

1504

NATIONAL GENDER POLICY AND ACTION PLAN

"Building Consensus: Shaping the Vision"

REPUBLIC OF TRINIDAD AND TOBAGO

SECTOR STUDY

LAW AND THE JUDICIAL SYSTEM

Consultant:
Centre for Gender and Development Studies
University of the West Indies
St. Augustine
Trinidad and Tobago

Prepared By:
Ms. Gaietry Pargass

Table of Contents

1. **Introduction**
 - 1.1 Introduction and context of the report
 - 1.2 Introduction to the sector
 - 1.3 Methodology
2. **Situational Analysis of the Sector**
 - 2.1 Overview of the Sector
 - 2.2 Gender Analysis of the Sector
 - 2.2.1 Analysis of the Sexual Division of Labour
 - 2.2.2 Gender Impact Assessment / Audit of existing policies and programmes
 - 2.3 Overview of the Existing Policy and Planning Framework in relation to this Sector and Implications for Gender Mainstreaming
 - 2.4 Interface/ Relations with the Gender Affairs Division
3. **Identification of areas for policy intervention**
4. **Proposed Policy Interventions**

Bibliography

Interviews

1. INTRODUCTION

1.1 Introduction and context of the report

Although the law does not hold an exclusive response to gender equality, it is nevertheless viewed as an important tool in the quest for gender justice. The extent of a government's commitment to the principle of gender equality may be gauged by the existing law. The mere existence of legislation however is not by itself a measure of a government's commitment to gender equality. Of perhaps equal or more importance is the effective implementation of such legislation. Implementation of legislation geared to achieving gender equality depends on a number of factors including the structure of the justice system, the availability of support services and an acceptance of the values underpinning the law by those involved in its administration.

Historically laws were fashioned within deeply patriarchal systems and laws relating to women were often proprietary or protective in their intent. The result was that women's status was subordinated to that of their husbands or fathers. Married women became the property of their husbands and their status in law was reduced to that of a chattel in which the husband's interest was proprietary. For nearly all purposes there was unity between spouses, with the wife's legal status subsumed into that of the husband. Women were deprived of their rights as wives and as daughters and laws developed with both direct and indirect discriminatory provisions.

Over the past thirty years or so, and consistent with the government's international commitments to gender equality, efforts were made to repeal or amend legal provisions which discriminated against women. Efforts were also made to provide legal remedies for violations of the rights of women where none existed previously or where the remedies were inadequate. For example, in 1972, sweeping changes were introduced by the new divorce law, which conferred on women equal status with men. Of major significance was the fact that the new law took into account women's contribution to caring for the family in determining how matrimonial property should be divided. Further, in 1976, restrictions on income tax assessment for married women were abolished, and, reforms which came into effect in 1983 abolished married woman's dependent domicile and equalized their rights to the custody of their children with those previously enjoyed only by their husbands.

To a large extent, the most direct and overt forms of discrimination against women were eliminated from the law. Nevertheless, in practice, women continued to be discriminated against due to their subordinate status in the society. This was seen for example in the continuing violence against women and in sexual harassment in the workplace. Indeed, eradication of violence against women became a central plank in the women movement's struggle in the 1980s and 1990s to achieve gender equality and women campaigned extensively for legal reforms in this area. In Trinidad and Tobago, this campaign led to the introduction in 1986 of reforms in the law relating to sexual

offences and later, in 1991, to the introduction of domestic violence legislation. The reforms introduced by the Sexual Offences Act, 1986, *inter alia*, abolished the discriminatory rules of recent complaint and previous sexual history, which were relevant to the law of rape. The Act failed however to abolish a husband's immunity from prosecution for marital rape, notwithstanding that the Bill which was introduced into Parliament had sought to abolish this immunity. Instead, largely due to resistance from parliamentarians and other male dominated organizations, an offence of sexual assault was substituted for the offence of marital rape. The offence attracted a lesser penalty (up to 15 years imprisonment), and could only be committed in circumstances akin to a breakdown in marriage. It was only in 2000, by virtue of the Sexual Offences (Amendment), Act 2000, that the husband's immunity was totally abolished.

In 1991, domestic violence legislation was introduced. This was later repealed and replaced by the current Domestic Violence Act, 1999. The late nineties also saw inroads into the realm of employment law with the enactment of maternity protection legislation in 1997. Prior to that, employment law had focused on regulating the public realm of work with little reference to gender. Recognition of the rights of cohabiting spouses by the passage of the Cohabital Relationships Act, 1997, was another significant milestone.

Notwithstanding this history of legislative reform and government's commitments under the Convention on the Elimination of All Forms of Discrimination Against Women and various international consensus documents such as the Nairobi Forward Looking Strategies (1985) and the Beijing Platform For Action (1995), there continues to exist in Trinidad and Tobago legislation which discriminates or has the potential to discriminate against women. Further, there are also areas where remedies are lacking or where they are totally inadequate. There is for example, no legislation to deal with sexual harassment in the workplace although this is viewed as a particularly egregious example of discrimination against women.

A gender analysis of the law and judicial sector must take into account both the status of the law as well as its implementation, and hence the system of the administration of justice. The present study analyses the existing law, identifies areas of discrimination, both direct and indirect. It further examines the structure of the sector from a gender perspective and analyses how the system of the administration of justice present system impacts on women's access to justice. The study concludes outlining some policy directions.

1.2 Introduction to the sector

The judicial system comprises several entities of which the two most visible are the courts and the police. The courts dispense justice and adjudicate upon rights while the police respond to and investigate complaints. In Trinidad and Tobago, the police also function as prosecutors in the magistrates' courts. Social workers, probation officers, lawyers, other government agencies or functionaries may also be involved in the administration of justice. The Minister of Labour, for example, is ascribed important

roles under the Industrial Relations Act, Chap. 88:01 and the Maternity Protection Act, 1998. It is not uncommon to find several agencies or individuals involved in the administration of a single statute, as is the case with the domestic violence legislation.

The Prison Service also comprises an arm of the administration of justice.

The law and judicial sector therefore comprises various agencies, government ministries and individuals each performing different functions all relating to the implementation of the laws of the country but operating more or less independently of each other.

1.3 Methodology

The study was carried out using a variety of methodologies as follows:

- (a) A review of the literature and the laws of the Republic of Trinidad and Tobago.
- (b) Interviews/ meetings with key agencies and individuals.
- (c) Participant/observer at community consultations, which comprised part of the process of the development of the National Gender Policy and Action Plan.
- (d) A consultation with members of the police service, the defence force and the coastguard.

2. Situational Analysis of the sector

2.1 Overview of sector

The Courts

The Courts, which comprise a three-tiered system in this jurisdiction, play a major role in the administration of justice. The Magistracy occupies the lowest tier, the Supreme Court (which comprises the High Court and the Court of Appeal) the second tier and the Privy Council, the top tier. Of relevance to the present study is the fact that decisions of judges constitute one source of law in this jurisdiction and although not a major source of law as compared to the legislative-making authority of the Parliament, such decisions can have implications for gender equality. Judges can either act as social engineers in this regard or the law may be very slow to develop. One area of the law which has developed very rapidly within the last two decades is that related to the death penalty. Higher courts can overturn decisions of lower courts.

The Police Service

The Police Service, which falls under the Ministry of National Security, is another highly visible entity within the system of administration of justice. The Police Service which is charged with the maintenance of law and order, the prevention and detection of crime and the prosecution of offenders, comprises some 7000 police officers of which some 10 % are female officers. To facilitate the prevention and detection of crime, the law provides the police with a series of powers to interfere with the legal rights of members of the public such as the powers of arrest and detention and the powers to search persons. As such, the police play a key role in bringing the perpetrators of gender-based violence to justice. There are nine police divisions throughout Trinidad and Tobago and police officers attached to these divisions either respond to calls or investigate reports made at police stations. The nature of the police response is therefore important to detection and prevention of incidents of gender-based violence. More than one police station or police post may be attached to a division.

The Prison Service

The Prison Service is also an arm of the criminal justice system and falls under the Ministry of National Security. It comprises the following establishments:

- (a) The Port of Spain Prison: This is a maximum-security male prison which houses both remand and convicted prisoners. Male prisoners facing capital punishment are also kept at this prison.
- (b) The Carrera Convict Prison: This is also a maximum-security facility for males located on Carrera Island. It caters for inmates serving long sentences and is also the prison where sentences of corporal punishment are carried out.
- (c) The Maximum Security Prison: this is also a prison for males and is located at Golden grove, Arouca. Prisoners also serving long sentences and those considered "High Risk" are held here.
- (d) The Golden Grove Prison: Within this compound are located a male convict prison, a male remand prison and a women's prison. The women's prison is the only facility for female prisoners in the country.
- (e) The Tobago Prison: This is a male prison housing convicted and unconvicted persons. No equivalent facilities for females exist on the island of Tobago.
- (f) The Youth Training Centre: Although not a prison, it falls under the purview of the Prison Service. It is a detention centre for young male

offenders, both convicted and unconvicted. No equivalent facility exists for girls and consequently young female offenders are detained at the Women's Prison.

The location of the prisons is important in terms of the ease with which prisoners may be transported to and from court hearings and the ease with which health facilities can be accessed. The fact that all the prisons except one are male prisons gives an indication of the gendered nature of crime.

The National Family Services Division

Social workers attached to this Division perform counseling and other social work functions in Trinidad. The Division is under the portfolio of the Office of the Prime Minister, Social Services Delivery and it provides support for victims of domestic violence and child abuse on a case-by-case basis. It is one of the designated counseling agencies under the domestic violence legislation.

The Probation Department

Probation Officers attached to this Department also play an important role in the administration of justice. The department comes under the Office of the Prime Minister, Social Services Delivery. Not only are Probation Officers the social workers of the courts but they are also involved in the implementation of certain statutes such as the Domestic Violence Act, 1999, the Probation of Offenders Act and the Community Services Orders Act.

2.2 Gender Analysis of the sector

1. The Judiciary

The Judiciary is one of the three separate arms of the State. Although it is independent of the other two, namely, the Executive and the Legislature, it depends on State resources for its functioning. It comprises the higher Judiciary (the Supreme Court) and the lower judiciary (the Magistracy). The Supreme Court consists of the High Court of Justice and a Court of Appeal. The Chief Justice heads the Judiciary

The Magistracy

The magistracy is divided into 14 districts as follows:

- | | |
|------------------|---------------------|
| (a) Arima | (b) Chaguanas |
| (c) Chaguaramas | (d) Couva |
| (e) Mayaro | (f) Point Fortin |
| (g) Princes Town | (h) Rio Claro |
| (i) San Fernando | (j) Sangre Grande |
| (k) Siparia | (l) St. George West |
| (m) Tunapuna | (n) Tobago |

As will be discussed later, women's interaction with the judicial system is primarily with the Magistrates' Courts. The location of these courts and hence whether they can be easily accessed by urban as well as rural women is important.

Unlike the Supreme Court, the Magistracy sits all year round, excluding weekends and public holidays. At present, there are 46 magistrates including a Deputy Chief Magistrate and a Chief Magistrate. Fifteen, excluding the Chief and Deputy Chief Magistrates are "Senior Magistrates" (with four in acting positions) and 29 are "Magistrates" (with four in acting positions and one in a temporary position).

Magistrates' Courts exercise summary jurisdiction in criminal matters and hear preliminary enquiries in indictable matters (criminal) to determine whether such matters should go to the High Court for trial. Sexual offences are indictable offences and are therefore first heard as preliminary enquiries in the magistrate's court. This process is often very lengthy. In addition, magistrates exercise certain family law, administrative law and civil functions. They have extensive jurisdiction in family law matters including powers to make orders for the following:

- maintenance for parties to a marriage, for cohabitants, and for children;
- custody;
- committal of children to the care of children's homes; and
- for guardianship and adoption orders.

Magistrates also have sole jurisdiction over the Domestic Violence Act, 1999, and in addition sit as the Juvenile Court.

There is a Registry in each of the magisterial districts in Trinidad and Tobago. It is the administrative centre of the respective magisterial district and is headed by the Senior Magistrate of the particular District. The Clerk of the Peace has the day-to-day responsibility for the Registry. How the registry is structured and the resources allocated for its functioning have implications for the efficient and sensitive handling of domestic violence, child maintenance and other family related cases.

Caseload of the Magistrates' Courts

The majority of women who interface with the legal system do so in connection with issues of child maintenance, custody and domestic violence. Applications for protection orders under the domestic violence legislation can be heard only in the Magistrates' Courts. A recent exception was introduced in the Family Court which is discussed later. Custody and maintenance matters can also be heard in the High Court but the vast majority of applications are made in the Magistrates' Courts. It is evident therefore that how the courts are structured to deal with these matters can impact on women's access to their legal remedies. For example, the caseload of the magistrate and the amount of time he or she can devote to the hearing of these matters are important in determining how expeditiously they are heard.

Tables 1 and 2 give a breakdown by district of the matters filed for the years shown. The tables reveal that family matters and domestic violence applications comprise a relatively large number of applications. However, a relatively low number of applications are seen in certain districts such as Mayaro, Point Fortin and Rio Claro and this is particularly so for domestic violence applications. Nonetheless, participants at the consultations in Mayaro and Point Fortin identified domestic violence as a serious problem in their communities. A possible reason for the relatively low level of applications in these districts could be that women in outlying rural areas cannot easily access these courts. Further study is required however, since there may be other contributing factors.

Table 1: Magistrates court caseload - New cases filed (1999 – 2000)

DISTRICT 8/99 to 1/12/99	CASES FILED BY TYPE									TOTAL
	Capital	* Non Capital	** Family	Domestic Violence	Traffic	Petty Civil	*** Private Summary	Ejectment	Inquests	
Arima	4	925	678	299	325	41	190	24	10	2496
Chaguanas	-	750	313	285	180	50	348	6	1	1933
Couva	1	272	223	149	325	15	172	10	6	1173
Mayaro	-	150	61	-	12	5	102	3	4	337
Point Fortin	-	354	193	68	170	50	212	27	-	1074
Princess Town	-	437	310	133	281	58	219	13	1	1452
Rio Claro	1	227	38	13	83	18	85	-	1	466
San Fernando	2	1294	509	264	383	172	402	76	248	3350
Sangre Grande	2	434	187	134	192	54	325	5	8	1341
Siparia	3	576	421	213	160	63	350	18	6	1810
St George West	8	1867	1167	519	655	625	679	116	91	5727
Tunapuna	-	617	341	196	288	168	253	40	23	1926
Tobago	1	382	144	97	227	38	211	8	2	1110
SUB TOTAL	22	8285	4585	2370	3281	1357	3548	346	401	24195
1/1/2000 TO 1/7/2000	Capital	* Non Capital	** Family	Domestic Violence	Traffic	Petty Civil	*** Private Summary	Ejectment	Inquests	
Arima	1	1238	953	505	334	55	237	12	18	3353
Chaguanas	1	981	589	451	334	84	425	26	-	2891
Couva	-	336	292	240	150	27	344	14	12	1415
Mayaro	-	151	62	-	46	2	158	3	7	429
Point Fortin	9	524	277	93	225	145	310	24	8	1615
Princess Town	-	557	454	204	373	91	276	17	1	1973
Rio Claro	1	250	101	41	40	9	80	4	3	529
San Fernando	6	1309	713	576	626	339	618	96	237	4520
Sangre Grande	5	626	293	252	431	58	477	38	-	2180
Siparia	1	731	571	287	242	82	589	22	10	2535
St George West	18	2699	1822	1107	1064	1108	1050	120	161	9149
Tunapuna	1	667	470	298	379	184	498	66	39	2602
Tobago	2	557	218	130	327	68	299	4	1	1606
SUB TOTAL	45	10626	6815	4184	4571	2252	5361	446	497	34797
TOTAL: 01/08/99 to 31/10/2000	67	18911	11400	6554	7852	3609	8909	792	898	58992

* Indictable, Summary and indictable cases heard summarily

** Applications under the Status of Children Act, Chap. 46:07 and the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08.

*** Cases not brought by the police but by private individuals

Source: Judiciary of the Republic of Trinidad and Tobago, Annual Report, 1999-2000

Table 2: Magistrates court caseload - New cases filed (2003)

DISTRICT	CASES FILED BY TYPE									TOTAL
	Capital	* Non Capital	** Family	Domestic Violence	Traffic	Petty Civil	*** Private Summary	Ejectment	Inquests	
1/8/03 to 1/12/03										
Arima	6	1059	568	366	294	112	377	42	0	2824
Chaguanas	5	842	572	450	170	52	527	14	6	2638
Chaguaramas	0	129	41	21	29	0	35	1	1	257
Couva	2	300	350	261	81	29	311	9	1	1344
Mayaro	0	211	166	58	112	8	125	9	12	701
Point Fortin	5	391	150	97	291	32	225	10	0	1201
Princess Town	2	591	342	196	153	41	376	17	7	1725
Rio Claro	0	289	117	44	97	4	104	3	0	658
San Fernando	8	1398	621	336	261	198	514	36	85	3457
Sangre Grande	1	503	657	285	356	75	446	9	3	2335
Siparia	3	811	340	249	712	45	356	28	2	2546
St George West	10	4043	735	709	271	558	1583	96	163	8168
Tunapuna	4	530	431	308	823	70	433	36	88	2643
Tobago	1	503	159	147	392	44	200	10	2	1458
SUB TOTAL	47	11600	5249	3527	4042	1268	5612	320	290	31955
1/1/2000 TO 31/7/2000										
Arima	9	1471	919	675	244	64	687	56	3	4128
Chaguanas	7	1245	768	609	261	49	691	31	8	3664
Chaguaramas	0	27	10	15	10	0	11	1	0	74
Couva	0	470	520	320	113	25	471	21	3	1943
Mayaro	1	292	287	70	180	3	232	20	0	1085
Point Fortin	1	462	201	192	409	13	521	35	0	1834
Princess Town	2	875	474	356	365	64	566	13	9	2724
Rio Claro	0	408	158	76	64	13	132	2	0	853
San Fernando	2	2006	1157	605	771	339	796	139	219	6034
Sangre Grande	2	772	830	438	718	64	516	15	0	3355
Siparia	2	1038	430	390	661	91	518	48	0	3178
St George West	8	5466	871	1059	394	814	1597	93	221	10523
Tunapuna	0	967	595	369	3074	140	485	50	0	5680
Tobago	3	734	295	275	559	53	269	33	2	2223
SUB TOTAL	37	16233	7515	5449	7823	1732	7492	557	465	47303
TOTAL: 1/8/03 - 31/7/03	37	27833	12764	8964	11865	3000	13104	877	755	79258

* Indictable, Summary and indictable cases heard summarily

** Applications under the Status of Children Act, Chap. 46:07 and the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08.

*** Cases not brought by the police but by private individuals

Source: Judiciary of the Republic of Trinidad and Tobago, Annual Report, and 2003 - 2004

Table 3
Average Daily Caseload- Magisterial Districts

District	Courts	Range of Average Caseload (Number listed) Per Day
Arima	1 st Court: Indictable and Inquest matters 2 nd court: Family and Domestic Violence matters 3 rd Court: Private Summary, Police summary, Traffic and Petty Civil matters	55-75 25-40 65-230
Chaguanas	1 st Court: Indictable matters 2 nd court: Family and Domestic Violence matters 3 rd Court: Traffic, Police summary, Private Summary, Traffic and Petty civil matters	30-50 25-40 60-90
Chaguaramas	1 st Court: All Matters	5-20
Couva	1 st Court: All matters	50-80
Mayaro	1 st Court: All matters	20-35
Point Fortin	1 st Court: Indictable and Petty Civil matters 2 nd Court: All other matters	10-35 30-50
Princes Town	1 st Court: Indictable and Inquest matters 2 nd Court: All other matters	25-35 45-65
Rio Claro	1 st Court: All matters	25-40
San Fernando	1 st Court: Indictable matters 2 nd Court: Narcotics, Arms and Ammunition matters 3 rd Court: Family, Domestic Violence, Private Summary and Petty Civil matters 4 th Court: Private summary and Police summary matters 5 th Court: Traffic and Inquest matters	60-80 45-65 25-60 25-45 65-110
Sangre Grande	1 st Court: Indictable and Petty Civil matters 2 nd Court: All other matters	15-40 30-65
Siparia	1 st Court: Indictable and Petty Civil matters 2 nd Court: All other matters	30-65 50-75
St George West	1 st Court: Indictable matters 2 nd Court: Petty Civil and Private matters 3 rd court: Police Summary matters 4A Court: Narcotics matters 4B Court: Arms and Ammunition matters 5 th Court: Indictable matters 6 th Court: Traffic and Inquest matters 8 th Court: Murder and Non-Capital matters 9 th Court: Family and Domestic Violence matters Petty Civil Court: Petty Civil Matters Inquest Court: Inquest matters	65-100 30-45 30-50 30-605 30-100 30-55 20-50 ? -28 5-15 5-25 1-5
Tobago	1 st Court: Indictable and Inquest matters 2 nd Court: All other matters	
Tunapuna	1 st Court: Indictable and Inquest matters 2 nd Court: Family and Police Summary matters 3 rd Court: Private Summary, Traffic and Petty Civil Matters 4 th Court: Domestic Violence	20-35 20-45 40-75 15-30

Source: Annual Report of the Judiciary of Trinidad and Tobago, 2003-2004.

Family Matters and Applications under the Domestic Violence Legislation

As shown in Table 4, increasing trends in the number of family and domestic violence applications have been observed. Although the data are not disaggregated by sex, it is nevertheless the case that women comprise the vast majority of applicants. The majority of applications for protection orders are also usually made on their own behalf, and this was supported by participants at the public consultations who indicated that that women were the primary victims of domestic violence in their communities.

Table 3 gives a breakdown of the number of courts, the number of cases listed per day over a twelve-month period and the courts which hear family and domestic violence matters.

Table 4
New Family and Domestic Violence matters filed in the Magistrates' Courts for the years 1998-1999 to 2003-2004

Year	Family	Domestic Violence
2003-2004	12764	8976
2002-2003	13920	9043
2001-2002	13124	8852
2000-2001	13065	7649
1999-2000	11400	6554

Source: Annual Report of the Judiciary of Trinidad and Tobago, 2003-2004

With the exception of Tunapuna, no court is dedicated solely to the hearing of family or domestic violence matters. These matters must therefore compete with others that are listed before the same magistrate. Again, apart from Tunapuna, it is not possible to determine the actual number of family or domestic violence matters listed for each day.

In the smaller districts, family and domestic violence matters form part of the magistrate's general caseload and their timetabling is solely within the power of the Court. The experience is that both types of matters are in themselves time-consuming and urgent. This can result in adjournments (although there may also be other reasons for adjournments) and even repeated adjournments and may cause some women to discontinue their cases.

The statistics shown in the preceding tables in relation to family and domestic violence matters indicate the extent to which women are using the courts as sites of contestation. They however reveal very little else. For example, the average length of time it takes for a matter to be disposed of is not known. Outcomes of cases are also

not known. Creque's study on the incidence of Domestic Violence in Trinidad and Tobago showed that a significant number of applications do not result in the grant of protection orders. Of a total of 8287 applications over the period November 1991 (when applications commenced) to June 1993, just 3258 were granted. The disparity between the number of applications and the number of orders granted cannot be explained precisely but possible explanations include dismissal for want of prosecution or lack of evidence. In turn, there are several reasons why women may not continue their applications and these include economic dependence on the perpetrator, reconciliation, lack of money for transportation, lack of childcare arrangements and inflexible working hours. Shame and fear of the perpetrator are also factors. The majority of women who access the Magistrates' Courts are from the lower- paid sectors and economic difficulties may be particularly acute and will be exacerbated by lengthy court delays. There is no system in place to monitor the implementation and hence there is no information on the factors that hinder women's access to legal redress.

Data for gauging implementation of the child maintenance legislation are also not available. There is no information on the outcome of maintenance applications, the quantum granted or the profile of the applicant and respondent.

Attitudes and beliefs of those involved in the judicial system can impact on case outcomes and affect women's access to justice. In her ethnographic study of the implementation of the domestic violence legislation in Trinidad and Tobago, Lazarus-Black (2002) found that officers of the Court created an environment in which individuals (applicants) could not speak freely because "the listeners hold physical, social, psychological or economic power over them". Judicial and police attitudes as well as the attitudes of lawyers and court clerks can be either intimidating or dismissive and have the effect of "delegalising" a complaint or humiliating the applicant. The *Ad Hoc Committee Appointed by the Attorney General to Prepare a Domestic Violence Investigative and Procedural Manual for Police Officers in Trinidad and Tobago* also found that Clerks of the Court and magistrates who may not be gender-aware can have a significant impact on the outcomes of domestic violence matters.

The level of privacy afforded to applicants in these matters can also affect women's access to legal redress and their willingness to pursue their applications. The law makes no provision for maintenance and custody cases to be heard in private-cases are heard in open court and the evidence is taken orally. Maintenance hearings in particular are deeply humiliating to many women since personal matters have to be openly aired in court. This is often made worse by the adversarial nature of the proceedings and the fact that many women have no legal representation.

There is provision for domestic violence applications to be heard *in camera*, but except for the recently instituted Family Court, the cases are heard in the ordinary magistrates' courts where the practice of shouting out the names of the applicant and the defendant persists. Further, accommodation facilities for defendants/respondents are wholly unsuitable. Table 3 gives an indication of the number of persons who must

be physically accommodated in the waiting area of the courts. This is in addition to witnesses, relatives and other persons relevant to the hearings.

The Ad Hoc Committee appointed by the Attorney General to Prepare a Domestic Violence Investigative and Procedural Manual for Police Officers in Trinidad and Tobago examined several aspects of the judicial process, including the court registries, service of the application, hearing of the application, and court facilities. Some of the findings of the Committee, which submitted its report in March 1994, include:

(a) A lack of privacy for applicants when making applications and while awaiting the hearing. Accommodation arrangements for both applicants and Respondents are wholly unsuitable.

(b) A lack of knowledge of the process involved in making an application and little or no steps taken to remedy this.

(c) The existence of a practice whereby the terms of the application are settled by the Clerk of the Peace who is neither legally trained nor operating in an environment conducive to obtaining all relevant information from the applicant. Particulars taken down by the Clerk of the Peace can determine whether the magistrate hears the application or dismisses it without regard to its merits;

(e) Contrary to what is contemplated by the Act, the discretion to grant an interim protection order is exercised by the Clerk of the Peace. This is an order for immediate and urgent protection against domestic violence;

(f) There is a heavy reliance on the police to serve the notice of the proceedings with the result that applications are adjourned regularly for lack of service;

(g) Little priority is given to the hearing of domestic violence cases due to the fact that courts are not dedicated solely to the hearing of these matters. The requirement of that these matters be heard in camera is also a contributory factor. Parties therefore remain inside or outside the court in full view of members of the public and this is compounded by a lack of proper accommodation;

(h) Attempts by magistrates to give a hearing to as many applicants as possible in the short time available may result in a failure to comply properly with the principles of natural justice, thereby compromising the proceedings and the system;

(i) Inadequate witness rooms for parties to confer with attorneys, police officers or probation officers; and

(j) The lack of social services in the court or its environs which parties could access while waiting the hearing of the case and which will also allow immediate referral by the magistrate.

The Committee concluded that the ordinary magistrates' courts were unsuitable for the hearing of domestic violence applications and made several recommendations to address the many shortcomings identified. It also pointed to the need for greater sensitization of magistrates and attorneys. It may be noted however that the recently established pilot Family Court makes no provision for the hearing of applications for protection orders. These applications are only heard if connected to other domestic proceedings filed in the Family Court. The rationale for this remains unclear. Other Caribbean jurisdictions that have established Family Courts have reported that the family court environment is more conducive to the hearing of such applications.

There are no systems in place to monitor the implementation of the domestic violence legislation or even of the maintenance legislation. The relatively high number of applications for protection orders suggests that women are increasingly using the courts as sites of contestation. For the law to be an effective tool in the social transformation desired to achieve gender equality, systems need to be put in place to ensure their effective implementation.

Criminal matters

Magistrates' courts are involved in some way in all criminal prosecutions. Both men and women interact with the criminal justice system but gender analysis reveals that women tend to interface with the system primarily as victims and males primarily as offenders. A 2002 prison census conducted by Deosaran and Ramdhanie revealed that 98 percent of the total population of 4449 inmates was male.

Women come into contact with the criminal justice system as victims (primarily for rape and other sexual offences and offences related to domestic violence). A minority comes before the Courts as offenders. Once an offence is charged indictably, as is the case for serious offences, a Preliminary Hearing in the Magistrates Court must be held. The accused may be committed to stand trial in the High Court and if this is the case, then the entire process can last several years.

Court practice and procedures tend to exacerbate a victim's trauma, particularly so in cases of rape and other sexual offences and court delays can only worsen the situation. make the situation worse. The Annual Reports of the Judiciary of Trinidad and Tobago for the years 1999 to 2004 suggest that the introduction of a more efficient case management system has shortened the time between committal and trial. Nonetheless, the entire process can still take two to four years. This, together with the trauma that many victims undergo in the courtroom, contributes to the severe under-reporting of sexual offences.

The Sexual Offences Act, 1986, sought to minimize the trauma for victims by making provision for *in camera* or closed court hearings. Notably also, as noted earlier, the rule requiring the victim to provide evidence of a "fresh" or recent complaint was also abolished by the Act. The absence of a fresh complaint was used to buttress the implication that the complaint had been fabricated. The 1986 Act also made

inadmissible evidence of sexual relations of the complainant with persons other than the accused except if the court considered, upon application of the accused that such evidence is necessary for the fair trial of the accused.

Women may also interact with the Court as mothers or close relatives of incest and child abuse victims. Many of the victims are girls. The Court procedure can also be very lengthy and traumatic for the victim. To minimize the amount of trauma of child abuse victims, reforms were introduced many years ago to allow the victims to give video evidence. These have however not been implemented.

Like rape, incest and child sexual abuse are severely under-reported and most cases never make it to the Courts. Police statistics reveal that reported cases of incest for the years 1993-1996 were 18, 17, 6 and 1 respectively. This increased to 82 in 1998. Participants at the community consultations in Mayaro and Point Fortin identified incest as a serious problem in their communities. Participants in Mayaro revealed that some men in the community felt they were entitled to have sexual intercourse with their daughters. An interview with the manager of the Belmont Orphanage revealed that 50-60 percent of the residents at the Orphanage were victims of incest and the vast majority came from poor homes. Participants at the community consultation in San Fernando felt that not enough was being done for victims of incest.

Incest and other forms of child sexual abuse are dealt with under the sexual offences legislation. Protection for victims is governed by the Children Act, Chap. 46:01. The inability of the legal and social services to respond effectively to the incidence of child abuse/incest has been well documented. Notwithstanding the government's commitments under CEDAW and the Convention on the Rights of the Child to protect the rights of the girl child as well as children in general, the fragmentation of services and the lack of cohesion among the very many agencies dealing with child abuse are major contributing factors. The Children's Authority Act passed in 2000 was intended to reduce this fragmentation and thus enable more cases to reach the Courts. The Act, which requires proclamation, has not yet been implemented. Lack of human resources in state agencies dealing with issues of child abuse (such as the National Family Services Division and the Probation Department) a further contributing factor.

Having regard to offenders, the majority who appear before the Magistrates are male. On the whole, the criminal justice system has not concerned itself with the gendered nature of crime and as such no mechanisms exist to deal with the issue within the justice system. The lack of linkages between the judicial system and other relevant sectors, particularly with respect to male criminal offenders, was highlighted at the consultation on 31 January 2004 held with the public sector as part of the process of developing the National Gender Policy,

The Probation Department historically has had linkages with the courts. This is because they are the social workers of the court. They also interact with the courts for the implementation of laws that centre on restorative justice such as the Probation of

Offenders Act and the Community Services Act, 1997. The Community Services Orders Act, 1997, which was intended to play a key role in the rehabilitation of offenders has not been implemented on a consistent basis. At present the implementation has ground to a halt.

The High Court

The volume of litigation in the High Court is significantly less than in the Magistrates' Courts. Indictable criminal matters, family matters and civil matters over the sum of TT \$ 15, 000.00 are heard in the High Court which sits in Port of Spain, San Fernando and Tobago. There are 22 courts at these locations. Sexual offences and serious offences linked to domestic violence are tried in the High Court. Divorce applications and applications under the Status of Children Act and Family Law (Guardianship of Minors, Domicile and Maintenance) Act are heard under its civil jurisdiction. Applications under the latter include guardianship, wardship, custody, and maintenance matters.

All civil proceedings in the High Court must be filed by a lawyer and this includes matrimonial and domestic proceedings. The total number of divorce cases filed for the law terms 1998-1999 and 1999-2000 were 1672 and 1764, respectively. This increased to 2000 for the law term 2002- 2003 and for 2003-2004 the total number of cases filed were 2002.

The 2003-2004 notes that trial delays have been reduced. For example, of the eighty-two cases under the Sexual Offences Act, 1986, which were disposed of during that period, 13 had been filed in that year and 49 the previous year.

The Family Court

A Family Court was established on a pilot basis for two years on 17 May 2004. The Court is located in Port of Spain and comprises a Family Court High Court Division and a Family Court Magistrates' Division. The High Court Division exercises the matrimonial jurisdiction of the High Court (divorce, judicial separation and ancillary proceedings such as custody matters and property settlements). It also exercises the High Court jurisdiction under the Status of Children Act, the Family Law (Guardianship of Minors, Domicile and Maintenance) Act and the Cohabital Relationships Act, 1998. The majority of applications to the High Court are for divorce - of the 260 matters filed during the period May 17 to July 31st 2004, some 83 % were divorce proceedings. Compared to the traditional High Courts, the time between filing and disposition has been considerably shortened.

Matters determined in the magisterial courts, include child maintenance, custody, access, guardianship, attachment of earnings, paternity and fit person orders. During the period May 17th to July 31st, 785 matters were filed. Of these, 375 or 48 percent were for child maintenance and 140 or 18 percent were custody matters. The case management system in place facilitates interaction between the judge, magistrates and the managers of the Court. This is unique in this jurisdiction.

The Family Court provides an opportunity for enhanced data collection. However, the statistics are not disaggregated by sex and actual outcomes of application are also not known. Thus for example it is known that of 78 domestic violence matters heard, 55 were determined but there is no information on the number of orders granted nor is there information on the reasons for dismissal. The situation is the same with respect to child maintenance matters.

The Court has been designed to promote a less adversarial approach to family matters. In the court exercising the High Court jurisdiction, the presiding judge sits at an oval table with the clients and their attorneys. As observed by this author, this setting facilitates the clients' participation in the proceedings. The setting of the Magistrates' Courts, located on the same floor as the High Court, similarly facilitates participation of clients and minimizes the adversarial approach inherent in the traditional system. In addition, the new Family Court Rules allow for much speedier hearings in the High Court Division.

Clients are also afforded many services that are lacking in the traditional courts. These include intake, mediation, family counselling, probation, legal aid and children services. The intake counselors also deal with walk-in clients. Day care facilities are provided and the level of demand for these facilities is high. For example, during the period May 17 – July 2004, a total of 202 children between the ages of 3 months and 10 years were kept in the daycare facility. This level of usage suggests that the lack of childcare may prevent some women from accessing remedies in the courts.

One drawback of the Family Court is the lack of provision for hearing applications under the domestic violence legislation except where these are connected to other proceedings. The rationale for this remains unclear. Other Caribbean jurisdictions that have Family Courts, such as Jamaica, have reported that the Family Court environment is more conducive to hearing domestic violence cases.

(2) The Police Service

The role of the police is key in the prevention and detection of gender-based violence. However, despite the fact that in recent years more police have received training to deal with this form of violence, patriarchal ideologies persist, as they do in the wider society, and gender-based violence still does not receive adequate attention both in terms of the police response and the resources allocated to the police. Participants at many of the public consultations highlighted the inadequacies of the police response to domestic violence. In light of the continuing high incidence of domestic violence, there is need for

a heightened police response and for adequate allocation of resources to deal with this crime. Deaths as a result of domestic violence are unacceptably high but do not provoke a sufficient policy response. Between 1990 and 1999, 134 women, 10 men and 34 children were killed during the period 1990-1999 and from 2000-2002 a further 56 persons died as a result of domestic violence.

In light of the need for a heightened police response, the Domestic Violence Act, 1999, clarifies and re-states police powers of entry and arrest. It also mandates the police to respond to every complaint or report alleging domestic violence and to complete a domestic violence report following investigation of the complaint. These reports are intended to form part of a National Domestic Violence Register to be maintained by the Commissioner of Police and mandated by the Act. However, information on the Register is not available.

(a) Police training and sensitization

Incidents of gender-based violence, including rape, incest and domestic violence are severely under-reported. In many of the community consultations held as part of the process of developing the National Gender Policy, child abuse and domestic violence were identified as serious problems but remained under-reported. Participants at the community consultations held in San Fernando and Tobago identified police attitudes as a factor that deters victims from making complaints. At the consultation held in Tobago, it was revealed that the police encouraged an abuser to inflict further violence on the victim because she dared to report the abuser. The consensus at the public consultations was that there was a need for greater police understanding of their role in preventing domestic violence and in the protection of abused family members. Mindie Lazarus-Black (2002) reported that several of the women she interviewed in Trinidad who had sought police protection from violent men were told that they (the police) could do nothing to protect them unless they already had a protection order.

At a consultation for the Protective Services held on 26 September 2003, at which members of the police service, the coastguard, the defense force and the prison service, representatives of the police service felt that police officers had become more committed to intervening in domestic violence matters. The involvement of the Association of Commissioners in the Caribbean in a recent Caribbean Association for Feminist Research and Action (CAFRA) initiated regional police training on domestic violence was evidence of the growing commitment in this regard. They also reported that victim recantation or reluctance to initiate criminal proceedings accounted for high levels of police frustration in dealing with complaints of domestic violence. This nevertheless highlights the challenge that the social dimensions of domestic violence present to the legal system as an effective social control mechanism,

The Report of the Ad Hoc Committee appointed to prepare a Domestic Violence Investigative and Procedural Manual for Police Officers in Trinidad and Tobago (2004) notes that there has been a wide variation in the amount of training provided to police

officers. It further notes the urgent need for intensification of police training and makes several recommendations in this regard.

A major challenge in developing police training and sensitization programmes remains the need to change culturally insensitive attitudes of the police in the wider context of the persistence of gender ideologies in the society which promote these attitudes.

(b) Domestic Violence Units/ Rape Units

Victims of rape and domestic violence are usually forced to make reports in sight and hearing of other police officers and other persons who may be present at the time. There are no specialized units at police stations for the purposes of taking statements, counseling etc with regard to rape and other sexual offences and this often acts as a deterrent to making reports. NGOs and other community-based organizations have made repeated calls for special units with trained staff to be attached to police stations to deal with these cases, as is the case in Jamaica for example. *Police* officers appearing before the Ad Hoc Committee both in Trinidad and In Tobago appealed for the establishment of domestic violence units and the Committee has recommended the establishment of these units.

(c) Community Police

A Juvenile Bureau and Counselling Unit was established in 1986 to deal specifically with matters of child abuse, domestic violence and other forms of gender-based violence. Although established in Port of Spain only, the Unit filled an important gap and became the focal point for such cases within that district and police officers were required to report all cases of sexual abuse to this Unit. The Unit was disbanded when Community Police Units were established in 1996. Again, the Community Police Units became the focal points for incidents of child abuse and gender-based violence and there was greater interface with other agencies working in the area. The Units were however disbanded in 2002. The rationale for this action seemed to be a need for integrating community policing throughout the police service. Reports suggest that the integration process has been slow and has not complemented the more traditional methods of policing. reporting incidents of gender-based violence and child abuse has made the system more difficult to access.

(3) The Prison Service

The prison service is an arm of the criminal justice system. It is responsible for the incarceration of persons sentenced to a term of imprisonment or to capital punishment and for persons on remand. Persons arrested on a warrant for arrears of maintenance also detained in prison. Male prisoners comprise 98 percent of the total population.

International treaties prescribe minimum standards of detention in prison. However, generally, prison conditions in Trinidad and Tobago do not meet these standards. There is serious overcrowding at many of the prisons, particularly the Port of

Spain Prison, the Carrera Island Prison, the Remand Prison at Golden Grove and the Tobago Prison. Prison conditions, especially for those on remand, are generally inhuman and degrading. Female prisoners enjoy comparatively better conditions on remand than male prisoners: they are kept in a dormitory-like facility while male prisoners often sleep on the floor in very overcrowded cells. At the Port of Spain remand facility for example, up to 10-12 men or more may be detained in a cell of dimensions 9 feet by 12 feet.

Persons also have a right to constitutional action if their prison conditions infringe their rights and freedoms enshrined in the Constitution but thus far the courts have rejected such applications. In a decision handed down in 2002, the Inter-American Court ruled that the applicants' prison conditions violated their basic human rights. However, Trinidad and Tobago is not legally bound by the decision and has not complied with it. In that case, several prisoners had alleged that their prison conditions violated their rights under the American Convention on Human Rights, to which Trinidad and Tobago was a party. Most prisoners lack the means to pursue constitutional motions and there are no human rights or other organizations in Trinidad and Tobago that monitor violations of prisoner's rights. In theory, persons are entitled to legal aid, but the practice has been to refuse legal aid for pursuing these actions.

While there has been no comparative study with respect to human rights breaches of male and female prisoners, there are some issues that have a greater impact on females compared to males. One such issue concerns contact with their young children. Generally, it is female prisoners who make these requests. The experience of some female prisoners has been that it can take several years for such requests to be facilitated. This has major implications for resuming family relationships if the prison sentence is a lengthy one. Another issue concerns proper arrangements for prisoners to give birth. In one case, the prisoner (Indravani Ramjattan) was forced to give birth in the remand dormitory where she was being held and had to be attended by her fellow prisoners. In that case, the baby died.

The rehabilitation of prisoners is in theory an important function of the prison service. However, although many of the prisons are reportedly implementing such programmes, no evaluation mechanism exists to determine their effectiveness. The high rate of recidivism revealed by Deosaran and Ramdhanie (2003) suggests a low success rate.

Like the court system, little attention is focused on the gendered nature of crime. There is a lack of understanding among the Prison Authorities as well as prison officers of gender and the culture of male violence in the society. There also seems to be a lack of understanding that the society reproduces violence both by its acceptance of gender inequality and in the way violence becomes an essential part of masculinity. No attempt has been made to infuse an understanding of gendered nature of in the training of prison officers. No study or review has been carried out to determine whether the penal environment and sentencing policy perpetuate the cycle of violence. Given the fact also that the Deosaran and Ramdhanie study reveals that of the prison population studied, 98 percent were male, 97 percent of working class origin, 81 percent between ages 17

and 41 and 60 to 70 percent functionally illiterate, it would also be reasonable to examine the relationship between crime rates and such macroeconomic factors as GDP per capita and changes in government spending on employment and 'social safety net' programmes.

The foregoing highlights the need for cross-sectoral linkages between the Prison Service and the other arms of the administration of justice as well as with other sectors to facilitate a more proactive role in fostering gender equity.

(4) The National Family Services Division

The National Family Services Division is the primary government agency that performs social work functions in Trinidad (other than medical or psychiatric social work functions). Social workers attached to the Division deal primarily with children and families in respect of issues such as child abuse, incest, domestic violence, poverty and abandonment. The Division is also a designated counseling agency under the domestic violence legislation. Under the repealed 1991 Domestic Violence Act, social workers were given the authority to make applications for protection orders for victims of domestic violence and this was repeated in the Domestic Violence Act, 1999. To date however, this provision has not been implemented. Similarly, authority conferred on social workers by the Children (Amendment) Act, 1994, to remove abused children from their homes has not been implemented.

The Division is severely short staffed and functions with eight social workers, seven of whom are assigned to the field. The lack of staff severely curtails the Division's ability to function effectively throughout Trinidad. It also affects the capacity of the Division to collect adequate data. The Division maintains a relationship with voluntary organizations in an attempt to fill some of the gaps but these organizations also lack resources and trained staff to effectively plug these gaps. This is reflected in their lack of capacity to conduct research and to implement adequate data collection systems in areas such as child abuse, incest, and gender-based violence, among others.

(5) The Probation Department

Probation officers function as the social workers of the Courts and in this capacity and are required to conduct investigations into many family-related matters. The department is also a designated counselling agency under the domestic violence legislation and in addition, probation officers are authorised to make applications under the legislation on behalf of victims. There is no information on whether any such applications have been made since the introduction of the legislation in 1991. In terms of restorative justice, the department is the main agency designated under the Community Services Orders Act, 1997, for the supervision of criminal offenders. The important role of the Probation department in the administration of justice is obvious.

Yet, the Department is severely understaffed and has been so for many years. Some 24 officers including the Chief Probation Officer and the Deputy Chief Probation Officer operate thorough out Trinidad. An additional four are now attached to the Family Court. The under-classification of probation officers was a major constraint faced by the department for several decades. It was therefore difficult to attract and keep staff. Trained officers frequently moved on to other higher paying jobs. It was only in 2001 that the posts were re-classified.

The Probation Department is the key agency for the implementation of the Community Services Act, 1997 (proclaimed in 1998). The Act was one of the few attempts to introduce the concept of restorative justice in Trinidad and Tobago. However, as noted earlier, implementation of the Act has been on an ad hoc basis. Thirteen officers were employed on a contractual basis in 1998 to enable implementation. The present situation is that the contracts have not been renewed, the officers have been offered other jobs and no implementation is taking place.

(6) The Legislative Framework

The preceding discussion dealt with the various agencies comprising the justice system and how their structure and functions as well as those responsible for their administration may impact differentially on men and on women in the implementation of legislation. In the introduction the point was made that a government's commitment to gender equality may be gauged by the existing legislation as well as its implementation and enforcement. The following discussion will examine analyse the existing law from a gender perspective in order to identify laws which are overtly discriminatory and where there are major gaps in terms of promoting gender equality. The discussion will first outline government's obligations in this regard from an international human rights perspective.

The International Human rights context

Trinidad Tobago is party to several international and regional human rights treaties that commit it to the principle of gender equality. In 1985, the country became a signatory to the United Nations Convention on the Elimination of All Forms of Discrimination Against

Women (CEDAW). It ratified the CEDAW Convention in February 1990 and thereby committed itself to achieving substantive equality between men and women in the society. CEDAW was reinforced by the adoption in 1994 by UN member states (including Trinidad and Tobago) of the Declaration on the Elimination of Violence against Women. Trinidad and Tobago has also ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women adopted by the OAS General Assembly in June 1994 as well as several ILO Conventions that address equality issues. It is also committed to carrying out the mandate of the Nairobi Forward Looking Strategies and the Beijing Platform For Action which provide a blueprint for eliminating gender equality. The reform of discriminatory laws and practices is a fundamental requirement of these international and regional instruments and consensus documents.

Under CEDAW, the government is required to report to the Committee on the Elimination of Discrimination against Women which is the committee which monitors state implementation of the Convention. States are required to include in that report the legislative, judicial, administrative and other measures it adopted to give effect to the Convention. An initial report is required to be submitted within a year after ratification and thereafter at least every four years. Trinidad and Tobago submitted a combined Initial, Second and Third Periodic report in December 2000 and appeared before the Committee in January 2002 in defence of the Report. The Trinidad and Tobago Chapter of the Caribbean Association For Feminist Research and Action (CAFRA, Trinidad and Tobago) also prepared a Shadow Report. to reflect the position of the non-governmental organizations and representatives of that organisation also appeared before the Committee.

The Legislative process

In order to understand the state of the existing law, it is essential to understand how laws are made and who are the key players in this process. As noted earlier, judicial decisions constitute a source of law. In theory, judges are supposed to apply the law in an impartial and objective manner. Nevertheless, judges also have certain ideological positions and come from varying backgrounds. This may or may not influence their utterances in court and indeed may sometimes colour their decisions. In the Jamaican case of

Today, the most important source of law in this jurisdiction as indeed it is for many other jurisdictions are the laws made in Parliament. collectively referred to as legislation or statutes. While the Parliament may have the final say in whether the statute is passed or not, it does not determine the legislative agenda: this process is controlled by the government. The government brings proposed legislation to the Parliament in the form of a Bill and this then goes through a complex parliamentary process at the end of which it may emerge as legislation.

A government Bill originates from the relevant ministry or department, although the ideas may come from many sources, including party election manifestos, public

servants, reports of official committees, treaty obligations (such as those under CEDAW) and commitments under international consensus documents (such as the Beijing Platform for Action) or outside interest groups such as non-governmental organizations, community based organizations, employers' organizations etc. The government determines the level of public consultation that may accompany any legislative proposal and may issue a "Green Paper" with tentative proposals or may publish the Bill for public comment or may even hold consultations with interest groups. The Domestic Violence Bill, 1991, for example was published for public comment. Public consultations on the Bill were also held. Once the Cabinet has approved proposals in principle, the Bill is drafted by the Parliamentary Counsel (in some cases by the Law commission). It may well go through a series of drafts before it is presented to the Parliament, clauses being revised in light of consultations with the relevant department, comments received from the public etc.

The Law Reform Commission may also initiate legislative proposals, which, once approved by the Cabinet can find their way on the legislative agenda. The commission carries a dual mandate:

- (a) it is a research facility, expected to develop legislation which would respond to and accommodate the changing needs of society; and
- (b) it assists the government in keeping the law up to date by identifying major policy issues requiring legislative attention.

Although most of the Bills that are successful are introduced by the government of the day, there is some little room for private Members' Bills. In practice, these have little chance of success without the support of the government. One such Bill which was passed in 1996 and which is of immense importance to gender equality issues is the Counting Unremunerated work Bill.

It is the government that determines finally what Bills are given priority on the Parliamentary legislative agenda. Many Bills have been introduced into Parliament in the past but lapsed when the Parliamentary term came to an end because they were not accorded priority. The Basic Conditions of Work Bill, 2000, is one such example. If the government enjoys only a simple majority in Parliament then proposed legislation (Bills) that infringes or is likely to infringe the fundamental rights and freedoms enshrined in the Constitution will fail unless such Bills receive the support of the Opposition. Such Bills require the support of a three-fifths majority in each House for their successful passage. Each new government fashions its own legislative agenda and there is no guarantee that a Bill on a previous government's agenda will be pushed through if the government changes. For example, the Basic Conditions of Work Bill, 2000, is being reviewed by the Ministry of Labour and has not been re-introduced into the Parliament.

Legislation requiring proclamation may also be passed but do not have the force of law, until proclaimed. The Occupational Health and Safety Act, passed in January 2004, is awaiting proclamation. This is an administrative (Cabinet) decision and is often dependent on whether administrative arrangements for the implementation the legislation are in place. Administrative arrangements necessary for the functioning of the legislation may be delayed, as is the case with the Equal Opportunity Act, 2000 although the present government has indicated that there are constitutional difficulties with that Act.

A gender analysis of the existing law therefore also requires an understanding of who has responsibility for the legislative agenda, the composition of the Parliament and the extent to which the legislative agenda can be influenced by women or other outside interest groups.

Existing discriminatory laws

As noted earlier, various reforms relevant to promoting gender equality have introduced over the past thirty years or so. This notwithstanding, laws still exist which discriminate or has the potential of discriminating against women. Laws that fall into this category include the following:

(a) **The Widows and Orphans Pensions Act, Chap. 23:54.** Under this Act, all male public officers contribute to the relevant and pensions are payable to their widows until death or remarriage. The Act discriminates against women by excluding them from the definition of "public officer". A Committee appointed by the Cabinet to review the Act stated in its report submitted in 1994:

"The legislation as it now exists is discriminatory in that it provides for male contributors only. This is very much out of touch with the reality where a large part of the public service is staffed by women. There can be no rational basis on which one can continue to perpetuate a system which excludes women as contributors to a scheme which provides benefits on death to children and spouses of the deceased".

The underlying ideology of the male breadwinner, which informed the legislation at the time of promulgation in 1934, still persists.

(b) **The Industrial Relations Act, Chap. 88:01.**

The Act excludes domestic workers or household assistants from its definition of "worker". The relevant exclusionary provision states:

2(3) For the purpose of this Act, no person shall be regarded as a worker if he is- (f) employed in any capacity of a domestic nature,

including that of a chauffeur, gardener or handyman in or about a private dwelling house and paid by the householder.

The disability extends to other categories but household assistants (domestic workers) who are primarily poor women are disproportionately affected. By virtue of the exclusion, domestic workers cannot enter the collective bargaining process nor can they seek the remedies under the Act for harsh or oppressive dismissal in the Industrial Court. The National Union for Domestic Employees has reported that frequently domestic workers are dismissed without notice or compensation and is left without legal redress and has been campaigning without success since the eighties to bring domestic workers under the Act.

(c) Section 6 of the Constitution

The Constitution of Trinidad and Tobago recognizes and protects the fundamental human rights and freedoms of citizens as enshrined in sections 4 and 5. Discrimination on the basis of race, origin, colour, religion or sex is prohibited and except as otherwise provided no law may abrogate, abridge or infringe these rights and freedoms. An anomalous situation nevertheless exists in that Section 6 of the Constitution preserves the validity of laws that predate independence even if they do not conform with Sections 4 and 5. fundamental rights and freedoms. This includes laws that discriminate against women. The section makes provision for exceptions in respect of existing laws as follows:

6. (1) *Nothing in sections 4 and 5 [of the Constitution] shall invalidate-*

- (a) an existing law;*
- (b) an enactment that repeals and re-enacts an existing law without alteration; or*
- (c) an enactment that alters an existing law but does not derogate from any fundamental right guaranteed by the Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right.*

(d) The Sexual Offences Act, 1986

As noted earlier, the Act abolished the procedural rule of recent complaint and modified the rule relating to previous sexual history. The underlying assumption of these rules was that women tended to fabricate complaints of rape. The rule relating to previous sexual history also allowed wide cross-examination of the complainant about her past sexual encounters, the effect being to denigrate her character. Provision was also made for *in camera* hearings. The rule requiring corroboration has however been retained. Under this rule the judge is required to warn the jury of the danger of convicting in the absence of corroboration. The evidence must be corroborated in some material

particular, which usually means an eyewitness or evidence of resistance such as scratches or bruises or screaming to alert attention. Not only is the rule biased but it also reveals the irony of seeking justice in a patriarchal judicial system for a crime spawned by that very ideology. It is not surprising therefore that securing convictions for rape offences is notoriously difficult.

Gender neutral laws which impact differentially on women and men

In many cases discriminatory practices against women have been abolished by laws that confer equal rights and responsibilities on women and men. Remedies are also the same for both sexes. However, gender inequalities in the society expose a huge gap between the theory and practice in relation to many of these laws. Child maintenance and domestic violence are two important areas where this is manifested.

Maintenance

In relation to child maintenance, the law provides that both parents are equally responsible for the maintenance, care and upbringing of their children. The reality is however, that when relationships break down, it is usually the women who are left with the care of children. This is evidenced by the large number of applications for child maintenance made by women. These child maintenance applications also expose women's poverty and their economic dependence on men and the unwillingness or inability of the fathers to contribute towards the maintenance of their children. During the period August 2003- July 31 2004, 12764 applications under the Status of Children Act and the Family Law (Guardianship of Minors, Domicile and Maintenance) Act were filed in the magistrates' courts. It is primarily women who comprise the long queues in the Magistrates' Courts for the purpose of collection of maintenance payments.

The issue of maintenance for children is a larger one related to the poverty of women, the gendered expectation that women will assume the sole burden of childcare, the lack of suitable and affordable childcare to allow such women to pursue meaningful employment, and the lack of adequate state support. The only remedy that the court can grant is a financial one, which is usually too low to allow women the possibility of pursuing more rewarding employment or pursuing other economic options. The law on child maintenance takes no cognizance of the disproportionate effect on women. There is need to deepen our understanding of how the breakdown of relationships affect women financially and the opportunity cost to women as a result of bearing the burden of childcare.

There is also a need to re-examine the legislation in terms of the penalties it provides for breach of maintenance orders. Failure to make maintenance payments awarded by

a magistrate's court may result in a term of imprisonment. And statistics from the prison reveal that some 300-400 men are incarcerated each year for failure to pay maintenance. They are incarcerated under appalling and inhumane conditions of overcrowding, exposure to abuse and possibly HIV/AIDS and generally unhygienic conditions. The stigma that results for serving a term of imprisonment may also act as a catalyst for criminal activity. In contrast however, failure to pay maintenance that was awarded in the High Court, does not attract a prison sentence.

The maintenance of children is an important gender equality issue. However, the remedies (financial) under the legislation do not adequately address the issue nor do they promote gender equality or equity. The legislation has the effect in practice of exacerbating existing inequalities. Reforms are needed to allow new and creative remedies to be introduced such as sharing in childcare or picking up children after school to give to women employment options rather than a term of imprisonment. Some of these remedies have been introduced in other jurisdictions.

Domestic Violence

The remedies available for domestic violence prior to the enactment of the Domestic Violence Act, 1991 (repealed and replaced by the Domestic Violence Act, 1999) were inadequate or inaccessible. The introduction of domestic violence legislation in 1991 sought to provide protection in the form of court orders (granted by Magistrates) designed to protect the applicant from further abuse. Although there was a recognition by the framers of the legislation that women were the main victims of domestic violence and hence would be the primary users of the legislation, they were concerned to frame the Act in gender-neutral language to accommodate public policy concerns that men were also victims of domestic violence. Attention was also devoted to providing a remedy that would be cheaper and more accessible to a wide cross-section of women than to ensuring that systems were put in place for the adequate implementation of the Act in accordance with the specific needs of women in these situations.

During the six-year period of 1998-1999 to 2003-2004, a total of 46,116 applications for protection orders were made in the Magistrates' Courts and the majority of these were made by women. During the period 17 May – July 31 2004, 78 applications were heard in the Family Court. There are no systems in place to monitor its implementation or its effects on women, nor are there adequate systems data collection systems which would enable the profiles of the victims and the perpetrators to be developed and to therefore guide policy development. The legislation was strengthened by the Domestic Violence Act, 1999, but on the whole it is still a reflection that lawmakers have yet to grapple with the fundamental inequality issues that underlie domestic violence.

Prostitution

For the most part, the sexual activities of prostitutes and their clients tend to be consensual so it is somewhat of an anomaly that the offence found its way in the Sexual Offences Act, 1986. Under section 23 of that Act, a person knowingly living on the earnings of prostitution or soliciting for immoral purposes is guilty of an offence and is liable on conviction to imprisonment for five years. The section also makes it possible for a police officer to enter (by force if necessary) premises used for the purposes of prostitution and arrest any person residing there or frequenting those premises who lives on the earnings of prostitution. Section 23 also deems a person living with a prostitute or who habitually keeps the company of a prostitute to be knowingly living on the earnings of prostitutes unless the contrary is proved. Persons exercising control, direction or influence over a prostitute in a manner which aids, abets or compels the prostitution with persons are also deemed to be living on the earnings of prostitution. Similar behaviour for "gain" is also an offence punishable by imprisonment for 5 years. Section 22 seeks to suppress brothels and "brothel" is defined as a place resorted to by persons of either sex for the purpose of prostitution. "Prostitution" is further defined as "offering of the body by a person of either sex for the purpose of arousing or gratifying the sexual desire of another for payment in return".

The above provisions are gender neutral and apply to both male and female prostitutes. Due to stigma and discrimination associated with prostitution, it is not possible to determine the size of the industry. However, Lee and Felix (1997) suggest that prostitution was more prevalent among females. A more recent study by the Caribbean Association for Feminist Research and Action, Trinidad and Tobago (2004) is supportive of this finding. The study identifies thirteen segments of the commercial sex trade in Trinidad and Tobago, many of which are related to female prostitution. The two studies reveal sophisticated networks of nightclubs, dating and escort services which promote prostitution.

Both studies found that poverty was an important factor driving female prostitution and that childhood sexual abuse may be an important precursor to female adolescent prostitution. The CAFRA study found however that factors other than poverty were also relevant to female prostitution. That study also found that condom usage was low, especially among prostitutes working on the streets and among male street children who were sexually exploited. It was further noted that it was the prostitutes and not their male clients who were stigmatized. This finding is consistent with gender norms which dictate what is acceptable male and female sexual behaviour and this is also the basis for the offence, notwithstanding the gender-neutral language of the modern-day offence. Thus, the client (usually male) who pays for sex is not penalized whereas the prostitute (usually female) who sells sex is guilty of an offence. The CAFRA study also documents newspaper reports of arrests of prostitutes and in many of the cases the arrests were of female prostitutes.

Different societies have adopted different approaches to how the law should treat with prostitution. In Trinidad and Tobago, there is need for informed debate on the subject, particularly in light of the following:

- poverty has been identified as an important factor driving female prostitution;
- childhood sexual abuse is frequently a precursor to adolescent prostitution;
- the gender bias that the law discloses; and
- the associated HIV transmission risks both to prostitutes and to clients.

Abortion

The law on abortion in Trinidad and Tobago has been the subject of public debate over the past two years or so. The law, which makes it an offence to procure a miscarriage, is to be found in sections 56 and 57 of the Offences Against the Person Act, Chap. 11:08. The statute contains an absolute prohibition but has to be interpreted in light of the case law which permits termination when necessary to preserve the life or health of the mother, including her mental health.

In light of the ongoing public debate, it is perhaps useful to look at some international and regional developments in this area. Internationally and regionally, women's advocacy strategies for abortion rights have developed around the health rationale which denounces the illegality of abortion as a major contributing factor to women's mortality, and the rights rationale which asserts that a woman's right to terminate a pregnancy is a fundamental and inalienable right protected by fundamental human rights principles. In 1974, CARICOM Ministers of Health acknowledged the public health problem of unsafe abortion and resolved to review its legal status. In 1994, in Cairo, at the International Conference on Population and Development (ICPD), 184 UN member states including Trinidad and Tobago and many other CARICOM countries agreed to "deal with the health impact of unsafe abortion as a public health concern". Para 8.25 of the Programme of Action adopted at the 1994 ICPD states "In no case should abortion be promoted as a method of family planning. All governments and relevant intergovernmental and non-governmental organizations are urged to strengthen their commitment to women's health, to deal with the health impact of unsafe abortions as a major public health concern and to reduce the recourse to abortion through expanded and improved family planning services. Prevention of unwanted pregnancies must always be given the highest priority and every attempt should be made to eliminate the need for abortion..." Paragraphs 93, 94, 95 and 96 of the Beijing Declaration and the Platform for Action are also relevant. In 1999, the Committee for the Elimination of Discrimination Against Women recommended the removal of barriers to care including "laws criminalizing medical procedures only needed by women or that punish women who undergo procedures".

Thus far, two CARICOM member countries have enacted Medical Termination of Pregnancy Acts: Barbados in 1983 and Guyana in 1995. Also, Belize, St Vincent and the Grenadines and St Lucia have significantly expanded the grounds for termination.

In light of the available statistics for Trinidad and Tobago, it is important to initiate informed debate on the subject. As far back as 1972, there were 11000 known complications arising out of illegally induced abortions (Daly, 1982). In 1994, there were 4265 admissions for abortions at the public health sector facilities. Of this number, 23 were categorized as "spontaneous", 4 as "legally induced", 12 as "illegally induced" and 4226 as "other". The "other" category refers to unspecified incomplete abortions, including induced abortions. According to the CEDAW Report, in 1999, one hospital alone reported that the dilation and curettage procedure for the evacuation of retained products of conception was performed 1,177 times in 1999 and 615 times over the period June-September 2000.

Major legislative gaps

Sexual Harassment

Sexual harassment has been deemed a violation of women's human rights by the Committee on the Elimination of Discrimination Against Women. There is no specific legislation on sexual harassment in Trinidad and Tobago and victims have very few legal options. Criminal remedies are available if the offending behaviour constitutes a criminal offence such as rape, indecent assault etc. Civil actions may also be brought in the High Court if the action can found a civil suit such as constructive dismissal. These remedies however are inadequate for dealing with a workplace issue which affect women's capacity to function in their jobs. Many women are also reluctant to pursue these options for fear of jeopardizing their jobs.

In the past, attempts have been made to introduce sexual harassment legislation. In 1991, the Law Commission drafted sexual harassment legislation. More recently, another attempt was made to introduce sexual; harassment legislation via the Basic Conditions of Work Bill, 2000. The Bill was introduced into Parliament in 2000 but subsequently lapsed. The status of the Bill is uncertain and reports from the Ministry of Labour suggest that it is being reviewed.

The necessity to introduce sexual harassment in this jurisdiction was alluded to in the case of *Bank Employees' Union v. Republic Bank Limited*, a case decided by the Industrial Court on 25 March 1986 in which the issue of sexual harassment was fully aired. More recently, at the Fourth Caribbean Ministerial Conference on Women held in St Vincent and the Grenadines on 12-13 February 2004, Ministers with responsibility for Women/Gender Affairs reiterated the need for legislation. Linden Lewis, one of the presenters at the Conference, noted:

If the region is serious about transforming social relationships, then greater emphasis needs to be placed on establishing a more democratic work environment. A democratic work environment means that more countries in the Caribbean need to adopt sexual harassment laws. ... Sexual harassment in the workplace represents the most egregious examples of subordination of women and marginalized men in the Caribbean.

Equal pay for Work of Equal value

The data for Trinidad and Tobago reveal that despite the higher proportion of women with complete secondary certificates and with tertiary education, women are underpaid in every occupational group and every sector of employment (except the public sector). There is a need therefore for legislation that will guarantee equal pay for work of equal value to redress this imbalance.

Equal Opportunity Legislation

There is an urgent need for legislation which prohibits non-discrimination on the basis of sex. The constitutional guarantee of equality between the sexes applies only to the State and State actors. Women have virtually no remedies for discriminatory practices that occur in the private sector.

The need for legislation on sexual harassment, equal pay for work of equal value and equal opportunity are dealt with more fully in the sector study on the Economy, Labour and Trade.

Summary

The foregoing analysis reveals that women interact with the courts primarily as victims of domestic violence and rape and other sexual offences and also in relation to remedies for child maintenance, custody and divorce. Men on the other hand, come into contact with the justice system primarily as respondents in relation to the remedies sought by women and as accused persons in criminal proceedings. The data which will enable precise analysis of the outcomes of these interactions are however lacking. It is also clear the majority of applications under the domestic violence and family law legislation made by women but with the exception of the pilot Family Court (to some extent) the Courts are not structured to deal with women's specific needs or with gender equality issues.

The analysis highlights the difficulties women face as a result of the structure of the courts and the inadequacy of the judicial and support services to respond to the concerns of women. Historically, the magistracy was conceived of primarily as a criminal justice system and remedies available to women for domestic violence, child maintenance and custody and other family matters were either non-existent or very inadequate. With the exception of the pilot Family Court, the design, layout and functioning of these courts still reflect a system designed to deal with criminal offenders. Women have to face the same hostile and authoritative culture that has come to be associated with criminal court practice (Lazarus- Black, 2002) and are often intimidated by the court atmosphere. Much of this has been highlighted in the report of the Ad Hoc Committee appointed by the Attorney General to prepare a Domestic Violence Investigative and Procedural Manual for Police Officers in Trinidad and Tobago (2004).

Analysis of attitudes and how this impacts on the outcomes of these matters is worthy of further investigation at all levels of the system. The case of *Ramjattan v The State* (Unreported, 7 October 1999) is instructive in this regard. In that case, the Court of Appeal had to consider the question of the death sentence of the appellant who was convicted of murdering her former common-law husband who had subjected her to years of abuse. The then Chief Justice having first expressly dealt with the seriousness of domestic violence in the society proceeded with an assessment of the appellant's moral character which had the effect of minimizing the seriousness of the violence she had experienced. He remarked, "we must not lose sight of the fact that she was carrying the child of another man". He further stated "it was clear that the occasion, if not the reason, for her deciding to leave the husband and all that followed thereafter was the striking up of this relationship with her childhood sweetheart which turned into a sexual relationship which resulted in her pregnancy". On the whole neither judges nor lawmakers have grappled with the gendered nature of domestic violence nor for that matter other forms of gender- based violence.

Women and men also interact with the police for different reasons. consultations for the preparation of the National Gender Policy, many participants articulated the view that police responses to incidents of gender-based violence were ineffective and mirrored prevailing gender ideologies in the society. Mindie –Lazarus Black (2002) noted that even where women were calling for police protection they were being shunted towards the domestic violence legislation. Again there is little information to enable an in-depth analysis of police response and the extent to which the police response acts as a deterrent to reporting. The National Register on Domestic Violence mandated in law was intended to permit some level of analysis but the information is not available.

The design and structure of police stations do not take into account the sensitive nature of the reporting of domestic violence or sexual offences. There is a need for specialized

units at police stations for handling these cases. Gender training focusing on the extent and causes of gender-based violence should become an ongoing part of police training. In addition, deeper linkages need to be developed between the police, the Gender Affairs Division, social workers and non-governmental organizations. Consideration should also be given to the establishment of a Unit in the Police Service dealing with gender-based violence. Such a unit will not only facilitate a coordinated police response but will facilitate ongoing training as well as the monitoring and evaluating of the police response and data collection. Deeper linkages with the courts, NGOs and other agencies will also be facilitated.

2.2.1 Analysis of the Sexual Division of Labour

The Judiciary

Overall, female magistrates outnumber male magistrates. Of the 15 Senior Magistrates, 11 are female and of the 29 magistrates, 20 are females. The Chief Magistrate and the Deputy Chief Magistrate are male. However there are more male judges both at the level of the High Court and Court of Appeal. Of the 23 High Court Judges, 8 are female, and of the 9 Court of Appeal Judges (including the Chief Justice), only one is female. Two High Court Judges (females) are in acting positions. It is evident therefore that positions are less accessible to females at the higher levels of the Judiciary.

The Police Service

As noted earlier, of the approximately 7000 police officers only some 10 percent are female. Only two females are in very senior positions. Recruitment practices limit the intake of females to about 10 percent. A significant percentage of the female officers also occupy administrative positions.

The Prison Service

The exact figures are not available but like the Police Service, the Prison Service is overwhelmingly male. Recruitment practices also limit the intake of females.

2.2.2 Gender Impact Assessment / Audit of existing policies and programmes

Written policies for the sector are generally not available. Policies and programmes may be gleaned from Annual Reports, or Election Manifestos, or pronouncements made

in Parliament or statements to the media. On the whole, these tend to be gender blind and even where. Policy makers concerned with the law and the judicial sector have yet to grapple with fundamental issues of gender and to recognise the need for integrating a gender perspective into the policies and programmes.

In the case of the Judiciary, for example, some understanding of the policies and programmes of the Judiciary may be gleaned from its Annual Reports. Many of the programmes and policies reflected in these reports are gender-blind. Judicial training exists for judges and magistrates but a review of the topics covered reveal that issues of gender are not accorded priority. "Gender Sensitivity For Judges" was one of the topics covered in 1998 but there has been no further effort in this direction.

2.3 Overview of the Existing Policy and Planning Framework in relation to this Sector and Implications for Gender Mainstreaming

As noted earlier, the sector comprises entities which are independent such as the judiciary or which fall under different government ministries. The Chief Justice has responsibility for policy and planning within the judiciary and as the analysis reveals, some recognition has been paid to gender but it has not been a priority. Allocations for gender mainstreaming initiatives are therefore not a priority. The challenge for gender mainstreaming within the judiciary lies first with building an understanding of gender and gender inequality in the society and of the role of the judiciary in accelerating gender equality. There is need for case studies to demonstrate how the judiciary may be perpetuating gender inequality. There is also need to create dialogue between the Gender Affairs Division and the judiciary.

The policy and planning functions for the Police Service and the Prisons Service lie with the Ministry of National Security. For other agencies such as the Probation Department, these functions lie with their respective Ministries. In each case, the Minister has overall responsibility for policy although policy will be formulated by the technocrats within these ministries. Again, gender is not a priority for many of these agencies. A mandate for gender mainstreaming will need to emanate from the Cabinet and a well-defined formal mechanism for overseeing the process across all Ministries will need to be established. This is the model followed in Cuba for example.

2.4 Interface/ Relations with the Gender Affairs Division

There is need for deeper interaction between the sector and the Gender Affairs Division. The Division will need to engage with the sector on an ongoing and systematic basis. This has implications for allocations to the Division for the hiring of consultant and other expert services to assist with such an undertaking.

3. Identification of Policy Interventions

The main areas identified for policy interventions are as follows:

- Law reform
- Monitoring of the implementation of legislation
- Research
- Building consensus around gender within the sector through training and sensitization
- Infrastructure
- Building cross-sectoral linkages
- Establishment of permanent Family Courts

4. Proposed Policy Interventions

1. Laws which discriminate with women and men are in conflict with a National Gender Policy and should be abolished.
2. Implementation of laws which impact differentially on women and on men, in particular, those laws relating to child maintenance, domestic violence, rape, incest, child sexual abuse and other sexual offences should be closely monitored. In this regard, there is need for research and for instituting more comprehensive systems of data collection in the Magistrates' Courts, the pilot Family Court, the police service and governmental agencies such as the Family Services Division and the Probation Department. This will also enable profiles of the perpetrators and the victims to be developed and will facilitate more effective targeting by the government and non-governmental organizations. Support services, particularly childcare, should be made available to women and men who wish to access legal remedies in the Courts. The demand placed on the childcare facilities at the pilot Family Court that is essentially limited to the Port of Spain District highlights the need for these facilities.
3. Specific legislation to deal with Sexual Harassment and Equal Pay for Work of Equal Value should be enacted. The Equal Opportunity legislation, with amendments, if deemed necessary, should be implemented in light of the fact that the Constitution provides no protection against discrimination by non-state actors. The overall lack of legislation in these areas represents a significant obstacle to gender equality and equity.
4. Effective implementation of existing legislation and the introduction of legal reforms where gaps have been identified need to be supported by qualitative and quantitative research. In this regard there is need for research on gender-based violence; discrimination in the workplace (including sexual harassment); discrimination based on HIV/AIDS and sexual orientation; and child maintenance.

5. The government should give consideration to initiating public debate on the laws on prostitution and abortion. Although these may be regarded as controversial and difficult issues in this society, the existing laws nevertheless continue to impact negatively on women.
6. There is need for in-depth review of the roles and functions of the many agencies involved in the administration of justice to identify the strengths and weaknesses with regard to the mandate for gender mainstreaming. This should include the Courts, the police, and governmental agencies such as the Family Services Division and the Probation Department.
7. A comprehensive review of the implementation of the Domestic Violence Act, 1999, was recently carried out by the *Ad Hoc Committee appointed by the Attorney General to prepare a Domestic Violence Investigative and Procedural Manual for Police Officers in Trinidad and Tobago*. The implementation of its recommendations is urged. The recommendations address the infrastructural changes to police stations and Magistrates' Courts needed for more effective implementation of the domestic legislation. This will also benefit victims of sexual offences.
8. The Family Court should be established on a permanent basis after the pilot phase comes to an end. Its jurisdiction should extend to the hearing of applications under the Domestic Violence Act, 1999. Similar models should also be established in San Fernando and Tobago. A Family Court Magisterial Division should in addition be established in other strategic districts.
9. Deeper cross-sectoral linkages between the justice system and other sectors need to be established. Historically, the justice system dealt with issues fundamentally related to gender (such as crime) but it has not developed the systems nor established the linkages to grapple with the gender-related aspects of these issues. Establishing linkages with the Gender Affairs Division, the education sector, inter-governmental agencies and the NGO sector is important in this regard.
10. Gender awareness and gender sensitivity within the justice system are needed to foster an understanding of the gendered dimensions of laws dealing with issues of gender-based violence, child maintenance, custody, divorce. This in turn will facilitate more effective implementation. As such, training in gender should be incorporated in the routine training of police officers, prison officers, social workers and probation officers. In addition, all other actors in the justice system should be exposed to the concepts of gender on a systematic basis.

Bibliography

- Caribbean Research For Feminist Research and Action, Trinidad and Tobago (CAFRA, Trinidad and Tobago). 2004. *Situation Analysis of Commercial Sex Work in Trinidad and Tobago – Support to the National Response to HIV/AIDS – Addressing a Vulnerable Group In Trinidad and Tobago*.
- Creque, Mary. *A Study of the Incidence of Domestic Violence in Trinidad and Tobago. 2005. Port of Spain: The Shelter for Battered Women and the Trinidad and Tobago Coalition Against Domestic Violence.*
- Daly, Stephanie. 1982. *The Developing Legal Status Of Women Trinidad and Tobago. Port fo Spain: The National Status on the Commission of Women.*
- Deosaran, Ramesh and Derek Chadee. 2003. *Prison Recidivism: Towards Reduction, Rehabilitation and R.* Port of Spain: Office of the Prime Minister.
- Lazarus- Black, Mindie. 2002. *The Rites of Domination: Tales From Domestic Violence Court.* The University of the West Indies, St Augustine: The Centre for Gender and Development Studies
- Lee, Ann and Junior Felix. 1997. *Child Prostitution, Child Pornography and the Sale of Children, Port of Spain. Mimeographed.*
- Republic of Trinidad and Tobago. 1998-2003. *Annual Reports of the Judiciary of the Republic of Trinidad and Tobago.* Port of Spain: Office of the Chief Justice.
- , 2000. *Initial, Second and Third Periodic Report of the Republic of Trinidad and Tobago : The International Convention on the Elimination of all Forms of Discrimination Against Women.* Port of Spain: Office of the Attorney General and Ministry of Legal affairs.
- . 2004. *Report of the Ad Hoc Committee Appointed by the Honourable Attorney General of Trinidad and Tobago to Prepare a Domestic Violence Investigative and Procedural Manual for Police Officers In Trinidad and Tobago.* (Unofficial). Port of Spain: Ministry of the Attorney General.

Interviews

Jack, Linda, Family Case worker, Children and Family Services Department of social services and Gender affairs, Tobago House of assembly. 2003. Scarborough, 8 May

Mohammed, Nafeeza, Legal Consultant , Ministry of the Attorney General. 2003. Port of Spain, 4 September.

Lutchmedial Lorraine, Secretary to the Law Commission. 2003. Port of Spain, 10 September.

Supersad Madhuri, Ministry of Labour, 2003. Port of Spain. Telephone interview. 10 September.

Gittens, Eunice, Director, National Family Services Division. 2003. Port of Spain. (TBA)

Chalerie, Joan, Manager, with Sister Joanne Brown, Manager Designate and Ms Joceylyn Vialva, Nurse, St Judes'. 2003. Belmont Port of Spain , 18 August. Home for Girls

Greenidge, Arlene, Manager, St Dominic's Children's Home ,. 2003. Port of Spain, 18 August.

Marcelle, Lennox, Legal adviser, Ministry of Labour, 2004. Port of Spain, Telephone Interview, 23 April.

Rape Crisis Centre , 2004. Port of Spain. (TBA)

Roach, Family Court - (TBA)

Tam, Joseph, Family Court Judge, 2004. Port of Spain, 11 October.