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**DOMESTIC VIOLENCE AND THE LAW IN THE
TURKS AND CAICOS ISLANDS:
DIRECTIONS FOR LAW REFORM**

Table of contents

Introduction	1
Background.....	2
The legal context.....	3
The law and domestic violence	4
The criminal law.....	4
Marital rape.....	4
Sexual offences.....	5
Domestic violence	6
Injunctive relief.....	6
Matrimonial proceedings	6
Domestic proceedings ordinance	7
Procedure	8
Police powers of arrest	8
Child protection.....	11
Care and protection provisions	11
Police response to domestic violence	12
Special police services.....	14
Social services	14
The need for an integrated action plan	15
Law reform	17
Definition of domestic violence	18
Protected persons	19
Eligible applicants	20
Range of orders	20
Police powers.....	21
Venue.....	22
Child protection.....	22
Policing	23
Legal aid.....	24
Strengthening of social service delivery	25
Health sector	26
Monitoring and evaluation	27
Conclusion	28
Annex 1.....	29
Annex 2.....	36

DOMESTIC VIOLENCE AND THE LAW IN THE TURKS AND CAICOS ISLANDS: DIRECTIONS FOR LAW REFORM

The Family Law and Domestic Violence Reform project, which is being executed by the Organisation of Eastern Caribbean States (OECS) Secretariat, has as one of its objectives the review and reform of laws in keeping with the goals set out in the Convention on the Elimination of all Forms of Discrimination against Women and in other international human rights conventions such as the Inter-American Convention on the Prevention, Eradication and Punishment of Violence against Women.

This project, initiated by the Eastern Caribbean Supreme Court (ECSC), is supported by the Economic Commission for Latin America and the Caribbean (ECLAC) Subregional Headquarters for the Caribbean, the United Nations Children's Fund (UNICEF) as well as the Canadian International Development Agency (CIDA) and the NCH Action for Children. Apart from the review of laws for the purpose of law reform, the project has also focused attention on social service delivery which is ancillary or complementary to the justice system's treatment of family-related matters.

Although the primary focus of this project has been the member countries of the OECS which share the jurisdiction of the Eastern Caribbean Supreme Court, some of the project activities have extended to the non-independent territory of the Turks and Caicos.

In 2001, the ECLAC Subregional Headquarters for the Caribbean undertook, as part of its technical assistance to the project, an evaluation of the implementation of domestic violence legislation in five member countries of the OECS. It has subsequently received a request for technical assistance from the NCH Action for Children to undertake a review of the laws in relation to domestic violence in Turks and Caicos. Additionally, the Division of Gender Affairs, Turks and Caicos Islands, requested technical assistance from ECLAC to review and reform the laws of the Turks and Caicos with respect to gender-based violence and, in particular, domestic violence.

In responding to these requests, ECLAC undertook a mission to the Turks and Caicos on 14-17 October 2002. During this mission, representatives of the judiciary, the ministry of education, health and social services, the police service and non-governmental organizations (NGOs) were interviewed for the purpose of making an assessment of the direction which law reform could take in relation to domestic violence.

This report outlines the findings of the mission. It looks at the status of the law and makes recommendations for law reform. The report also makes recommendations for policy and programmatic initiatives that would be

necessary to complement and buttress the legal response to domestic violence. The report however does not focus on child protection, family law or social services in any depth as these are areas that are the focus of other work undertaken in the Family Law and Domestic Violence Law Reform Project.

Background

There is a widely held view among those interviewed that domestic violence is experienced in a significant proportion of families, though the extent is difficult to ascertain because of underreporting to the police. Although within the criminal justice system domestic violence is defined as a crime only if the conduct involves the threat or use of physical violence, those interviewed considered domestic violence to be of a larger scope. Domestic violence was understood to include not just physical abuse between partners, whether or not living together, but also psychological abuse as evidenced by threats and intimidatory conduct. Great concern was expressed over the incidence of child abuse and, in particular, incest. Across the Caribbean, like Turks and Caicos, the prosecution of cases of incest is minimal. However, it was thought that this did not in any way reflect the extent of the problem but rather the complexity of the issue and the inability of institutions to protect children and to punish offenders.

It was widely acknowledged that the dynamics of gender relations, that is, unequal power relations between women and men, are at the root of domestic violence. In addition, however, there is a sense that in many instances, substance abuse (drugs and alcohol) catalyses violence as does other aspects of relationship breakdown, including infidelity and stress caused by economic deprivations.

Throughout the research the status of illegal migrants was raised. The Turks and Caicos Islands have received over the last decade a large inflow of such migrants from Haiti as well as from the Dominican Republic. What appears to be an uncontrollable influx of persons has placed severe strains on the already over-burdened social and educational services. The recognition that unregulated migration is accompanied by and causes a host of social issues is often counter-balanced by a recognition of the need to treat such persons humanely and in a way that secures their human rights.

There is therefore concern that a number of factors increase the vulnerability of migrant women and their children to domestic violence and sexual abuse. Chief among these is the reluctance of such persons to call upon the police for assistance given their tenuous status in the Turks and Caicos. Calling in the police increases scrutiny over the legality of their stay in the Islands. Culture and language barriers also impede the level of reporting of abuse as it does the effectiveness of police and social service responses.

Haitians in the Turks and Caicos have been characterized as living in a state of ‘inbetweenity’. Based on a study conducted in the Turks and Caicos, Brown concluded that

“In this state they exist between two worlds, physically apart from their native land but living on the fringes of the ‘host’ society, both in a figurative and literal sense. This situation exposes the immigrants and their dependants at home to risk since it is often accompanied by a denial of human rights, unemployment, underemployment and restricted access to proper housing and social services.”¹

This is an issue which requires much closer attention as policy guidelines may have to be developed which would provide victims with a sense of security in calling on the protection of the State irrespective of their migration status.

The legal context

The Turks and Caicos Islands is served by one High Court Judge, who is also the Chief Justice. There are two Magistrates' Courts, one in Providenciales and the other on Grand Turk. The Magistrates Court hears a range of matters, both criminal and civil. In relation to domestic violence, this is the venue where applications for protection orders can be made by married persons. The Court also deals with juvenile justice as well as a host of child protection issues.

There is no family court. This, however, is under active consideration. To date, the initiatives concerning the provision of a specialized court process for family matters have included the allocation of one court day per week in the magisterial jurisdiction to deal solely with family matters. That day will be used to deal with all offences in relation to children, maintenance, custody and access. The matters will be dealt with in camera and confidentiality is to be emphasized. The pilot is intended to assess whether there are enough family-related matters to justify a special allocation of resources.

The research elicited the view that law reform in the area of family law is an imperative. Divorce law is still fault based, omitting the more modern, no fault grounds such as a period of separation with or without consent. To avoid the rigidity of the law, it is reported that a number of Turks and Caicos islanders journey to the Dominican Republic where a divorce is attainable on less exacting grounds. However, it was also felt that this was not an acceptable option since ancillary issues surrounding custody and maintenance could not be properly dealt with. Despite at least one conference on family law in the Turks and Caicos and the concern for a more modern regime, law reform in

¹ Dennis A.V. Brown : Inbetweenity: Marginalization, Migration and Poverty Among Haitians in the Turks and Caicos Islands. Unpublished. 2002.

this area seems to be impeded by competing interests and views around matrimonial matters. As one interviewee put it, “there is not much homogeneity of thought between men and women on these matters”.

The treatment of family law matters is also complicated by the absence of legal aid². Suggestions were made throughout the research process for the establishment of a voluntary panel of lawyers who would provide their services at minimal or no cost to low income persons in need of legal services.

The law and domestic violence

There are a number of legal avenues available to persons who suffer abuse in the domestic setting -the criminal law, law of tort, matrimonial proceedings and the Domestic Proceedings Ordinance. In addition, the Juveniles Ordinance sets out of a protection regime for children who are victims of abuse or neglect.

The criminal law

A victim of a physical act of violence or a threat of actual physical violence can file a criminal complaint thereby initiating or causing the initiation of criminal proceedings against her partner. The Offences against the Person Ordinance criminalises common assault and battery and any person found guilty of such a charge is liable to imprisonment for six months. Under the Offences Against the Person Ordinance, physical assaults and threats of physical assaults constitute criminal offences. The range of offences is set out in the Ordinance and includes:

- Wounding or causing grievous bodily harm;
- Inflicting body injury, with or without a weapon;
- Attempting to choke;
- Administering poison so as to endanger life or inflict grievous bodily harm; and
- Common assault

Unlike other parts of the Caribbean there appears to be no offence of aggravated assault defined as an assault on a woman or child.

Marital rape

Section 28 of the Offences against the Person Ordinance provides for a maximum penalty for rape – imprisonment for life. Rape is not defined in that

² There exists a basic legal aid service targeted at criminal matters.

statute but under the common law prior to 1991, it was defined as sexual intercourse by a male with a female who is not his wife without her consent, or with consent if it is extorted by threats of bodily harm, is obtained by impersonating her husband or by false representations of the nature and quality of the act.

From the definition of rape given above, a husband was not generally legally capable of committing rape. A man's immunity for the rape of his spouse would only be lost under the common law if there was a separation agreement between the parties; a decree nisi or a non-molestation order. However, in 1991, the House of Lords decision in *R v R*³ finally abolished what remained of the marital rape exemption in England and Wales, confirming the Court of Appeal's conclusion that "the time has now arrived when the law should declare that a rapist remains a rapist subject to the criminal law, irrespective of his relationship with his victim"⁴. This ruling would be applicable to the Turks and Caicos and therefore the immunity from prosecution in relation to husbands has been removed.

Sexual offences

The Offences against the Person Ordinance makes provision for the offences of rape, indecent assault, defilement, procurement and abduction of females. In addition, specific provisions are also made for carnal knowledge of female children, the extent of punishment being dependent on the age of the victim. The age of consent is 16 years and the Ordinance provides that carnal knowledge of any girl under 13 constitutes an offence whether or not there is consent, and is punishable by a sentence of imprisonment of five years. The length of imprisonment for carnal knowledge of a girl between 13 and 16 is two years. These are maximum sentences and can be reduced though this is rarely done because of public sentiment around such offences. There are no provisions made for exceptions where there is consent and the sexual intimacy occurs between two minors of relatively equal age.

The law on incest is to be found in the Incest (Punishment) Act No. 13 of 1948. A male person who has carnal knowledge with a female person who is his granddaughter, daughter, sister or mother commits the crime of incest. Such conducts amounts to a misdemeanor punishable by a term of imprisonment not exceeding five years, or if the victim is under the age of twelve, ten years. An attempt to commit carnal knowledge with someone

³ [1991] 1 WLR, 767

⁴ [1991] 2 All ER, 257, per Lord Lane CJ, 266

related by consanguinity is also punishable by a term of imprisonment not exceeding two years.

The law as it stands, does not bring into the definition of incest, sexual relations with minors with whom the adult male has an adoptive or guardianship relationship.

It is reported that approximately 50% of the work of the Supreme Court concern matters of statutory rape. However these prosecutions do not generally include cases where the parties are of the same age and there is consent. Such consensual conduct occurring between minors is treated as one that calls for a social welfare and/or education intervention. The more usual types of cases of carnal knowledge are rapes of minors or where older men seek out young girls and initiate sexual relations based on an exchange of resources.

Domestic violence

There is no legislation in the Turks and Caicos comparable to the domestic violence legislation enacted across the Caribbean based on the Caribbean Community (CARICOM) model developed in the early 1990s. As such, persons who are abused and who are not in a marital relationship with each other must rely on the law of tort.

Injunctive relief

In addition to criminal charges, victims of abuse can apply to the high court for injunctive relief and monetary compensation on the basis that the civil wrong of assault and battery has been committed against them. Any victim of domestic violence is able to bring a civil action against the person who assaults or commits any civil wrong against her. The major practical obstacle to access to this remedy, however, is the cost of legal services associated with a civil action in the High Court.

Matrimonial proceedings

Other than these tort-related injunctions, on the presentation of petitions for divorce, an abused woman is also entitled to seek a matrimonial injunction by way of a non-molestation or exclusion order. Where the circumstances warrant it, the Court can grant exclusion orders where the health and safety of the woman and/or children is in jeopardy. The paramount consideration is the protection of the abused person. The Court must be satisfied that it is necessary for the protection of the health, physical or mental, of the wife or of a child and must balance the hardship likely to be caused by the making of the order against the hardship likely to be caused by refusing it.

Protection can be invoked not only in the case of physical harm but also with regard to mental or emotional abuse. In the English case of *Basset v Basset*, the Court stated that ‘protection’ must not be interpreted too narrowly....it has never been limited to protection in a physical sense, that is from violence or apprehension of violence”.

Injunctive relief of this nature may be obtained *ex parte* in a case of emergency. In the case of an *ex parte* injunction, this is granted before the abusive person is informed of the court proceedings and the injunction, if granted, becomes effective as soon as it is served.

The difficulties associated with these civil remedies are the costs of civil litigation in the High Court; and the inaccessibility of these reliefs due to the fact that these proceedings may only be brought in the High Court.

Domestic proceedings ordinance

Apart from these tort-related injunctions, the Domestic Proceedings Ordinance gives the magistrate the power to make certain orders to protect a party to a marriage or a child from acts of physical violence. The reach of the legislation is limited to parties to a marriage and their children. The magistrate is empowered to make, in the main, three types of orders:

- (a) A restraining order;
- (b) An exclusion order; and
- (c) An occupation order.

In relation to the restraining order, the Ordinance allows the magistrate to make such an order upon an application for such by a party to the marriage where the magistrate is satisfied that the respondent has used or threatened to use violence against the person of the applicant or a child of the family. Apart from not engaging in threats of violence or actual violence, the Court can also specify that the respondent be restrained from inciting or assisting any other person to use or threaten to use violence against the protected persons.

The Court can also make the more drastic exclusion orders in three circumstances:

- (a) Where the respondent has already used violence against the spouse or child of the family;
- (b) Where there has been a threat of violence and the respondent has already used violence against some other person, that is, has a history of physical; abuse; or

- (d) Where a restraining order has been breached.

In all three scenarios, the Court has to be satisfied that the spouse or child of the family is in danger of being physically injured by the respondent.

Complementary to an exclusion order, the Court may also make an order requiring the respondent to permit the applicant to enter and remain in the matrimonial home. This is an important provision given the norm that matrimonial homes are often held in the sole name of the husband.

Procedure

The Ordinance makes provision for speedy hearing and the application may be heard notwithstanding that there may be other proceedings (such as divorce proceedings) which are otherwise pending. The magistrate may make an order (an expedited order) in the absence of the service of the summons on the respondent or at a date prior to the scheduled date of hearing where there is imminent danger of physical injury to the applicant or a child of the family. Such an expedited order, however, does not take effect until the respondent has been served with notice of the order. An expedited order lapses automatically on the expiration of a period of 28 days or on the date of the commencement of the hearing of the application for the order. However, a further expedited order may be made if appropriate or necessary.

Proceedings for protection orders are heard in camera and the Ordinance specifies that no person shall be present during the hearing and determination except officers of the Court; parties, their attorneys and witnesses; representatives of newspapers; and other persons so allowed by the magistrate. Even so, the magistrate has the power to exclude representatives of the press during the taking of 'indecent evidence'.

Of concern in the legislative scheme is the ability of the media to print significant details about the case. The Ordinance allows media houses to publish the identities of the parties before the Court, the grounds of the charge before the Court, submissions on points of law and the decision of the Court. What is not publishable is the evidence given in the matter. Still, in small societies such as the Turks and Caicos the possibility of publication, with the attendant loss of privacy and confidentiality, must be a deterrent to persons who are victims of domestic violence.

Police powers of arrest

Where the respondent has physically injured the spouse or a child of the family and the Court considers that there is likelihood that such an act may be repeated, a power of arrest may be attached to the restraining or exclusion

orders. The power to arrest may be exercised by a police officer without a warrant where there is reasonable cause for suspecting the respondent of being in breach of the order. It is to be noted that the orders in question to which a power of arrest is attached concern the use of violence and not threats to use violence against a spouse or child of the family.

Once the respondent is arrested pursuant to this power, the Ordinance provides that he is to be brought before a Magistrate or Justice of the Peace within 24 hours of arrest. Either the Magistrate or Justice of the Peace may then remand the respondent.

Where a power of arrest is not attached, upon a breach of an order, the applicant may apply for the issue of a warrant for the arrest of the respondent. The application must be made on oath and the Magistrate or Justice of the Peace must have reasonable grounds for believing that the other party has disobeyed the order. In other words, the application must be accompanied by evidence outlining the circumstances of the breach. This section is notable for the responsibility that it puts on the applicant for pursuing criminal complaints against the respondent in the case of breach, rather than on the police.

There are a number of gaps in the legislation:

(a) The Ordinance does not provide protection to any one outside of the parties to a marriage. This is a substantial deficit given that a significant number of unions in the Turks and Caicos both among belongers and the migrant population are either in common law or visiting unions or other close personal relationships. For such persons, the accessibility of the Magistrate Court is denied. The Ordinance also does not provide protection for other family members in the household nor does it cater for dependants who are not children of the union or those who have attained the age of majority.

(b) Prohibited behaviour: The Ordinance will only provide relief for threats of violence or actual violence. Emotional and psychological abuse such as harassment, besetting, intimidatory behaviour, verbal abuse, damage to property or stalking are not prohibited conduct such as to trigger an application for a protection order.

(c) Eligible applicants: The Ordinance only provides for applications to be made by a party to a marriage either in her own favour or in the interest of a child of the marriage. Apart from the limitations of the protected persons discussed above, the Ordinance does not provide for the application of a protection order in favour of either spouse or child by someone other than the spouse. So, for example, under this Ordinance, police or social workers are not empowered to seek relief in the interest of a child. This is a significant deficit, not addressed even in the Juveniles Ordinance. While under that latter

Ordinance a police officer or supervisor may bring a juvenile who is in need of care and protection to Court, the magistrate may only make an order to place the child in the care of another person. That Ordinance does not allow the magistrate the power to exclude the abuser from the home, thereby keeping the child within her/his environment.

(d) Types of orders: The orders available under the Ordinance are referable to the conduct at which the law is aimed – that of physical violence. The Court does not have the power to make the wide range of orders necessary for controlling the behaviour of one minded to engage in the variety of conduct that constitutes abuse. The language and content of the orders are specified and there appears to be little latitude for the Court to make an order that meets all the circumstances of the case before it, such as prohibiting the respondent from entering or remaining in any place where the applicant works or habitually visits; from molesting and from using abusive or intimidatory language short of threats of violence. There is also no power to vary tenancy arrangements.

(e) Social service support: The Ordinance is also silent on social service support to the Court and no provisions are made for batterer intervention programmes as part of the Court order.

(f) Anonymity and confidentiality: The Ordinance allows substantial details of a case before it to be reported in the media. While names are not permitted, nor evidentiary details, the possibility that in a small society such as the Turks and Caicos that the public would be able to deduce the identity of parties before the Court is not remote. The Ordinance in its present formulation therefore allows for a loss of anonymity and ultimately undermines privacy and confidentiality, both essential to encouraging persons to avail themselves of the assistance of the legal system.

(g) Proceedings for breach: Although a breach of an order amounts to a criminal offence, the Police do not have the widest powers to arrest an offender for all types of breaches. Such a power of arrest arises only in certain circumstances such as where the respondent has physically injured the applicant and the Court considers that he is likely to do so again. So, for example, a threat of violence sufficient to justify the issuance of a protection order would not trigger the attachment of a power of arrest.

In short, the Ordinance does not cater adequately for the range of domestic violence conduct experienced by all sections of the population of the Turks and Caicos.

Child protection

Criminal provisions

The regime in relation to child protection is specified in the Juveniles Ordinance. Section 5 of the Ordinance creates the offence of cruelty to juveniles. The section provides that every person over the age of 17 who has the custody, charge or care of a juvenile who willfully assaults, ill-treats, neglects, abandons or exposes that juvenile to harm or causes him to be assaulted, ill-treated, abandoned or exposed to injury or is more likely to cause that juvenile unnecessary suffering or injury to health shall be guilty of an offence punishable by a fine of \$10,000 or to imprisonment for two years or if convicted summarily to a fine of \$2500 or to imprisonment for three years or both.

Neglect is proven by failure to provide adequate food, clothing, rest, medical aid or lodging.

The Ordinance gives the Magistrate or Justice of the Peace powers to search for and move a child from a situation of ill-treatment or to protect a child who has been a victim of any offence under the Offences against the Person Ordinance or any other offence involving bodily injury to a juvenile.

It is to be noted however that reasonable punishment carried out by a parent, teacher or other person having lawful control charge of a juvenile is excepted from a charge of cruelty.

Care and protection provisions

Apart from creating the criminal offence of cruelty, the Ordinance also provides a basic regime for the care and protection of minors. Any police officer or supervisor (someone so appointed for the purposes of the Ordinance) may bring a juvenile who is in need of care and protection before Juvenile Court. Once the welfare of the child so requires, the Court may commit such a child to the care of a 'fit person'; may require the parent or guardian to enter into a cognizance to exercise proper care and guardianship or can place the child for a specified period not exceeding three years, under the supervision of a Supervisor. The Court may also make interim orders pending the final determination of the matter.

The Ordinance is silent on the social service delivery in support of the Court process.

Police response to domestic violence

While statistics are kept on reports of offences against the person, (e.g. wounding and assaults) this data is not usually disaggregated according to relationship between victim and perpetrator. As such, there is no readily available data on reports made of domestic violence. Notwithstanding the absence of records on domestic violence, there is the perception that the number of incidents has increased dramatically over the years. Additionally there is some consensus that heightened awareness by women of their right to protection has contributed to a higher level of reporting.

Given the criminal nature of most instances of domestic violence, law enforcement is a critical component in preventing and punishing this form of abuse. Like elsewhere in the Caribbean allegations of physical abuse perpetrated in the home are generally not prosecuted by the police. Members of the police service, sharing the dominant societal values, have historically viewed family violence as a private affair, or as "husband and wife business", outside of the legitimate concern of policing. Police can therefore be insensitive or dismissive of women making such complaints. While police officials are unable to say what percentage of domestic violence complaints are converted into charges, it is reported that the police will generally prosecute only where there is an actual wounding.

However, police officers often report in this context that even if they were minded to arrest, charge and prosecute allegations of domestic violence, victim cooperation cannot be relied on because many women are reluctant to participate given their emotional and economic relationship with the perpetrator. Women also do not cooperate with prosecutions because of fear and intimidation and little awareness about law and rights. There is also the view that women do not report because they are made to feel that the violence meted out to them is their fault. So, too, is the perception that community members and family members can be quite hostile to a woman who reports her partner to the police.

Incest is of particular concern and there is a general consensus that this crime is of sufficient prevalence to warrant a specialized justice system response. Indeed in a study on juvenile justice, it was found that there has been "an astronomical increase in the number of cases of sexual abuse including statutory rape".⁵

Still, as is the case generally in the Caribbean, there is no plan of action or policy framework designed to address this form of abuse. Reflecting frustrations on the treatment of this offence, the interviewers spoke to the

⁵ Clayton Greene: The System of Juvenile Justice in the Turks and Caicos Islands. February 2000.

unreliability and lack of cooperation from guardians of abused children as they did of the absence of protocols and services to guide police and social workers in treating with this form of child abuse.

In the NCH study a number of reasons were advanced for the low number of prosecutions of incest and child sexual abuse. These included:

(a) Interference on the part of guilty or complicit parents to dissuade and impede the course of justice;

(b) A culture of compromise through which financial and material resources are given to the family in exchange for recantation or non-cooperation with the police;

(c) Lack of diligent enforcement of laws;

(d) Absence of inter-agency protocols in investigating allegations of child abuse;

(e) Limitations of State resources to support victims and their families;

(f) The absence of safe housing for vulnerable children; and

(g) The need for social workers to be given clearer directives and power to remove children from a situation of potential danger so that investigations may be carried out. Presently there is no clear policy allowing social workers to take action.

Policing of domestic violence is therefore hampered by both cultural and ideological attitudes and also by technical deficiencies on the part of police officers in understanding how they can arrest and prosecute even with the expectation of victim recantation. In meeting these cultural and technical challenges and in building police capacity, the Caribbean Association for Feminist Research and Action (CAFRA), in collaboration with the Association of Caribbean Commissioners of Police developed and implemented training programmes for police officers across the Caribbean.

In the Turks and Caicos, the police training was undertaken in 2000. Sixty police officers were trained over a three to four week period. The training consisted of raising the awareness of the dynamics of domestic violence. The guiding philosophy of the training was that domestic violence was a crime to which both police officers and other front line workers needed to respond appropriately. A cross-section of police, teachers, community members, social welfare workers participated in the training which took place in two islands,

Provo and Grand Turk. The training lasted one week with participation coming from across all ranks in the police service.

From all reports the training was well received by those in attendance. However, the time-frame was seen as too brief, with the major recommendation being the institutionalization of periodic training on an ongoing basis. Out of this training of police and social welfare workers, the Domestic Violence Foundation was formed whose objectives are to start a safe house and promote legislative change.

Special police services

The Commissioner of Police is committed to establishing a domestic violence unit. This unit is seen as important in strengthening the police response. Such a unit, it is envisaged, will work closely with social welfare and will also deal with child molestation, carnal knowledge and acts of domestic violence. However, the establishment of this Unit has been hampered by resource limitations.

Social services

The Social Welfare Department's mandate is to provide care, housing, education and financial support for the sick, elderly, disabled and disadvantaged with community development and involvement. The approach of the Department has been characterized as welfare-oriented with a need for institutional reform and the formulation of a national social development policy basis for programme action.⁶

At present there are no social services particularly targeted at victims of domestic violence. The demand for social welfare interventions has stretched the Social Welfare Department, which appears to be under-resourced. So, for example, there are reportedly no trained counsellors on the staff of the Department. Further, there is little by way of crisis housing or batterer intervention programmes. The NCH study on Social Services Delivery in the Turks and Caicos has already pointed to the absence of a designated sub-unit within the Social Welfare Department to coordinate Child and Family Services throughout the Turks and Caicos Islands. That study also pointed to the need for in-service training for staff and support for higher education opportunities in general social work and specialty services to families.

The Women's Affairs Department has been pivotal in responding to gender-based violence. Established in 1999 and located within the Ministry of Education, Health, Youth and Sports, the Department has a mandate to

⁶ NCH Action for Children: Social Service Delivery in the Turks and Caicos. 2002 (Unpublished)

empower women through education. The Department works closely with the health sector to make the hospital environment more gender-sensitive. In relation to domestic violence, the Department's thrust has been to expand the understanding of the dynamics of domestic violence and to raise the awareness of the law and the right to a life free from violence. The Department spends a large portion of its time in the school system and in community and church groups where talks are given about sexual abuse and domestic violence.

Arising out of the CAFRA police training, the Domestic Violence Foundation was formed. This Foundation plans to establish a safe house with integrated social service support. The Rotary Club, it is reported, also has plans to build a crisis centre.

The need for an integrated action plan

Research has revealed that there has been progress made in formulating effective State responses to the phenomenon of domestic violence. The attention given to police training on domestic violence has resulted in increased networking between police and social service deliverers as it has enhanced police sensitivity to the dynamics of the cycle of domestic violence. However, there are significant gaps both in relation to the content of the law, to the ambit of service delivery as well to approaches which challenge the root causes of domestic violence.

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women is a useful guide in that it specifies the parameters of the State responsibility in preventing all forms of violence against women. The Convention defines violence in the domestic setting in the following way:

"Violence against women shall be understood to include physical, sexual and psychological violence that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse".

Among the State obligations adumbrated are the following:

(a) To apply due diligence to prevent, investigate and impose penalties for violence against women;

(b) To include in their domestic legislation penal, civil, administrative and any other type of provision that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures, where necessary;

(c) To adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;

(d) To establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures; and

(e) To provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for all family members, where appropriate, and care and custody of the affected children.

The obligations contained in both instruments give a clear indication that the State obligations encompass legislative, administrative, social services and public education components. The emphasis on the development of a national plan denotes the understanding that domestic violence is a widespread and complex issue which can only be effectively addressed by the coordinated application of the resources of government and civil society.

A multidisciplinary and comprehensive framework that builds on partnerships between government organizations and NGOs is now a requisite. While NGOs may be able, with the assistance of funding agencies and governments, to extend services to victims as well as to engage in advocacy, it is at the State level that the optimal opportunities lie for changing cultures around the acceptability of domestic violence.

The development, implementation and evaluation of the plan should be guided by clear philosophical approaches upon which there is consensus and therefore political will. While there may be a number of catalytic factors, domestic violence is a social problem rooted in certain societal beliefs about the role and value of women and men. Strategies should promote social change. Community-wide education and understanding on the complexities and dynamics of domestic violence is fundamental to any strategy.

The Commonwealth Secretariat has suggested that an integrated plan should have five core objectives⁷:

- (a) Responding to the needs of survivors of violence against women;
- (b) Clarifying the causes and nature of the violence;

⁷ See Annex 1

- (c) Taking appropriate action with regard to the perpetrator of the violence;
- (d) Changing societal values, attitudes and practices; and
- (e) Modifying structures which support violence against women.

In meeting these objectives, a number of sectors will be called upon to develop policies and programmes that meet the imperatives of the objectives.

Law reform

There is urgent need for a legislative framework that provides speedy and effective range of protection to victims of domestic violence irrespective of their marital or union status. It is widely accepted that domestic violence legislation should be enacted that would provide an effective remedy to all persons in familial or otherwise intimate relationships who experience abuse in the domestic setting.

The purpose of the law⁸ should be to:

- (a) Assure victims the maximum protection that the law can provide in cases ranging from physical, sexual and psychological abuse. It should prohibit violence against women and children in interpersonal and family relationships;
- (b) Create a wider range of flexible and immediate remedies, including protection orders, penal remedies and civil remedies to discourage domestic violence. The Court should also be empowered to make orders for maintenance and custody in relation to children of the union;
- (c) Facilitate equal enforcement of the criminal law by deterring and punishing violence within interpersonal relationships;
- (d) Expand the ability of law enforcement officers to assist victims, to enforce the law effectively in cases of domestic violence and to prevent further incidents of abuse. Clarity is needed on the powers of entry and arrest without a warrant; and
- (e) Ensure comprehensive support services, including emergency services for victims of abuse and their families, and education, counseling and therapeutic programmes for the abuser and the victim.

⁸ See Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 1995/85. E/CN.4/1996/53/Add.2 2 February 1996

A number of models already exist within and outside of the Caribbean that should be examined in developing a law that is relevant to the realities of the Turks and Caicos Islands. It is important to plug the loopholes in the existing framework and to expand the jurisdiction of the Court to make effective orders within a process that is accessible and which provides relief without delay.

Consideration should be given to whether the legislation will address both civil and criminal law responses to domestic violence in one instrument. Other countries in the Caribbean have enacted legislation that mainly expands the power of the Court to grant injunctive relief with the criminal jurisdiction of the Court invoked only in the case of a breach of a protection order.

The experience has been that prosecution rates of domestic violence have remained unchanged. Indeed the police act very much as referral agents, sending victims in the direction of the Court to seek a protection order. The extent to which the working of the criminal law can act as a deterrent to domestic violence remains therefore unknown. The issue of **mandatory arrest and prosecution** should therefore be closely considered, not only in relation to a breach of a protection order but as a complementary procedure alongside applications for protection orders.

Definition of domestic violence

The definition of domestic violence must be broad enough to capture the range of abuse that occurs in the domestic setting, recognising that abuse that is not physical can be as damaging to the emotional/psychological and mental health of a victim. The 1999 Domestic Violence Act of Trinidad and Tobago provides a definition of domestic violence that is worthy of consideration. Under this legislation domestic violence includes “physical, sexual, emotional or psychological or financial abuse”.

Emotional or psychological abuse, is defined as a pattern of behaviour of any kind, the purpose of which is to undermine the emotional and mental well-being of a person including:

- (a) Persistent intimidation by the use of abusive or threatening language;
- (b) Persistent following of the person from place to place;
- (c) Depriving that person of use of property;
- (d) Watching and besetting of the place where the person resides, works, carries on business or happens to be;

- (e) Interfering with or damaging the property of the person;
- (f) Forced confinement;
- (g) Persistent telephoning; and
- (h) Making unwelcome and repeated or intimidating contact with a child or elderly relative of the person.

Financial abuse is a pattern of behaviour of a kind, the purpose of which is to exercise coercive control over, or exploit or limit a person's access to financial resources so as to ensure financial dependence. The inclusion of financial abuse is based on the understanding that some abusers use the withholding of money or the taking away of money as a method of control over the victim.

Protected persons

Persons for whom the law should provide protection include:

- (a) Persons who are current or former spouses;
- (b) Persons who live together or who have lived together;
- (c) Persons who are in an intimate relationship or who have been in the past;
- (d) Persons who are engaged in or who have engaged in a sexual relationship;
- (e) Adults or minors who are related by blood or adoption or who are in a guardianship arrangement;
- (f) Adults or minors who are related or formerly related by marriage;
- (g) Persons who have a child in common; and
- (h) Minor children of a person in a relationship that is described in paragraphs (a) through (g)

Eligible applicants

A person who is or has been a victim of domestic or family violence may apply for a protection order against a family or household member who commits an act of domestic violence. In addition, police should also be given the power to make such an application on behalf of an adult so abused.

The legislation should allow for applications to be made on behalf of children by:

- (a) A person experienced or qualified in social welfare;
- (b) A police officer; and
- (c) A person holding the office or performing the duties of a probation officer or medical social worker.

The Solicitor General should also be given the power to initiate proceedings on behalf of a child.

In relation to a child, a parent, guardian, or other representative, police officers and social workers should be able to make an application for a protection order on behalf of a child against a family or household member who commits an act of domestic violence.

Range of orders

Consideration should be given to a range of orders including ex parte orders that would provide effective and comprehensive relief to a person experiencing abuse in the domestic setting, thereby obviating the need to make a multiplicity of applications. The orders should include:

- (a) An order enjoining the respondent from threatening to commit or committing further acts of domestic violence;
- (b) An order prohibiting the respondent from harassing, annoying, telephoning, contacting, otherwise communicating with the applicant, directly or indirectly;
- (c) An order removing the respondent from the residence;
- (d) An order directing the respondent to stay away from the residence, school, place of employment, or any other specified place frequented by the applicant and another family or household member;

- (e) An order prohibiting the respondent from using or possessing any firearm or other weapon specified by the court;
- (f) An order granting the applicant possession and use of the automobile and other essential personal effects;
- (g) An order granting the applicant custody of a child or children;
- (h) An order denying the respondent visitation;
- (i) An order specifying arrangements for visitation, including requiring supervised visitation;
- (j) An order varying the tenancy to the home of the parties to the proceedings; and
- (k) An order requiring the respondent to pay certain costs and fees, such as rent or mortgage payments, child support payments, medical expenses, expenses for shelter, court costs, and attorney's fees.

The Court should also have the power to make orders for reimbursement for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support, and other expenses for injuries sustained and damage to property.

Police powers

The powers of police to enter and arrest where there is reasonable cause to believe that an act of domestic violence has taken place, is taking place or is threatened should be specified in the clearest terms. Similarly powers of arrest should attach to orders of the Court so that a person in breach can be apprehended. Such powers of arrest have been found to be effective as a deterrent. Apart from specifying the conditions under which police officers may make a warrantless arrest or entry, attention should also be paid to the advantages to removing police discretion and making such arrest mandatory under specified circumstances.

Proponents of mandatory arrest suggest that this provides victims with immediate protection from the current violence, affording them an opportunity to consider legal options, and providing victims with a window of time for safe relocation or for obtaining civil orders for protection. Otherwise in jurisdictions that have legislated mandatory arrest, it is suggested that this has ensured an improved police response. Such mandatory arrest policies, it is argued, facilitate consistent, effective practice on the part of police officers.

Venue

It is important that the Court process should be made accessible and confidential as these two factors can either facilitate or impede the use of legislation. In small societies like the Turks and Caicos, the possibility that the proceedings may be published in the media, even without the names of the parties, will most certainly deter persons from using the Court process. Consideration should be given to mandating in camera proceedings in which only the parties to the proceedings, their counsel and Court officials are allowed into the courtroom.

Easy access to the Courts by applicants should be assured. To facilitate applications by persons who may not be able to afford legal representation, simplified application forms should be used.

Child protection

The law in relation to incest should be reviewed and amended in accordance with the CARICOM model legislation. The proposals contained therein include:

- (a) Provision for in camera trials which may encourage more victims to attend court for trial of offenders;
- (b) Provisions empowering the court to forbid the publication of reports of certain details of the alleged act;
- (c) Restrictions on reports as to the identity of both the accused and complainant in certain circumstances⁹.

Given the family and household forms that exist in the Turks and Caicos the law on incest should extend protection to children in an adoptive or guardianship relationship with a adult male.

Mechanisms should be formulated for increasing the effectiveness of the criminal justice process in the face of the experience of difficulty in ensuring family cooperation in the prosecution of incest cases. In other jurisdictions, legislative steps have been taken to ensure increased accountability for caretakers of minors against whom sexual abuse has been perpetrated. The Sexual Offences (Amendment) Act 2000 of Trinidad and Tobago, for example, creates the obligation on the part of a range of caretakers to report suspected cases of child abuse. Such persons are:

⁹ See www.caricom.org/sexualoffences.htm

- (a) A parent or guardian of a minor;
- (b) A person who has the actual custody, charge or control of a minor;
- (c) A person with the temporary custody, care, charge or control of a minor for a special purpose, as his attendant, employer or teacher, or in any other capacity; or
- (d) A medical practitioner, or a registered nurse or midwife who has performed a medical examination in respect of a minor, and who has reasonable grounds for believing that a sexual offence has been committed in respect of that minor, shall report the grounds for his belief to a police officer as soon as reasonably practicable.

In addition, the Trinidadian legislation makes provision for the admissibility into evidence of written statements given or made by a minor to the police once contained in the form of a statutory declaration. Such a statement may only be admitted where the Court is satisfied that a minor is being prevented from giving evidence. Similar provisions should be considered in the Turks and Caicos.

In relation to child protection, it has already been recommended that a specific Child Protection Act be passed that would allow for the apprehension, care and supervision of children who are at risk of being abused. Such a law should comprehensively define child abuse, recognising the various forms that exists. To support such a legal framework, it has been suggested that a Child Protection Unit be created with a mandate to implement the law and to assume responsibility for the safety and well-being of children who are at risk. Such a department should have sufficient investigative powers to facilitate decision-making in the best interest of children.¹⁰

Policing

Dialogue among social workers, communities and police should be undertaken to assess how the police as law enforcers can be strengthened. Coordination among police, social service and health providers should be more consistently fostered and institutionalized. Such coordination promotes early intervention, enhances information and referral, and ensures that victims are apprised of legal and other options to increase their safety.

It is noteworthy that throughout the Caribbean, the police training around the question of domestic violence has failed to result in increased

¹⁰ Jackie Sealey-Burke: Report on Reform to child protection law in the OECS and Turks and Caicos Islands. 2002.

arrests and prosecutions of perpetrators of domestic violence. There are challenges to proceeding with prosecutions where there is victim recantation or hostility. However, effective policing can signify that domestic violence is a crime and perpetrators will be punished. In this regard, there should be an institutionalization of modules on gender-based violence in police training programmes both at the recruitment stage and as part of ongoing capacity building. The training should address:

- (a) The nature, extent, causes and consequences of domestic violence;
- (b) The legal rights and remedies available to victims;
- (c) The services and facilities available to victims and abusers;
- (d) The legal duty of police officers to make arrests and to offer protection and assistance;
- (e) Techniques for handling incidents of domestic violence, including incest and other forms of child abuse; and
- (f) The importance of record keeping, including a noting of all actions taken pursuant to a report

Police protocols should be developed which address appropriate investigation and detection procedures and standards. The procedures developed must take account of and anticipate victim reluctance to participate in a criminal prosecution.

Legal aid

At present there is no general legal aid service provided by the State. However, it is widely acknowledged that limited financial means is a significant impediment for abused family members who seek legal assistance. Indeed one of the recommendations made was for the creation of an office of a public solicitor who would provide advisory and legal aid services. Such an office could be located within the Family Court as part of an integrated service delivery in support of the Court.

In other countries in the region where there has been an assessment of the implementation of the domestic violence law, lawyers are frequently absent from the family Court and, in particular, from domestic violence proceedings. In the main, the absence of legal representation is more prevalent among applicants to the Court than it is among respondents. This has left the judicial officers in the position of having to elicit the relevant evidence from the complainants. The effect of this has been to, in the view of some, undermine the perception of neutrality of the Court.

Strengthening of social service delivery

Among recurring recommendations made was the need for an increase in the number of social workers. The Welfare Department is overwhelmed by the demands placed on it. Probation services are weak and over-stretched as the Welfare Department is called upon to prepare social inquiry reports for both the Supreme Court and the Magistrates Court.

At the moment the Social Welfare Department does not have a professional counsellor on staff. Such a person will be critical to the success of a legal framework which gives the Magistrate the power to order counseling. Such counseling programmes should be designed to help the perpetrator take responsibility for his violence and make a commitment not to inflict further violence and to educate the perpetrator on the illegality of violence. Counseling of victims should not be mandated but rather should be voluntary. Such counseling would assist the victim in making short and long-term decisions and strategies to protect her from further violence.

This report reiterates the recommendations made for capacity-building of the Social Welfare Department, including:

- (a) Creation of a designated sub-unit to coordinate Child and Family Services throughout the Turks and Caicos islands;
- (b) The need to define and implement agreed protocols for action on the part of the Social Welfare Department and other human service agencies; and
- (c) Training for staff and support for higher education opportunities in general social work, counseling, batterer intervention programmes and specialty services to families.

While juvenile justice was not the purpose of this present study, concerns for this issue were reiterated. There are no secure facilities for juvenile offenders at present in the Turks and Caicos and, therefore, young persons in conflict with the law are sent to adult penal facilities where they are kept segregated from the prison population. The recommendation has been made in previous studies for the establishment of a secure facility for juvenile offenders which would concentrate not only or mainly on punishment, but rather on education, skills training and family life education.

Apart from State-led social services, there is also the need for safe housing and/or transition housing for victims and their families. The Domestic Violence Foundation is in the process of setting up such a facility. It is one,

however, that will need to be financially assisted given the relatively high operating costs.

Health sector

Consideration should be given to developing a policy of mandatory reporting by health professionals of instances of suspected child abuse. Elsewhere there is a growing recognition of the centrality of health care professionals in the protection of children in difficult and abusive situations. However, as has been pointed out elsewhere at the stage of reporting there must be an identified source for receiving reports of abuse, such as a sufficiently funded and staffed child protection agency trained to receive and respond to reports of suspected abuse.

The OECS report on Child Protection makes the important point that:

“the investigatory stage of child abuse allegations is extremely important and must be handled in a sensitive but yet, probing fashion. Well trained social workers specialized, must be afforded the time and resources to conduct thorough investigations which go beyond an interview with the victim and alleged perpetrator of the abuser. The interviews must extend wherever possible to collaterals such as teachers, neighbours, day care providers, family doctors and extended family members. Medical and police interventions for child victims of abuse are needed during the investigatory stage. Specialized medical investigation is particularly helpful for sexual assaults and in the developed nations, there are special SCAN units established for the sole purpose of providing medical findings on sexual abuse cases. The medical staff is equipped to detect both the emotional and physical evidence of sexual abuse and provides reports to the relevant authorities, including the Court.”¹¹

As for police and social workers, health sector workers should be trained periodically in the dynamics of domestic violence. The training should support health care workers in, the following areas:

- (a) Identification - Recognising symptoms and in some cases screening for abuse;
- (b) Providing Emotional Support/Empowerment of Confirmed or Suspected Victims of Abuse; and

¹¹ Jackie Sealey-Burke: Report on Reform to Child Protection Law in the OECS and Turks and Caicos Islands. OECS Family Law and Domestic Violence Law reform Project.

(c) Documentation - Careful documentation of injuries can assist abused partners to obtain protection orders immediately or in the future, and can assist the Welfare Department and police investigations of child abuse.

Monitoring and evaluation

Assessment, prevention, intervention and evaluation (aspects of the policy cycle) must all be components in the implementation process. At present, however, the lack of consistent information about domestic violence affects the capacity of policy makers:

- (a) To obtain a profile of victims and perpetrators;
- (b) To understand the frequency and incidence of violence;
- (c) To identify the groups at risk;
- (d) To develop intervention programmes; and
- (e) To monitor the effectiveness of violence prevention and intervention activities.

Higher quality and more timely incidence and prevalence estimates have the potential to be of use to a wide audience, including policy makers, researchers, public health practitioners, victim advocates, service providers, and media professionals.

It is recommended that a central registry of domestic violence be established through which there can be a coordinated data collection effort of all reports of domestic violence and child abuse. Such a data collection effort should encompass police, court and social work records. The ECLAC Subregional Headquarters for the Caribbean has developed a data collection protocol for domestic violence that can be used as a template for such a system within the Turk and Caicos Islands¹².

The establishment of such a registry will be dependent on accurate, relevant and timely record keeping within the collaborating agencies. All agencies, police, judiciary and social services need to strengthen the management of information and ensure consistent record keeping. This is an area where there should be a further assessment or audit of the data collection systems in place with a view to recommending procedures and standards for improved data collection and management.

¹² ECLAC/CDCC: Data Collection System for Domestic Violence. LC/CAR/G.691. 23 April 2002 (Prepared by Consultant Dr. Godfrey St. Bernard)

Conclusion

At its core, domestic violence is a crime. This fact therefore demands that there is a legal response that protects, prevents and punishes acts of violence perpetrated in the home. There is also a growing awareness that the problem of violence against women is complex and requires comprehensive service responses involving agencies and services beyond the justice systems. More recent approaches build on networks of law enforcement agencies and the justice system generally to include a broader array of agencies and stakeholders, including health care providers, child welfare agencies, substance abuse services, clergy, and business. In these approaches community education, raising community awareness and reshaping attitudes about this issue have become central.

Annex 1

An Integrated Approach to Domestic Violence: The Commonwealth Secretariat Model: (Excerpts)

Objective 1: Responding to the needs of survivors of violence against women

Adequate response to the needs of survivors involves action on the part of different sectoral actors in government. Examples, identified by department, and possible roles are:

Health department

- diagnosis of injuries sustained by survivor
- medical/psychological/psychiatric treatment
- counseling
- maintaining an adequate record of cases of violence against women handled
- referring survivor to other actors within the integrated system such as the police, social workers, etc.
- training of personnel including nurses, doctors, etc.

Police department

- receiving complaint from survivor
- counseling
- diligent investigation, proper handling of evidence and sympathetic handling of victims
- maintaining an adequate record of cases of violence against women handled
- referring survivor to other actors within the integrated system
- training of personnel - social workers/social welfare department
- provision of temporary shelter to survivors (where necessary)
- referring survivor to other actors within the integrated system
- training of personnel
- provision of financial and other benefits (where necessary)

Judiciary

- interpreting and applying law with gender sensitivity
- making protective orders (e.g. peace orders)
- ensuring victim-friendly proceedings

- maintaining an adequate record of cases of violence against women handled
- training of personnel on gender equality and justice, and the domestic application of international and regional human rights instruments relevant to the human rights of women.

Justice department (Directorate of public prosecution)

- reforming of substantive and procedural laws
- carrying out research and consultation with the relevant stake holders
- training of personnel on gender equality and justice
- maintaining a closer link with the Ministry Responsible for Women's Affairs and women's organizations that provide legal assistance to women

Women's national machinery

- referring survivors to relevant actors within the integrated system
- liaising with the various actors
- developing and facilitating training programmes to strengthen the capacity of various actors to handle cases referred to them with gender sensitivity
- compiling and disseminating statistics on violence against women
- advocating for any necessary changes in the law or improvement of services offered by other government ministries

Objective 2: Clarifying the causes and nature of the violence

Effective action strategies for confronting the problem of violence against women in all its manifestations can only succeed if they are rooted in a clear understanding of the causes and nature of the violence, its consequences and stakeholders. This calls for research from different perspectives and disciplines but with sufficient coordination so that research by one government sector can build on findings and perceptions from other sectors.

Key players here include:

- (a) Social welfare department;
- (b) Women's affairs department;
- (c) Education department, especially institutions of higher learning;
- (d) Health department;

- (e) Justice department; and
- (f) Police department

The roles include research, facilitating public and institutional debate on violence against women and maintenance of an appropriate records/statistical base.

Objective 3: Taking appropriate action with regard to the perpetrator of the violence.

In dealing with the problem of violence against women it is imperative that the perpetrator of violence is also a major point of focus. A weakness of current strategies is that apart from the few cases in which the perpetrator is apprehended and dealt with by the criminal justice system, he is often ignored. Just as with the other objectives the role must be a shared one.

Police department

- (a) Gender sensitive investigation to ensure that justice is done;
- (b) Impress it on the perpetrator that violence against women is unacceptable; and
- (c) Counseling

Prisons department

- (a) Special rehabilitation programmes for perpetrators of violence against women.

Judiciary (the courts)

- (a) Sufficient punishment; and
- (b) Order offender to attend counseling sessions.

Social welfare

- (a) Psychological treatment, where necessary.

Health

- (a) Psychological/psychiatric treatment, where necessary.

Probation

- (a) Counseling offender; and
- (b) Supervise offender during restraining orders;

Justice

- (a) Prosecute (DPP); and
- (b) Legal reform.

Objective 4: Changing societal values, attitudes and practices

It is generally accepted that violence against women has its origin in the socio-cultural context, that it is a reflection of the broad structures of gender inequality. It is a result of deep-rooted values, beliefs and practices in societies. Efforts to eliminate it from society must deal with attitudinal changes within society. This is a task for many government departments including those below:

Education

- (a) Revise school and college curricula to remove stereotyped images of the roles of men and women and promote behaviour which does not validate or condone gender inequality and gender specific violence.

Information

- (a) Public education and information about the illegal status of violence against women; and
- (b) Training journalists on gender sensitive reporting.

Community development

- (a) Public education and awareness campaigns;
- (b) Refer victims to available services; and
- (c) Disseminate information on available services/options.

Women's affairs

- (a) Public education and awareness campaigns; and
- (b) Developing gender sensitive programmes for other actors.

Justice

- (a) Legal reform

Local Government

- (a) Promote facilities and resources for public discussion and debate.

Objective 5: Modifying structures which support violence against women

Strategies for confronting violence against women are bound to remain inadequate unless the structural causes of the problem are addressed. There is a dire need to move towards identifying and modifying structures, be they legal, social, or economic, which support, condone or sustain the violence against women. Action towards this objective must be at the highest level of government. Departments to play a role include:

Justice department

- (a) Review all laws and procedures for gender equality and sensitivity; and
- (b) In-house training to build capacity in dealing with broad gender issues, including violence against women

Department of local government

- (a) Integrate strategies to address gender imbalances and gender-based violence in development plans;
- (b) Allocate adequate resources at local governance levels to programmes which enhance women's equality, incomes and capacities;
- (c) Promote and support women's participation in local government structures and decision-making position; and
- (d) Educate district, county, sub-county and other community leaders on gender equality issues in general and violence against women in particular

Department of finance and planning

- (a) Include the elimination of violence against women in the Country Assistance Strategies for support by bilateral and multilateral donor agencies;

(b) Treat institutions which promote women's equality, including the department for women's affairs, as important as other departments and therefore deserving equal and adequate resources; and

(c) Develop mechanisms for compiling gender disaggregated statistics in all areas, including violence against women and integrate them into national statistical frameworks. This will facilitate their use in planning.

Department of education

(a) Restructure curricula for the different levels of education (primary, secondary, tertiary, university) to promote gender equality and equal opportunities for boys and girls; and

(b) Institutionalise gender sensitive career guidance at all levels.

Department of culture/National heritage

(a) Work with religious and cultural institutions on strategies which enhance positive elements in culture while promoting changing values and attitudes; and

(b) Promote exchange of information and the sharing of experiences between communities of different cultures on successful strategies to end violence against women.

Department of women's affairs

(a) Work for the adoption by government of a national gender policy to be implemented by all government departments at the different levels;

(b) Coordinate and undertake gender awareness and gender equality training programmes by and for representatives of stakeholders in the fight to end violence against women; and

(a) Create and strengthen partnerships and linkages with supportive men.

The national assembly

(a) Enact legislation aimed at ending violence against women and promoting gender equality;

(b) Ensure that adequate resources both financial and human resources are devoted to activities and programmes that promote gender equality and the elimination of violence against women;

(c) Encourage activities relevant to increasing the role of women in decision-making in political, public and private sectors;

(d) Undertake public education and awareness campaigns to end violence against women in the respective constituencies;

(e) Support adoption of a National Policy and Plan of Action to end violence against women; and

(f) Establish a women's non-partisan political caucus to spearhead gender equality initiatives and to promote collaboration with supportive men in parliament.

Annex 2

Persons Interviewed

Ministry representatives

Honourable Clarence Selver, Minister of Education, Health and Social Services

Ms. Ashworth, Chief Secretary

Mr. Swann, Permanent Secretary, Ministry of Minister of Education, Health and Social Services

Ms. Rita Gardiner, Director, Gender Affairs Department

Judiciary

Mr. Ground, Chief Justice

Mr. Kwasi Bekoe, Chief Magistrate

Mr. Richard Williams, Senior Magistrate

Attorney General Department

Mr. David Jeremiah, Attorney General

Ms. Rhondalee Braithwaite, Crown Counsel

Ms. Dawn Holder Alert, Crown Counsel

Police

Mr. Edward Hall, Deputy Commissioner of Police

Organizations and individuals

Ms. Delores Connolly

Ms. Karen Delancy

Ms. Sandra Garland

Ms. Doreen Quelch-Missick, Attorney at law