



**G . e . n . d . e . r .**

**D I A L O G U E**

**August 2001  
Issue No. 4**

## **Thirty-third Board of Presiding Officers Meeting to be held in Port-of-Spain**

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The Thirty-third meeting of the Presiding Officers of the Regional Conference on the Integration of Women into Economic and Social Development of Latin America and the Caribbean will be convened in Port of Spain, Trinidad and Tobago, from 9 to 11 October 2001.

The Regional Conference on Women in Latin America and the Caribbean is a permanent subsidiary organ of the Economic Commission for Latin America and the Caribbean, and the Presiding Officers are selected at the Regional Conference. The Conference is convened at intervals of no more than three years, the last being the Eighth Regional Conference convened in Lima, Peru, 5 to 7 February 2000. The Presiding Officers meet twice yearly.

The representative of Peru is the current chair of the meetings and Antigua and Barbuda, Cuba, Netherlands Antilles and Suriname represent the Caribbean on the Board. The other Board members are Argentina, Bolivia, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Paraguay, Uruguay and Venezuela.

At the Eighth Regional Conference in Lima, Peru it was agreed that one of the two yearly meetings of the Presiding Officers would be open to all member countries of the Conference and would address a substantive theme. In the case of this thirty-third meeting the focus will be on gender mainstreaming. The meeting will include a high-level seminar on gender mainstreaming in public policies in Latin America and the Caribbean, with particular focus on, gender equity and the economic context; poverty eradication and social protection policies; policies for health and gender equity; human rights and gender justice; the judicial system and human rights; and gender mainstreaming strategies.

It is expected that a number of ministers from the member countries will present best practices in gender mainstreaming and address the conceptual and practical challenges in inserting gender analysis into governmental policies. Mr. Reynaldo F. Bajraj, Deputy Executive Secretary, ECLAC, will be in attendance and Ms. Angela E.V. King, Assistant Secretary-General and Special Adviser on Gender Issues and Advancement of Women of the United Nations, will deliver the keynote address.

Given the scope of the issues to be addressed, the meeting promises to be a productive one. It will allow ministers and participants to speak frankly of the difficulties inherent in ensuring that gender differentials are taken into account, as well as mark the advances made in attaining gender equity in policy formulation and implementation.

According to Sonia Montano, Head of the Women and Development Unit, ECLAC, the anticipated presence of a number of ministers and other high-level officials from a cross-section of ministries will be a clear indication of the growing governmental commitment to gender mainstreaming. The fact that these initiatives are occurring throughout the public sector, also suggests a deepening of the negotiation capacity of women's bureaux.

The convening of this meeting in Port of Spain is reflective of ECLAC's concern to ensure the greatest possible participation of ECLAC/CDCC member countries.



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As part of its technical assistance to the Eastern Caribbean Supreme Court project on Family and Domestic Violence Legislative Reform, ECLAC has recently completed an evaluation of the implementation of the Domestic Violence Acts in four countries, namely Antigua and Barbuda, Saint Lucia, St. Kitts and Nevis and St. Vincent and the Grenadines. The law though enacted in St. Kitts and Nevis is not yet in force.

Unstructured interviews were conducted with representatives of agencies central to the implementation of the Acts, as well as with persons who had made applications under the legislation. The interviews sought to elicit both factual information on the usage of the Act, and opinions on the strengths and weaknesses of the legislative framework as well as the social service delivery supportive of the legislation.

Through the review of the legislation, a number of shortcomings and omissions have been identified both by the users and implementers of the legislation. Chiefly, the legislation needs to be more comprehensive in a number of areas, including a) definition of domestic violence; b) the eligibility of abused persons; c) nature of the orders granted; and d) enforcement mechanisms.

The definitions of domestic violence given should ensure in a clear manner the inclusion of sexual violence, threats of violence, threats to damage property and the damaging of property. Many people still associate domestic violence only with physical assault, and therefore, it would be both explanatory and educative to list examples of what constitutes "behaving in a manner of such a degree and nature as to cause annoyance".

The Acts do not fully capture the reality of Caribbean family forms failing as they do to take account, particularly, of that large grouping of women and men whose primary relationships are of a visiting nature. The study therefore recommends that protection coverage should be extended to persons in visiting unions whether or not there are children of that union. Further, and in keeping with the fact of extended families sharing one residence, any member of a household should be able to make an application for protection, in the event of violence, on their own behalf.

The study found that there was an unevenness in the enforcement of orders given by the court as a result of inadequate and unclear provisions as well as police inaction. Court orders are made in a cultural context which, though changing, continue to trivialize or ignore acts of violence perpetrated against women by their partners. The system of protection offered by the civil justice system is severely compromised when court orders or injunctions against violence can be ignored with impunity or, at least, with little fear of serious consequence. To ensure respect for the rule of law and for the administration of justice, all court orders should be enforceable and all breaches attended by what would amount to criminal contempt proceedings.

Apart from legislative reform, the research highlighted the need for continued training for police, judicial officers and lawyers on the nature, extent and causes of domestic violence; sensitivity to gender bias and sexual issues; and the role of the actors within the justice system. At the heart of the legal response to domestic violence are the actions expected of police officers, as enforcers of the law, as peace officers and as protectors of victims. Police are generally not equipped and should not be expected to act as social workers, though there must exist a baseline understanding of the sociology/psychology of domestic violence. The social work role now increasingly expected of police reproduces to some extent the notion that domestic violence, while a wrong, is not quite a crime. The primary role of police officers as law enforcers has to be reinforced even while back up support is given to police departments which must work closely with social services as well as the courts.

Police officers need to understand that protection orders are not and were never intended to be a substitute for enforcement of the criminal law. Domestic violence is a crime and police have a responsibility not only to the individual complainant but to the community to ensure the prevention of future violence. Leaving the decision of prosecution to the victim does not acknowledge or recognize the powerlessness and fear victims commonly experience living in a situation in which they are abused. This gives both victims and perpetrators an ambiguous message that domestic violence is not quite a crime.

In this regard greater community consideration needs to be given to the issue of mandatory arrest and prosecution for violent offenders. In some countries in the region, a domestic violence unit within the police force has been recommended. Such a unit would provide a coordinated police response and consistent approach to domestic violence cases, including the provision of training to other police officers, monitoring and evaluating the effectiveness of the police response and data collection.

The policy goals of the legal institutions which deal with domestic violence are at one and the same time, the punishment of offenders and the protection of victims. These are policy goals which are meant to coexist, to be reciprocal and mutually reinforcing. However, the dominant philosophy behind the domestic violence legislation can be discerned most readily from the actions of those who are charged with administering and implementing its provisions. The continued lack of criminal prosecutions of domestic violence on the part of the police is indicative of attitudes which see violence not as a crime but as a social problem requiring social service intervention.

For all their shortcomings however, there can be no denying that the Acts have given an avenue of effective justice for many women. Even where the Acts have not caused the complete cessation of violence, for the women who have made applications, this in and of itself has been significantly empowering. The legislative framework, whatever its limitations, represents a tremendous advance in giving women the right and the legitimate expectation to protection by the criminal justice system. The sheer numbers of women who have made applications to the courts in the three countries under review suggest compellingly that women consider the protection order a shield. In the words of one Vincentian applicant, **"the Act has made a big difference because people now have an avenue to resort to and they are fairly confident of receiving justice."**



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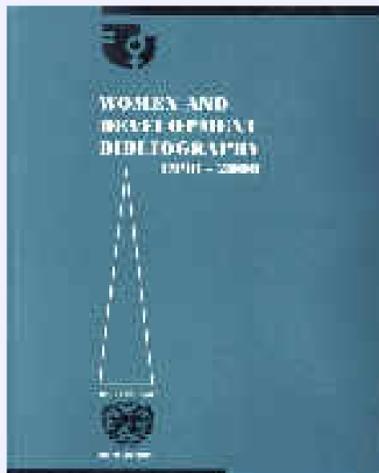
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## HOT OFF THE PRESS

This Women And Development Bibliography is the third in a series of bibliographies which have been produced by the ECLAC/CDCC secretariat.

The first Women in Development Bibliography was produced in 1990 and contained some 862 references. The second produced in 1992 listed 367 references of works published between 1990 and 1992.

This third volume lists 1753 references published during the period 1990-2000 from the collection of libraries in CARISPLAN, a regional documentation/library network for which the Caribbean Documentation Centre at ECLAC, Port-of-Spain, is the coordinator.

In the 1970s and 1980s, the Women in Development (WID) framework dominated the policy response to inequality between women and men. This framework identified women's lack of resources as the determinant of their subordination and responded to this problem by focusing on the development of resources for improving women's economic opportunities. Thus the first two issues were named **'Women In Development Bibliography'**.

By the 1990s, the WID framework gave way to a discourse which examined the ways in which gender relations and the lack of economic opportunities intersected to reinforce women's subordination and inequality. Closer theoretical and policy attention was paid to analysing unequal power relations between women and men, on one hand, and on the other, to economic structures which impeded socio-economic equity and development. In the context of gender equity, it is now recognised that development requires more than the creation of opportunities for people to earn sustainable livelihoods. It also requires the creation of a conducive environment for women and men to access these opportunities.

This discursive shift from Women in Development (WID) to Gender and Development (GAD) is partly reflected in the adjustment in the name of this bibliography from "Women in Development" to "Women and Development" (WAD). The change reflects the evolving understanding of how material and ideological relations between women and men at the close of the twentieth century impact on issues of gender equity and gender equality.

The rationale for this bibliography remains the same as it was for the for two bibliographies:

- To facilitate project preparations and implementation by governmental and non-governmental organizations served by the programme;
- To improve the quality and raise the standards of research in the subregion; and
- To contribute to the establishment of a database on women in the subregion.

It is also available online at <http://uneclacpos.org>.

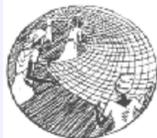
On a related note, the Commonwealth Secretariat has added two more publications to their Gender Management Systems Series. They are, 'Gender Mainstreaming in Agriculture and Rural Development: A Reference manual for Governments and Other Stakeholders' and 'Gender Mainstreaming in Legal and Constitutional Affairs'.

There are 10 other publications in this series namely, 'Concept and Methodology of the GMS'; 'Using Gender Sensitive Indicators'; 'Development Planning'; 'Finance'; 'The Public Service'; 'Education'; 'Information and Communications'; 'Trade and Industry'; 'Science and Technology'; and 'Health and HIV/AIDS'. These reference manuals offer guidelines for mainstreaming gender in the respective areas.



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## Why domestic violence legislation is not enough

by Tracy Robinson\*

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In the region, the new legislation on domestic violence is easily one of the most important pieces of social legislation over the last decade, and the most important family law reform effort in the region in the 1990s. Fourteen of the 18 Caribbean countries have passed such legislation, leaving only Anguilla, Turks and Caicos, Grenada and Dominica.

The new law now affords the victims some autonomy in protecting themselves from violence. An application can be made for an order i) prohibiting the abuser from molesting or abusing him or her, ii) excluding the abuser from the home or other premises, iii) giving the abused person a right to live in the home, or iv) vesting tenancy of the household residence in the abused person.

### Impact of the domestic violence legislation

The domestic violence statutes have had a powerful and positive role in redefining and transforming our conceptions of violence and human rights in the Caribbean. The abuse suffered primarily by women and children in the family and in intimate relationships has been generally invisible in law — labelled a private matter, best addressed by the family and inappropriate for legal resolution.

The new legislation is a frontal challenge to commonly held views about domestic abuse. It sends a clear message that such abuse is not an ordinary incident of intimacy, but rather that such abuse is 'violence', and as with other types of violence, the State has an interest in preventing it and protecting those affected by it. Of great significance in the Caribbean is the expansion of the meaning of domestic violence to include not just relief in respect of physical, but also psychological or mental abuse. Many Caribbean countries have been swifter in passing laws dealing with harassment of tourists than in addressing the harm experienced by women and others in the workplace and in educational institutions. No more than five of 18 Caribbean territories have statutory remedies available to those who experience sexual harassment.

In spite of the progress made in domestic violence legislation, there is much more that has to be corrected. Firstly, although many apply for orders, few get them. The research work in the Caribbean indicates that significant numbers of persons now avail themselves of these orders but that the numbers granted are few. In 1994 in Trinidad and Tobago, of the applications filed since the inception of the Act, 39% were granted. The data also show that many of the applications were either dismissed or withdrawn .

Women are also being killed while under the protection of the law. There have been notorious cases, notably in Trinidad, of women being killed at a time when they had a valid protection order against the abuser. A significant number of women have also been killed by male partners who are law enforcement officers.

Some people say that the domestic violence legislation criminalizes behaviour which hitherto was ignored by the law. That is a dangerous misconception. At best a protection order is a quasi-criminal remedy which defers and delays criminalisation of conduct which in many cases already fits the definition of an existing crime. The crime under the legislation is not the violence itself, but the failure to observe an order by the court to desist from the abusive behaviour.

Protection and occupation orders are therefore not necessarily the wrong route for addressing domestic violence, they however cannot be the only route. We have failed in the Caribbean to demonstrate through developments in our criminal law and jurisprudence, the gravity of domestic violence as a form of gender violence.

In the case of marital rape, sexual violation is one of the most common forms of abuse in intimate relationships. Data collected from the Shelter for Battered Women in Port of Spain, Trinidad, indicated that about 80% of the women who were victims of spousal abuse were sexually violated. In 1991 the House of Lords in *R v R* ruled that where a husband has sexual intercourse with his wife without her consent, whatever the circumstances, it is rape.

Subsequent to this case, Barbados, Antigua and Barbuda, and Dominica have all passed new sexual offences legislation that limits the circumstances in which a husband can be guilty of raping his wife. These are limited to instances where there is a valid protection order, a separation order or agreement, or a decree nisi of divorce. These provisions are deeply destructive of the goal of gender equality and a woman's right to have her physical integrity respected; to personal liberty and security; and to equal protection of the law. The question is how can the Caribbean be enacting legislation of this type at a time when we claim to be taking domestic violence and women's rights seriously?

The situation is more troubling in the case of Barbados. To get a protection order in this country, it must be established that conduct that constitutes a crime has occurred or been threatened or that the applicant has been harassed. Disturbingly, it is the criminal law, which has traditionally been unwilling to recognise the harms of domestic violence, which gets to define what constitutes domestic violence for the purposes of protection.

### Domestic Violence and Criminal Justice

Over the past three or four years there has been a concern expressed that women are getting away with murder. At a criminology conference in Barbados three years ago the Director of Public Prosecutions (DPP) in his opening address expressed a view that women are treated more favourably in the criminal justice system. He cited examples of women who killed receiving less harsh punishment than did men for similar offences and in similar circumstances. In Trinidad and Tobago the debate has arisen because a number of women are on death row. In the debate, one prominent Trinidadian female attorney commented that she could think of no ethical or moral reason as to why a woman should not be hanged.

Nowhere in the succinct analysis of the DPP did he mention domestic violence. He did not say that a number of women who kill men do so after experiencing a history of violence at the hands of those men, and that a number of men who kill women they know, do so as a final act of violence against these women. Surely these are not similar situations.

At the time that the Trinidadian attorney said she could think of no ethical or moral reason as to why a woman should not be hanged there was a woman sitting on death row in Trinidad for murdering her common law husband to whom she had been sent to live with when she was 17, and who subjected her to severe violence during the course of the relationship that bore six children. Having left the man and moved away and started another relationship he found her and violently took her back to his house and imprisoned her for more than a week, inflicting severe violence during this period and threatening to kill her if her unborn child was not his. The murder took place during this period.

Had the common law husband beat her to death when he found her, she having left him, it would have been viewed as the paradigmatic case of provocation. As the trial judge said: "Apparently the husband found out about this pregnancy and he was, quite naturally, mad about the whole affair. And he ill-treated—I'm using the word quite neutrally—the accused." Only subsequently, some time after she had been on the row, was the woman's sentence commuted after evidence of battered woman's syndrome was accepted to establish the defence of diminished responsibility.

How could an attorney, while this woman sat on death row, be incapable of thinking of an ethical or moral reason why a woman should not be hanged? It may be because the criminal law and defences had developed in male centric ways that undermined women defendants' ability to establish defences to murder. The reason for this may be that while domestic violence is deeply recognised now in law in the context of protection and occupation orders, is it being slowly neutralised in the broader context.

While much of the attention that has been focused on domestic violence seems to have produced an increasingly sophisticated channel for women to get protection and occupation orders, outside of this area of the administration of justice, particularly in the development of criminal law and jurisprudence there isn't the same awareness of domestic violence.

There is more public awareness and legal recognition of violence as a harm to women than at any other time in the life of the Caribbean, but, the issue seems to have become neatly compartmentalised. This time no-one is saying that domestic violence is something the law cannot deal with because it is a private matter, but that the law can only deal with it in the narrow area that is covered by the legislation.

As we re-imagine constitutional responsibility, let us seek to explode again the public private divide. Let us see if we can understand that the State has as much constitutional responsibility towards the men who are about to be lawfully killed by the State (death penalty) as to women who are about to be killed by men they know.

As Justice Albie Sachs of the South Africa Constitutional Court said: "Indeed, the State is under a series of constitutional mandates which include the obligation to deal with domestic violence: to protect both the rights of everyone to enjoy freedom and security of the person and to bodily and psychological integrity, and the right to have their dignity respected and protected as well as the defensive rights of everyone not to be subjected to torture in any way and not to be treated or punished in a cruel, inhuman or degrading way... The *State v Baloyi per Sachs J.* 1999

The State, law, legal functionaries and culture have all been complicit in legitimising and perpetuating domestic violence. None of us can afford to be complacent or self-satisfied just because we have passed legislation dealing with the issue. Domestic violence legislation is not enough. We all bear a responsibility to ensuring that the promise and goal of gender equality incorporates an understanding of the violence women continue to experience, simply because they are women and not just because we are living in an increasingly violent world. This understanding impacts and influences the development of criminal law and jurisprudence in the Caribbean region.

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# Gender and Macroeconomic Policies

## **Towards bringing gender out of the annex and into the main building**

Traditionally, government attempts to incorporate a gender perspective into macroeconomic planning have been limited to taking account of women's needs in sectors such as welfare and health. They seldom incorporated a perspective of gender inequalities in more central economic concerns such as growth, productivity and investment. In the last decade, gender mainstreaming has become widely accepted as an effective bureaucratic strategy for institutionalizing gender concerns within the public sector.

Mainstreaming gender represents a significant policy advance on the outdated reform model, which added women's issues at the margins of development and remained silent on men and their gender concerns altogether. Emphasizing the role of central planning agencies such as finance ministries, is more likely to have the kind of far-reaching social consequences that are necessary to remove gender inequalities.

## **Seeing sex, recognizing gender**

Much of the early work on men, women and developing economies centred on the benefits that would accrue to women should their needs be taken into account in macroeconomic planning. More recently, research has revealed how men and children and the wider economy also stand to gain significant potential benefits if women are brought more centrally into policy on economic development. For instance, numerous studies have shown that a high degree of economic resources controlled by women in households is positively correlated with increased well-being of families, especially children.

Other work has developed the argument for gender-economy linkages even further to show what potential economic and social gains are traded off in an economy as a result of economic inefficiencies arising from persistent gender inequality. Government policies that target women in isolation have however been shown to be inadequate for achieving the goals that could be accrued from incorporating gender.

## **From adding women to mainstreaming gender**

For over three decades, development planners have progressively refined their efforts to reduce gender inequities at the macro level. Most recently gender specialists have stressed the need for policy to move beyond bringing women into economic policy in instrumental ways that may enhance economic growth and human development, especially within poor households, but that do not challenge the subordination of women to men.

In conceptual terms, the move from "women" to "gender" marks a shift from a focus solely on women to a focus that examines unequal social relations between women and men. The introduction of an empowerment perspective makes it superior to those that attempt to reduce differences in the economy to sex and incorporates aspects of women's lives not normally considered in economic analysis, such as women's unpaid work and female subordination. Through the contributions of their unpaid or "reproductive" labour to families and communities, women create and replenish much of what is now known as the "social capital" that keeps economies functioning well (Elson, 1999: 11). Economic planners need to acknowledge women's uncounted contributions to the social framework into which the economy is embedded, if they are to properly assess the sustainability of macroeconomic policies.

From a gender equality perspective, these new ways of working will guide economic planners in anticipating the potential implications of reforms being contemplated and should also serve to inform proactive macroeconomic policies that are calculated to redistribute paid and unpaid labour between men and women.

Moving the focus from women to gender also means that men have to be explicitly brought into the analysis. Recent research concluding that Caribbean men are at risk and are being marginalised in society (Miller, 1991) seems caught in the same conceptual trap as early Women in Development analysis: it sees men but does not see gender. Consequently, to the extent that mainstreaming gender analysis in macroeconomic policy means de-institutionalizing male bias, men who appear to be marginalised in some sectors will benefit greatly from an explicit focus which examines how different groups of men are faring without assuming they are all in situations of gender privilege. By contrast, 'gender neutrality' in policy analysis harms disadvantaged men.

## **Two strategic paths of action**

Accounting for gender implies that neither gender blindness nor gender neutrality ought to be goals of public policy. Working for gender equality requires planning that takes positive action while acknowledging difference. Gender equitable macroeconomic policies, especially those that include overarching aims such as poverty reduction, social development and economic growth, must include a compensatory and transformatory approach to planning. Such policies must be implemented with a view to considering where men and women currently stand in the economy as well as with a purpose to combat the negative effects of existing gendered differences.

The first compensatory approach deals with improving the position of men and women by analyzing sex patterns that arise out of gender roles and restrictions and by providing for these practical gender needs. The majority of existing policy, which attempts to include women, fall into this category of necessary but not sufficiently change-oriented reforms.

The second approach is the development of transformatory policy measures to undermine practices of exclusion or unfair privilege on the basis of gender by providing for strategic gender interests. For example, providing women with reliable and affordable child-care may compensate women for the unequal burden which child-care places on them. But providing resources so that men can adequately perform their child-care responsibilities is a transformatory policy to equalize relationships between men and women.

Before finance ministries are fully equipped for the tasks of moving intellectually from Women In Development to Gender And Development analysis in macroeconomic policies and before they are able to produce economic models that guide gender-sensitive policy-making; act as leaders within government on gender mainstreaming; and share monitoring and evaluation responsibilities with civil society, two important preparatory steps must be taken. These are:

- Conduct research that provides statistical data as well as deepens conceptual knowledge on men and women in households, communities and the economy; and
- Obtain training in the application of conceptual models and the development of gender analysis skills to help reveal the policy implications of the statistical data.

Once completed, the capacity-building and preparatory exercise should put finance officials in a position to be able to deliver on the following gender mainstreaming objectives:

- Models for the systematic mainstreaming of gender analysis in macroeconomic policy;
- Targets to tie the goal of gender equality to specific government objectives (such as poverty eradication and full employment);
- Accountability and leadership for gender mainstreaming within the public sector; and
- Monitoring and evaluation responsibilities that are shared with gender specialists and members of civil society.

This article has been excerpted from a report prepared for ECLAC Subregional Headquarters for the Caribbean by consultant, Donna St. Hill.



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#### **Data collection protocols for domestic violence**

The ECLAC/CDCC secretariat is holding a working group meeting to consider and comment on a data collection protocol for domestic violence. This follows a working group meeting hosted by the ECLAC Subregional Headquarters for the Caribbean in February 2001 to consider the development of a data collection system for domestic violence. At that meeting, the participants endorsed the ECLAC/CDCC proposal to engage a consultant to undertake this task. Dr. Godfrey St. Bernard of the Sir Arthur Lewis Institute for Social and Economic Studies (SALISES), UWI, agreed to undertake the consultancy and will be presenting his findings.

**Date :** 12-14 September 2001

**Organizer:** ECLAC/CDCC, Port of Spain, Trinidad

**Place:** ECLAC/CDCC Conference Room, Port of Spain

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#### **Workshop on gender, peace and development**

The workshop on gender, peace and development is the culmination of a project financed by UNESCO in which the Center for Gender and Development Studies was asked to identify young professionals to act as consultants to conduct research in order to gather information on organizations working to promote a culture of peace in the region. The main purpose of the workshop is to present the findings of the research to stakeholders involved in similar endeavours, and to agree on a programme of activities on Gender, Peace and Development.

**Date :** 19-20 September 2001

**Organizer :** The Centre for Gender and Development Studies, UWI, St. Augustine in collaboration with the UNESCO Office for the Northern Caribbean, Jamaica.

**Place:** Room 101, Faculty of Engineering, UWI, St. Augustine.

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#### **Thirty-third Meeting of the Presiding Officers of the Regional Conference on Women in Latin America and the Caribbean**

**Date** 9-11 October 2001

**Organizer :** ECLAC, Women and Development Unit

**Place** Port-of-Spain, Trinidad and Tobago.

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#### **Caricom Ministerial Policy Roundtable on Gender and Development**

Arising out of meetings and discussions between a task force of the Women's /Gender Bureaux and Gender Specialists and the CARICOM Secretariat, a framework for mainstreaming gender in the areas of education, health, HIV/AIDS and labour will be presented at this ministerial roundtable.

**Date :** 2 October 2001

**Organizer :** The Caribbean Community (CARICOM) Secretariat

**Place:** CARICOM Headquarters, Georgetown, Guyana.