

Protecting our human rights

THE United Nations observed World Human Rights Day on Saturday. This date commemorates the day the General Assembly adopted and proclaimed the Universal Declaration of Human Rights (UDHR) in 1948, and, in fact, this year marks its 75th anniversary.

The UDHR was the precursor to many United Nations conventions on specific areas of human rights. In our column published on October 24, we noted that TT has signed and ratified six of these conventions, three of which are the conventions on the rights of people with disabilities, on eliminating all forms of racial discrimination, and on eliminating discrimination against women.

These three are of relevance to the work of the Equal Opportunity Commission as we are empowered by legislation to receive, investigate and, as far as possible, conciliate complaints by people who have suffered discrimination on the ground of their race, their ethnicity, their sex or their disability, as well as on three other grounds (their religion, their marital status and their origin).

However, human rights are larger than these specific areas. Human rights are inherent to all people, that is, each person has them simply by being born, regardless of demarcating factors such as their race, religion, class or family background. Section 4 of our Constitution, which enshrines a number of fundamental rights, begins by saying:

"It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms..." And it goes on to list a number of rights,



beginning with the right to life, liberty, enjoyment of property, equality before the law, equality of treatment, and then a number of freedoms such as freedom of movement, of conscience and religious belief, of thought and expression, and of the press.

It is noteworthy that the Constitution declared these rights to "have existed," that is, the Constitution did not create these rights, they existed even before the Constitution came into being. What the Constitution does is that it seeks to enshrine these rights: they are declared for all to see so no one is left in doubt, and they are protected from being interfered with by the State.

Parliament cannot pass any law infringing or taking away from these rights except in limited ways provided for in the Constitution; for example, only through what is commonly called "special majorities" of the members of the House of Representatives and the Senate. Then, if any agent of the State attempts to do something that trespasses on these rights, any person who is aggrieved can file what is commonly referred to as a "constitutional motion," in which they ask the High Court to stop the infringement.

The Constitution is not the only source of human rights. As noted, the Equal Opportunity Act protects the rights of people to not be discriminated against on the

previously mentioned grounds. There are other pieces of legislation that impact other areas of human rights. For example, one of the six UN conventions that we have ratified is the Convention on the Rights of the Child; the Children Act of 2012 (Chap 46:01) seeks to give teeth to many of the rights in this convention, and has created the Children's Authority to enforce them.

Generally, there are two types of human rights:

1. Civil and political: These are rights that protect individual liberties from abuse of power by the State or private entities, and allow people to exist without persecution or repression. For example, all of the rights at section 4 of the Constitution will fall in this category. These are first-generation rights.

2. Social, economic and cultural: These are freedoms, privileges and entitlements that people require in order to live in dignity and participate fully in society. These are second-generation rights, as they can only exist once the first-generation freedoms are protected. These are rights relating to the workplace, social security, family life, access to housing, food, water, healthcare and education.

For example, things like the right to minimum wage, to maternity protection for pregnant women, to consumer standards, to adequate protection in the event of unemployment, sickness or old age such as national insurance and pension, are also part of the human rights apparatus.

Unlike the constitutional rights, they do not require filing a motion before the High Court to be enforced. In fact, the best protector of these rights is each individual member of society; each must be vigilant in guarding their rights and conscientious to not infringe the rights of others.