on that.

We also have to do the very challenging thing of figuring out how do you deal with staff because the municipal corporations do not really have the technical capacity so there has got to be a way to transition staff. You have to get the DPA involved, the CPO involved, as well as the unions. And we have started some of that work already.

So quite a bit is being done. You also have to—for full proclamation to happen and for it to make sense, you have to have all of the policies necessary to be able to hand over, including one or two outstanding regulations. So, I want to say that the work has begun. Clearly, it is not completed because we have not fully proclaimed.

Then you asked me what kind of time frame. When we did the schedule we came up with over 300 man-days would be required to put all of this into place. With all things going well, and if we manage risk properly, that is what is supposed to happen. It is going to take not less than that time I would think.

We have engaged consultants to help us craft what an NPA—a national planning authority should look like, and we are about to authorize them to go out and seek the relevant positions as well for the national planning authority, some of the key positions in the legislation. That is what I can share with you just for now.

**Mr. Deyalsingh:** Madam Chair, through you, may I ask Ms. Hinds a question please? And the question is, Ms. Hinds, this enquiry is being held in public, so question: Could you for the sake of the public please let them understand what that is a simple application, what is a complex application, so the public will know. And then my question is: How does this now have to cross reference with local government reform?

**Ms. Hinds:** Thank you. I do not want to speak off the top of my head so I am just finding the relevant legislation that defines the simple application, the amendments. Yeah. So, for the sake of the public: how it is supposed to work. So let me explain the second part first. Right now, when you have an application to development you come to the Town and Country Planning Division, it starts there. We do our part. That part is to assess whether or not your proposal will fit in the context of the approved policy for the area. We also examine the extent to which you have adhered to relevant standards for development that would protect the public's interest.

When PAFD is fully proclaimed, after we do that first part we also network with relevant agencies from which we get advice that is needed. For instance, if it is a development on the coast, we liaise with the Institute of Marine Affairs because they can give us some excellent guidance as to what should be the setback from that particular coast. What would be the waves like, what things we need to protect. That is

just to give you an example of the kind of collaboration that is necessary before we completely process an application.

Once that is finished the application is then sent forward to the relevant regional corporation. When PAFD is fully proclaimed, applications will start at the relevant municipal corporation, and in the context of the Act we are calling them “Municipal Corporations”. It starts there, they will have a register of all the applications. Now, member, this is significant because in your own spatial area, the council, the people of the area must be fully aware of what is taking place in their area. So it is prudent that it begins there. Simple—[*Technical difficulties*]

**Ms. Lutchmedial:** I think we lost connection.

**Madam Chairman:** We are working on the technical difficulty. While we are waiting, I wonder if Ms. Hinds is hearing at all? Okay, we will suspend for a few minutes while we fix the difficulty.

**10.36 a.m.:** *Meeting suspended.*

**10.45 a.m.:** *Meeting resumed.*

**Madam Chairman:** Well, welcome back everybody. You know this, this really is no accident you know. It is just to emphasize the importance of the work of the Minister of Digital Transformation who fortuitously is a member of this Committee. So that I know that he would know how to fix the problems because it happens across Ministries and sometimes different JSCs. So we are getting there Mr. Minister and you have your work cut out for you and we know that you would do well. So let us proceed.

**Mr. Deyalsingh:** Chair, just as a reminder, Ms. Hinds was just about to explain what is a simple application. Just as a reminder as to where we stopped. Thank you.

**Madam Chairman:** Yes, in response to your question. Thank you.

**Ms. Hinds:** Yes, members and members of the public, so a simple application we were saying would be those applications for outlined final planning permission once it does not require a CEC. And by that I mean you wanted to build your house, once you have no intention of putting it right on the riverbank or on the riverbed, or in some environmentally unsafe place like a really ridiculous steep slope, then you would not require a CEC, that is the kind of application that your local authority would then be responsible for.

They will also be responsible for any billboards, any advertising signs, you would need to go to them. In addition to that, if you want to change use of the particular structure that you have, residential, change of use, residential building developments, any additions, that is the kind of things you will go to the local authorities for, the municipal corporations, once it does not exceed 500 meters squared.

They would also be responsible for land subdivisions, including engineering operations, comprising less than 20 lots, provided that each lot falls within the range of 465 meters squared, a regular 500 meters square foot plot and 800 meters squared inclusive. So that is a definition of what simple applications entail. Once PAFD is fully proclaimed, and the National Planning Authority is also established, the applications will then move from the new spatial development units, I mean, they would find a name for it within the municipal corporations, they would decide what they want to call it. And it would then—complex ones would be those outside of that, it would then go to the National Planning Authority for those committees there to process the application. Your approval or your refusal would then be sent right back to the municipal corporation that received the application and that is a bit about what the process would look like.

Now member Deyalsingh, you raised the important issue. Why is this so important and what is the relationship with local government? So, the point I am trying to make, it is not only important to establish the National Planning Authority and to get that structure set up, and we are working on that. It is important for the 14 municipal corporations to also establish what they need to put in place, together with the Tobago House of Assembly, if the system is to work efficiently and to work well, and as a team we are committed to make it happen.

**Mr. Deyalsingh:** Thank you very much, Ms. Hinds, and thank you Chair, for allowing me the opportunity.

**Mr. Bacchus:** Madam Chair, if I may.

**Madam Chairman:** Yes, Mr. Bacchus, I know you are anxious to respond.

**Mr. Bacchus:** No, just to follow up a bit on what was just said in that explanation.

**Madam Chairman:** Please continue, yes.

**Mr. Bacchus:** Okay, so Ms. Hinds, the idea of having all the other pieces associated with local government put in place, is almost like if, having not seen the work of the implementation committee and the plan that is associated with it, is it that this is all going to have a big bang approach in terms of how it works or is it that we are going to do this thing in a gradual way and so that you have parallel solution at the same time. In other words, if the Tobago House of Assembly as an example, is ready, as its portion of what it needs ready and we have the other pieces here set, do we wait on everyone or do we go with that and have multiple, you know, parallel solutions working together? How does this fit into what we are doing? This is the implementation approach I am really speaking about.

**Madam Chairman:** Yes, Ms. Hinds.

**Ms. Hinds:** Yes, member, excellent question. That is our intent. To be honest, we first approached the THA, the concept and the thinking about devolution of planning, we really felt that the THA would be the first to be ready because under their legislation actually, they are responsible for land use planning and a number of things.

So, even though there is a Town and Country Planning Division office in Tobago, the THA is set up in such a way it is ready to go. And we have been having those conversations, the THA is up, there is a representative on our Committee as well, that is what we would like to see happen, to be absolutely honest we admit and know that each municipal corporation they will not all be ready at the same time. So let us go with those that are, but let us keep the context in mind. There are things that all of local government need to have, even before one or two might be able to participate, they are still ensuring that relevant legislation and regulations are in sync with PAFD at this point in time, there is still some work I believe that they are doing, the Ministry has contributed a lot to those discussions with the Office of the AG.

So there is still some work I believe that is taking place there. But I cannot, you know, be absolutely accurate and give you the details at this point in time. But there is still some work taking place there, but the point that you made? Yes, we are a go for that.

**Mr. Deyalsingh:** Madam Chair, may I ask a follow up question please?

**Madam Chairman:** Certainly, member.

**Mr. Deyalsingh:** Ms. Hinds, you have just raised another important issue in my mind, you said some municipal corporations may not be ready and if this Joint Select Committee is about, talking about implementation of unproclaimed legislation and how we move forward, do you then envisage that you are going to have to have two parallel sets of legislation running at the same time, PAFD and the old legislation because, if all 14 corporations and THA are not ready at the same time, how is that going to work legislatively? Thank you.

**Ms. Hinds:** Member, my understanding of this, is that, it is only when PAFD is fully proclaimed that Chap. 35:01, which is existing legislation under which the Town and Country Planning Division functions, it is only when PAFD is fully proclaimed that legislation would be repealed. So not being a lawyer, and I know there are many in the room right now, I am assuming that in essence that is what is going to happen. I know of one corporation, I believe it is the San Juan/Laventille Regional Corporation as part of the reform process, they were so excited about what was to happen and what is going to happen, that they already rearranged the way in which their building operations function. They started to put things in place almost anticipating that they will be doing the full range of processing of simple applications, as well as, to do land use planning, they even renamed some of their units. So to my knowledge and let the lawyers explain exactly how this would work, but until one is fully proclaimed, the other one we still process applications under the other one. I do not necessarily see a conflict but the legal minds in the room will guide me.

**Mr. Deyalsingh:** Many thanks.

**Madam Chairman:** As we lawyers say, let us condescend to some particulars, specifics. You spoke about necessary institutional arrangements and we want to know like what stage you are at, to know how far you have to go, in terms of your staffing and organizational structures, the compensation arrangements,

and I see you begin to smile, the negotiations between the employer and the union, establishing uniformity of systems with the THA and regulations and other subsidiary legislation. I know you can answer that because it is not like Hamlet, words, words, words, you are going to tell us where you are at. Thank you.

**Ms. Hinds:** So Chair, the most difficult part of this process is exactly what you just asked about. Let me be straight forward and upfront and upright with you. So the Committee has – we have called on board – we have conversations with the DPA. And you know that that is talking up – because first thing we have to appreciate was that there are people under the Public Service Commission, and then you have persons who are under other statutory bodies. So, it is a different SRC, I think is the proper term. So that it is not simply a matter of moving staff around that easily, so we have been meeting with them; that is one.

We have also spoken to the Chief Personnel Officer to begin to give us guidance as to what is required. Yes, we have been in talks with the THA, their representative as well, Mr. Bobby Andrews and persons who are part of, of course, the Chief Administrator has appointed him to be our support on this end.

In terms of even figuring out what remunerations would be like in a municipal corporation, we are not there yet. However, in terms of the National Planning Authority I think it is okay to say who we have hired. PwC, Pricewaterhouse, has been hired and they are helping us figure out what should be the accurate packages for those senior personnel and they would also be given the authority to go out and source those persons for us and hold the interviews, yeah, and literally our new – so in the month of April, the Committee meets again and we review our timetable.

We would really, really like – I am watching my little implementation schedule here. We would really like to at least get the relevant parts for the National Planning Authority that part, within three months' time. I am sure after I get off the air somebody is going to deal with me with that timeframe but I think it is reasonable because we have all the pieces in place for that one, the National Planning Authority. And then it is going to take – so that when I say pieces in place, for them to begin to put out the JDs out there and advertise and that kind of thing that is a decent timeframe. But I shared with you earlier on some of the other big ticket items may really take as much as a year again.

**Madam Chairman:** You know it has been seven years, you know, so when you say a year again that does not sound too bad. You know, it means that there is hope on the horizon.

**Ms. Hinds:** Yes, Chair.

**Madam Chairman:** Ms. Lutchmedial, you wanted to ask a question?

**Ms. Lutchmedial:** Chair, sorry I am jumping in and out so many different things going on but I am, specifically I was looking at the National Planning Authority and the arrangement we made with respect to staff, I do not know if we can get an update, or if I missed that part and that was already given, an update on the discussions with the DPA with respect to the arrangements that would take place with staff at Town and Country Planning Division? I am not sure who would be best place to answer that question. Perhaps the – I think someone from Town and Country is here, Mr. – sorry, I have to we get back into speaker mode, Mr. Kirk? I do not know if you can give us an update with respect to that and the arrangements for staff and how that process is going, when the process is completed and having Town and Country staff transitioning and what is the status of that process on those discussions?

**Madam Chairman:** Let us have Dr. Kirk, please. We do not want to take away all his hard work for PhD.

**Dr. Kirk:** Chair, at this point I would defer to the DPS.

**Ms. Lutchmedial:** Dr. Kirk, I must apologize.

**Dr. Kirk:** Yes. DPS Hinds can just reiterate what was mentioned a little while ago.

**Madam Chairman:** So, are you muted, Dr. Kirk?

**Ms. Hinds:** He did answer. Dr. Kirk –

**Dr. Kirk:** I answered.

**Madam Chairman:** He seemed to have been muted, we did not hear anything.

**Dr. Kirk:** Okay, Marie go ahead.

**Madam Chairman:** So would you mind repeating please, Sir?

**Dr. Kirk:** Chair, I indicated that Ms. Hinds, DPS Hinds could just reiterate what she just mentioned, because

it really answers the question.

**Ms. Hinds:** Okay, not to – let me just share quickly those things have not yet been finalized because we have not brought the union on board, just yet. Because the DPA still is going to meet with us to finalize exactly how this thing is could happen, and I remember the last things we discussed the Ministry of Rural Development and Local Government was actually going to determine exactly how many of their people would be under the Public Service Commission versus the SRC Statutory. In addition to that, one particular DPS who was like our champion, he has since retired, notwithstanding that, he was scanning the corporations to see the fit so that we could determine what additional capacity building would be necessary and who will literally go where and function in what capacity. So member Lutchmedial, that is not yet – that is one of the most challenging things, we are not very advanced in that as yet, that is the update for now. But come April when we re-do our timelines we would be able to say more.

**11.05 a.m.**

**Ms. Lutchmedial:** So, with respect to the exercise that is taking place that you all had outsourced with respect to structure – the org structure – for the National Planning Authority, and you talked about the executive recruitment exercise, you indicated that you would soon, perhaps, outsource that process as well for executive recruitment. So, is it that there is a structure or, at least, a proposed structure that you all have already received and considered?

**Ms. Hinds:** Yes. Yes, there is a proposed structured.

**Ms. Lutchmedial:** It has not been fully approved as yet?

**Ms. Hinds:** I will say no, it is not fully approved as yet, but we do have a structure that we are contemplating, and they have given us excellent guidance as to even the roles of some of the senior persons. Even though, it is – yes, it is spoken to in the legislation, but they have really been assisting us with the detailing that.

**Ms. Lutchmedial:** Okay. And do you think that that process of confirming the org structure for the NPA would be done shortly so that you all could proceed then with the executive recruitments and could you give me a time frame?

**Ms. Hinds:** Absolutely. Yes, I put myself out there and I said three months.

**Ms. Lutchmedial:** All right. Three months. Okay. All right. Thank you.

**Madam Chairman:** Mr. Scotland, I think you had a – yes, you may proceed –

**Mr. Scotland:** Yes, Chairman, good morning.

**Madam Chairman:** – and welcome.

**Mr. Scotland:** Thank you, Chairman. Chairman, my question is, I have seen the ministerial response to the questions given to us. I have read the 17-page document. Chairman, through you, may I ask and could somebody –

**Madam Chairman:** Mr. Scotland? Mr. Scotland?

**Mr. Scotland:** Madam?

**Madam Chairman:** I know you missed the initial requirements for this virtual hearing, but one of the things we asked is that you raise yourself a bit so that we could see you. I mean, I do not want to see just part.

**Mr. Scotland:** Okay. Chairman, it is matter of the camera.

**Madam Chairman:** “Ahhh”.

**Mr. Scotland:** Am I better here?

**Madam Chairman:** Yes, wonderful, wonderful.

**Mr. Scotland:** Chairman, good morning.

**Madam Chairman:** All of you. Thank you.

**Mr. Scotland:** Chairman, I have looked at the ministerial responses. I have looked at the entire document, I have it here in my hand. I saw the answers to what are the primary causes for the delay in the proclamation. But, Chairman, can we get – and we have not gotten a sense as to when would this actually take fruition. And that question – because I have been listening, I did not get the visual, but I have been listening and up to now, Chair, we have not gotten an answer as to when. May I, through you, ask, when? That is my first question.

**Ms. Hinds:** Member, allow me to reiterate. What we did say is that the implementation plan that we crafted required, at least, one full year of man-days to get everything on track. Notwithstanding – and those are for the matters that we have complete control over – it does not really allow us to put a time frame on those matters that are under the responsibility of the Ministry of Rural Development and Local Government. And I know they are working assiduously in terms of local government reform and putting things in place. The Ministry has also – this Ministry has also supported by ensuring there is a line item in the PSIP, so that they can get things going. What I also shared earlier on is that we have worked on a capacity building programme that we have also shared with them. So that there are two sides to the coin.

I have also shared, previously, and a little while ago that in terms of establishing the National Planning Authority, we are giving ourselves a three-month time frame to complete the exercise. As member Lutchmedial mentioned, we do have a proposed org structure. We know the executive management that we are going after. We have hired the consultant. We are seeking some final approvals so that we can authorize them to go out there and begin to hire or seek to find the right persons on our behalf. So that is the kind of time frames that we have been able to share, thus far.

**Madam Chairman:** Madam DPS, Ms. Hinds.

**Ms. Hinds:** Yes, Chair.

**Madam Chairman:** You know, sometimes we can make our work easier by speaking to persons who have walked the road that we are about to walk, so that we can avoid the potholes and we can, you know, where is the best path to go. And I am wondering if you have not thought about, perhaps, having discussions with bodies like the HDC that transitioned from the Ministry of Housing or public procurement that moved from the Central Tenders Board, you know, other entities, government entities, that have moved from one way of dealing with things into another entity, you know. So sometimes they can give very useful advice. It is all one government service, and there may be things there that are in the bosom of people who have, in fact, walked that road and they could be of immense help to you. At a moment's notice, they can tell you something. And sometimes you are just writing letters and so on, you know, you might not get there, but a sit-down conversation, you will be surprised at how helpful some people can be and are willing to be. You know, sometimes all you have to do is ask, you know.

**Ms. Hinds:** Agreed, Chair.

**Mr. Scotland:** Chairman, through you, for example, and that would have been my follow-up question, the synergies and the utilization of other entities with past experience. I am glad that the hon. Minister of Health is here, because if you recall, Madam Chair, and the hon. Minister will correct me, from about 2008, the Ministry of Health went to the RHAs and there was a transformation and maybe those synergies – are you, Madam – and I do not want to direct it at you. I want to direct it at someone who can answer – is there any plan to do synergies to utilize the past experiences in order to truncate, to my mind, this lengthy time that this process is taking? That is my question. To lessen it down from 365 actual working days.

**Ms. Hinds:** Let me begin by responding, and any of my colleagues could jump in at any point in time. We have actually been looking at some experiences that were not too good, and even our lawyers, our legal people, have been looking at what has happened in the past, and you did mention the Ministry of Health. So we did explore that experience. I cannot say that we called them in and sat down, but it happened so long ago, there is documented information.

We also considered what happened with the TATT, the Telecommunications Authority of Trinidad and Tobago. We have looked at what has been happening with some of the entities. But I do take what the Chair has said, you know, and we are very open to being reminded that there are others there we could continue to call on, and we will do so. So thanks for that. If anybody else on the team – [*Inaudible*] they can as well.

**Mr. Deyalsingh:** Madam Chair, through you, to Ms. Hinds, and for the benefit of the public again today. So I am playing public advocate today. The public will hear us – and we were talking about a 2014 piece of legislation. We are now in 2021. Is it the view of the Ministry of Planning and Development that in the seven years that have elapsed, have things changed? Do we need to take a fresh pair of eyes onto this piece of legislation or is the 2014 Bill still fit for purpose? Thank you.

**Ms. Hinds:** I will begin and I am sure Dr. Kirk and DPS Ali, at the right time, will jump in. So it is not that nothing has happened since 2014. You would be aware that doing just what you suggested, looking at the legislation with fresh eyes, caused us to return to do amendments in 2019. And believe it or not, those amendments included what I shared earlier on, a definition for simple applications. We actually left it out of the original 2014 piece, and there are other things that were left out, and looking again at the legislation with fresh eyes, enabled us to address those matters. That is one.

Secondly, there was a strategic piece of legislation that must come into place before we could go with full proclamation, and that is the legislation that has to do with registered professionals. What it did – and I have to get the right name. It is the Urban and Regional Planning Profession Act. That was only passed in 2020. Now, what is significant of that bit of legislation? It allows planners, once they are deemed to be planners, according to the Trinidad and Tobago association of planners, to participate in the planning process. The same way you would know of engineers who are registered and once their stamp goes on a particular document, it is viewed in a different sort of way; it is seen as if it is reviewed appropriately and it actually expedites the process, that is exactly what we went after with that bit of legislation. So there have been amendments. We have introduced critical legislation in the urban and planners Bill, we call it for short. So things have been happening.

Now, I want to make it clear – because Chair you also introduced that thought. It is not that we are comfortable and everything is going hunky-dory, and therefore, why even bothered with this legislation. That is not what it is at all. We knew that the thing – it is a mammoth thing to take hold of and to grapple with, but we could not simply sit back and say: “Well, leave the system, the existing systems as they are.” We simply have endeavoured to improve, in terms of what we do and the way we do business for now, while we are waiting – not waiting – while we are working towards the Act being fully implemented, fully proclaimed, because there is a lot more to come when this is fully proclaimed. So, member, I hope that gives some idea of what is taking place.

**Mr. Deyalsingh:** Thank you. And, Madam Chair, please, just a final follow up. I promise this is my final. Given what DPS Hinds has just said, are you waiting for full proclamation or do you think there are some parts of the Act that could be proclaimed now?

**Ms. Hinds:** Dr. Kirk, I think you might want to come in here. I believe we have proclaimed the parts that we need now. But I would like Dr. Kirk to say a few words.

**Dr. Kirk:** Thank you, DPS. And just to respond to the member, those parts that can be implemented now represent the parts that were actually partially proclaimed or, in fact, proclaimed. And so, those are the areas that we are actively working on to get started with, and they definitely represent the key aspects which is the actual National Planning Authority, getting it going – getting the key officers: the Director of Planning, the Chief Enforcement Officer, Chief Building Officer – getting the actual structure in place so as to get ready for full implementation. So that those parts that can be implemented now, really were represented by the parts that were, in 2015, proclaimed. And so that is what we are actively working on.

And as Ms. Hinds would have mentioned, during the time, we would have worked on those subsidiary legislations that would be needed, the Use Classes Order and so on. That has actually been approved and literally just waiting on full proclamation. And again, as of 2019, amendments, after we looked at the Act, since 2014 – yes, and as the member indicated, things have changed. The environment in which planning is done has changed. We looked at it and what was necessary to bring it from 2014 to 2019, would have been reflected in the amendments that were approved in 2019, and then that critical element as Ms. Hinds was saying, which was lacking. Because a key element of the new Act is the involvement of registered professionals, so as to make the delivery of the planning decisions even faster, by allowing them to participate in the whole planning process.

But what we found out was that – not that we found out, but that an accompanying piece of legislation, which was the Urban and Regional Planning Profession Act, needed to be in place, because what it was saying is that planners were the only professionals involved in the building trade that were not in a position to be registered. So that took place in January of 2020, when the Urban and Regional Planning Profession Bill became an Act. It was passed. So that now the Society of Planners is in a position to get their



council going to be ready to register planners who would now be part of the whole new planning framework. Without that, nothing could have happened.

So what we have done? We have put that in place. We have been updating our policies, getting ready to have that in place, so that when it is handed over to the municipal planning authority, those things are going to be in place. We have actually been, as it were, piloting the automated approval process which is also going to be an element of the new system. So, we have been doing things and as we are saying today, there is much more that we can do, certainly, at a faster pace and I think, coming out of today, and the fact that we have to interact with the reality, the pace should certainly be much faster, certainly, not seven years again.

**Madam Chairman:** That is very heartening to hear. So that when Ms. Hinds speaks about a year, you know, you will agree that the year is the out of most limit and this time, next year, everything will be ready, all systems go. Would you say, Dr. Kirk?

**Dr. Kirk:** I have two DPSs with me. I will let them answer. *[Laughter]*

**Madam Chairman:** Oh dear.

**Dr. Kirk:** But I will think that is the thinking, at this point.

**Madam Chairman:** Oh dear. And I thought you were going to tell me, yes, certainly. *[Laughter]*

**Ms. Lutchmedial:** Madam Chair, can I just want to ask a quick question about the –

**Madam Chairman:** Sorry, but Mr. Scotland's hand must be aching.

**Ms. Lutchmedial:** Oh, sorry.

**Madam Chairman:** So, let me have him have his say, and then I will get back to you.

**Ms. Lutchmedial:** No problem at all.

**Madam Chairman:** I have been prompted that Mr. Scotland has been waiting for a while in the wings.

**Mr. Scotland:** Chairman, through you, I will give way to my learned friend, you know, and then I will ask my question after. I still have that protocol. I will give way.

**Madam Chairman:** What a gracious gentleman. Well, Ms. Lutchmedial, will you please continue?

**Ms. Lutchmedial:** Thank you so much. I just wanted quick clarification on something with the National Planning Authority. The positions that you all have identified that you want to have filled, these are contract positions or positions that would be created on the establishments?

**Ms. Hinds:** They would be contract in the first instance, but the intent would be – because it is going to be the National Planning Authority – it is exactly what happened with TATT, the telecommunications authority, they were all on contract and then when whatever needed to be put in place, now they are all permanent.

**Ms. Lutchmedial:** So you would eventually have to engage with Service Commissions and so on, and CPO and all of that, to create the permanent positions? But it is anticipated that that process will happen, as well?

**Ms. Hinds:** Yes, yes.

**Ms. Lutchmedial:** Okay. There is one other thing. I think someone mentioned that after the 2019 amendments, you also had regulations and subsidiary legislation done. I just wanted to find out if there are any other amendments to those regulations or any further regulations that have to be drafted to facilitate a proper roll out of all these different pieces of legislation, not just the PAFD, but also the urban planning Act as well, the one that was passed in 2020. Do you need regulations to be done for that as well?

**Ms. Hinds:** I will let Dr. Kirk speak a lit bit more. I know he mentioned the Use Classes Order and the development orders. There are things that are already prepared that cannot come into force until PAFD is fully proclaimed, but I think you are referring to any additional regulations. So, let me say that even in our response to you, we used the word "regulations", but what would have been more appropriate is the word "code". Because if it is a code, it does not necessarily mean that it is regulations and we have to go to CPC to craft anything more for us. So a subdivision code still needs to be finalized. And I am going to let the planning expert jump in here and say a few words. Dr. Kirk?

**Ms. Lutchmedial:** Sure.

**Dr. Kirk:** Thank you, DPS and Chair. In terms of the Planning and Facilitation of Development Act, at this

point, there is not anything else that needs to be amended. That would have been taken care of with the 2019 amendment. And the key provision for planners to be registered, that was critical and that was taken care of. So that in terms of legislation that is needed to be amended and so on, at this point, there is not anything. Anything else that would have to be done would be like your – there is a subdivision code, which is to be completed. So that is one of the things that would definitely be taken care of in the year that Chair has already pointed to. So the subdivision code.

There is also a national building code, but a national building code is really the responsibility of the National Planning Authority. So it is not that that is needed before the Act is fully implemented. That becomes the responsibility of the NPA. But work has started on a national building code. There is a small building code that is used right now but action has, in fact, restarted on a national building code, but it is not that that is needed before implementation takes place. So that to answer the question, in summary, there really is no amendment or amendments that are still required as far as the Planning and Facilitation of Development Act is concerned.

**Ms. Lutchmedial:** Just before I go on, a quick follow-up. Sorry. Just one quick follow-up on that code. You said the code is not – you do not need to complete the building code for full implementation. Would the completion of the building code not be tied necessarily to enforcement of the provisions in the Act?

**Dr. Kirk:** Yes, it is. But the point I was making, it is not that unless the national building code is completed and NPA cannot be operationalized. So that is the point. It is critical, but it is not that things cannot get started without it.

**Ms. Lutchmedial:** But the enforcement certainly would be sort of premised on the building code being rolled out and implemented fully in order to enforce or for them to really – to give it, you know, the real teeth, for want of a better word, that you need to have?

**Dr. Kirk:** In response to your question, yes, it is critical. I was just saying that it is not that unless that is finished the NPA cannot get going. That is just the clarification that it is working.

**Ms. Lutchmedial:** Okay, understood. Thank you, Mr. Scotland. That is it, Chair.

**Mr. Scotland:** May I go in, Chairman?

**Madam Chairman:** Let me just ask one question, short. When the Bill was passing through Parliament, I remember I had a concern about whether we had sufficient urban planners, because in the course of drafting the legislation, we would have had to determine who is an urban planner. So do you think that sufficient number of persons have been identified so that would not be a problem, you know, with how we roll out the legislation?

**Dr. Kirk:** Chair, I do not see it as problem. I would have spoken with my colleagues in the Trinidad and Tobago Society of Planners. I would have spoken with my colleagues at the University of the West Indies. For example, the current intake has, in the master's programme, 12 planning students who just recently started again. And there are planners, urban and regional planners, so qualified all over the island who are not necessarily – well, Trinidad and Tobago – actively working as urban and regional planners. And I am certain that as long as things get going, and the positions are advertised, we are going to find, in some cases, people crawling out of the woodworks. So that we do not foresee – and this is coming from the Society of Planners – that there is going to be a problem with finding planners. And, again, we have planners that are available over the region, because the programme at the University of the West Indies prepares planners, not only in Trinidad and Tobago. So that I do not – and, again, from discussions with my colleagues at the University of the West Indies and at the Society of Planners, that should not be a problem.

**Madam Chairman:** Okay. I did not like the expression “crawling out of the woodworks”, you know, because sometimes they may come out with things that – anyway, Mr. Scotland, you have been patient enough.

**Mr. Scotland:** Chairman, I have noted at page 6 of the submissions, it is advanced that even though the NPA has not been fully operationalized that spatial development planning continues. But is it not a fact that due to the non-full operationalization of the NPA that the spatial development planning has been stymied due to the fact that the NPA is not fully operationalized? And secondly – and I want someone to

answer me this—has this not also affected indiscriminate development in that because there is no fully operationalized NPA, indiscriminate development is still a phenomenon in Trinidad and Tobago?

**Ms. Hinds:** Thank you for those questions, member. I would have to disagree. So let me put this before you. It is not—

**Mr. Scotland:** You will have to agree or disagree? I did not hear you.

**Ms. Hinds:** I will have to disagree with you, Sir.

**Mr. Scotland:** Well, I like that.

**Ms. Hinds:** Yes, because if I were to agree, the assumption would be that there was absolutely nothing in the sphere and in the space of development planning or of enforcement. There is an existing entity which functions on behalf of the current Minister of Planning and Development, and that entity is the Town and Country Planning Division. It is not as if there is no legislation existing under which we can exercise enforcement, under which we can develop plans, take them forward to the Cabinet to be approved and then get the sign off to implement. We actually already did the National Spatial Development Strategy even before the National Planning Authority is fully implemented and the legislation speaks about that. We got it approved at the level of the Cabinet and it is actively being used.

We continue to develop local area plans and there are many entities, not just the Town and Country Planning Division, there are many entities involved in this issue of managing the crazy sort of unregulated development that is taking place there. In addition to that, I would say that what PAFD would bring to the fore is increased and maybe more strengthened mechanisms, but it is not that there is nothing taking place, Sir. I will not want you to leave members of the public thinking that literally it is the Wild Wild West. Even though you may perceive that to be the case, at times—I see you are anxious to jump in, Sir. I hope you would be kind.

**Mr. Scotland:** I am always kind. So, Chairman, in that disagreement, there is an agreement that there is still indiscriminate planning. My question is, would you not agree with me that the fully operationalization of the NPA will stymie that sort of indiscriminate development, especially when we look at the environment and environmental impact?

**Ms. Hinds:** It would create, it would give us, I will agree, stronger mechanisms, even in terms of penalties. So that is a truth. That is a fact. And what—I am agreeing with you—what will happen is that through—there is a particular committee of PAFD, the development control committee, where all of the right people would sit at the table and it gives us even greater oversight in terms of what is happening in the country. Notwithstanding that, though, member, what we currently have is a complex facilitation development committee. You see, we knew that the thing is going to take some time, but we did put other things in place to help us along the way. That particular committee is chaired by the hon. Minister of Planning and Development. So I am agreeing with you, yes, to some extent, it will improve when PAFD is proclaimed. There is opportunity for—*[Inaudible]*

11.35 a.m.

**Mr. Scotland:** But as I get a sense, Chair, what you are saying is that what we have existing now through the formal route of the Town and Country Planning Act, Chap. 35:01, and although not fully operationalized but the framework of the NPA, it has made spatial development planning a little more amenable and a little more effective, yes? Is that what I am hearing from you, member?

**Ms. Hinds:** My Internet was really—*[Technical difficulties]* My Internet was unstable so I did not hear all of what you said. I just turned off my video with the hope that I could hear you better.

**Mr. Scotland:** Is it that—are you hearing me?

**Ms. Hinds:** Yes, I am hearing you.

**Mr. Scotland:** Is it that you are saying that the existing mechanism, although not ideal, relative through the Town and Country Planning Act, Chap. 35:01, and the existing—although it is non-operationalized—NPA framework under the guidance of the hon. Minister of Planning and Developing, that that is being used as a measure before full implementation in order to assist in spatial development planning, is that what you are telling the Committee?

**Madam Chairman:** Well, Mr. Scotland, if I may, but before you came Ms. Hinds did deal with that question,

you know, in response to me, you know, what is happening now in terms of where they are and how they are trying to proceed based on the present structure. So I do not think we can go over what you missed –

**Mr. Scotland:** No, Chair, I do not want to go over but I think she has answered it and I think I have gotten a sense of where we are at, Chairman. Chairman, these are all my respectful questions.

**Madam Chairman:** Thank you very much. It is good to have you here, always.

**Mr. Scotland:** Thank you, Chair.

**Madam Chairman:** Member Rambharat, I think that he had something to say. Rambharat.

**Mr. Rambharat:** Madam Chairman, so I want to thank the team, the written submission was really comprehensive. It is one of the best I have seen and that has really reduced the questions that I need to ask. There is a lot in there, 17 pages of valuable information. I think the Committee was really targeting legislation that has not been activated in any form or has been lying there for a long time. But this is one that clearly, based on what you have been detailing for us, has really been very active. I think we have been all engaged on it because of the importance of it, particularly on the enforcement side because that has been the major weakness. PS Hinds has correctly been saying that we have something in place and something that is workable but on the enforcement side it has been terrible. And this is really meant to improve the process but the enforcement will remain a challenge. I want to thank you for an excellent written contribution and the details you have provided for us. I just want to ask one question which is, what do you see as the major challenge, the thing that will absorb the most attention and may really take up some time in full proclamation?

**Ms. Hinds:** Thank you for that question, member. Let me make one point before I answer your question and that is a point about the enforcement. What I really like about PAFD is that it would bring enforcement to the municipal corporations as well. So now you will have officers in the 14 corporations, the planning officers, the building inspectors, people who will be given positions as enforcement officers. So there is an opportunity for many more eyes to be on the ground and seeing what is happening as opposed to a centralized agency that currently exists, that being the Town and Country Planning Division. So there is hope and room for improvement once PAFD is fully proclaimed.

Now, to the issue of what I think – what the team has really been discussing as the most challenging thing for us to take on board right now, and I will have to say it is local government capacity building and their readiness to take on this challenge. It is not easy for them. We stand ready to continue to support, but a National Planning Authority without equip and ready municipal corporations means nothing because everything has to start in that place first before it comes up to the National Planning Authority. So I would say we need to put a lot more time and effort and resources and support on that end, including change management and champions.

**Mr. Rambharat:** I just want to make a point on your response to the enforcement because parallel to this we have an exercise through a Cabinet-appointed committee on management of state lands administration and enforcement, and as you know we have multiple agencies involved in enforcement. But Sen. Lutchmedial also asked the Minister of National Security a very valuable question in the Senate on Tuesday which dealt with how does the police service deal with complaints about violent crimes and I had to respond on behalf of the Minister and the Commissioner of Police, setting out in detail the process. But one of the things that struck me then and struck me now is, when we have these enforcement officers – of course they are out there, they are doing – we know what they report to us but does the electronic platform allow the public to point out infringements to us and allow you to direct those complaints from the public to a specific officer and to also track the manner in which that officer is handling that complaint from the public?

**Ms. Hinds:** Excellent question. I am going to ask Dr. Kirk to share a little bit about the intent of complaints and enforcement in the context of the DevelopTT application system for now.

**Dr. Kirk:** Thank you, DPS. And it is just only to reinforce the point that the Minister was making in that the issue of enforcement is one of the key strengths in how we deal with unauthorized development. One of the key strengths in the Planning and Facilitation of Development Act, the effectiveness of enforcement currently continues to be a sore point and so even down to the penalty for infringements and so on, that has increased. Things have been put in place like enforcement, immediate compliance order, development

repair orders, and so on; things that were initially not there as part of the current Act. So the question of enforcement has been strengthened and even currently with our DevelopTT, we have started the process whereby people can actually lodge complaints using the system.

So that this is something, Minister, that we recognize would be critical and would really be helpful if using the electronic system that we have that people can be able to do that with the new Act and it is something that we have actually been piloting even now using our present DevelopTT. So to respond to you, it is a very valuable suggestion and it is something that we have definitely been taking on board. Obviously once the Act comes into place there would be even greater facilitation of that actual activity as far as the public is concerned.

**Mr. Rambharat:** All right. Thank you. Because you raised the issue of the increase in fines, I want to ask you this – I am pretty sure that we did not deal with this in the amendment to the Act, but in increasing – the Conservation of Wild Life Act makes provision for the magistrate on dealing with an offence relating to wild life conservation, the magistrate to award to somebody whose information led to the prosecution of the offence to allow them – award them up to 50 per cent of the fine. When the fine was \$200 it was obviously not incentivized but now the fine for a wild life offence ranges from \$10,000 to \$100,000. I do not know of any magistrate who has awarded that to somebody providing information, but do you see – now, there is a risk in that of course, but do you see any value in having that in the legislation where somebody who provides information which leads to an enforcement action, a successful enforcement action, could be rewarded by a percentage of the fine?

**Dr. Kirk:** Member, it is a valuable suggestion but it is something that we would have to discuss with the legal people to see if it can be part of the new framework under the Planning and Facilitation of Development Act without having to be leading to an amendment to the legislation. So it is a very, very valid point and it is something that the legal people would have to say to us, how else can it be done? Could it be done through regulation? How else? So it is something that we will note and we would pursue without – and definitely, we do not need – we have not seen the need for amendments. And honestly we would really want to avoid having to go back to the Act at this stage based on all that we are saying, we are about implementation and operationalization of the Act but it is something we will see how it can be included without having to need amendment to the Act.

**Madam Chairman:** Have you been having any talks with the Attorney General's department with regard to different legislation that would impact your operationalization of the Act? Have you spoken about the House of Assembly and the municipal corporations? But what about the Environmental Management Act, Public Health Ordinance, Integrity in Public Life Act, Land Tribunal (Amdt.) Act? I mean, have you been having talks with the Attorney General along those lines?

**Ms. Hinds:** We have had lots of collaboration with them. I mean, CPC guided us in terms of the 2019 amendments. We worked along with the CPC in terms of local government reform because they are still working, I believe, on bits of legislation to ensure synergies. So we have those kinds of conversations and they have assisted us in doing what we needed to get done. You mentioned integrity in public life, I am aware that PAFD, as it stands now, speaks to these senior executive positions as being positions in public life. As a matter of fact – which does not exist now. The Director of Planning under PAFD has become – will become a person in public life. So I am not too sure what else you are going to recommend that we do. I am listening out.

**Madam Chairman:** I would suggest going forward that perhaps you can talk to both CPC in particular and the legislative, you know, the Legal Affairs division because there seems to be some confusion as to your interaction with them. I do not want to go into correspondence received from both sides but some things disturbed us and I think we would recommend that there is some discussion with these entities to make sure that you have done all that you were supposed to do to allow them to do what they can to assist you.

**Ms. Hinds:** Thank you, Chair. I have before me documentation that says exactly what we have done with them. And to be honest, at this point the CPC has done its bit. There is no need for further collaboration along the lines of developing regulations or any amendments. So from our perspective we are all good. But I take what you have said, we will reach out with the counterparts there to see if per chance there may be

a tad bit of miscommunication.

**Madam Chairman:** Yes, we perceive that. So I think it might be useful to have a little discussion, you know, to make sure you are all on the same page, whether regulations are needed or not, you know, whether you have, you know, asked for or submitted a policy document. We were a little disturbed that you may not be on the same page and it is all one government so we would want to make sure that you talk to everybody that you ought to talk to and they talk to you and advise you as best you can. But I think from what I see here today, we feel very heartened that you have been working assiduously at your end to do what is required and I must commend, not only your responses to us but, I dare say, if I may, that you seemed to have found your niche there, and [*Laughter*] more of that anon.

But I am very impressed by how you conducted yourself this morning, your knowledge, your commitment. And when we have these – you know, what I have found in chairing these meetings is that every time we sit with the senior persons in the Ministry we realize that there is a lot of talent in the various Ministries and it is very difficult to understand why the public service has such a bad name. But we meet people who are extremely talented, people who are extremely committed and very qualified and doing excellent work.

So again, I think I speak for all of us when we say that we commend you and your team and just ask you to continue to do the best you can with the resources that you have and hopefully the resources that you will get so that – ultimately, what we want is a more efficient working public service, you know, for the better Trinidad and Tobago that we seek to have.

So it has been very instructive sitting with you this morning. And I know that Mr. Bacchus will be observing that there are technical glitches that we need updating, you know, perhaps your IT material and all of that. So we have taken note of all that has happened, planned and unplanned, and at this juncture all is left for me is to ask you to make brief closing comments before we say goodbye to you so that we will all have our lunch, especially the parliamentarians. So begin.

**Ms. Hinds:** Thank you, Chair. On behalf of the team here and on behalf of my Permanent Secretary, Mrs. Joanne Deoraj, and I know that our Minister is also very much interested in how this would have gone, we really want to thank you. We thank you for the questions posed. We thank you for the opportunity. And even with the recommendations that you have made, we are taking notes and we will take them on board.

We are also very thankful for the accountability and the oversight, the fact that this team took the time to investigate these matters. So we have no objection to you keeping track on us so that we could actually follow through on all the things that we have promised to do, and we will; we absolutely will. So on behalf of the team, thank you kindly.

**Madam Chairman:** Well, this brings to an end, our enquiry that we started today on the delay in the full proclamation of the Planning and Facilitation of Development Act and other pieces of legislation that may be lying there and just need to be prodded into existence. So we proceed next week – next month with our mission and we thank the public for their attention; and left for us to say, have a good day all of you. Members, thank you very much for your input.

**Ms. Hinds:** Thank you and good day to all.

**Mr. Scotland:** Very welcome, Chair.

**Member:** Most welcome.

**Mr. Gonzales:** Thank you very much, Chair.

**Ms. Lutchmedial:** Thank you, everyone.

**Member:** Well done –

**Member:** Thank you, everyone.

11.55 a.m.: *Meeting adjourned.*

## APPENDIX III

### PAFD ACT, 2014- UNPROCLAIMED SECTIONS

Part III- Interpretation and Purpose							
(5) (2) Framing Comprehensive development policies	(7) Functions of the National Planning Authority (NPA)	(8) Duties of the NPA	(9) Minister to give the NPA policy directives	(10) Ability to form committees	(11) Appointment of Development Control Committee	(12) Conflict of Interest Committees	(14) Delegation to Director of Planning
(15) Functions of certain Heads of Departments		(16) Appointment of Special and joint planning authorities			(17) Delegation of planning functions to offices of local authorities		
Part IV- Development Plans							
(18) NPA to prepare National Spatial Development Strategy	(19) Regional, local and other development plans	(20) Functions and content of development plans	(21) Appointments to prepare development plots	(22) Preparation of development plan	(23) Development plan of local authority to proceed in accordance with Section 25	(24) Land subject to compulsory acquisition	(25) Certifying of provisional development plans
(26) Role of approved development plans		(27) Minister to publish policy statements			(28) NPA to make plans and reports available		
Part V- Development Control							
(29) Development control (meaning of development)	(30) Permission required to develop land	(31) (2) Posting on the land notice	(34) Register of applications	(35) Consideration of applications	(36) Consideration of environmental effects	(37) Grant of permission to develop land	(38) Display of permission to develop land
(39) Duration of permission to develop land	(40) Extension of period of permission	(41) Outline development approval to erect buildings or subdivided land	(42) Duration of outline development approval	(43) Planning agreements	(44) Performance bonds	(45) Supplementary provisions to enforcement	(46) Permission to retain or continue unauthorised development



Part III- Interpretation and Purpose							
(47) Effect of grant or permission to grant land	(48) Minister's power in relation to planning applications and decisions	(49) Revocation or modification of permission to develop land	(50) Development completion notice	(51) Enforcement of planning control	(52) Withdrawal or modification of compliance notice or immediate compliance order	(53) Supplementary provisions as to enforcement	(54) Offences against compliance notices and immediate compliance orders
(55) Effect of unauthorised attempt to subdivide	(56) Authorised subdivision may be continued notwithstanding expiry of permission	(57) Development repair order	(58) Continuing efficacy of compliance notice	(59) Discontinuance orders	(60) Protection of trees		
Part VI- Land development, building codes and permits							
(61) Building regulations	(62) Inspectors	(63) Building and demolition permits required	(64) Conditions governing issuance and revocation of permits	(65) Occupancy certificate	(66) Securing compliance with the building regulations	(67) Order not to cover, enclose or to uncover	(68) Powers respecting unsafe buildings
(69) Powers of inspector		(70) Review by Chief Building Officer		(71) Reviews respecting building regulations and permit matters		(72) Waiver	
Part VII- Listing of Professionals							
(73)- Interpretation of words used in Part VII	(74)- Restrictions on submission of complex applications	(75)- Minimum levels of professional competence to be set	(76)- Fixing quantum of bond for listed professionals	(77)- Professional organisations to grant certificate of competence	(78)- Continuing obligations of listed professionals	(79)- Annual lists of holders of certificates of competence	(80)- Register of listed professionals

Part III- Interpretation and Purpose							
(81) Termination of listing	(82) Removal from list upon complaint	(83) Expedition of circulation of applications	(84) Reliance on professional certificate	(85) Issuing of building permits in reliance of professional certificate	(86) Effect of permit issued under section 86	(87) Special building permits issued under secure arrangements	(88) Statements supporting occupancy certificates
Part VIII- Planning and Developmental Appeal							
(89) Appeals to the Environmental Commission	(90) Appeals against development repair order, compliance notice or immediate compliance order, or a tree preservation order	(91) Manner of hearing appeal	(92) Compensation for immediate compliance order or compliance notice	(93) Costs or benefits considered in awarding compensation to the appellant	(94) National Planning Authority to report on trends		
Part IX- Offences and Penalties							
(95) Offences		(96) Bribery		(97) Commencement of proceedings		(98) Evidence	
Part X- Supplemental							
(99) Powers of entry	(100) Service of notice	(101) Service of notice where person cannot be found	(102) Evidence of the date or time of receipt of order, notice or document	(103) Authority to demand information	(104) Inspection of documents	(105) Promotion of public awareness	(106) Register of notices and orders

Part III- Interpretation and Purpose					
(108) Injunctions and prohibition orders	(109) Application of Act to land regulated by written laws	(110) Consequential amendments Fourth Schedule	(111) Savings re: applications for certain approvals	(112) Repeal and savings Chap. 35:01	(113) Act to bind the State

**APPENDIX IV**  
**PAFD ACT, 2014- PROPOSED DUTIES OF THE DIRECTOR**  
**OF PLANNING**

List of duties/responsibilities of the Director, Town and Country Planning Division under the purview of the Public Service Commissions	List of duties of the Director of Planning under the PAFD Act, 2014
<p><b>Technical:</b></p> <ul style="list-style-type: none"> <li>▪ Plans, organizes and directs the work of the TCPD;</li> <li>▪ Administers the provisions of the TCP Ordinance;</li> <li>▪ Develops systems and procedures for promoting and maintaining a comprehensive programme of physical planning;</li> <li>▪ Develops policy for effective physical planning;</li> <li>▪ Directs surveys of the territory, the preparation of physical development plans and the review of existing plans;</li> <li>▪ Ensures that a system of development control is maintained in accordance with the stipulation of the Town CP Ordinance;</li> <li>▪ Controls advertisements and the preservation of amenities in accordance with the TCP Ordinance.</li> </ul>	<p>Section 11 (2) (a) shall be the Chairman of the Development Control Committee</p> <p>Section 15 (1) "...shall be responsible for development planning control in accordance with this Act."</p>
<p><b>Advisory:</b></p> <ul style="list-style-type: none"> <li>▪ Advises Government on matters involving the acquisition of land or the lease of State Lands;</li> <li>▪ Attends meeting of statutory and other committees and gives professional advice on physical planning.</li> </ul>	<p>Section 13 (3) "shall be persons in public life for the purposes of the Integrity in Public Life Act."</p>
<p><b>Administrative:</b></p> <ul style="list-style-type: none"> <li>▪ Develop training plans for the Division.</li> </ul>	<p>Section 14 (1) "The National Planning Authority may, by written instrument, delegate to the Director of Planning such of its functions as it sees fit."</p>

**APPENDIX V**  
**PAFD ACT, 2014- COMPOSITION OF THE DCC AND CDFC**

<b>PAFD Act, 2014- Planning Development Committees</b>	
Development Control Committee	<ul style="list-style-type: none"> <li>▪ Director of Planning</li> <li>▪ Representatives authorised to render binding advice or grant approvals on behalf of the following agencies: Water and Sewerage Authority, Chief Building Officer, Highways Division of the Ministry with responsibility for works, Drainage Division of the Ministry responsible for drainage, Chief Fire Officer, Trinidad and Tobago Association of Local Government Authorities, the Ministry with responsibility for physical planning and development of land, Trinidad and Tobago Electricity Commission and such other agencies as may be designated by the Minister in writing for any particular category of development.</li> </ul>
Complex Development Facilitation Committee	<ul style="list-style-type: none"> <li>▪ Chaired by the Minister of Planning and Development</li> <li>▪ Key stakeholder representatives from: the TCPD, EMA, Drainage Division, Ministry of Works and Transport, Trinidad and Tobago Society of Planners. Other Ministries, Departments and Agencies as required.</li> </ul>

**APPENDIX VI**  
**INQUIRY INTO THE DPA ACT, 22:04- MINUTES**



**UNCONFIRMED** MINUTES OF THE SIXTH MEETING  
JOINT SELECT COMMITTEE ON FINANCE AND LEGAL AFFAIRS,  
12<sup>TH</sup> PARLIAMENT  
HELD ON FRIDAY APRIL 16, 2021

**The Meeting was held virtually via Zoom**

**PRESENT**

Mrs. Hazel Thompson-Ahye	Chairman
Mr. Terrence Deyalsingh, MP	Member
Mr. Keith Scotland, MP	Member
Mr. Marvin Gonzales, MP	Member
Mr. Hassel Bacchus	Member
Ms. Jayanti Lutchmedial	Member

**ABSENT/EXCUSED**

Mr. Clarence Rambharat	Vice-Chairman
Mr. Dinesh Rambally, MP	Member

**Secretariat**

Mr. Julien Ogilvie	Secretary
Mr. Brian Lucio	Assistant Secretary
Ms. Terriann Baker	Researcher
Ms. Ria Rampersad	Researcher

**CALL TO ORDER**

1.1 The Chairman called the meeting to order at 9:11 a.m.

**ANNOUNCEMENTS**

2.1 The Chairman announced that Mr. Dinesh Rambally, MP requested to be excused.

**CONFIRMATION OF THE MINUTES OF THE 5TH MEETING HELD ON FRIDAY MARCH 19, 2021**

- 3.1 The Chairman invited Members to examine page-by-page, the Minutes of the meeting held on Friday March 19, 2021 and inquired whether there were any amendments.
- 3.2 There being no amendments, a motion for the confirmation of the Minutes was moved by Ms. Lutchmedial and seconded by Mr. Gonzales.

### **MATTERS ARISING FROM THE MINUTES**

- 4.1 The Chairman enquired whether there were any matters arising from the Minutes. She highlighted the following matters:
- **Item 3.1, page 2. 3<sup>rd</sup> bullet** – The Chairman reminded Members that the additional information received from the Ministry of Planning and Development and the Port Authority of Trinidad and Tobago were uploaded to Rotunda and that the Ministry of Finance requested an extension to Friday April 16, 2021 to submit its response.
  - **Item 5.1, page 2** – The Chairman reminded Members that by emails dated March 26 and April 07, 2021, the Secretariat circulated the updated list of un-proclaimed laws and the Inquiry Proposal relevant to the Data Protection Act, 2011 respectively.

### **PRE-HEARING DISCUSSIONS RE: 2<sup>nd</sup> PUBLIC HEARING RE: INQUIRY INTO THE STATE'S STRATEGY FOR IMPLEMENTING UN-PROCLAIMED LEGISLATION PASSED BY PARLIAMENT DURING THE LAST 20 YEARS**

- 5.1 The Members were advised that officials of the Office of the Prime Minister were expected to participate in the day's hearing.
- 5.2 The Chairman confirmed that all Members were in receipt of:
- i. the submission made by the Office of the Prime Minister and the Office of the Attorney General and Legal Affairs; and
  - ii. Issues Papers prepared by the Secretariat based on the Office of the Prime Minister's submission.
- 5.3 The Committee discussed the approach to be taken during the hearing.

### **OTHER BUSINESS**

#### *Proposed Date and Agenda for Next Meeting*

- 6.1 The Chairman proposed that the scope of the inquiry into un-proclaimed legislation be expanded to include all areas and not only areas under the purview of the Committee; due to

the current parameters severely limiting the number of Acts/Laws the Committee is able to examine.

6.2 After brief discussions, the Committee agreed with the Chairman’s proposal to expand the scope of the inquiry to include all laws passed over the past 20 years, excluding those that have been in existence for less than 5 years and those examined by other JSCs.

6.3 The Chairman invited recommendations on proposed stakeholders the Committee may wish to consult during the next inquiry into the impact of COVID-19 on the Small and Micro Enterprises Sector. The following stakeholders were suggested:

- i. All Chambers of Commerce;
- ii. Downtown Owners Merchants Associations; and
- iii. The Supermarket Association of Trinidad & Tobago.

6.4 After brief discussion, the Committee agreed that stakeholders such as the Supermarket Association of Trinidad & Tobago and the like fell outside of the scope of a small or micro enterprise.

6.5 The Committee agreed that it will next meet on Friday May 21, 2021.

**SUSPENSION**

7.1 The Chairman suspended the meeting at 10:16 a.m.

**PUBLIC HEARING RE: 2<sup>ND</sup> PUBLIC HEARING PURSUANT TO AN INQUIRY INTO THE STATE’S STRATEGY FOR IMPLEMENTING UN-PROCLAIMED LEGISLATION PASSED BY PARLIAMENT DURING THE LAST 20 YEARS**

8.1 The meeting resumed in public at 10:23 a.m.

8.2 The following persons joined the meeting:

**Office of the Prime Minister**

- |                         |   |
|-------------------------|---|
| 1. Mr. Maurice Suite    | Permanent Secretary to the Prime Minister |
| 2. Ms. Savitri Balkaran | Deputy Permanent Secretary (Ag.)          |
| 3. Mr. Devon Phillip    | Senior Legal Advisor                      |
| 4. Mr. Chadwick Noel    | FOIA Officer (Research)                   |

**Opening Statements**

8.3 The following chief official gave brief opening remarks:

- i. Mr. Maurice Suite Permanent Secretary to the Prime Minister

### **Key Issues Discussed**

8.4 The following are the main issues arising from discussions with the **Office of the Prime Minister (OPM)**:

#### **Timeline for implementation of the Data Protection Act (DPA), Chapter 22:04**

- iii. The project to amend the DPA Chap. 22:04 commenced in December 2020 with an *Inception Report* and is scheduled for completion in September 2021.

#### **Full proclamation of the DPA Chapter 22:04, creating a nexus between Ministries**

- vii. Despite the various shifts in Ministerial responsibility, the role of the Ministry of Communications was found to be the most appropriate fit for the DPA Chap. 22:04 due to the correlation between freedom of information and data protection;
- viii. The issue of Data Protection cross cuts all of Government but two Ministries in particular had vested interests. The Ministry of Public Administration and Digital Transformation (MPADT)<sup>24</sup> which was responsible for information and data protection as well as the Ministry of Trade and Industry (MTI) which required certain amendments to the legislation in order to enhance the capacity of the Single Electronic Window, TTBizLink;
- ix. Though initiated and financed by the MTI<sup>25</sup> due to overlapping areas of joint benefit, the consultancy to amend the DPA Chap. 22:04 is presently envisioned to be a holistic undertaking and will not seek to adopt a piecemeal approach solely in the interest of any particular Ministry;
- x. A meeting held in January 2021 between the MPADT, OPM and the Ministry of the Attorney General and Legal Affairs (MoAGLA) confirmed that the OPM would take charge of the project to oversee the amendments to the DPA Chap. 22:04;

#### **The proposed Office of the Information Commissioner (OIC)**

- v. Stakeholder concerns regarding the composition of the OIC questioned whether power should be vested in one individual as opposed to a Board. Whilst this was not one of the concerns of the Government, this provision was also under review by the Consultant;
- vi. The issue of open data and information sharing between Ministries was also being scrutinised under the Consultancy and it was noted that a major gap existed in the lack of a data classification system to enable these provisions. The Consultant was of the view that a policy for data classification should have been contemplated taking into consideration the Freedom of Information Act Chapter 22:02, as well as the DPA Chap. 22:04;

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<sup>24</sup> The responsibility of Digital Transformation was established as a separate Ministry with effect from Monday 12 July, 2021

<sup>25</sup> Through an IADB funded project

- vii. One of the primary aims of the consultancy was to ensure that the DPA Chap. 22:04 is in alignment with international obligations, more specifically those of the European Union's General Data Protection Regulations (GDPR). Barbados was suggested as an exemplar model in this regard;

### **Stakeholder Challenges**

- v. *Freedom of the Press*- One of the dominant concerns raised by stakeholders during consultations was the possibility that the DPA, Chap. 22:04 in its present construct may have the potential to impact the ability of the Media to carry out investigative journalism without fear of running afoul of the DPA Chap. 22:04, as they may come into possession of individuals' personal data;
- vi. *Other concerns*- Disquiet was also felt by stakeholders on issues related to their ability to comply with the obligations of the Act, the cost to achieving compliance and the ways in which firms could use data to improve their economic decision making not unlike what larger social networking platforms use to predict consumer behaviour;

### **Ensuring Compliance**

- iv. The OPM had an active Freedom of Information Unit, which had been engaged in creating awareness among public authorities with respect to the general privacy principles and the role of public authorities with respect to same. It was hoped that private sector entities were in fact in observance of these codes of conduct;
- v. Collaboration between the MPADT and the OPM will be necessary to ensure that pre-preparation is undertaken to ensure compliance among public bodies. The actual act of compliance would however, fall within the purview of the OIC upon full proclamation;
- vi. Stakeholder consultations encompassing the public and private sectors were held previously but will need to be re-engaged when the proposed legislative amendments are completed;

### **Additional shortcomings of the DPA Chapter 22:04**

- iv. The overarching objective of the DPA Chap. 22:04 which seeks to uphold principles of data privacy remains. Challenges have arisen, however, with respect to the Act's fitness for purpose to provide for the various advancements in technology that affect data protection, such as financial technology, artificial intelligence and big data;
- v. Moreover, it was noted that there was also a lack of a defined data protection policy to guide stakeholders to the benchmarks that should be aspired to. For example, whilst information was available within the public domain, the caveat was that this availability did not automatically grant persons the right to manipulate this data;

- vi. A final position on the issue of data sovereignty and the possibility of a CARICOM region wide initiative relevant to data protection was also an expected deliverable arising out of the consultancy;

#### **Lack of full proclamation and the impact on the GORTT's digitisation agenda**

- vi. The OPM was of the view that whilst the lack of full proclamation would hinder to some extent the initiatives of individual Ministries to rollout various forms of e-services, the impact did not halt its progress entirely;
- vii. The DPA Chap. 22:04 is targeted to reduce the risk of mis-use of consumers' data. Notwithstanding that data collection was a continuous and on-going process in both public and private sector bodies, the appropriate legislative framework was the missing element in regulating these affairs;

#### **The culture of data protection and data sovereignty**

- vi. Inter-ministerial coordination was needed between the OPM and the MPADT to raise awareness within the public service about the need and relevance of data protection;
- vii. Given the scale and influence of some of the larger conglomerates such as Facebook, it was difficult for small countries such as Trinidad and Tobago to demand the former's compliance with local legislation. Rather, the decision to use the services of these larger companies would have to be reduced to individual choice;
- viii. There were several misconceptions surrounding the culture of privacy and data protection in the local context. The perception held by some- that citizens were not concerned about their privacy- may in fact be reflective, not of their lack of concern, but may be indicative of a lack of awareness of how their data could be manipulated;

#### **Intervening factors affecting full proclamation**

- iv. Upon receipt in September/October 2021 the OPM will forward draft legislation relevant to the DPA Chap. 22:04 to Cabinet for approval subsequent to onward submission to the Chief Parliamentary Counsel for their input;
- v. Legislation was one aspect of full proclamation, the other being the full readiness of the public and private sector to observe its implementation and compliance;
- vi. A readiness report to gauge the current capacity of stakeholders to comply with the DPA Chap. 22:04 did not form part of the consultancy. The OPM did not dismiss the notion of such a report and felt that perhaps a collaborative approach between themselves and the MPADT was needed in that regard. However, consideration was also given to the fact that clarity to guide stakeholders would only be possible upon finalisation of the legislation;
- vii. Nevertheless, the urgency of full proclamation was tangibly manifest to all stakeholders and whilst the drive to get it 'right' was noted, the fact that legislation cannot appease all stakeholders was also considered.

## **ADJOURNMENT**

9.1 The Chairman thanked Members, staff, the viewing/listening public and adjourned the meeting.

9.2 The meeting was adjourned at 12:25 p.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

August 26, 2021

**APPENDIX VII**  
**INQUIRY INTO THE DPA ACT, 22:04- VERBATIM NOTES**



VERBATIM NOTES OF THE SIXTH VIRTUAL MEETING OF THE JOINT SELECT COMMITTEE ON  
FINANCE AND LEGAL AFFAIRS HELD (IN PUBLIC) ON FRIDAY, APRIL 16, 2021, AT 10.23 A.M.

**PRESENT**

Mrs. Hazel Thompson-Ahye	Chairman
Mr. Keith Scotland	Member
Mr. Marvin Gonzales	Member
Ms. Jayanti Lutchmedial	Member
Mr. Hassel Bacchus	Member
Mr. Terrence Deyalsingh	Member
Mr. Julien Ogilvie	Secretary
Mr. Brian Lucio	Assistant Secretary
Ms. Terriann Baker	Researcher

**ABSENT**

Mr. Clarence Rambharat	Member
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**OFFICE OF THE PRIME MINISTER**

Mr. Maurice Suite	Permanent Secretary to the Prime Minister
Ms. Savitri Balkaran	Deputy Permanent Secretary
Ms. Devon Phillip	Senior Legal Advisor
Mr. Chadwick Noel	FOIA Officer (Research)

**Madam Chairman:** Good morning everybody, good morning everyone, especially our viewing and listening audience. This is the sixth meeting of the Joint Select Committee on Finance and Legal Affairs. Today, the Committee is convening the second public hearing, pursuant to the enquiry into the State's strategy for implementing un-proclaimed legislation passed by Parliament during the last 20 years.

On the last occasion, we met with stakeholders responsible for the implementation of the Planning and Facilitation of Development Act and, today's session, we will focus on the implementation of the Data Protection Act, Chap. 22:04, Act No. 13 of 2011.

We are asking members of the listening and viewing audience, we want you to participate, so we invite you to post or send your comments via the Parliament's various social media platform: Facebook page, *ParlView*, Parliament's YouTube channel and Twitter. At this point, I would want to welcome the officials of the Office of the Prime Minister, who are with us today, and I invite them to introduce themselves.

[Introductions made]

**Madam Chairman:** And with you? Your team, please.

[Introductions made]

**Mr. Suite:** I am sorry, Chair, I am not hearing you.

**Madam Chairman:** So welcome, glad to have you with us, officials of the Office of the Prime Minister. I am Hazel Thompson-Ahye, Chair of this Committee. I now ask members of the Committee to introduce themselves.

[Introductions made]

**Madam Chairman:** The enquiry objectives are: one, to determine the factors that are contributing to the delay in the full proclamation of the Data Protection Act, Chap. 22:04 – this is Act No. 13 of 2011; two, the sections of the Act that can be implemented without delay; three, the sections of the Act that require more time and/or input for operationalization; and the impact that the delay in the full proclamation of the Act has had on data protection. So these are our four objectives today.

So that we have had that Act since 2011, we are now in 2021. Now, I know that we are sometimes called the “Land of Limbo”, but I do not think that that was intended, that we are going to have things in limbo, especially things that are important, as what this Data Protection Act is about. Because when we are talking about data, we are talking about things that impact your life. We are talking about protecting your data, which is really protecting your right to privacy which is an entrenched part of the Constitution, your right to privacy.

We collect a lot of data, and how is that protected? We are living in a digital environment. So, more and more, we have data that is coming into the hands of Government and other officials, and we need to have that data protected, all kinds of documents – photos, video tape, machine readable documents, our passports, our birth certificates – a number of pieces of data which impact us – your educational records, criminal records, medical records, financial transactions, DNA, all of those things. So we talk about the information bank, how are we going to go ahead with this legislation which will be protecting our data?

A number of countries have legislation to protect their data. The UK claims that it has a world class data protection regime, and they have recently amended their thing to post-Brexit, so that they cannot deal with everything that was there before they left Brexit.

So we now ask for an opening statement, just two minutes, from the Permanent Secretary to Office of the Prime Minister and Head of the Public Service. So, Mr. Suite, the floor is yours.

**Mr. Suite:** Thank you very much, Madam Chair. Well, you would have given us the background and the opening statement with respect to the purpose of the Committee. The Committee would have provided pertinent questions to the Office of the Prime Minister for which we would have provided written responses. So, I would not want to touch on those, but leave it for the members if they have further questions or want any further clarification. I will, however, like to take the opportunity to update the Committee, with your permission Chair, on the current status with regard to the implementation of the Data Protection Act.

In December 2019, the then Ministry of Communications was asked by the Ministry of Trade and Industry to collaborate on amending the Act. The amendment to the Data Protection Act is of mutual interest to the Ministry of Trade and Industry, as it forms part of its mandate to improve trade performance and enhance the business competitiveness of Trinidad and Tobago through the strengthening and transformation of the Single Economic Window, which was branded as TTBizLink, into a world class solution based on international standards.

In achieving the full operationalization of the Single Economic Window, the Act needed to be harmonized in line with the EU, GDPR, the General Data Protection Regulation that governs operations in the European Union to ensure a smooth flow of data in international trade transactions. Now, the Ministry of Trade and Industry offered to assist the then Ministry of Communications in financing the project through an Inter-American Development Bank loan for the strengthening of the Single Economic Window for the Trade and Business Facilitation Programme.

In December of 2020, the consultant would have finalized the inception report. In January of 2021, a gap analysis report was completed. In February, 2021, a draft legislative brief was prepared. In March 2021, there was a stakeholder consultation and regulatory impact assessment, and the consultant has delivered a presentation to the Office of the Prime Minister on their initial findings with respect to the regulatory impact assessment, and the stakeholder consultations and some of the preliminary points and findings which were raised in those consultations would have been included in the OPM’s written response to questions raised by the Committee.

In this month, April 2021, we anticipate that we will be receiving – well, the Ministry of Trade and Industry, through the consultant, will be receiving a finalized legislative brief. In June 2021, we are anticipating the receipt of draft legislation regulations, and July 2021 we anticipate a presentation to stakeholders with final proposed legislation regulations for August 2021, and the end of that project that is being undertaken by the Ministry of Trade and Industry in September, 2021. So there are some things that have already started this year and taking place. Well, I will just leave that for now and we could go into the details later. Thank you, Chair.

**Madam Chairman:** Thank you very much, Mr. Suite, for your update. I notice a lot of the update has happened quite recently. Maybe the buttons have been pushed, but we are happy to hear that there is some progress, and we hope that this very important piece of legislation will come on board very soon.

So we will commence questioning with respect to this status, and I would like to remind Committee members to direct their questions and concerns through the Chair, and activate the microphone on your devices when you are acknowledged, and turn it off when you have concluded your contribution. So we do have some questions for you –

[*Mr. Deyalsingh enters meeting*]

**Mr. Deyalsingh:** Good morning, Madam Chair, Terrence Deyalsingh here. I am just registering my presence this morning. Thank you very much.

**Madam Chairman:** We welcome you, Sir. We know how very busy you are these days, and we are glad that you were able to make it.

**Mr. Bacchus:** Madam Chair, if I may, may I begin? Member Bacchus here.

**Madam Chairman:** Yes, member Bacchus. Proceed.

**Mr. Bacchus:** Okay. So, in the written submissions, at the very beginning, in identifying some of the issues that would have led to this prolonged period of time for proclamation, the table that was provided initially that stretched from July 12, 2011, all the way to August 16<sup>th</sup>, would have identified the fact that this legislation would have moved around within Ministries and, I think, we had seven or eight different instances within the table, all of them though underpinned by the Ministry of Communications being a part of it. Is there a belief or a direct association with the Data Protection Act, specifically, as it relates to the Ministry of Communications from then to now and is that still the case?

And in your opening statement, the idea that the Ministry of Communications was approached by the Ministry of Trade and Industry, and in the submission you have this number of separate entities impacting on this, how do you reconcile this? Is this something that is tied, specifically, to the office, the Ministry of Communications? Should it remain that way? And how are you dealing with the number of agencies, divisions and Ministries that would be impacted or are being impacted by this particular piece of legislation? I will start there.

**Mr. Suite:** Chair, through you, well, I would not go into the allocation of portfolios. That is a little above my pay grade. I would say that the Data Protection Act, there was seen as some sort of nexus between the Data Protection Act and the Freedom of Information Act in terms of privacy of data versus providing data in the realm of Government agencies and Departments, and the Freedom of Information Act fell under the communications. So whether it is the Ministry of Communications or communication as part of the different Ministries. I suppose, because of that thinking, every time the portfolio changed with Ministry of Communications, the Data Protection Act changed accordingly.

There is in the *Gazette* where the Ministry of Public Administration and Digital Transformation has a role to play in terms of developing policies as it relates to data protection. So there is some nexus in terms of the Data Protection Act with public administration, Ministry of Trade and Industry and well communications. So it does span a lot of different Ministries.

The Ministry of Trade and Industry got involved because they were looking at Electronic Transactions Act, of course, data protection impacts upon it. So a lot of different Ministries are impacted. And I think one of the issues that the consultant would have raised was probably the need for having another Act which should have preceded both the FOI and the Data Protection Act, which was dealing with classification of data and that sort of thing. So, there are quite a few things that impact. It is a Government wide issue, and data impacts different Ministries and not only the data collection policy, et cetera. So, I hope – the other thing I just wanted to touch on, in the opening statement, the Chair would have raised instances of Government gathering of data and protection and privacy of that data, and I just want to point out that the Data Protection Act covers both Government and the private sector and the use of personal data.

**Mr. Bacchus:** Madam Chair, again, through you. So, understood. And the scope of the consultant, while engaged, through you, with a specific focus from the Ministry of Trade and Industry, as it relates to them

being compliant to deal with things on the international side, I assume that the consultant and/or the results that you have been getting, really cover data protection as a global thing within the context within Trinidad and Tobago, and not just specific to the piece associated with or the primary mandate piece associated with the Ministry of Trade and Industry.

**Mr. Suite:** Madam Chair, that is a correct assessment. When looking at it, the Act was taken as a whole, and coming out of the consultation, there were a lot of issues were raised in terms of the role of the Commissioner of Information or the Information Commissioner, the impact of that legislation on other pieces of legislation. So it took a very holistic approach to it. So, it was not just focused simply on the Ministry of Trade and Industry meeting their objectives, but it looked at the Act as a whole and other pieces of legislation that may have to be amended or adjusted to make it more functional.

**Mr. Bacchus:** Madam Chair, I will make way for now, and I will come with some others after, please.

**Madam Chairman:** You were saying something else, Sir?

**Mr. Bacchus:** No. Madam Chair, I say I will give way for now so others can get in, and I can resume subsequently. Thank you.

**Madam Chairman:** Mr. Suite, as you mentioned the commissioner, there were some concerns expressed, in one of the comments, I believe, that the commissioner being one person should not just be one person to determine, you know, the data protection, but that there should be a board. Has the thinking changed over time about that responsibility being in the hands of one person as opposed to a group of persons so that there will be, you know, different views expressed?

**Mr. Suite:** Madam Chair, those were views coming out – those were views in some quarters coming out of the public consultation. That is not Government's position. That was out of the stakeholder consultation. There were some persons who expressed that view, and the consultants will review and look at it and I presume they will look at other jurisdictions, and what apply there, as well as you have to look at the relevance and the applicability in Trinidad and Tobago. Because we may have smaller jurisdictions, and so in terms of a panel here versus a single person and the administrative framework. So that is something that the consultant will look at, based on feedback coming from the public stakeholders.

**Madam Chairman:** So, what you are saying, in essence, is that there is no view yet? You are waiting for what the consultants will recommend?

**Mr. Suite:** Yes. We will wait until the consultants make their recommendations and then we will review. I suppose, at that point, we will have to, from the Ministry's perspective, go to Cabinet to get sign off on a view.

**Madam Chairman:** I see. Thank you.

**Mr. Bacchus:** Madam Chair, might I follow on that question please, just as it relates to the role of the Information Commissioner?

**Madam Chairman:** Yes, you may.

**Mr. Bacchus:** So, part of the role – the role of the Information Commissioner and apart from its composition as to be determined – how many people and so on whether a committee or otherwise as in the submission – has within it, under its purview, a number of things that affect the way in which digital government will work, not just in terms of data protection as an item, but it spreads across other things, including, exchange of information, et cetera, et cetera. Is all of that, even though the proclamation piece required for the Information Commissioner is already done, is all of that also under the review of the consultant with potential to change?

**Mr. Suite:** Yes. The consultant had looked at that as well, in terms of sharing of information between Ministries and Departments and what would be the correct framework. So, that was also taken up. And, again, that was part of the thinking, in terms of that piece of legislation, when it spoke about data classification and the storage of data, because they felt if that was clarified, and you had common definitions across, then some of those other issues in terms of sharing and open data policies and things like that would be addressed. So all of that was part of what the consultant was looking at as well.

**Mr. Bacchus:** Okay. Thank you.

**Madam Chairman:** Member Lutchmedial?

**Ms. Lutchmedial:** Thank you, Chair. Chair, through you, I just have a few questions. Coming from, well, I just want to come back from what Minister Bacchus is asking about. Just specifically, is the consultant also looking at overseas obligations like under treaties and our obligations to share data across, specifically tax information? Is that something that the consultant is also engaged in to consider and the impact on whether or not we need to amend the laws? Is that part of the remit of the consultant?

**Mr. Suite:** Madam Chair, they would not have been looking specifically like tax information treaties. That would be covered separately. And probably I would ask either one of my technical people to come in. What the consultant started looking at was in terms of the requirements like the European Union with the Attorney General Data Protection Regulations, because when you are doing trade, is not only local trade, but also international trade and, therefore, for those companies to share information or individuals sharing information with us, they would have to be sure that we have a certain level of compliance in what is required with them. So that is the context in which they were looking at international requirements rather than specific things like under the tax information, et cetera.

**Ms. Lutchmedial:** Right. My concern is, PS, that if we have to fully proclaim this Data Protection Act, we would need to ensure that there is no conflict between the provisions of data protection and our international obligations. I just throw out tax as an example. It just came out of my head, but I am sure that there are other treaties and international agreements and obligations and so on that might require us to share information. So, I just put it out there to find out if all of this is under consideration as well. So, perhaps, it is something we could consider moving forward, and maybe we would consider for our report.

You raised in your submission about concerns with respect to press freedom, and I think this is also tied in somewhat to freedom of information, which is also becoming a tool that the press is using more regularly now. Some litigation and so on has been embarked upon. Specifically, you know, what are the major concerns that you all have identified with respect to the press freedom issue? Are there any amendments being considered or any alternative proposals being considered for a formula that would not impact upon press freedom?

**Mr. Suite:** Okay, Madam Chair, the concerns with respect to press freedom were not raised by the Office of the Prime Minister, but were raised by the stakeholders.

**Ms. Lutchmedial:** Sure.

**Mr. Suite:** I do not know – I will probably want to ask Mr. Noel or Mr. Phillip to come in at this point, because I looked at the Act, and well as a layperson, I could not find what specific issues that the press was raising.

**Ms. Lutchmedial:** But the issues raised by stakeholders were raised with you. Correct?

**Mr. Suite:** Well, they were raised with the consultant and Mr. Noel would have been at the consultations. I do not –

**Ms. Lutchmedial:** Okay. So maybe Mr. Noel could give us an explanation as to what were some of the concerns just so we understand them ourselves?

10.50a.m.

**Mr. Suite:** All right, sure. So at this point, Madam Chair, through you, I would like to invite either Mr. Phillip or Mr. Noel, if they could bring some clarification on what were the issues raised.

**Madam Chairman:** Mr. Phillip.

**Mr. Phillip:** Thank you very much, Madam Chair. The stakeholder consultations which were held recently, members of the media raised the issue that the dissemination – sometimes they come into data or personal information in the course of their investigative journalism and they felt that if it was proclaimed in its state now it would impact upon freedoms, impact upon their press freedom in that they would be held liable for the holding of personal information. So they wanted an exception placed within the Act to cater for those that conduct investigative journalism and so on, and that is being considered as part of the consultancy and the consultant would make recommendations with regard to that.

**Madam Chairman:** Mr. Phillip, are you able – you or Mr. Suite – to share with us the terms of reference for the consultancy, either today or at a later date? Are you able to share it now, it might stave off some of the questions?

**Mr. Phillip:** Madam Chair, we would provide it at a later date in writing because it covers a whole lot of areas and too much to mention at this point in time off the top of my head, but we would provide it for you in writing.

**Madam Chairman:** I am obliged. Thank you so very much. We look forward to receiving it.

**Mr. Phillip:** Yes, Madam Chair.

**Ms. Lutchmedial:** One other question: With respect to resourcing for specifically the public service, because of course there is, I think, a heavier burden placed on the public sector with respect to the protection of data and there are two aspects to this. There is resourcing in order to become compliant and then there is also resourcing in order to ensure compliance, so would the – firstly, has there been any sort of assessment done with respect to what type of resources would be needed by all – it is a very wide range of public authorities that would be captured by this Act when it is fully proclaimed and in order to get them all compliant it will take a massive effort, I think, to have the facilities, the technology, the know-how, the training, all of that in order to become compliant with the Act and to not run afoul of the Act, and of course that is something we do not want the State to be doing. Has there been an assessment of the cost factor that would be involved in order to get every public agency complaint with this Act in its present form, notwithstanding that it is being reviewed?

**Mr. Suite:** All right. Madam Chair, I do not think – well, I can say, in terms of costing, I do not think it has been costed as yet. I know that there have been discussions in terms of that training and awareness and that culture of the data privacy and how to use the data and compliance with the legislation. I think Mr. Noel who was doing the research has been involved, he could probably give you a little more detail in terms of what has been done so far in terms of consultation with the Ministries and Departments.

**Mr. Noel:** Thank you very much. Through you, Madam Chair, basically the Freedom of Information Unit, as was mentioned before, would normally have responsibility for data – well, freedom of information in the first instance, which we engage public authority on an ongoing basis in terms of our education drive, as well as we, in the past, would have presented just some basic information in terms of data protection. So what we would have done is inform public authorities about the Data Protection Act, and very basic share with them the general privacy principles and the need to become compliant in the Act in going forward when it is fully proclaimed.

So that is what we have been doing, bringing some level of awareness, telling people about the Data Protection Act, because a number of public authorities and public officers were not aware that the Act is in existence so we brought that kind of awareness over time.

**Ms. Lutchmedial:** And so this is my next question which comes out from that and it links back to FOIA, what about making sure – even before the Act is proclaimed and when it is ultimately proclaimed, compliance, because up to now we see with FOIA, which has been fully proclaimed and operational since 1999, I think, where you have many public authorities not in compliance. We have a ton of litigation and a lot of money being spent in cost and other things because Ministries do not comply. If you were to do a survey right now of how many Ministries have not issued the public statement they are required to do and who have no alternate FOIA officer, and all of these things, it might shock you. So to ensure that we are not going down the same road with data protection when it is proclaimed, who is going to take the responsibility to ensure that public authorities are compliant with the requirements of data protection? Is that something within your contemplation right now or is it something that has to be fleshed out? Anybody.

**Madam Chairman:** Mr. Suite.

**Mr. Suite:** Okay. I was looking to Mr. Noel. Part of the – in terms of compliance, that is where the office of the Information Commissioner would come in. In terms of the preparation carrying it forward, that would fall under the purview of the Office of the Prime Minister and we would have to work in conjunction with the Ministry of Public Administration and Digital Transformation in terms of getting persons to that level of compliance and preparedness moving forward.

**Mr. Gonzales:** Chair, can I ask a question?

**Ms. Lutchmedial:** Sorry, Minister, just one quick thing. So just to be clear, there would be a compliance unit within the office of the OIC? That is with the structure that is contemplated for the office of the

Information Commissioner?

**Mr. Suite:** Under the Act it has certain obligations and certain duties that the office of the Information Commissioner would have to carry out in terms of dealing with compliance and things. But in terms of preparedness, that would be something that the Ministry would have to deal with. When it say, “Ministry”, the Office of the Prime Minister because that would be part of the project in terms of getting ready for the full proclamation of the Act.

**Ms. Lutchmedial:** Yes. Okay. Thank you. Sorry, Minister, you could go ahead. Thank you, Chair.

**Mr. Gonzales:** Hi, Chair, can I go ahead?

**Madam Chairman:** Yes, please Mr. Gonzales, proceed.

**Mr. Gonzales:** Yeah. Just a question to PS Suite and his team. Now, looking at the comments of the consultant one can easily come to the conclusion that the consultant is expressing grave concern with the present status of the Data Protection Act, the Act in its current context and the potential problems that can arise if the Act were to be proclaimed in its current state. So I am getting the impression that the consultant is suggesting that we have a lot of work to do and perhaps might be suggesting a complete overhaul of the Data Protection Act, and looking at our current context, other piece of legislation that came into existence after the Act was passed, and perhaps the need to have a Data Protection Act that can work seamlessly with other pieces of legislation, especially in the context in which we are going towards digitization and digitalization.

Now, I am listening to the other members on PS Suite’s team and they seem to be putting systems in place that the current Data Protection Act is catering for but whilst at the same time trying to grasp as to what direction are we going. Are we deciding to stay in the current context of the Data Protection Act or is there a need to move in a different direction as is being suggested by the consultant? So I am not too clear where we are as a country, as a state, as a public service as to whether or not we are seeking to implement the Act in its current form or we are going in a different direction, a different thrust before we see towards putting implementation strategies in place.

**Mr. Suite:** If I may, Chair, the consultant would have identified numerous shortfalls or things that need to adjust in the Data Protection Act. Some of the things would have covered like the development of technology over time, bringing in Fintech and Blockchain, and the ability of the Act to address some of those issues and big data and artificial intelligence, to name a few. So there are some things in the Act – remember it is between 2011 and 2021, that is a long time when you are dealing with information technology so a lot of things would have changed.

**Mr. Gonzales:** Correct.

**Mr. Suite:** And then you have some of issues that would have been raised at the stakeholder consultation, like press freedom, et cetera, which is also something that is developing and changing as we have a more open – and transparency demands placed on Government. But what – and then, of course, the way the office is structured is something that is also being looked at.

**Mr. Gonzales:** You mean the way in which it is proposed?

**Mr. Suite:** In which it is proposed – right – is what they are looking at. But what we were discussing in terms of sensitizing the public, some of those things would have taken place like two years ago before this consultancy started. It is really dealing with the general principles of data privacy, et cetera, and getting that knowledge, that understanding, that appreciation as opposed – so we are not at this point looking to implement the Data Protection Act as it currently stands, given that we are fully aware that a consultancy is going on and these deficiencies, so things that have been highlighted.

So what we are looking at in terms of us – I think the general principle of privacy of data and sharing of data and those things would not change; it is really the mechanism. So I do not think it is fair to say that we are rushing ahead to implement as it currently exists and then having to change it.

**Mr. Gonzales:** I am worried because based on the comments by your consultant, they somehow seem to be suggesting that we have a lot more – we have much more work to do before we implement to ensure seamless implementation and somehow the discussion seems to be going in a different direction, which is about implementing what you currently have. So the messaging is conflicting but we as a state, as a country,

we need to know exactly which direction that we intend to go before we can start an implementation strategy or even educating the public. Yes, you want the public to be aware and to be cognizant of the need to protect data, but why are you educating the public if you do not know what direction in which you are going?

**Mr. Suite:** When Mr. Noel spoke, he would have spoken about something that would have happened in— I think it was in 2019 was when we had some of that initial discussion. That is just giving a historical context of what has been done so far. But in terms of an immediate consultation, no, we have not reached to that point because, as I said in my opening statement, we still have to go back to the public with the proposed legislative amendments, and things like that. So that—

**Mr. Gonzales:** But, PS—sorry to cut you, but do you not think that we are at a juncture now, especially with the reality of COVID and the thrust of countries all over and businesses, you know, towards digitization and digitalization that now the country is required to come up with a firm policy on data protection that will inform whatever legislative structure that you need to move forward with as opposed to wasting time and trying to nitpick whether or not this 2011 Data Protection Act can possibly work in the grand scheme of things right now. It is clear based on the information provided to the Committee that what currently exists may not be workable based on the concerns expressed across the board and therefore let us utilize the opportunity to finalize a policy that will inform legislation moving forward. Our time might be better spent on finalizing the policy and legislation so that we can have data protection within the shortest time possible.

**Mr. Suite:** I agree with you and it really—there are a lot of things that need to be done and it is really doing some things simultaneously. I think I probably should share—we would have the Ministry of Public Administration and Digital Transformation, under whose portfolio the data protection policies and frameworks which impact boards' digital transformation initiatives. So under that Ministry, they are looking at the open source policy, remote working, data strategy, open Government policy and a lot of different things. So it really calls for a lot more coordination of these different initiatives and it is a lot broader than simply the OPM and the Data Protection Act because it impacts trade, public administration. So it is really—yes, I agree with you, they need to have that policy properly spelt out—

**Mr. Gonzales:** Yes.

**Mr. Suite:**—before you go into full implementation.

**Mr. Gonzales:** And then rather, the consultant that you have, I do not know if that is part of their remit and if the draft terms of reference can be submitted to the Committee. I guess we would be further informed, but I think we need to go back to our fundamentals, which is a clear policy paper on data protection in Trinidad and Tobago in light of all that has transpired over the last five to 10 years, more so now with COVID. I think it might be more feasible and it might make better sense to look at this from a policy perspective, ensuring that we are catering for all the stakeholders across the board and once we affirm with that, then it will be easy to come up with legislation for full implementation.

**Mr. Suite:** I hear you. Chair, I hear what the member is saying, it is something that we will have to take on board. I just want to remind that the consultant was engaged—well, we would share the terms of reference but the consultant would have been engaged through the Ministry of Trade and Industry for a specific issue and then things would have sort of unfolded and these issues that you are raising is what would have come out to the fore. And I think now that these issues have been raised it is an appropriate time to really examine what it is you are speaking in terms of—

**Mr. Gonzales:** All right, because member Bacchus had asked the question initially and I was of the view— and I think you confirmed that position now that that consultant is working on more or less seeking the interest of the Ministry of Trade and Industry, if I am to refer to it like that, but I think where we are as a country, we need to look at it from a more holistic perspective which will also impact positively on the Ministry of Trade and Industry as well as all the other Government agencies and the private sector. So it seems as though—I guess when we get the terms of reference we would be further educated but I am getting the impression that this consultant is more looking at the Data Protection Act from the context of the Ministry of Trade and Industry and what has to be done for the full implementation of the Single



Economic Window, as you highlighted earlier on.

But I think where we are as a country and what has transpired over the last five years, the last two years, and the other pieces of legislation that we have passed, the Electronic Transactions Act and so many other pieces of legislation; the extent of the reforms that took place in the Licensing Department with digitization and online transactions, all dealing with data and the data of citizens, I think the issue of the Data Protection Act and a clear data protection policy is critical and it should be looked at in that context.

**Madam Chairman:** Thank you, Mr. Gonzales. Now, Mr. Suite, tell us, in the absence of this legislation, what are the risks to the public? How is it impacting the public at present?

**Mr. Suite:** I think I would want to defer to my Senior Legal Officer, Mr. Phillip, who will respond to that question.

**Mr. Phillip:** Madam Chairman, honestly speaking the majority of the Data Protection Act as it now stands is unproclaimed but public bodies and private sector are guided by the privacy principles. So we hope that the majority of the private sector is abiding by the general privacy principles as enunciated in the Act.

**Madam Chairman:** You know, sometimes when we hope we die in despair “eh” so we really have to get moving on this. Now, the UK has set quite a bit of store by what happened in Gibraltar. They talked about the legislative framework put together by officials in the Government of Gibraltar, and, you know, their new Act. When I say, “new Act”, because Britain would have had – UK would have had data protection in the 1970s and now they have the 2018 Act. So have you all been looking to see what improvements over the years have taken place within the UK and perhaps look at what has happened in Gibraltar, that they speak so highly of, to see that maybe that could short circuit a lot of what we are trying to do, you know, to put an Act in place that has a proper framework that deals, you know, and abides by all the conditions? Because, I mean, privacy concerns have been there since the United Nations declaration on human rights.

So it is not nothing new and a number of countries have data protection legislation. So I am not too sure as to what is happening that Trinidad is being kept back like that, when perhaps what we need to do is to look very closely at what has happened in other jurisdictions to see what we can emulate, and then what we cannot, we just adapt to our local conditions. And I want to ask though, how is the delay affecting, if at all, the roll out of more extensive e-Government services? A lot has been happening in terms of the Registrar General, his office and the court system, you know, but tell me. So those two things I want you to look at. To what extent is the delay affecting the other services that are impacted by this legislation?

**Mr. Suite:** I do not think that this specific piece of legislation really delays and impacts significantly on the implementation of those initiatives in various Ministries and Departments, because we focus – the time when we looked at the IT and we think it is something different than what we were doing before. I mean, this information has always been in the Government’s possession or the public authority’s possession in terms of what you are using; all you are doing now is storing it in a different medium that makes it more readily accessible. I think when a lot of these initiatives in terms of what is being done – let us say like Licensing or the Registrar’s Department, when it becomes impacted is when we start to look at things like digital signatures or electronic payment systems, and that is when it sort of gets delayed when you have to try and tweak various pieces of legislation. But in terms of the actual data protection itself, I do not think that the Act itself is delaying the implementation.

But what we are really looking at is – what the Data Protection Act would do is in terms of reducing the risk by causing persons to put in certain measures in order to comply with the Act, and what it does, it reduces the risk of your private data going out there. And you would find that a lot of entities, both public and private, when they put data because of – there would be that awareness of the risk in terms loss of data, that from an IT level you would try to put certain measures in place to safeguard and protect the data within its purview; because, one, they would want to do it to protect themselves as well because each firm or each organization would want to protect their reputation against suffering a data breach and the loss of data, so they have their own self-interest as well as trying to protect the customer or the client or the user who has provided that data.

So what the legislation, when it is fully proclaimed, will provide a proper legislative framework but I do not think it stalls or delays completely. I mean, it would have certain hindrances but I do not think

it completely delays the implementation of those measures.

**Mr. Gonzales:** Chair, can I ask a further question?

**Madam Chairman:** Yes, you may.

**Mr. Gonzales:** Chair, I think you asked a pertinent question of the Senior Legal Counsel, that is Mr. Phillip, in the context of in the absence of data protection, how does that impact and expose the citizens of this country? I think it is a very serious matter because not too long ago – I think it was a couple of years ago, we have heard reported in the Parliament of the UK and in the US Congress where certain international agencies had access to the data of the citizens of this country from state agencies, like the Registrar General's Department, from the TSTT; some of the utility companies, where the people, the citizens of this country started receiving emails and text messages in an election campaign and it was clear that there were some significant breaches of the privacy of citizens by external agencies getting access to the data of the citizens of this country by state agencies.

So I think your question is very pertinent because we in Trinidad and Tobago have been victims or potential victims of invasion by external agents perhaps working with politicians or political organizations where they get access to the data of citizens for political campaigns. And therefore, if there was one particular incident that should have led to the people of this country and the Parliament and the Government, ensuring that this Data Protection Act is taken up, it is dusted off and it is fully implemented, I think it would have been in this particular occasion. So I want to draw to the fact that I think your question is important; it is very pertinent, because outside of data protection the privacy of our citizens is seriously and significantly compromised.

**Madam Chairman:** Quite so. Just yesterday one of my colleagues purported – you know, I received an email and I responded only to get an email from her, you know, the lawyers saying, "Do not respond to this."

**Mr. Gonzales:** Exactly.

**Madam Chairman:** Now, telling another person, another lawyer, "Do not respond, this is not me."

**Mr. Gonzales:** Exactly. Exactly.

**Madam Chairman:** You see. So, I mean, it was kind of frightening, you know, to see that she sent my – it has been hacked. So we have been having problems all the time. I mean, there is no requirement also for encryption of signatures, you know, and people are doing online purchases. The best bank – performing banking from the newspaper reports in Trinidad and Tobago said to me a couple of days ago, you know, "We are not allowing this because we have a problem with fraud", and, you know, so a lot of things are happening. And then, you know, I said, "Well, let it go"; they said, "Okay, we will release and let it go through", and then it was verified that the purchase was all right. But, you see, this particular company you are dealing with, we have a problem with fraud. So they are trying to protect me by, you know, saying, "You cannot do this purchase." So, you see that a lot is happening so we really need to get those laws in place.

**Mr. Gonzales:** Correct. Chair, I would also want to share briefly that just earlier on this week I had a tour at the main TTPost head office in Piarco and it was part of the roll-out and the implementation of TTPost's new S42 addressing system where they undertook an exercise over the last five or seven years to come up with this new addressing system using GPS technology, and what have you. And this, the information that is now in TTPost's possession with respect to the address of citizens is so powerful, and I asked that critical question, "What protocols do you have in place now within the organization to protect this very sensitive data from being breached by external forces?" And you would be shocked to know that there are absolutely no protocols. So there are no internal protocols and we do not have a data protection policy and a Data Protection Act to protect the citizens of this country. I have mandated TTPost to immediately come up with a system to protect the data because I told them that maybe next four years I would not be sitting in this position; there might be someone else with ulterior motives and an ulterior agenda that is going to take this data and victimize the people of this country.

**Mr. Suite:** Chair, if I may?

**Madam Chairman:** Please proceed.

**Mr. Suite:** Yes. Thank you. Well, I heard the Minister's reference to TTPost and names and addresses of individuals, if I wanted the names and addresses of individuals I would not go to TTPost, I would go on the Elections and Boundaries website and download the election rolls and get the names and addresses of everyone over the age of 18. It is publicly available.

**Mr. Gonzales:** A lot of the times –

**Mr. Suite:** I format – and there are some people using those rolls for marketing purposes.

**Mr. Gonzales:** All right. And because we do not have data protection and data protection policy –

11.20 a.m.

**Mr. Suite:** Well, the Elections and Boundaries would post that information because they are required by law to make the information available. What IT does is because you can mine data from different places and then collate with what you already have, there are a lot of things you can do with little pieces of information they gather from different places. So the roles – and those things are public information, but no one really would have bothered because before they were manual, but now it is electronic, and you can go on the Internet and download it. That is what is happening.

**Mr. Gonzales:** You see, PS Suite, and again it comes back to the issue that you have raised, that given the direction in which we are going in this digital world and the pace at which we are going, yes, information is readily available, and I agree with you. That is the reason why we need to put the Data Protection Act and policy on steroids, to make sure that it keeps up with that fast pace and the evolution that we are moving towards this digital world. So we cannot be floundering and tweaking and just looking at ways in which we can partially proclaim, no, no. Things are happening quickly, and we need to be very clear in the direction in which we need to go as a country where data protection is concerned.

**Mr. Bacchus:** Madam Chair, might I?

**Madam Chairman:** Yes. Proceed.

**Mr. Bacchus:** So a couple of things, and I want to point this out to all involved in the Committee. We must ensure that we understand the delineation between data protection and the cyber security component of protecting information. While there is some correlation to the two, they are not the same. Madam Chair, what you described, really and truly, is about security breaches within known solutions, which should be addressed by the appropriate cyber security protocols. That is something that represents a different type of risk in your dealing with digital government. Data protection, on the other hand, deals with other components of that. So I want to make that delineation.

The other thing is – and what member Gonzales said is interesting because of the response. The idea that something is available does not give you the right to manipulate it, and that is part of data protection. So while something is readily available, you cannot – you see it all the time, particularly in items of entertainment. You could consume it, yes, sure, right, you cannot use it for no other purpose. So inside of our laws we have to address that aspect of what it is as well and it will be addressed once we do it properly, and we will.

The other thing about hindrance and whether or not the non-proclamation of this goes here. It may not, as PS would have said, because we can go ahead and do things. The issue you are going to have is in the back end. When the proclamation comes, if you have done things that would be at variance or in violation of what is there, in your design and build of your digital solutions, you then find yourself in a dilemma. An example would be the Information Commissioner, which would define the rules that regulate the exchange of information across Ministries. There is nothing stopping you from doing it now. When that comes into force and the rules are set, if you are found to be in violation of that, now you are talking about rework to readjust.

But what I want to ask, PS and team, there are a number of current things that are happening, that whether under data protection or under data sovereignty – I am not sure, but I want to get your view on it – things specific to cloud services, storage of data and the manipulation of data via external agents and in other countries, but data that is still actually is resident here, or that has been exported here, where does that sit? Is that on the consideration of where it is or is that exclusively under data sovereignty?

Then, of course, the question of AI, which is the manipulation of data, which is not necessarily whether or not the data is protected or not, but how that data is being used in terms of decision making and so on. Where does that fit in the scheme of what we are discussing and, of course, a Caricom regional wide spin on this, from a data protection perspective, as a region? How would you respond to those things?

**Mr. Suite:** When the consultant met with the stakeholders, they would have gotten comments or responses from the Ministry of Public Administration and Digital Transformation, and they would have addressed a lot of those issues in their comments, and that is something that the consultant is also looking at in terms of making recommendations. So that is something that we are kind of waiting on, in terms of the primary report, to see how it is addressed, what are the proposals.

**Mr. Bacchus:** So it is really an assimilation to create a position based on other stakeholder Ministries, divisions and agencies that would inform us how that works?

**Mr. Suite:** Yes.

**Mr. Bacchus:** Madam Chair, thank you.

**Madam Chairman:** The submission of the OPM noted that stakeholders sought clarification for the use of predictive analysis and profiling. Tell me, Mr. Suite, if you can, for what purposes do Government, the public sector agencies propose to utilize predictive analysis?

**Mr. Suite:** I do not think we had proposed to use predictive analysis. I think the stakeholders were looking at current trends because, again, the Data Protection Act is for both Government and private sector use of data. I think the stakeholders were looking at current trends by big data companies like Facebook, WhatsApp, where they sort of collect and looked at data and make those sorts of analyses. I think they are looking at what protection the Act would have in terms of using that information.

**Madam Chairman:** Thank you.

**Mr. Bacchus:** A quick follow, Madam Chair, just on that point.

**Madam Chairman:** Please do.

**Mr. Bacchus:** So, again, the manipulation of data for any particular purpose, whether—and in the predictive case, in the private sector it is more to create things like attractiveness indexes that would tell you where to target your products. In the Government sector, it is really about—the public sector, it is really about getting the correct information, getting the correct data sets and then using it to help in decision-making. So that is where that sits.

The thing about data protection, and this was a question I think that showed up in some parts of the—is whether or not data protection is going to be viewed as a hindrance or whether it is going to be viewed as help in this digital government thrust. When I say digital government, it includes all of the pieces associated with the private sector. Is it the view, PS and his team, that it is being perceived as a helping thing or a hindrance in terms of where we are going toward this digital outcome that we are trying to create?

**Mr. Suite:** Madam Chair, I think a lot of the individuals, I think when they attended consultations they just had a lot of concerns. Different stakeholders had different concerns. I think some persons were looking at like the cost of compliance and what sort of obligations it would put on them. Others looking at being able to use data in terms of being able to make business choices or economic decisions, or planning issues. Others were looking at in terms of press freedom. So you had a mix of views coming out. I think generally, I mean, the Act—like I said, the Act is 10 years old, a lot of things would have changed since then. So persons wanted to know whether current issues are being addressed because a lot of these things would not have been current at the time when the Act was being proclaimed. I mean, by the time passed in 2011, it probably would have been drafted a couple of years before and tweaked a little bit coming then. So a lot of things would have changed in that space of time and persons' ability to use data that would not have been contemplated before. It is now coming on stream.

So what you find is a lot of stakeholders, I suppose, just raising concerns on different issues. So you would have had a mix of views, in terms of those looking for trade facilitation, ease of doing business, and those who were concern about protecting your privacy and invasion of privacy, et cetera.

**Mr. Bacchus:** Madam Chair, again, through you, the key to this is that they are not mutually exclusive, that

you can be protected and still have correct sharing of pertinent and specific and relevant information to allow for the efficiencies that digital government brings. So the other piece about this, and I know you touched on it a bit earlier, is really about the education. Now, there is specific education as to what the Act does and contains, and I agree with member Gonzales that that has to be focused and very clear. But the general idea about the sensitization of the population and of industry about data protection and the associated pieces and the benefits of that, and the risks involved and so on, that has to start long –well, you say it has been ongoing, but how is it going, and what more needs to be done, and how can we help you get to that point?

**Mr. Suite:** That would have started a while back. I think, to be fair, it has sort of stopped because of looking, waiting to see what comes out of the consultation. From my viewpoint, I think we would really have to rely on the Ministry of Public Administration and Digital Transformation, in terms of their data protection policy. We probably have to work hand in hand in terms of crafting that policy and developing a strategy in terms of rolling it out to the public Ministries, Departments, as well as the private sector and doing that thing. I do not think that is something that we would have, from sitting here in Office of the Prime Minister, be able to look at all the wider implications and implement on our own. I think that is something that we will have to do together with the Ministry of Public Administration and Digital Transformation.

**Mr. Bacchus:** Thank you.

**Madam Chairman:** Now, you drew attention in your submission to the absence of regulations to guide service providers by highlighting –and nothing in the existing law stops the use of their cloud services. Given that personal data is usually stored by the major information and communication technology companies, Google and Facebook and Yahoo, and the customers have the option to disagree or agree with the terms and conditions, do you think that this matter should be left to individual or consumer choice, rather than attempting to legislate? What is your view on that?

**Mr. Suite:** I do not think I can fully answer that question. I mean, you make reference to the terms and conditions and individuals have the option of accepting –but I mean, practically, no one reads those terms and conditions. They more or less click the box and move on. It is funny, like when we had the issue in terms of WhatsApp and people suggesting that, look at this agreement with WhatsApp and Facebook and they should move to another platform. And most persons –I do not think anybody could really remember whether they clicked that option when it came up before them.

So it is a difficult question in terms of domestic legislation, trying to address some of those issues when you are dealing with Facebook and those larger entities. I mean, if you follow what is going on in the news with the European Union or Australia with Facebook and use of news articles, I do not think it is a question that I have the capability of answering. I mean, it is something that you need to consider but then you also have to look at –a country our size and our GDP, probably that is the monthly budget or less for some of these larger entities. If you sort of put the sort of legislation that would not make it worth their while to do business in Trinidad, those are some of the things you would have to weigh going forward, but I really cannot answer that question.

**Madam Chairman:** And, of course, people do not only store correct information, but they also store incorrect information. As I found out when somebody was celebrating her birthday in Facebook and I know she was ahead of me in school, and she was younger than I was. So people do all sorts of things. Further questions? It is not often we get Mr. Suite here with us. We have to take full advantage of him.

**Mr. Gonzales:** Madam Chair – go ahead, Jayanti, I am sorry.

**Ms. Lutchmedial:** Thank you. PS, would it be possible for us to have some sort of collated or form –I do not think if it exists or if you all have done it – a collation of all of the concerns expressed by the stakeholders? So that we ourselves can appreciate exactly some of the –I do not know if that was done, but that we could appreciate exactly what the concerns are, because it might guide us in terms of being able to make recommendations in our report. You could perhaps, I do not know if it is possible, share with us in a tabular format –I think that is always a useful way to collate stakeholder feedback –what is the concern and, perhaps, if you have come up with any solution or proposal, or if you have any response to the concern, and then we can then, perhaps, look at making recommendations or giving some guidance to even

assessing whether the concerns are valid or could be addressed elsewhere. Is that possible for you to share with us?

**Mr. Suite:** Yes, I think we can present that tabular – and highlight the main issues going forward. Yes, of course.

**Ms. Lutchmedial:** Thank you.

**Mr. Gonzales:** Chair, can I also recommend to PS Suite and his team to look at Barbados. I am seeing here that they passed their Data Protection Bill in 2019, and they are working towards full implementation of the Bill. I mean, Barbados is just not too far away from us. It is a Commonwealth jurisdiction. We have similar history and experiences and, perhaps, I might want to suggest to him that you look at the work that they have done in coming up with their Data Protection Act in 2019, and see where we can learn from their experiences in trying to expedite what we are trying to do here, and what we are discussing here.

**Mr. Suite:** Sure, Chair. Thank you, member. I know when the consultants did their gap analysis, they were looking at both Jamaica and Barbados, and they had noted that Barbados had chosen to adopt the English – well, the European as well, the GDPR modelling legislation. They had advised that we could augment too some amendments, and repeal and replace some parts of the Data Protection Act in terms of a comprehensive piece of legislation to give citizens more control over their data. So that is something that we have been looking at. They also looked at some of the powers for the Office of the Information Commissioner in terms of what Barbados did in their Act in 2018. So that is something that is being looked at by the consultant.

**Madam Chairman:** Apart from the public consultation, you had a meeting, I guess, with people. Did you actually send the Bill or, you know, the Act to various people to ascertain their views? Certain, you know – who may have a vested interest in this?

**Mr. Suite:** I would ask Mr. Noel if he could answer, please.

**Mr. Noel:** Sure. Thank you very much. What I do know is that the consultation – we would have sent the request via letter to various organizations and I can, perhaps, provide those persons who were contacted for the consultations. They would have provided submissions to the Ministry at that point in time.

**Madam Chairman:** Do you remember if you had the educational institutions, like law school and so on? Because it is impacting human rights, and there are people who have a great interest in human rights and they may be able to assist in that regard. Or did you send this to public bodies for their own regulation, but just to ascertain views on the legislation to assist you?

**Mr. Noel:** Sure, yes, we would have consulted a wide scope. I know it would have been both private and the public sector. I do not recall exactly if that specific one you mentioned was consulted, but I do know that we would have taken note of both public and private entities as well. The actual list, we can look at it and provide.

**Madam Chairman:** I strongly advise that you look at some of educational institutions of higher learning to see what you can get from there to assist you.

Members, any further questions for Mr. Suite and his team from the OPM?

**Ms. Lutchmedial:** Just quickly. Do you anticipate that the timeline you spoke of here of September, if that timeline would be kept for the feedback from the consultant? Can we anticipate that would be, you know – with all of the challenges we have had and time frames being thrown off and so on, is that still on track for September 2021?

**Mr. Suite:** Well, I would have to say yes. I mean, so far they have been keeping on track, so I am anticipating that they would continue to do so.

**Ms. Lutchmedial:** All right. Thank you.

**Madam Chairman:** In the legislative brief you spoke to – the legal consultant advised that:

Due to the cultural environment in Trinidad and Tobago, mechanisms are needed to prevent the abuse of power by regulators.

Do you know what he had in mind by the “cultural environment”, the use of that phrase?

**Mr. Suite:** I would want to defer to Mr. Phillip. I do not think if he is looking at the size of the population or not, and everyone knowing each one, but probably I would want to defer to Mr. Phillip on that, please.

**Mr. Phillip:** Thank you very much, PS. Well, what came out of the consultation, what one of the stakeholders had mentioned is that there is not a culture of awareness on the part of the large populace of Trinidad, and that they are not primarily concerned about privacy and how it can impact them. Now, I am not sure what the consultant has in mind, so we have to wait as regards to the recommendations. But that was the main concern, in terms of we understanding our need for privacy and how it can be impacted. I am not sure if it answers the question accurately.

**Madam Chairman:** Did I hear you say that we are not concerned about privacy? Is that what you said?

**Mr. Phillip:** No. One of the stakeholders raised the concern that we as a people, just talking from his point of view, is that the cultural awareness of privacy is not that prevalent within the society. It is not our view, it is not the Government's view, but it is just one of the views of the stakeholders from the consultation.

**Mr. Bacchus:** Madam Chair, through you. It would seem to me that what they are talking about is not necessarily the concept of privacy at a personnel level, but the concept of privacy as it relates to things of the utilization of data. So everybody in Trinidad and Tobago is absolutely sure that they want their information to be private. I do not know that that would be something that is not a global acceptance. What I think the issue would be is how that information could be used and the awareness of how it could be used properly and correctly, as opposed to incorrectly, might be the awareness of which they speak. But I am sure people are well aware of the fact that they want their stuff to be private.

I will use an example because in your submission, there are a couple of things mentioned about health. One was mentioned about the duration of time for health records in general. Well, the duration of time, how long should one keep one's health records. Then there is a further section in the submission that speaks to that there is no time duration set or established, or has been proposed in the legislation to deal with the maintenance of how long do you need to keep records. That in itself is something that will have to be addressed, that will be addressed.

But think about this, and I want to use this example. There exists as we speak health information management systems; some of them electronic, some of them still analog and paper based. The privacy, as it relates to medical records, is something that is well established. Member Deyalsingh who is here with us could speak at length about that. Everyone assumes that the only people who have visibility to their medical records would be their personal physician, whoever it is. But what happens when you go to a public institution? What happens when you go into the Port of Spain General Hospital, the San Fernando General Hospital, et cetera? What happens to your medical records then and who has access to them at that point? No one really thinks about it until you get into global system.

So when you talk about an electronic health management system, where regardless of which hospital that you go into, your medical records will be available to health care professional who are trying to help you, then in that case it is a good thing. When someone is enquiring about your medical records for other purposes who should not be doing it, then that is something else.

So you are talking about data protection to allow for the misuse of data, but while yet permitting the sharing of that information in the interest of the person involved. That is the difference in where it is. I think it is that differentiation that would represent a certain level of ignorance on the part of the populace. I do not know how you feel about that. Mr. Phillip, that was to you.

**Mr. Phillip:** I agree totally with your sentiments, member, totally.

**Mr. Bacchus:** I did not think it would be that simple. Thank you, Madam Chair.

**Mr. Scotland:** Madam Chair, good morning.

**Madam Chairman:** Mr. Scotland, yes. Perhaps as we are talking about medical records, Mr. Scotland, perhaps we could even look at this, because in all the questions about privacy of medical records, I do not think that what was considered is that there is something called "waiver" of privacy.

**Mr. Scotland:** But, Chairman, I have a more fundamental issue I would want to raise with your Permanent Secretary, from your opening comment about us being the "Land of Limbo" and this legislation being in limbo. Chairman, may I, through you, ask the legal personnel and the Permanent Secretary, whether or not the generous time frame that they have given themselves to have the legislation proclaimed, can be accelerated in light of the fact that we are now more than a decade hence? Can I ask that for the legal

department and your PS, if it can be accelerated? Because, Chairman, in my respectful view, they have given themselves a time frame as if the Act has now been drafted, and everything is everything. Can I ask that firstly?

**Mr. Suite:** Chair, okay. The Act, yes, was drafted in 2011, and things would not have progressed at that point in time. But in terms of a generous time frame, I do not think April to September, in terms of drafting legislation and presenting to stakeholders, is a generous amount of time. Because when the consultants did their gap analysis of the particular legislation, they would have pointed out a lot of shortcomings and the need for a lot of things to change. Then when they met with the stakeholders in March and the other issues were raised, they have to take those issues as well as their gap and come back with a draft within – you are talking about three months, which is June, and then go back out to consultants in July, and come back. So I do not think – yes, I understand the impatience in terms of it being implemented in – assented to in 2011 and not being fully proclaimed, but we really have to deal with where we are at present, the shortcomings that have been identified, the changes in terms of the IT landscape that would have taken place with the introduction of new technology, et cetera, as well as identifying the need for other supporting or supplementary legislation to also being adjusted. So I do not think that that is something we would really benefit by compressing it by, I mean – to two months to try to do all of that in that space of time.

11.50 a.m.

**Mr. Scotland:** Chairman, through you I have –

**Madam Chairman:** Yes, please.

**Mr. Scotland:** – a follow up. PS Suite, if I seem to be pressing you, then you would have the right impression. The legislation that is un-proclaimed, the data protection legislation, would you not agree with me, that in light of what is being – what is transpiring now that it is now even more important for it to be proclaimed? Would you agree with me? If you do not agree, you can say no.

**Mr. Suite:** Agree, yes.

**Mr. Scotland:** Good. Chair, through you, we have precedence from Australia, from England, from Canada to say the least, where we can pattern our legislation, so this legislation is by no means novel. Jamaica – have we reached out to those other jurisdictions to learn from their experiences in order to assist us with a more efficacious process in proclamation? Has the consultant reached out? Has the legal team in the Ministry reached out?

**Mr. Suite:** I would have mentioned that the consultant is looking at the legislation in Barbados and in Jamaica in developing their proposal and their finalized brief. So that is something that is –

**Mr. Scotland:** Chairman –

**Madam Chairman:** We have –

**Mr. Scotland:** – I lost connectivity.

**Madam Chairman:** Sorry.

**Mr. Scotland:** I am not hearing the PS.

**Madam Chairman:** Okay. Now, we have a Ministry that deals with digitization, and I am wondering if that Ministry can play any part – digital transformation – in assisting with speeding up the process? Does it have anything to do – because really a lot of it, the data, is because we are living in this digital environment, and I would imagine that you could be working in tandem with that Ministry, some officials from that Ministry to try to assist because you need all the help you can get, you know, and that may very well be part of the solution.

**Mr. Scotland:** Chairman, can Legal answer, and then maybe member Bacchus could give us an input? But I want to hear Legal on it because this legislation, Chairman, should not have taken so long to be proclaimed. It is by no means novel.

**Mr. Phillip:** Thank you very much, member. It is a good point. But as what PS Suite would have mentioned, the consultant would have been looking at various jurisdictions, Canada, Australia, what pertains in New Zealand and also the regional aspect of it, Barbados and Jamaica.

I want to make the point that while there has been an inordinate delay in terms of proclaiming the legislation, and we all know why for the various reasons, I just want to make a point that in terms of data



protection, we want to get it right. We do not want to rush it and then miss the important elements of it. So we want to make sure now that the stakeholders, both public and private, have been consulted extensively, so when we come now with this piece of legislation everyone feels comfortable.

Now, with regard to consultation with the Ministry of Public Administration and Digital Transformation we have been consulting with them with regard to the Act and we have been collaborating.

**Mr. Scotland:** Chairman –

**Madam Chairman:** You did not mean to use that word “rush”, eh? I do not think you meant that.

**Mr. Phillip:** No, Madam Chair.

**Mr. Scotland:** Well, Chairman, in my –

**Madam Chairman:** Not in this scenario, you cannot talk about rushing; 10 years, eh? All right.

**Mr. Scotland:** Chairman, it is like the proverbial snail walking on the peanut butter and then falling into molasses. But here is a question that I have for Legal. You know in legislation, Legal and PS Suite, you cannot please everybody all the time. There comes a time when you need to implement the legislation, and if persons are aggrieved, Chair, you know, Legal, that you challenge it in the courts. But I do not think, Chair, through you, that we should be going into 2022 without this legislation being proclaimed. Do we have a commitment from the team that that will be the goal?

**Mr. Suite:** Well, we have a time frame where the consultant would provide the draft legislation, as well as the final report in September. Once we receive that final report and the final proposed legislation regulation, it would be up to us to present that to Cabinet, and Cabinet will deliberate and after Cabinet has deliberated, provided the sign-off on it, the legislative agenda in terms of the proclamation and the amendments, that would be off my lap and back on your – that will be on your plate really.

**Madam Chairman:** When was the consultant engaged, may I ask?

**Mr. Suite:** The consultant was engaged, if I am not mistaken, in December. It may have been early 2020 and the finalized inception report would have been completed in December 2020. So once they had finalized the inception report and the conceptual framework plan and compliance with the terms of reference agreed, the work would have kicked off in terms of – well, from December 2020 to now.

**Madam Chairman:** Thank you.

**Mr. Scotland:** Chairman, I still did not get a timeline for the actual, the end. I need an end date from you please, Sir.

**Mr. Suite:** The end date that I could commit to was the consultant would provide me with the draft legislation and the final report in September. From there I will present it to Cabinet. If Cabinet agrees, then it will have go through LRC and the Parliament. I could only commit from my part which is in September/October. After that it is beyond me.

**Mr. Scotland:** So the Chair can have it recorded that we will hear from you, PS Suite, on or before the 15<sup>th</sup> of October, 2021 with respect to this legislation. Chairman, that is a commitment that we can record in writing. Chairman, I am very –

**Madam Chairman:** I did not hear that from Mr. Suite.

**Mr. Scotland:** Mr. Suite?

**Madam Chairman:** I did not hear that from Mr. Suite, Mr. Scotland.

**Mr. Scotland:** Chairman, shall I ask the question again?

**Mr. Suite:** I could respond, if I may, Chair? October 15<sup>th</sup> I will be in a position to report to the Committee on the status of the project in terms of the commitment for the proposed legislation and the final report from the consultant.

**Madam Chairman:** So the October 15<sup>th</sup> date, that is to report on the status, that is not the end of it. You are just giving a report.

**Mr. Suite:** And that is –

**Madam Chairman:** And that report may state that it will end in December of 2021.

**Mr. Suite:** No. That report would state the outcome of the consultation, as well as the proposed legislation would have been received from the consultant, and I will present, once we receive within the Ministry, we will prepare the draft note to Cabinet. I cannot commit beyond Cabinet and the Legislative Review

Committee and Parliament. That will be a little beyond me.

**Mr. Gonzales:** Chair, I think the Committee needs to be—I think the Committee must be cognizant of the fact that this consultant that PS Suite is referring to, is a consultant that has been retained by the Ministry of Trade and Industry in pursuance of its own agenda. I am not of the view, based on what I have heard so far, that this consultant is looking at the Data Protection Act as a whole or full implementation in Trinidad and Tobago. The consultant is retained by the Ministry of Trade and Industry to make, to recommend certain changes in alignment with its policy with respect to the single economic window, and what has to be done so that it can become rather compliant with its international obligations with European Union. So I am not too sure whether or not the consultant will treat with data protection and the readiness of Trinidad and Tobago for the full implementation of the Data Protection Act.

**Madam Chairman:** Well, I do not want to make assumptions outside of our receipt of the terms of reference, but when I hear Mr. Suite, and he is talking about draft legislation, I feel a sense of confidence that we are looking at a data protection Act that would take into consideration the needs of the country and not just one Ministry. Am I not right, Mr. Suite?

**Mr. Suite:** I am just looking for—just now. Sorry. Right. Are you hearing me, Chair?

**Mr. Gonzales:** Yes.

**Mr. Suite:** Yes. Okay.

**Madam Chairman:** Very well.

**Mr. Suite:** All right.

**Madam Chairman:** So let us try you again.

**Mr. Suite:** Okay. When the consultant, after they did the inception report, the thing that they would have done afterwards would have been a gap analysis. And the key gaps that the consultant would have identified is that the Data Protection Act and the issues to consider in drafting amendments to the Act and regulations, and in prescribing recommendations to address the issues identified, they will take consideration of international best practice by the EU and the latest developments taking into consideration the local context and the developments in terms of big data, et cetera.

So that these key issues that are going to be addressed, would be the key concepts and the definitions as it relates to data sharing and standards. The consultant apart from the public consultations they would have had, would have also liaised with the Ministry of Public Administration and Digital Transformation in terms of their role that they have in terms of developing data protection policies. So all of these things would form part of, part and parcel of what the consultant would have undertaken.

The consultant, yes it was retained by the Ministry of Trade and Industry because they were looking at advancing their issue, but when they realized that they could not move—they were limited in how far they could go if those amendments in the Data Protection Act were not implemented and therefore it was as a result of their recognizing that there was a mutual interest in terms of what they were doing that they—since they were already trying to progress their Single Economic Window project, they are the ones who had undertaken in collaboration with the communication division of advancing the Act. So, yes, they are looking at the broad definition of data protection and not just narrowly focusing on the issues related to that single economic window.

**Mr. Scotland:** Chairman,

**Madam Chairman:** Mr. Scotland, followed by member Bacchus and then Ms. Balkaran.

**Mr. Scotland:** Chairman, the Chief Parliamentary Counsel must be able to bear some assistance in this matter in order to expedite it. What about the CPC's involvement in this matter? Come on. Chairman, I get a feeling, and it is only a feeling and it could be me, that all hands are not on deck with this legislation. It is not a criticism; it is a feeling. So I will be happy to be wrong about that feeling. Chairman, have you lost me?

**Madam Chairman:** No. You—

**Mr. Scotland:** I have not—Chairman, I want to know if they are utilizing all the resources, if all hands on are on deck. All the resources available to a government are on deck in order to produce, or to bring to fruition such an important piece of legislation. Thank you, Chair. Chair, that is my last question.

**Mr. Gonzales:** Chair, can I add to the concerns –

**Madam Chairman:** Mr. Suite, will you respond? And then I will have Mr. Bacchus.

**Mr. Suite:** The CPC would deal with matters referred to it by the Cabinet. So when the draft legislation has been prepared and Cabinet has approved by way of a Cabinet Minute, that is when the CPC would get involved at that point in time. I mean, the CPC is drafting legislation for, or involved in legislation drafting for the entire public service, so they would not start from scratch, they would have to have the policy document and the draft legislation signed off and approved by Cabinet before they begin to work on it.

**Madam Chairman:** All right. Let us hear member Bacchus now. Thank you.

**Mr. Bacchus:** There are a couple of things. So for disclosure, obviously in the other place I am the Minister in the Ministry of Public Administration and Digital Transformation and as such I am also well aware of the efforts of the team Ministry in conjunction with the Ministry of Communications and the Ministry of Trade and Industry in terms of the adjustments and contributions to what will be the final outcome of the consultant's report. So again, I will leave that until the TOR is produced and understand that in the further context of that is required I can add.

The other thing I want to make clear and to make sure that people have appreciation and consideration of, it is spelt out a number of times in the submission but it is one of the things that maybe we lose sight of, and that is the readiness of, whether it be an industry, whether it be the public or the private sector and/or the citizenry to be able to absorb and comply with the legislation that we are going to put forward. A readiness study is one of the things that determines in a number of ways the type of compliance that you are going to get initially, the type of acceptance you are going to get initially and the type of push back. And it also gives you a good guide as to how much pre-work you have to do to be able to get the full efficacy that you are trying to get out of the procurement of the legislation.

And this is to PS and maybe to the legal management part of the consultancy. You know, has that type of study been done? I mean, apart from saying that, you know, there is some low level of understanding of certain aspects of privacy and so on, is there a readiness part or was that part of the report that was initially submitted that says the public sector, the private sector, the citizenry and/or the wider Caribbean region and so on in terms of its readiness for this type of legislation?

**Mr. Suite:** Mr. Noel or Mr. Phillip to answer, please.

**Mr. Phillip:** Thank you, PS. In terms of the consultancy, I can confirm that there was no report done as to the readiness of the public sector or the private sector.

**Mr. Bacchus:** Would that not be something that would be of relevance in terms of – while, I mean, yes it is legislation, we could proclaim it at any time, but its efficacy and how it is accepted and then the compliance. Because you could find yourself in violation of something simply because you are not ready to do it. There has to be consideration of that as it relates, because it sets up how much work we have to do in preparation for the actual proclamation of what will obviously be a good piece of legislation. What is the view then of PS and his team where that is concerned?

**Mr. Suite:** Well, in terms of where that is concerned, I think I will probably go back to the issue that member Gonzales had raised before in terms of really looking at the legislation, the final piece of legislation which is guided by the overall government policy and getting that in place so that when you go out to the public and go out to the Ministries and Departments, that you are very clear on what it is you are looking to implement and the messaging that goes through them.

I think in the absence of that final complete policy document, you could only really treat with the general principles of privacy and some of those things that have already been proclaimed by the Act in terms of laying the ground work, so that when you are ready to advance, you would really have a certain heightened awareness so that you will be able to progress a little faster at that point. And I think that in terms of that readiness assessment, that that is where the Office of the Prime Minister would have to rely and liaise more with in terms of the Ministry of Public Administration and Digital Transformation and moving that part forward as well.

**Madam Chairman:** I wonder if anybody here present can clarify a statement that was received from the Office of the Attorney General and Ministry of Legal Affairs which seems to go – to be at variance with

what we have heard here today. In response to the question as to whether the legislative drafting department has prepared or is currently engaged in preparing any amendments or subsidiary legislation or regulations pursuant to the Act, the response from the AG's department is that:

Several issues regarding the constitutionality of the law and amendments associated with recent developments in the law have been discussed.

The recent promulgation of laws in the European Union and elsewhere directly impact the review of the DPA. Active work is ongoing with the Ministry of Public Administration in respect of the review of the Act. Draft legislation has been prepared and is in consideration.

Now, I am completely mystified.

**Mr. Suite:** Chairman, I cannot respond to that. I mean, because one, under the *Gazette*, the Data Protection Act would fall under Communications so I am not – so I am not aware that that was being undertaken with the Ministry of Public Administration and Digital Transformation. And I know that our team would have been liaising with the Ministry of Public Administration and Digital Transformation on this issue. And I also know that the Minister of Public Administration and Digital Transformation would have responded to the consultant in terms of when they did their gap analysis and some of the issues. And I do not – looking at the consultant's report thus far, as well as the gap analysis, there was no mention in that consultancy that the Ministry of Public Administration and Digital Transformation was working on – in terms of draft legislation.

**Mr. Gonzales:** But, Chair, I would want to say, with your leave, I am sorry, that having regard to the statement or the information provided by the Attorney General's Office, that the Committee will be in a better place if we can get an update on what has transpired from the work being done by the AG's Office, as well as the Ministry of Public Administration and Digital Transformation, so that we can get a clear understanding as to the various moving parts of what is taking place on this piece of legislation, so we get a clear sense as to where we are as a country and the direction in which we are going. Because clearly, what the Office of the Prime Minister is doing – and that is the reason why I said and I continue to hold on to the view, that it is clear to me that what the Office of the Prime Minister is doing is more or less confined to the Ministry of Trade and Industry. And I was never inclined to believe that it had anything to do with general thrust at which the Government of Trinidad and Tobago is going where data protection is concerned. So therefore, I am not surprised of the information received by the Attorney General's Office.

**Madam Chairman:** I like your image though about the moving parts because I am seeing parts moving around and I am seeing a circular movement and, you know, collisions and, you know, which it sort of will make you dizzy.

**Mr. Gonzales:** Yes.

**Madam Chairman:** You do not know where you are going and –

**Mr. Gonzales:** I think we should ask the Ministry of public admin –

**Madam Chairman:** So we need to get clarification.

**Mr. Gonzales:** All of them.

**Madam Chairman:** You know; we need to find out if we are talking about the same thing –

**Mr. Gonzales:** Yes.

**Madam Chairman:** –and strange enough, you know, the same thing happened last month, you know, because one side is saying – and then the other side is saying something completely different. And it is one government at the end of the day and I am sure you talk to one another.

**Mr. Gonzales:** That is what we hope, Chair, not in Trinidad and Tobago. That is not our reality. So I think the consultant that PS Suite – the consultant that he alluded to during this enquiry should urgently meet with the Ministry of Public Administration and Digital Transformation, as well as the Attorney General's Office so that they can all consolidate their effort in trying to determine the direction in which we go as a country as it relates to data protection.

**Mr. Scotland:** Chairman. Chairman?

**Madam Chairman:** Mr. Bacchus and Ms. Balkaran. Mr. Bacchus, have said your piece? And we can have Ms. Balkaran now, or are you all right?

**Mr. Bacchus:** Certainly. Certainly. Ms. Balkaran, can go ahead please.

**Madam Chairman:** Yes. Thank you.

**Ms. Balkaran:** Madam Chair?

**Madam Chairman:** Yes, please.

**Ms. Balkaran:** All right. So with respect to the two issues, I just wanted to say that the Ministry of Trade and Industry had offered to finance the project because of the loan that they had with Inter-American Development Bank. At that time the Ministry of Communications was named the lead on the project so that every deliverable of the consultant has been passed to the team. There is a technical working team at the MOC, well, at the previous MOC which is now part of the OPM, that was responsible for reviewing and approving by a sign off from the PS of the then MOC and now the OPM on all those – on each deliverable. So it came – the sign off was from our end, not Trade.

So I am saying that it was clear to us that the Ministry of Trade and Industry was not seeking – the project was not about the Ministry of Trade and Industry only improving trade performance and so on. It was really about addressing all the required amendments to the Data Protection Act as a whole. All right? And also the Ministry of Public Administration and Digital Transformation had approached us to be part of the working team, so they are like a peer review, and we agreed; Trade agreed and we agreed. “We” as in the then MOC agreed that we would work hand in hand with the Ministry of Public Administration and Digital Transformation so that they will – we will have their comments on each deliverable as well going along the way.

Also with respect to the work of the Attorney General, I wanted to say that, I believe it was early in January of this year we had a meeting, a virtual meeting with – I would say among the Attorney General, OPM and the Ministry of Public Administration and Digital Transformation, and that meeting was to – how do you say – was to make clear and inform all parties that we were working, the OPMC was working on this project, so they were all made aware. I believe somebody from the LRC was also part of it as well. Yeah? So they were informed.

I also know that the Ministry of Public Administration and Digital Transformation is also working with consultant with respect to the ETA, the Electronic Transactions Act. So it is news to us in terms of what you just announced in terms of the message, because we are saying that in January this year we had that meeting. And also the AG and Legal Affairs has been part of the stakeholders’ consultations, as far as I recall. Yeah? Thanks.

**Madam Chairman:** Thank you very much for that. I am not at all surprised by what you have said.

**Mr. Gonzales:** We are getting very dizzy, Madam Chair.

**Madam Chairman:** I am no longer – no, no, no. I am not at all surprised. I think I have lived long enough to know these things happen. What it seems to me is that – so you would avoid this situation because it has happened two months in a row – is that maybe there could be a preliminary meeting involving the various Ministries that are impacted by whatever legislation, so we would all be on the same page because you cannot have people at variance, you know. This is a public hearing and it certainly does not look good. It did not look good last month. I did not go into the specifics last month of what occurred but I had to go into it today. So I would advise before you come here before a public hearing, because it is all about, you know, having faith in the institutions, that you get your act together, your story straight so that one cannot be going south and one going east. All right? Thank you very much. And unless there are further pressing questions, I will invite closing comments from the man of the moment, Mr. Suite.

**12.20 p.m.**

**Mr. Suite:** Thank you very much, Chair. I would like to, well, first I would like to thank the Committee for having us. I think it would have brought out a lot of issues, especially the latest revelation. And I think going forward I would like to suggest that when we, probably in terms of dealing with some of the issues, whether it is this legislation or other pieces of legislation, for instance this one, it would have been probably helpful if we had representatives from the other Ministries also being present at the Committee. Because, I mean, [Laughs] I do not want to say anymore on that, because had we – because if the Ministry of Trade, Public Administration and the AG’s Office were all appearing before the Committee then we could have

met before to find out these revelations. I mean, DPS Balkaran in her presentation had more or less firmed up exactly what our position is.

But, I would just like to close by saying that the OPM recognizes the importance of the Data Protection Act and the fact that it has been some time, and the urgency with which it needs to be addressed, and I think we will undertake to again collaborate with the other Ministries and Departments in terms of having the matter basically put on the front burner so that we go in one direction at a faster pace. I mean, we have demonstrated within the last six months to a year that it has picked up pace after stalling for quite some time, and I would like to maintain that momentum moving forward until we come to a completion. Thank you. Sorry, Chair, I am not hearing you.

**Mr. Gonzales:** Chair, you mike is on mute.

**Madam Chairman:** Sorry about that. Now, I would just like to end by saying, maybe the watchword for this 2021 year should be “collaboration”. Collaboration among so many different bodies that are all joined in some way in a particular enterprise, you would be surprised at what could be achieved. And I think this is the third hearing, I am saying, I am making that point. And I am glad that it came out there, collaboration, collaboration, collaboration, because you cannot have people going in different directions, you know everybody will end up being lost. So, thank you very much, it has been very instructive, and I know that everybody is trying his or her best to do what is needed to do for the country. And I thank you very much for your continued service as public officers to the Republic of Trinidad and Tobago.

And before we leave I would like to thank very much the staff of the Parliament, especially my left hand and my right hand, Mr. Ogilvie and Mr. Lucio for their sterling service. They make life so much easier for us. They do a lot of preliminary work and then they have to do all the follow-up, and we are very, very appreciative. When I joined the Parliament I was told that this is the best aspect to the public service, and they always try to show that that is a correct statement of fact. So, thank you gentlemen on my left and on my right, and thank you members of the Committee who are always happy that you can come in this “COVIDry” environment, and where we can perform, and I always miss though not having you all here at the end of the session to have a little chitchat, you know, amongst ourselves.

It is not the same, but we hope that with God’s grace we will soon be in an environment where we could have out little chitchat, you know, before we leave the premises. So that, thank you members, public servants, staff and of course our technical support. Things went very well today, we did not have any breakdown, so again, I must thank them, because we have been having some little hitches and glitches here and there, so everybody’s system have been working well. So I am sure Mr. digital – ah yes, Mr. Bacchus is taking full credit for something that I am not so sure he should. [*Laughs*] But have a good lunch everybody and see you next month.

**Mr. Gonzales:** Thank you very much, Chair. God bless you and God bless everyone.

**Mr. Bacchus:** Yes, thank you, Chair.

**Madam Chairman:** Thank you.

12.25 p.m.: *Meeting adjourned.*

**APPENDIX VIII**  
**DPA ACT, 22:04- UNPROCLAIMED SECTIONS**

Part	Section
<b>Part II- Office of the Information Commissioner</b>	<b>Sections 19-21, 22-23, 25 (1), 26, 28</b>
<b>Part III- Protection of personal data by public bodies</b>	<b>Sections 29-68</b>
<b>Part IV- Protection of personal data by the private sector</b>	<b>Sections 69-86</b>
<b>Part V- Contravention and Enforcement</b>	<b>Sections 87-96</b>

Part II- Office of the Information Commissioner							
(19) Designation and powers of inspectors	(20) Power of Commissioner to conduct an audit or enquiry of a Public Body pursuant to Part III	(21) Power of Commissioner to conduct an audit or enquiry pursuant to Part IV	(24) Privileged information	(25) Restrictions on disclosure of information by Commissioner and staff	(2) of Commissioner and staff	(26) Protection of Commissioner and staff	(27) Annual Report of Commissioner
Part III- Protection of Personal Data by public bodies							
(29) Personal information	(30) Collection of personal information	(31) Personal information to be collected directly	(32) Individual to be informed of purpose	(33) Retention of personal information used for an administrative purpose	(34) Accuracy of personal information	(35) Protection of personal information	(36) Storage and access of personal information in Trinidad and Tobago
(37) Disposal of personal information	(38) Use of personal information	(39) Consistent purpose	(40) Limitation on processing of sensitive personal information in possession of a public body	(41) Disclosure of personal information in Trinidad and Tobago	(42) When personal information may be disclosed	(43) Disclosure for research and statistical purposes	(44) Disclosure for archival or historical purposes
(45) Disclosure of medical information outside of Trinidad and Tobago	(46) Disclosure of personal information outside of Trinidad and Tobago	(47) Privacy impact assessment and mitigation	(48) Personal information banks	(49) Information sharing	(50) Data matching shall be approved by Commissioner	(51) Personal information index	(52) Right of access to personal information in a public body



<b>Part II- Office of the Information Commissioner</b>									
(53) Refusal of access to personal information	(54) Severance and refusal to disclose existence of information	(55) Exercise of rights of deceased persons etc	(56) Responsibilities of public bodies	(57) Right to request correction of personal information	(58) Appeal to information commissioner	(59) Time for application	(60) Complaints to the Commissioner		
(61) Immediate dismissal	(62) Informing of notice of appeal	(63) Mediation	(64) Enquiry by Commissioner	(65) Enquiry in private	(66) Representations	(67) Right to counsel or an agent	(68) Burden of proof		
<b>Part IV- Protection of personal data by the private sector</b>									
(69) Application of general privacy principles	(70) Codes of practice	(71) Commissioner may require development of code of conduct	(72) Cross border disclosure of personal information	(73) Approval of code of conduct	(74) Mandatory codes of conduct	(75) Right of access to personal information	(76) Limitation on processing of sensitive personal information in the possession of a corporation		
(77) Refusal of request for access to personal information	(78) Request for review or complaint to the Information Commissioner	(79) Time for application for review or complaint	(79) (A) Complaint to the Commissioner on non-compliance	(80) Immediate dismissal of request for review or complaint	(81) Notification of request or complaint	(82) Enquiry of request or complaint	(83) Mediation of request		
(84) Enquiry of request to be conducted in private		(85) Representations			(86) Duties of Directors				
<b>Part V- Contravention and enforcement</b>									
(87) Obstruction	(88) False and misleading statements	(89) Failure to comply with an order	(90) Violation of whistle blowing provisions	(91) Offence for not complying with mandatory code of conduct	(92) Contravention of Act	(93) Breach of obligations of confidentiality	(94) Offences by directors and officers	(95) Penalties	(96) Penalties for corporations

<b>Part VI- Miscellaneous</b>				
<b>(97)</b> Cost of audit	<b>(98)</b> Justification of the Court	<b>(99)</b> Whistle blowing protection	<b>(100)</b> Regulations	<b>(101)</b> Chapter 22:02

**APPENDIX IX**  
**DPA ACT, 22:04- LIST OF STAKEHOLDERS ENGAGED**

List of Stakeholders engaged November 2019	List of Stakeholders engaged March 15 and 16 2021
<p><b>Public Sector:</b></p> <ul style="list-style-type: none"> <li>▪ Ministry of Finance- Inland Revenue Division</li> <li>▪ Ministry of Public Administration</li> <li>▪ Ministry of National Security- Immigration Division</li> <li>▪ Ministry of Health and Regional Health Authorities</li> <li>▪ National Insurance Board</li> <li>▪ iGovTT</li> <li>▪ TATT (agreed to provide written comments but did not attend)</li> <li>▪ Ministry of the Attorney General and Legal Affairs- Intellectual Property Office and Solicitor General’s Department</li> <li>▪ Ministry of Trade and Industry</li> <li>▪ National Archives of Trinidad and Tobago</li> <li>▪ Ministry of Education</li> <li>▪ Elections and Boundaries Commission</li> <li>▪ GILAC</li> </ul>	<p>March 15, 2021-</p> <ul style="list-style-type: none"> <li>▪ Law Association of Trinidad and Tobago</li> <li>▪ American Chamber of Commerce (AMCHAM TT)</li> <li>▪ T&amp;T Chamber of Commerce (Tobago)</li> <li>▪ Trinidad and Tobago Coalition of Services Industry (TTCSI)</li> <li>▪ Intellectual Property Office</li> <li>▪ Copyright Organisation of Trinidad and Tobago (COTT)</li> <li>▪ Media Association of Trinidad and Tobago</li> <li>▪ Scotia Bank</li> <li>▪ First Citizens Bank</li> <li>▪ Republic Bank</li> <li>▪ RBC</li> <li>▪ Bankers Association of Trinidad and Tobago</li> <li>▪ T&amp;T Multi Stakeholder Advisory Group</li> <li>▪ Trinidad and Tobago Transparency Institute</li> <li>▪ M. Hamel Smith and Co. Law Firm</li> <li>▪ Johnson, Camacho and Co. Law Firm</li> <li>▪ Digicel</li> <li>▪ Equigov Institute Ltd.</li> <li>▪ FOI Officers-Freedom of Information Unit (OPM.C)</li> <li>▪ Mukta Balroop (Legal Consultant)</li> </ul>
<p><b>Civil Society (Private Sector Academia):</b></p> <ul style="list-style-type: none"> <li>▪ Law Association of Trinidad and Tobago</li> <li>▪ Trinidad and Tobago Computer Society</li> <li>▪ American Chamber of Commerce of Trinidad and Tobago</li> <li>▪ Media Association of Trinidad and Tobago</li> <li>▪ Digicel</li> <li>▪ COTT</li> <li>▪ First Citizens Bank</li> <li>▪ M. Hamel-Smith and Co.</li> </ul>	<p>March 16, 2021-</p> <ul style="list-style-type: none"> <li>▪ Ministry of Trade and Industry</li> <li>▪ Ministry of Public Administration and Digital Transformation</li> <li>▪ Office of the Attorney General and Ministry of Legal Affairs</li> <li>▪ Ministry of Finance</li> <li>▪ Ministry of National Security</li> <li>▪ OPM-Freedom of Information Unit</li> <li>▪ Ministry of Health</li> <li>▪ Tobago Regional Health Authority</li> <li>▪ Eastern Regional Health Authority</li> <li>▪ North West Regional Health Authority</li> <li>▪ North Central Regional Health Authority</li> <li>▪ South West Regional Health Authority</li> <li>▪ National Insurance Board of Trinidad and Tobago</li> <li>▪ Telecommunications Authority of Trinidad and Tobago (TATT)</li> </ul>
<p><b>Written submissions:</b></p> <ul style="list-style-type: none"> <li>▪ Strategic Services Division (SSD)- Ministry of Public Administration (MPA)</li> <li>▪ Legal Services Division- Ministry of Public Administration (MPA)</li> <li>▪ Media Association of Trinidad and Tobago (MATT)</li> <li>▪ First Citizens Bank (FCB)</li> </ul>	

<ul style="list-style-type: none"> <li>▪ Telecommunications Authority of Trinidad and Tobago (TATT)</li> </ul>	
List of Stakeholders engaged November 2019	List of Stakeholders engaged March 15 and 16 2021
<ul style="list-style-type: none"> <li>▪ <b>H. Hamel-Smith and Company Ltd</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ Telecommunication Services of T&amp;T (TSTT)</li> <li>▪ Tobago House of Assembly</li> <li>▪ TTPS</li> <li>▪ Government Archivist</li> <li>▪ Judiciary</li> <li>▪ T&amp;T Cyber and Social Media Unit (TTPS)</li> <li>▪ University of the West Indies</li> <li>▪ Intellectual Property Office</li> <li>▪ CARICOM IMPACS</li> <li>▪ Ministry of Finance</li> <li>▪ First Citizens Bank</li> <li>▪ Chief Parliamentary Counsel</li> <li>▪ Legal Aid Advisory Authority</li> </ul>

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- <sup>4</sup> Ibid
- <sup>5</sup> Ibid
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- <sup>10</sup> Stedman, A. (2013). 'Unproclaimed legislation-the delegation of legislative power to the executive'. Australian Parliamentary Review. 28(1), pp.83-96. Accessed: December 01, 2020. Available: <https://www.parliament.nsw.gov.au/lc/articles/Documents/unproclaimed-legislation-the-delegation-of-legis/UnproclaimedLegislation-TheDelegationOfLegislativePowerToTheExecutive.pdf>
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