

APPROACHES TO DOMESTIC and GENDER BASED VIOLENCE IN TRINIDAD AND TOBAGO

I Judicial Sensitisation:

a) Judicial Education Institute of Trinidad and Tobago Workshops on Domestic and Gender Based Violence

Background

1. In anticipation of the opening of the new Family Court, Master Christie-Anne Morris-Alleyne, a member of the Board of the Judicial Education Institute of Trinidad and Tobago (JEI) and a member of the Family Court Committee, invited The Honourable Judge Nancy A. Flatters, of the Provincial Court of Alberta, Calgary Family and Youth Court, to present a series of five workshops for the Judiciary on issues arising on marriage and relationship breakdown. These family matters topics were presented from July, 2003 to February, 2004 and were organised by Ms. Alyson Myers, Coordinator of the JEI. One of the topic areas was Domestic Violence.
2. The Domestic Violence Workshop presented by Judge Flatters had as its objectives, amongst others: understanding the nature and effects of domestic violence in and on the family; understanding the attitudes, behaviour and beliefs perpetuating domestic violence; understanding the impact of domestic violence on children and their context, including age, gender, and community, amongst others; understanding the impact of domestic violence on effective parenting; considering the evidentiary issues in domestic violence regarding custody and access cases; reflecting on the role of the judicial officer in stopping domestic violence; considering domestic violence as an issue for all professionals and the community at large; and considering potential court and community based solutions. The Workshop was presented using a mixed mode of written materials together with a suggested reading list, power point, overheads, three videotapes, and small group work. With some modifications, Judge Flatters presented this same Workshop to the entire court staff and then again to the Family Court staff prior to the opening of the Family Court. It should be noted that the last Workshop in the series presented by Judge Flatters was dedicated to hearing the voice of the child in custody, access, and criminal proceedings related to them, including assessment, domestic violence issues, and taking their evidence as required.

Current Developments

3. Later in 2004, the JEI was approached by the Inter-American Development Bank (IADB) and the Coalition Against Domestic Violence to present a series of workshops on domestic and gender-based violence. This was met with an enthusiastic response by the JEI Board, which viewed the suggested programming

as a “follow on” from the Family Court training in Domestic Violence and other family related matters presented by Judge Flatters. The Workshops were presented in October 2004 for Magistrates, Clerks of the Peace, Intake Officers, Social Workers, Probation Officers, Mediators (Court Staff), Police Prosecutors, representatives from NGO’s, The Law Association, Probation Officers and Social Workers external to the Court. Following is a description of the Workshop Objectives, anticipated Project Results, Workshop Attendance by the judiciary and other professionals, and JEI recommendations.

i) Workshop Objective

To improve the administration of justice by providing participants with information and insights into the nature, incidence and impact of domestic violence as well as the tools and best practices that they may find useful in the management of cases involving domestic violence and gender-based violence.

Facilitators for the workshop included Dr. Pat Ellis, Gender Consultant and Ms. Robyn Mazur from the Center for Court Innovation in Manhattan.

ii) Anticipated Project Results

- Sensitised individuals in the Judiciary, the legal personnel, the protective services and in civil society organizations which are involved in the prosecution and management of cases on gender based and domestic violence cases, to the incidence and nature of these phenomena.
- Better gender sensitive enforcement of existing legislation.
- Contribute to raise public awareness regarding the nature and incidence of domestic violence and gender-based violence.
- Encourage better coordination among key players on dealing with domestic and gender-based violence.
- Development of a manual for participants.

iii) Workshop Attendance

Magistrates (two sessions)	26
Court staff including Clerks of the Peace, Social Workers, Probation Officers, Intake Officers and Mediators (two sessions)	55
Police Prosecutors (one session)	25
NGOs (one session)	30

iv) JEI Recommendations

Follow up sessions need to be done in the short term with the Magistrates and their support staff. This training needs to take the form of joint sessions so that these court officials who form part of a team understand clearly their roles in the

system to better present an efficient and understanding service to the victims of domestic violence that come to court.

II Governmental Initiatives:

a) Committee Appointed by the Honourable Attorney General

Background

4. In October 2003, the Honourable Attorney General of Trinidad and Tobago appointed a Working Committee to prepare a domestic violence investigative and procedural manual specifically tailored for the use of police investigators responding to reports or complaints of domestic violence.

Terms of Reference

5. The Committee had as its terms of reference the formulation of the following:
 - Protocols on the methods of primary responses to reports or complaints of domestic violence.
 - Protocols on the treatment of and interaction with victims of domestic violence, witnesses to domestic violence, minors in a home where there has been domestic violence and suspects of domestic violence.
 - Clear statements and explanations of the current law as it relates to domestic violence, inclusive of existing legislation, police standing orders and staff orders and decided case law.
 - A listing of domestic violence support agencies within Trinidad and Tobago.

Composition

6. The Committee was chaired by Madam Justice Jean Permanand, retired Court of Appeal Judge of Trinidad and Tobago, and included representatives of the Police Service, National Family Services, the United Nations, the Coalition against Domestic Violence, the Ministry of the Attorney General, the Director of Gender Affairs, CIDA General Equality Programme and the representative of the Chief Justice, namely Justice Rajnauth-Lee.

Methodology

7. The Committee met with several of the key persons in the area of domestic

violence including police officers, Magistrates, Court Staff, Court Administrators and even a victim of domestic violence.

Report

8. The Committee reported early in 2004. In its comprehensive report, the Committee examined the Judicial Process in the Magistrates' Courts, since applications under the Domestic Violence Act 1999 were made solely in the Magistrates' Courts in Trinidad and Tobago.

Areas of Concern and Recommendations

9. The following areas of concern were highlighted and recommendations to improve the judicial process were made:
 - a) The need for privacy and dignity to be afforded to the victim in the judicial process;
 - b) the need for legal information to be provided to the victim so that the victim may understand the procedures pertaining to domestic violence courts;
 - c) the need for training and sensitisation of the staff of Domestic Violence Courts and for additional paralegal-type officers to provide assistance and legal information to victims.
10. The Committee also recommended that Magistrates be properly trained as to the intent and content of the law and their powers under the Domestic Violence Act. Training in the psychology of offender and victim was seen as necessary. The Committee went so far as to recommend the desirability of assessing or screening Magistrates so as to roster for the Domestic Violence Courts only those found suitable.
11. In addition, the Committee recommended the improvement of the physical facilities and layout of the Domestic Violence Courts to provide for the private and effective hearing of matters.
12. The Domestic Violence Act 1991 was examined and several recommendations were made for the amendment thereof. Of particular significance is the following recommendation:

In keeping with a policy of zero tolerance for Domestic Violence offences, the Committee is of the view that the time has come for there to be a policy of mandatory arrest, mandatory charge and mandatory prosecution for all complaints of domestic violence. At present, a Police Officer has a discretion to arrest only where the officer has reason to believe that the conduct complained of amounts to physical violence and that a failure to arrest may result in serious physical injury or death. Provision is made in

section 25 of the Act for mandatory charge in circumstances outlined in that section. The Committee recommends that the Act be amended to allow the police officer to arrest in all cases of Domestic Violence. This Legislative amendment coupled with the aforementioned policy will ensure that the purpose for which the Act was passed is achieved.

13. In addition to the comprehensive manual prepared by the Committee for use by police officers, the Committee proposed a fundamental change in the approach to domestic violence reports and matters by the police and an increased role to be played by social service providers and the community at large in giving relief and assistance to victims of domestic violence.
14. Some excellent work has been done by this Committee. The report is still before the Cabinet of the Government of Trinidad and Tobago for its approval for the implementation of the many and far-reaching recommendations made by the Committee. This Committee reflects an important outreach into the society in the area of domestic violence with an increased awareness of domestic violence issues as a result of judicial education.

III Judicial Colloquium on the Application of International Human Rights Law at the Domestic Level, Nassau, The Bahamas: 17-19 May 2004

15. The Colloquium was attended mainly by Judges and Magistrates dealing with family and domestic violence matters and representing most of the countries of the Caribbean.
16. Among the far-ranging themes considered at the colloquium, specific issues relating to domestic violence, rape, sexual offences, sexual harassment and battered women's syndrome were considered. The participants examined the extent to which the law of the various countries reflected women's experiences and the relevance of social context to judicial decision-making. In this context, the question how Courts balance gender considerations with other rights which may come into conflict also arose.
17. In their assessment of the effectiveness and relevance of the colloquium, several participants gave examples of how they would use the International Convention on the Elimination of All Forms of Discrimination against Women in judicial decision-making in the future. Of particular interest was the recommendation for the adoption of a "no drop policy" to ensure the successful prosecution of crimes of violence against women throughout several countries in the Caribbean.
18. In its Statement, the colloquium recognised a number of challenges in crafting a jurisprudence of gender equality at the domestic level. Among the challenges stated, the following are of special interest to Trinidad and Tobago.

- Family courts, or family law divisions at the High Court/Supreme Court level, do not exist in several of the participating countries, and there is a lack of accessible and effective structures for dealing with family matters, and with violence against women. The limited jurisdictional boundaries of these courts significantly restrict their effectiveness. These shortcomings lead to inadequate access to justice for women in violence against women and family law matters. In many instances, the number of judges and magistrates assigned to family matters is insufficient to ensure that such matters are dealt with expeditiously, and the infrastructure of these courts is inadequate or absent to deal with such cases in an effective manner. In addition, courts lack the professional counsellors, psychiatrists and other support personnel necessary to function effectively.
 - There is a lack of respect for orders issued by magistrates and the trivialisation of such orders.
19. The issues raised at the Colloquium reflect the impact on the wider Caribbean of judicial education in Trinidad and Tobago on domestic violence issues presented as part of the Family Court and Domestic Violence training by the Hon. Judge Nancy A. Flatters, Provincial Court of Alberta, Calgary Family and Youth Court.
20. Continuing judicial education and sensitisation on the issue of domestic and gender based violence can be put in the social context reflected in the statement of the Chairperson of the Trinidad and Tobago Coalition against Domestic Violence, Mrs. Diana Mahabir-Wyatt.

Submitted,

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