

**SENATE***Tuesday, May 15, 2012*

The Senate met at 10.00 a.m.

**PRAYERS**[MR. PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave of absence to Sen. Fitzgerald Hinds and Sen. Helen Drayton who are both out of the country.

**SENATORS' APPOINTMENT**

**Mr. President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards T.C., C.M.T., Ph.D.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: MRS. SHERRIE HAMIDAN LORNA ALI

WHEREAS Senator Fitzgerald Hinds is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, SHERRIE HAMIDAN LORNA ALI, to be temporarily a member of the Senate, with immediate effect and continuing during the period of absence from Trinidad and Tobago of the said Senator Fitzgerald Hinds.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 11<sup>th</sup> day of May, 2012.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL  
RICHARDS, T.C., C.M.T., Ph.D., President and  
Commander-in-Chief of the Republic of  
Trinidad and Tobago.

/s/ G. Richards  
President.

TO: MR. ALBERT WILLIAM SYDNEY

WHEREAS Senator Helen Drayton is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ALBERT WILLIAM SYDNEY, to be temporarily a member of the Senate, with effect from 15<sup>th</sup> May, 2012 and continuing during the absence from Trinidad and Tobago of the said Senator Helen Drayton.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and  
Tobago at the Office of the President, St.  
Ann's, this 15<sup>th</sup> day of May, 2012.

#### OATH OF ALLEGIANCE

*Senators Sherrie Hamidan Lorna Ali and Albert William Sydney took and subscribed the Oath of Allegiance as required by law.*

#### **CARIFORUM (CARIBBEAN COMMUNITY AND DOMINICAN REPUBLIC) EUROPEAN COMMUNITY ECONOMIC PARTNERSHIP AGREEMENT BILL, 2011**

Bill to give effect to the Economic Partnership Agreement between CARIFORUM States (Caribbean Community and the Dominican Republic) and the European Community; to effect consequential amendments to the Customs Act Chap. 78:01 and for related matters. [*The Minister of Trade and Industry*]; read the first time.

*Motion made:* That the next stage of the Bill be taken at a sitting of the Senate to be held on Wednesday, May 23, 2012. [*Sen. The Hon.E. George*]

*Question put and agreed to.*

**ADMINISTRATION OF JUSTICE  
(ELECTRONIC MONITORING) BILL, 2011**

Bill to make provision for the implementation of a system for electronic monitoring in Trinidad and Tobago and for related matters [*The Minister of Justice*]; read the first time.

*Motion made:* That the next stage of the Bill be taken at a sitting of the Senate to be held on Wednesday, May 23, 2012. [*Sen. The Hon. E. George*]

*Question put and agreed to,*

**PAPERS LAID**

- 1 Annual audited financial statements of the Point Lisas Industrial Port Development Corporation Limited for the year ended December, 31<sup>st</sup> 2011. [*The Minister of Public Utilities (Sen. The Hon. Emmanuel George)*]
- 2 Audited financial statements of the Trinidad & Tobago Mortgage Finance Company Limited for the year ended December 31, 2011. [*Sen. The Hon. E. George*]
- 3 Ninetieth Report of the Salaries Review Commission of the Republic of Trinidad and Tobago. [*Sen. The Hon. E. George*]
- 4 Ninety-Fourth Report of the Salaries Review Commission of the Republic of Trinidad and Tobago. [*Sen. The Hon. E. George*]

**ORAL ANSWERS TO QUESTIONS**

**Sen. Terrence Deyalsingh:** Mr. President, thank you. I beg to ask the honourable Senate that questions that stand in the name of Sen. Fitzgerald Hinds be deferred for one week due to his absence from the country. Thank you very much.

**Mr. President:** Are you asking that in relation to all the questions, sorry?

**Sen. T. Deyalsingh:** Yes.

*The following questions stood on the Order Paper in the name of Sen. Fitzgerald Hinds:*

**Colour Me Orange Programme  
(Details of)**

78. With respect to the Colour Me Orange Programme, would the hon. Minister of Housing and the Environment please indicate:

- (a) whether the programme has come to an end;
- (b) whether there is any plan or intention to extend the programme;
- (c) precisely how much was expended on this programme;
- (d) the number of jobs created by the programme;
- (e) what was the Government's rationale for its activation; and
- (f) did the programme achieve its objective?

**Prime Minister's Statement on her "Personal Assistant"  
(Details of)**

- 80.** In light of the hon. Prime Minister's recent statement on the issue of her "Personal Assistant" would the Prime Minister kindly indicate:
- (a) when did she offer to pay the expenses for her sister Vidwatie Newton to travel with her in this capacity;
  - (b) to whom did she make this offer;
  - (c) why was/were this/these offer(s) made;
  - (d) was this offer, or any other offer, related to the recent trip/delegation to India; and
  - (e) what "expertise" did Vidwatie Newton bring/add to the delegation, as contemplated by the authorization to issue a per diem in accordance with Cabinet Minute No. 780 of April 2006?

**Vidwatie Newton Employment  
(Details of)**

- 81. A.** Would the Hon. Prime Minister indicate whether Vidwatie Newton is employed as her "live-in" Personal Assistant at the Official Residence and/or Diplomatic Centre at St. Ann's?
- B.** Would the Prime Minister also indicate whether Newton was employed as a "live-in" Personal Assistant at the Gopaul's Residence, when the Prime Minister occupied that residence in Pasea, Tunapuna?

*Questions, by leave, deferred.*

**MISCELLANEOUS PROVISIONS (MATERNITY PROTECTION AND THE MASTERS  
AND SERVANTS ORDINANCE) BILL**

*Order for second reading read.*

**The Minister of Labour and Small and Micro Enterprise Development (Hon. Errol Mc Leod):** Thank you very much, Mr. President, and hon. Senators. Thank you for your kind welcome.

It is my responsibility today to seek your support for matters that had been dealt with in the other place. And so I beg to move,

That a Bill to amend the Maternity Protection Act, Chap. 45:57 and to repeal the Masters and Servants Ordinance, Chap. 22 No. 5, be now read a second time.

The Miscellaneous Provisions Bill seeks to amend the Maternity Protection Act and to repeal the Masters and Servants Ordinance; an old colonial piece of statute which we think in the 50<sup>th</sup> year of our celebration of national independence, we should seek to dismiss from our statutes.

This Miscellaneous Provisions Bill, Mr. President seeks to amend maternity protection, and according to the measures that we bring here today, at clause 1 of the Bill we would see that we contain the short title; at clause 2, we are seeking to allow the Bill to have effect even though inconsistent with sections 4 and 5 of the Constitution; at clause 3, we would seek to amend the Maternity Protection Act in:

- (a) section 4, by providing for a new definition of maternity leave; and
- (b) sections 7(3)(b) and 9(1), by providing that maternity leave entitlement be 14 weeks rather than 13 weeks in order to be consistent throughout the Act.

And of course, clause 4 of the Bill seeks to repeal the Masters and Servants Ordinance, Chap. 22, No. 5

**10.15 a.m.**

On March 16, Mr. President and hon. Senators, the other place began consideration of this measure, and we concluded in that other place in unanimous support of these proposals on April 25, 2012. When we introduced these proposals, it was in commemoration of International Women's Day which was one week before we started that debate on March 08, 2012 and, today, we wish to extend tribute to our mothers as we bring the determination of the other place to this higher place, the Senate.

Mother's Day, as we are aware, was celebrated two days ago on May 13, 2012. So, today, I have that responsibility, on behalf of the Government, to bring these proposals to the honourable Senate.

When we assumed office just under two years ago, we made a commitment to people-centred development and to placing workers at the centre of this process in our journey of building a sustainable, productive and progressive economy, where all persons can contribute. In so doing, Mr. President, we acknowledged that one of the issues requiring early attention was the review of the legislative framework, particularly with respect to labour legislation in Trinidad and Tobago.

We recognize the need to modernize the legislative framework to ensure that workers' and employers' rights and responsibilities are upheld. The Government's policy framework for sustainable development, Mr. President, identifies certain key pieces of labour legislation to be reviewed and amended or repealed. These include the amendment of the Maternity Protection Act, Chap. 45:57 to provide for 14 weeks' paid maternity leave as opposed to 13 weeks, which currently obtains in keeping with international labour standards.

Now, it was in 1998, I think, that we enacted and put into operation the existing provisions governing maternity protection and, at that time, the international standard was no less than 12 weeks, but we had in our jurisdiction a provision for no less than 13 weeks and, today, it is our intention to ensure that Trinidad and Tobago is in line with the minimum standard, at least, at the international level, and that is insofar as maternity protection is concerned.

The repeal of the Masters and Servants Ordinance, Chap. 22, No. 5, which is considered to be an old colonial law, has also been high on our legislative agenda. Let me assure you and hon. Senators that the presentation of this Bill demonstrates the Government's resolve to fulfil its commitments to the people of the Republic of Trinidad and Tobago.

One of the next major pieces of labour legislation that I will be addressing in a very comprehensive manner is the Industrial Relations Act, Chap. 88:01. I am pleased, at this point, to remind hon. Senators of this Senate that the Cabinet approved, and I have since installed, the Industrial Relations Advisory Committee, which has begun its work already which is provided for under section 80 of the IRA.

That work has begun, and it is going to be long and tedious, I have no doubt, but it is our ambition to bring some very important fundamental measures before the Senate and the House of Representatives as we seek to modernize the industrial relations provisions in the law for Trinidad and Tobago. The work of this tripartite committee will take into consideration the views of a wide cross section of stakeholders and will guide the process of legislative change in this regard.

Permit me, Mr. President, to point out to this honourable Senate the highly consultative and participatory approach that we had taken in arriving at this juncture of amendments to the Maternity Protection Act and the repeal of the Masters and Servants Ordinance. It is within the context of our commitment to social dialogue with which we would remain, as we seek to establish important cornerstones of the Government's approach to formulating policies and programmes and affecting legislative change.

We had quite extensive deliberations at the tripartite level. We deliberated with employers, unions, workers organizations and key government departments before we brought these measures to the other place. The interests advanced by employers' and workers organizations are always considered in framing labour policies. We do not intend to deviate from this practice but, rather, are intent on strengthening the relationships among the social partners through a more coordinated approach to social dialogue if stakeholders and social partners will suspend for some time, at least, old forms and subscribe to broad interest-bearing collaboration.

Mr. President, the amendments to the Maternity Protection Act are based on our belief that the family is a most critical institution of society. Strong families build strong communities, which are the foundation of stronger economies. We may often ask ourselves, what makes a family strong? I sometimes claim expert knowledge in this area, on the basis of my not just being a father and a leader of sorts, but I hold the distinct privilege of being a grandfather of nearly nine grandchildren. [*Desk thumping*] I want to suggest that I am qualified, sufficiently, to posit my view that families are as strong as the relationships which are built over time among members. Therefore, we must do all in our power to develop and nurture these relationships. The family constitutes a large part of personal life for most people—I would wish to say, for all people.

While some of us, if not most of us here may be products of families characterized by mothers who work at home taking care of the needs of their husbands and children, we know that the situation today is quite different, as a consequence of economic pressures, psychological demands to develop one's identity and other factors.

We are quite aware that more women are opting to enter the labour market today compared to a decade ago, evident by a steadily rising female labour force participation rate. In 2000, the female labour force participation rate stood at 47 per cent, while this increased to 51.1 per cent in 2009.

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We have also seen a tremendous decline in female unemployment rates from 15.2 per cent in 2000 to 6.3 per cent at the end of 2009. There is no denying that women's contributions, both at home and in the world of work, remain very significant and we should do all in our power to ensure that they are able to execute their roles in both spheres to the best of their abilities.

However, often we find that women have to make a choice between family and work, and some may even opt to withdraw temporarily and there are others who withdraw permanently from the labour force or accept jobs which do not utilize their full productive capacities, and this redounds to a reduction in the productive capacity of the economy. In this regard, greater attention has been placed worldwide on creating a supportive environment, which allows women to balance their productive and reproductive roles.

According to the International Labour Organization (ILO), in just over 10 years, 80 per cent of all women in industrialized countries and 70 per cent, globally, will be working outside the home throughout their childbearing years. In addition, studies have shown that companies have been able to benefit from the retention of skills that are critical to their operations by promoting work-family life balance. This has been supported by actions to improve maternity protection, including progressive increasing in the period of maternity leave to which employees are entitled.

Again, while I am no expert in this area, I understand and appreciate the importance of maternity leave to mothers in assisting in the transitioning to with their parental role and to children in nurturing family bonds. It is designed to give expectant mothers the possibility of withdrawing from work in the later stages of their pregnancy, and allow them some time to recuperate after childbirth. It helps to ensure the non-prevention of women from exercising their fundamental right to work.

Additionally, two studies from the University of California, Berkeley, conducted in 2009 showed that pre-birth maternity leave and longer post-birth maternity leave are associated with better health for both the infant and the mother. Sylvia Guendelman, Professor of Maternal and Child Health at the university is noted to have said, and I quote:

“What we're trying to say here is that taking maternity leave may make good health sense, as well as good economic sense.”

**10.30 a.m.**

She added, and I quote again:

“These new studies suggest that making it feasible for more working mothers to take maternity leave both before and after birth is a smart investment.”

The Government recognizes that there is a cost element to increasing the period of paid maternity leave, given the varying sizes of enterprises, levels of profitability and the changing dynamics of the global economic and financial environment. However, the benefits to women, children and their families and enterprises in providing the entitlement to paid maternity leave outweigh the costs in both social and economic terms.

As I indicated earlier, the Maternity Protection Act, Chap. 45:57, Act No. 4 of 1998, was assented to on March 11, 1998 and came into effect on April 15, 1998. But there were maternity leave provisions covering significant numbers of workers in the society, and that was largely on the basis of union recognition and employer recognition by unions.

In a civilized manner they would have sat and determined that, “This is best for the industry; this is best for the workplace,” and, indeed, it is best for the people employed in the workplace, to provide, as best as possible, within the means of the particular business, fair and really decent terms and conditions of employment, including maternity leave. Some of them were so progressive that they had gone beyond the provision made by the ILO. Today we are moving, hopefully with the Senate’s agreement, to coming back on par with the minimum international conditions that we seek.

Mr. President, Act No. 4 of 1998 provides currently for 13 weeks’ paid leave. At that time in 1998, this provision was in keeping with the ILO standard of at least 12 weeks, as stipulated in ILO Convention No. 103, maternity protection, which was revised in 1952, but held at 12 weeks.

However, in the year 2000, the year following the enactment of our Maternity Protection Act in Trinidad and Tobago, at the 88<sup>th</sup> Session of the International Labour Conference of the ILO, Convention No. 103, the one I alluded to earlier, was revised by Convention No. 183. So what is now in existence is No. 183, Maternity Protection Convention 2000.

Article 4 of Convention No. 183 states that:

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“On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.”

This is the new standard. Later on I will indicate that there are largely industrialized and developed countries that provide for even more than this.

Given that there have not been amendments to the Maternity Protection Act since its coming into force, and pursuant to consultations with employers, workers and other stakeholders in Trinidad and Tobago, it was determined that we should aspire to meet the new minimum labour standard with respect to maternity leave.

The Bill presented before this honourable Senate today addresses one aspect of maternity protection. However, I wish to add that the new maternity leave stipulation in the Bill of 14 weeks still represents a minimum floor. I therefore urge workers, their organizations and employers to consider ways of exceeding this limit through the collective bargaining process. There are many criticisms being made these days about the state of industrial relations and the lack of true and meaningful collective bargaining. I wish only to state that Trinidad and Tobago happens to be better than many countries around the world, some of them more developed than us. [*Desk thumping*]

But let us not sit on our laurels and leave the situation as is. I must appeal to the good consciences of workers' and employers' organizations to think about the progress of Trinidad and Tobago. If Trinidad and Tobago progresses on the basis of our contributions, then we too would have progressed in that area. [*Desk thumping*]

The 2010 ILO report on maternity at work has noted that 51 per cent of the 167 member states surveyed provide a maternity leave period of at least 14 weeks, the standard established by Convention No.183. About one-third—35 per cent of countries—provide 12 to 13 weeks of leave, and 14 per cent of countries provide less than 12 weeks of maternity leave. The report further highlighted that some countries which provide higher maternity leave include the United Kingdom, 39 weeks; the Czech Republic, 28 weeks; Hungary, 24 weeks; Italy, 20 weeks; Denmark, 18 weeks; Canada, 17 weeks; Spain and Romania, 16 weeks.

In our consultations with the social partners, and again in our debate in the other place, there were suggestions coming forward that we should go to 18 weeks. Some were saying we should go to 24 weeks, and some were pointing to what the UK provides, what Denmark provides and so on. I am suggesting that we should look within ourselves and consider very seriously what Trinidad and Tobago can provide at this time.

It must be noted that while many developed countries offer maternity leave in excess of 14 weeks, their benefits vary with some receiving far less aggregate coverage than others. It is not everybody who has so much leave that gets paid for all of that leave. I indicated earlier that Trinidad and Tobago is not among the worst. Indeed, Trinidad and Tobago is near to being out front among the best. The report identifies five countries of the English-speaking Caribbean, namely Antigua and Barbuda, Grenada, Guyana, St. Lucia and Trinidad and Tobago, which in 2010 provided 13 weeks' maternity leave.

Mr. President, in addition to demonstrating our commitment to promoting the health and well-being of our women and children and preserving the right of women to work in a nondiscriminatory environment, the presentation of this Bill is also testimony to our commitment to decent work for all. Maternity benefit is an important element of maternity protection, which is a significant component of social protection.

Social protection remains one of the four strategic objectives of the decent work agenda, which seeks to ensure that women and men work in conditions of freedom, security, dignity and equity where their rights are upheld. Our goal of providing decent work for all is aimed at promoting both inclusion and productivity by ensuring that women and men enjoy working conditions that are safe, allow adequate free time and rest, take into account family and social values, provide for adequate compensation in the case of loss or reduced income and permit access to adequate health care.

I know that in this Chamber there would be some persons who would be holding their breath to hear me say that they must also be very decently compensated. I subscribe to that. [*Laughter*]

Further, the increase in the period of maternity leave, which contributes to the health and well-being of mothers and their babies, also contributes to the achievement of millennium development goals IV and V adopted by the member states of the United Nations, which seeks the reduction of child mortality and the improvement of the health of mothers. By safeguarding women's employment and income security during and after maternity, maternity protection also contributes to the realization of millennium development goal III promoting gender equality and women's empowerment.

With the increase in the period of maternity leave to 14 weeks, Trinidad and Tobago is well poised to become the first country in the English-speaking Caribbean to provide paid maternity leave for this period.

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This Bill, Mr. President, is but one step forward in giving women the opportunity to build a society they can be proud of through their caregiving labour of love and their productive work. I take this opportunity therefore, two days after our celebration of Mother's Day, to salute all our women and all our mothers in our labour force for their invaluable contributions to our society. [*Desk thumping*]

I now wish to turn to the Masters and Servants Ordinance, which came into effect on December 08, 1938, just around the time that our foundation unions were being christened, and some were being born. This Ordinance was designed to regulate the relationship between employers and servants during the early part of the 20th Century. History has shown that the Ordinance was heavily biased towards employers and designed to discipline and repress workers.

**10.45 a.m.**

When this Ordinance came into effect, Trinidad and Tobago was under colonial rule. The scope of the Ordinance was very limited, only being applicable to servants, who were defined as any mechanic; artisan; artificer—I searched it and found that an artificer is a skilled mechanic in the armed forces—handicraft man; agricultural or other labourer; any household or other domestic servant; any driver or conductor of a motor vehicle; and any person employed in a drogher or any other vessel. The drogher is a device, mostly conical or funnel shaped, and towed behind a boat or aircraft; I think it helps to control speed.

**Sen. Al-Rawi:** [*Inaudible*] by carriage.

**Hon. E. McLeod:** Ah yes, thank you. Employers in the Ordinance included any master; mistress; foreman; attorney; agent; manager; overseer; clerk; or other person engaged in the hiring, employing or superintending the labour or service of any servant. Today we acknowledge that these definitions are very limited, and they do not properly represent employers and workers in our national context.

Additionally, some of the other archaic provisions in this Ordinance, which have little or no application or relevance to the employment relationships which exist today, include contracts of employment—jurisdiction that is—which would only be considered to be valid if made within the jurisdiction of Trinidad and Tobago. Contract of employment would only be considered to be valid and binding for a period of one year; contract must be signed by the parties entering into the agreement, and where one of the parties to the contract is illiterate, the contract must be executed in the presence of a Justice of the Peace. Terms and Conditions: contracts of employment must specify the general nature of employment, when the work is to be performed and the number of hours to be worked per day, remuneration.

Section 9 of the Ordinance provides that no servant's wages, if contracted for in money, may be paid in kind, or if contracted for in kind may be paid in money or in any other than the stipulated kind and quality, except with the expressed consent of the servant, and any employer who contravenes the provisions of this subsection, shall forfeit, and pay to the use of the servant such sum not exceeding \$50, as the magistrate shall consider reasonable compensation for the wrong and injury done to the servant. So many servants would have been wronged, over and over again, and there is hardly any evidence of so many dollars being paid to them.

Termination of the contract occurs by the effluxion of time, by the mutual consent of the parties or by giving notice by the master, where the servant has engaged in some form of misbehavior. Where there is a breach of these provisions by either party, the Ordinance makes provisions for penalties to be imposed by a magistrate, with the highest penalty being \$50.

Settlement of disputes with respect to wages: section 15 of the Ordinance requires that all complaints, differences and disputes arising between an employer and the servant, concerning any wage or allowance, which may be due to the servant, shall be heard and determined by a magistrate, provided that such wages or the value of such allowances does not exceed \$100—yes, Mr. President, \$100—and that the complaint be made within six months after the wages become due.

I do not need to convince this honourable Senate of the need to remove this Ordinance from our books, as I am sure that we all agree that these provisions are outdated, if not ludicrous, in our current situation.

A number of factors have affected the continued relevance of this Ordinance including the emergence of the trade union movement in Trinidad and Tobago, which has resulted in dramatic shifts in the employer/employee relationship. The passage of the Industrial Relations Act, Chap. 88:01, as much as we would quarrel about it from time to time, it is a step that ought to have taken us so far away from the masters and servants relationship.

The IRA, which among other things, introduced a compulsory mechanism to deal with disputes arising between workers and employers by virtue of the establishment of mandatory conciliation, and established the Industrial Court as a superior court of record to hear unresolved disputes. Additionally, the definition of worker, under the IRA, while still restrictive—and this is a matter we are addressing with urgency—is broader than the definition of servant in the Ordinance, thereby allowing a wider group of the working population to access redress mechanisms.

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The emergence of a national labour legislation framework addresses minimum standards of employment, with the introduction of key pieces of labour legislation, including the Minimum Wages Act, Chap. 88:04; the Retrenchment and Severance Benefits Act, Chap. 88:13; the Occupational Safety and Health Act, Chap. 88:08, and the Maternity Protection Act, Chap. 45:57. The development of employment law, as a specialized area of contract law, has resulted in an expansion of avenues for redress for employees. The active promotion of social dialogue, at the enterprise and national levels, emphasizes the importance of labour management cooperation, as opposed to adversarial relationships.

And very shortly we should be hearing something, Mr. President, about the establishment of our social dialogue programme. We are working on a proposal now, with the ILO assisting us, to have the start of that programme somewhere around the end of next month, June; hopefully we would be able to stem the tide of growing disenchantment and unhappiness in the society. The active promotion of social dialogue, and as a consequence we must do the right thing and repeal this Ordinance. It has always bothered me that we have taken so long to reach this point, but as the saying goes, better late than never.

Mr. President, the Bill presented today, this Miscellaneous Bill, represents a way of thinking which, I want to submit as being progressive and developmental. It is only a continuing process of more legislative changes to be brought to the Senate, and the other place, pertaining to key pieces of labour legislation which had been largely ignored, for a long time, by our predecessors in office.

This Government believes that through the process of social dialogue and the strengthening of relations among Government employers, workers and their organizations, we can achieve greater equity and equality in the workplace, and promote decent work for all.

In preparing my presentation to this honourable Senate, I was reminded of the words of Martin Luther King, that quote:

“All labour that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence.”

I believe in taking my time to be purposeful, and to be excellent. I feel certain that the support that will be given by hon. Members to the measure that we have brought here today, would underline your consideration of my having been quite excellent in my presentation. I recommend these works to you, Mr. President, and this Senate, I beg to move. [*Desk thumping*]

*Question proposed.*

**Sen. Faris Al-Rawi:** Thank you, Mr. President. We are here on an early morning session; it is now 11 o'clock, having started at 10.00. I regret that I ran a little late; unfortunately, commitments elsewhere, caused that. But it was a pleasure to welcome back to the Senate the hon. Minister of Labour and Small and Micro Enterprise Development, Mr. Errol McLeod, who joined us once before, in my time in this Parliament in this session at the Red House, when he dealt with an amendment to the Minimum Wages Ordinance. This is the second time in two years that we have seen him, and he has come to this Senate on a very important matter of recognizing the role of mothers in the context of the family, and in the context of the larger society.

The hon. Minister has sought to persuade us that there has been consultation, that there has been tripartite discussion, and wider discussion, and regrettably, Mr. President, I am not quite persuaded by that argument. If I should say that I am not persuaded by that argument, on the basis of what constitutes consultation, that would be evidenced by the fact the Minister speaks to a legislative agenda and consultation in respect of that, and there is absolutely in fact, no legislative agenda, at least one that we are aware of as an Opposition sitting in the Senate.

This Bill has come, the hon. Minister has told us, in the context of the People's Partnership legislative agenda, yet we are not told by way of condescension to any particulars from the Leader of Government Business in this Senate, what matters we have coming before us, the very nature as to when Parliament is going to prorogue in this Senate.

I heard, while I was on my way here to the Senate, on the Parliament Channel on the radio, that Standing Order 48 was used to abridge the time for debate of two very important Bills to come on Wednesday of next week, and again no consultation there. So I am not quite confident that I can accept any form of encouragement by the Government that there is any consultation, because consultation must surely start with those closest to you. There has been no consultation in respect of this Bill to those closest to the Government, in terms of mere proximity in debate, in the form of the Opposition.

**11.00 a.m.**

That is very, very important because it causes a bitterness in the ultimate product. If you cannot speak to those who are closest to you, as the hon. Leader of Government Business does not, for instance, in relation to what matters we have, when we are going to debate them, et cetera, if you do not—through you, Mr. President, to the Minister of Labour and Small and Micro Enterprise

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Development—if you do not have consultation with us in relation to Bills like this, you are going to find out that you have missed the boat; missed the bus; thrown the baby away with the bath water. And that is so when you drill down into what aspects of omission the hon. Minister of Labour and Small and Micro Enterprise Development has brought to this Senate.

Mr. President, let me first of all pay sterling recognition to the labour movement. The labour movement in Trinidad and Tobago is the very entity which saw the birth and development of the middle class in Trinidad and Tobago, in its historical sense. We have been treated on many occasions to contributions by Sen. David Abdulah relative to the birth and development of the labour environment in Trinidad and Tobago, and it was the very labour environment that the hon. Minister spoke of today that saw entrenchment of the recognition of maternity leave.

Maternity leave is a leave of absence permitted by law, and it is a leave of absence permitted to women; hence the reason we must make the exception for a section 4 and section 5 caveat in this Bill; hence the reason we must have a section 13 declaration requiring a three-fifths majority. We are providing in law an unequal right, insofar as we are giving a specific leave of absence to women and we are not dealing with it in respect of men, and our Constitution provides for equality. So, that is one of the reasons why we give a section 13 explanation and exception.

Another reason also has to do with the payment provisions given, and in affecting the right of property, therefore, we must also consider the sections 4 and 5 exception to the Constitution. So, the labour movement brings forward a very important development in Trinidad and Tobago, historically. It has been put on to our books by way of incorporation under savings of laws prior to our Independence, after Independence and then through Republicanism. Then in 1998, there was a formula that brought forward a crystallization of law into this Act, the parent Act which we are dealing with; that is in fact Chap. 45:57. As the hon. Minister told us, it was proclaimed in 1998 and it became law.

The hon. Minister in coming here today has not spoken to the interarticulation of this particular Act and the Bill which seeks to amend the Act with other areas of law. He has also failed to tell us about the interarticulation of the social compact which the People's Partnership promised us in relation to amendments of laws. He has also not told us of the type of amendments that will follow or ought to follow when this particular Bill becomes law, because we will support it.

It is important that we, sitting in a Parliament, engage in a discussion as to intention and effect, because it is critical to the courts of Trinidad and Tobago, and therefore the people of Trinidad and Tobago, that the *Hansard* record speaks to the intention of legislation. So, we can understand what it is meant to give and not have judges struggling only with a purposive interpretation of laws, and a purposive interpretation of laws for those who do not know, is an interpretation of a particular section in the context of the whole wording of the Bill. The purpose is to be lifted from the discussion in *Hansard*, so the *Hansard* discussion is critical.

Now, Mr. President, what causes great concern for me is the boast by the hon. Minister that there has been consultation and analysis, and the very point of analysis that is critical to us is the statistical information, firstly, and secondly, the responses from those who we approach for consultation. Those two bits of information are critical to understanding whether we are engaging in the best form of parliamentary time and therefore national time in discussing any piece of law.

Sitting on the front bench in this Senate, Mr. President, you would note, the Minister of Public Utilities; the Minister of National Security; the Attorney General, who is usually supposed to be here; the Minister of Food Production, Land and Marine Affairs; the Minister of Gender Affairs, Youth and Child Development; the hon. Minister joins us today as a guest to this Chamber, as of right, and to his immediate right and to my left is Sen. The Hon. Dr. Bhoendradatt Tewarie.

Mr. President, this frontline alone is an important frontline to this country because the hon. Minister, in telling us that there has been consultation, used 2009 figures for maternity statistics, and the number of women entering into the workplace and the decline, as he put it, of unemployment with respect to women. But he used a 2009 statistic, and I want to ask, where is the statistical information in Trinidad and Tobago from the Central Statistical Office? [*Desk thumping*]

The hon. Minister does not have to look too far because Sen. The Hon. Dr. Bhoendradatt Tewarie—and I am sure he will assist us in his contribution—sits to his immediate right. Yet, the last time we spoke about statistics was in the Red House when we authorized the census, and it was then, ex-Senator now, Mary King, that brought the Bill to deal with the census.

The year 2010 has passed, 2011 has passed, we are into 2012, and every Bill that we deal with in this Parliament, every single Bill and piece of law that we contemplate—from the budget down to information concerning maternity for instance, like this one—all of them depend upon reliable statistical information

which this Government cannot give us. We have got to ask ourselves, why? Why can we not get the statistical information? What are the true unemployment figures? What are the true maternity statistics? What are the paternity incidences?

All of this relates to this Bill's discussion because when we are dealing with the International Labour Organization, as this Bill tells us we are dealing, we must take conscious reflection of the fact that the ILO is very, very clear in its objectives that we must look to gender equality, and I am back to the frontline. The hon. Minister with the control and management of gender affairs sits to the left of the hon. Minister. Yet, we are told that we are dealing with a holistic, deep consideration matter and we have heard nothing in relation to paternity rights; paternity leave; parental leave; adoption leave; illness leave for children post the prescriptive periods.

So, Mr. President, as much as I respect the hon. Minister, he being my senior in many, many senses and a gentleman whom I have had the pleasure of knowing vicariously at first and then personally, secondly; I have great regard for him, but this is not the type of interrogation that I would expect from the hon. Minister.

I would believe, I do believe that the hon. Minister had discussions, but I am not confident that the persons in his Government that ought to listen to him are in fact listening to him, and that can be proved, for instance, by reports in the media up to yesterday, where we see one Member of the Government and Cabinet of the Government criticizing another Member of the Government and a coalition partner, telling him to get his facts straight in relation to statistics, information and social compact—very, very rude statements by Members of the Government against other Members of the Government relative to consultation and social compact.

So, let me tie it to this Bill further. The People's Partnership in 2010 in its manifesto made very bold observations at pages 43, 44, 50 and 51. At page 51, by way of example, in dealing with the heading "Workers at the Centre" and continuing thereon, the promise is made—maternity and paternity protection: the Maternity Protection Act, 2000 will be amended to provide for 14 weeks' maternity leave, the international standard. Provisions for paternity leave will be made. It then goes on to deal with minimum wage. It says quite properly, and the Minister is fulfilling this obligation, the Masters and Servants Ordinance which is an old colonial law and contrary to decent work policy of the ILO will be repealed.

Mr. President, under the heading of "Workers at the Centre" at page 50, with your leave, the People's Partnership manifesto which is the social compact and contract with people now, adopted by the Ministry of Planning and the Economy, adopted by many other Ministries as Government-stated policy, says that there would be adherence to general objectives of the ILO position.

It goes on to speak, relative to gender equity and gender mainstreaming: that there will be pursuance of policies to allow women to have flexible working hours in recognition of the dual burden of women at home and at the workplace, that it would be mandatory for all public and private enterprises to have private spaces which are available to mothers who are nursing their children, that there will be a national gender policy.

This manifesto goes on and on, on very important matters, none of which the Minister of Labour and Small and Micro Enterprise Development has come to speak about, and all of which are relevant to the amendment that he ought to be speaking to.

There is no form of addressing any of the promises, and it is put in the context in society right now where you have an open attack by Members of the Government against other Members of the Government—an open and naked attack. So, what are we really doing? As much as we may like the Minister of Labour and Small and Micro Enterprise Development, as long as we are going to debate this particular Bill here today, what is the substance and meaningful reform?

Let us look at the Bill. The Bill is four clauses long—the first clause is the title; the second clause says, “the Bill shall have effect even though inconsistent with sections 4 and 5”; the third clause deals with amendments in the definition of maternity leave in the definition section of the parent Act. It inserts the word “thirteen” instead of “fourteen” in section 4, section 7(3)(b) and section 9, and the last clause is the repeal of the Masters and Servants Ordinance. That is it!

The Minister makes several boasts. He tells us that there has been use of a highly consultative and participatory approach, there has been social dialogue, the family is the most critical institution, it is a very short but very significant and most effective Bill; 24 months ago we made a commitment of people-centred development placing workers at the centre. Yes, they made the commitment. I just reflected on the manifesto, but where is any of that included in today’s discussion? It ought to be included in today’s discussion. [*Desk thumping*]

Let us look at the allegation that there has been deep reflective thought on this Bill. Mr. President, the parent Act, Chap 45:57; the Maternity Protection Act, 1998, has 22 sections. This Act is critical because it crystalizes in this particular law the right to maternity leave, and the International Labour Organization tells us that there are really three things that you must pay attention to when you are dealing with the aspect of maternity leave. You ought to deal with the duration, the benefit and the source of funding. Those are the three critical aspects.

The hon. Minister has come and told us, well, we are dealing with duration. We are dealing with, instead of 13 weeks, we are dealing with 14 weeks. He has very quickly dealt with the fact that the International Labour Organization had several conventions and those were No. 103 and No. 183, dealt with respectively in 1919, 1952 and in the year 2000. He has reflected correctly upon the fact that Trinidad and Tobago in 1998 gave 13 weeks as opposed to 12 weeks, when it was guided then by Convention 103, which prescribed 12 weeks.

**11.15 a.m.**

But, Mr. President, if he paid close attention, and the Government paid close attention, then we would be dealing with the source of funding, because the parent Act tells us at section 9 of the Act, very critically it tells us in recognition of the ILO convention that the employer is not to be made liable for the payment. Section 9 of the Act says, and it takes cognizance of the fact that the employer would make a part contribution, that the national insurance mechanisms will make a part contribution, but that where the amount is less than the worker ought to receive, that the employer must pay the balance.

Convention No. 183 says specifically that you ought not to make the employer liable. So we are dealing with source of funding, Convention 183 is what we are ascribing to. The Minister has dealt only with the 14-week provision, but Convention 183 says specifically, do not make the employer liable, obviously, because if you put more burden upon the employer you are going to discourage the benefits and relationships that ought to foster between employer and employee and the flexibility which would result in the family's best interest and therefore redound to the benefit of society.

Mr. President, the Act also says that. Permit me, Mr. President, with your leave to reflect upon section 9 of the Act. Section 9(1) says:

“An employee is entitled to thirteen weeks maternity leave and may proceed on such leave six weeks prior...”

We are now proceeding to make the amendment from 13 weeks to 14 weeks. It says further, Mr. President:

“...at the employee's discretion...subject to section 10”—

She must return to work

“no later than thirteen...”

We now change to 14 weeks

“from the date she proceeded on leave.”

But section 9(2) says:

“During the period of maternity leave, an employee is entitled to receive pay from her employer to an amount equivalent to one month’s leave with full pay and two months’ leave with half pay.”

And then section 9(3) says:

“Where the sum of the amount paid to the employee under subclause (2) and the maternity benefits payable to her under the National Insurance Act is less than her full pay, during the period, the employer shall pay the difference to the employee.”

So we have changed 13 weeks to 14 weeks. We have one week’s pay to deal with. The Act is clear that the employer must pay it. The Minister has told us nothing about where the extra payment is to come from. But, Mr. President, he then tries to persuade us that he has had deep reflection and serious contemplation on the effects of this Bill. He has not addressed at all the source of funding or the fact that the ILO Convention 183 says, do not make the employer liable. The Act says if you pay short the employer is liable.

So what are we really doing? Where is the deep reflection, Mr. President? It surely cannot be conscious reflection if you have left out the third limb of the source of funding. The very basic ABCs of maternity leave require that you critically examine and provide for the source of funding.

Mr. President, that is dealt with in a further detail as well. In so far as, other pieces of legislation deal with maternity leave. In particular, the Minimum Wages Act also deals with maternity leave. Now, Mr. President, it deals with maternity leave by way of a regulation, and regulations are changed as we all know by the Minister laying regulations sometimes subject to negative resolution. But the hon. Minister has not told us—and we must put it on *Hansard* in his wind-up, that he must inform the nation that the inconsistencies between this Act and the regulation as it prevails in the Minimum Wages Ordinance must be corrected. In that Minimum Wages Ordinance you will note that maternity leave is provided to a very special class of worker and that is the household worker.

Permit me to reflect upon the fact that the Minimum Wages Household Assistance Order provides that there be seven plus six weeks of maternity leave. That is 13 weeks. But, Mr. President, very importantly there, the provision for notice of pregnancy or confinement as the Act speaks—confinement being the

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period when she is supposed to go into labour, the period of confinement there is 150 days. One hundred and fifty days' notice must be given by the pregnant household assistant. That is an important matter to tell the national community. This Act seeks to protect the most vulnerable members of our society and cannot be disputed by anyone that our domestic workers, our casual workers, our part-time workers, itinerant workers and agricultural workers who are women are all affected and are listening out this kind of debate. So when the hon. Minister comes to give details he ought to reflect upon the small man, and in this case the small woman and to speak to the details as to how we are going to consider and ameliorate other legislation which exists, albeit principal legislation or primary legislation or subsidiary legislation as the one I have just reflected upon.

Another very important factor which the Minister has not spoken to, relative to source of funding again, are the provisions which prevail in the National Insurance Act. The National Insurance Act is critical to this debate because it is the part mechanism from which funding is drawn. Trinidad and Tobago uses a mixed system as I have reflected upon, where the employer makes contributions and the National Insurance makes contributions. The employer is required to pay one month full, half month, half month and then the NIS kicks in or the National Insurance kicks in to pay the balance equal to the full pay for the three months. The National Insurance provides little throughout the principal legislation, reflection upon the right of maternity for insured persons, for employed persons and for spouses of insured persons. It provides a maternity leave, an entitlement, and it provides something called a special maternity leave, an entitlement. But the Minister has not spoken to any of this. Yet, he tells us and the Government tells us that they are serious about consultation.

The special maternity leave, and the maternity leave provided under the National Insurance Scheme, Mr. President, reflects only upon the very 12 or 13-week provisions. It does not deal with the 14-week provision as we are now dealing with in this Act, and one would think it best in the use of Parliamentary time, that if it took two years for this to be considered, because it did—it was in the May 2010 manifesto and we are now in May 2012. So the Minister has had two years.

Sitting here are persons from the Ministry of Labour. We have a leader of Government Business with a—as my children call it “snuffleupagus”—parliamentary legislative agenda, one which we have never seen, we do not know, he hides close to his bosom. So we have this two-year period for consultation, Mr. President, and we have not dealt with in the amendment before us, in the Bill

before us, the Miscellaneous provisions as it says in the title of the Bill. We have not dealt with national insurance legislation, minimum wages legislation or any of the other Acts which articulate together with the maternity protection Act. The question is how could that be a demonstration of dedicated work by this Government? It cannot be, Mr. President.

You know what it reminds me of? It genuinely reminds me of the type of boast made by the Minister of Justice when he sought to persuade us that the Government was working hard in relation to the Legal Aid and Protection positions and yet in that Act we saw exceptions to proceedings. Proceedings hold you are partly in respect of the loss or service of a woman or girl in consequence of rape or seduction. The inducement of one spouse to leave or remain apart from another, kept in the law. We are told today in this Bill we have paid so much detail; we have had two years of consultation, tripartite discussion, Government interrogation. We have repealed an archaic piece of law called the Masters and Servants Ordinance. Not even an Act an Ordinance. And yet we are seeing steadfast refusal to pay attention to the deeper articulation issues in the Bills that come before this Parliament. How could that ever be heralded victory of detail to attention and delivery of best service to the people of Trinidad and Tobago?

The Hon. Minister has been before this Senate twice—once at the Red House and now here. Twice in two years. If he keeps his track record we may see him once a year. But, Mr. President, the point is we would be happy if it is once a year—10 times a year, so long as he comes well prepared. So long as the Government comes well prepared and that it has meaningful contribution to make and not just bold words uttered in Parliament about consultation and discussion and reflection, Mr. President because it does not withstand scrutiny.

In fact, I was surprised that the hon. Minister exercised what we call in copyright the right of paternity to his presentation today; his presentation today, which is word for word, his presentation in the Lower House. When I read that presentation and I did research for this Bill, I had cause to go to the ILO's website, and at the ILO's website I found a very excellent piece of work, a comparative index of legislation around the world—167 countries. It is called the:

“MATERNITY AT WORK

A review of national legislation

Findings from the ILO Database of Conditions of Work and Employment Laws

Second edition”.

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It says specifically second impression done in 2012 and the tabular references referred to February 2012 statistics. But you know what else I found in there, Mr. President? I found direct excerpts from the ILO in the long form repeated in the Minister's presentation today. I put the hon. Minister upon notice or his office upon notice; it says at page 1 of the report that I have just referred to:

“Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention...short excerpts from them may be reproduced without authorization, on condition that the source is indicated.” [*Desk thumping*]

A serious matter of copyright infringement.

Yet pages 6, 7, 8, 9, 10 and 11 of the hon. Minister's presentation, which he read out in the Lower House and again today, are wholesale lift off from the ILO report—did not even bother to change the language. No problem. At least give the source of preparation to the ILO. That could not be a demonstration of proper work, Mr. President, by those who prepare speeches for Ministers. They ought to come better than that.

I am sure it is not the Minister's fault—[*Desk thumping*] but they must pay attention to detail. It cannot be consultation to just read word for word from an ILO report. This was done in relation to 167 countries. The same ILO report in its schedule points out—has a tabular index of countries that have subscribed to what they called C3, C103, C183. That is the conventions. Convention No. 3 of 1919, Convention 103 of 1952 and Convention 183 which we are reflecting upon today which is the 2000 convention which said 14 weeks. Trinidad and Tobago is listed in here. We have a Minister of Labour who comes with a very distinguished career in the trade union movement; he came into power as a leader in the coalition Government representing labour interest. His immediate successor sits behind us, Mr. President. They are both men of distinction.

**11.30 a.m.**

Trinidad and Tobago, under the column, “Ratified Maternity Protection Conventions”—no tick, no tick, no tick. So if you want to blame the PNM—“PNM did not ratify the convention”—two years in Government you are coming to reflect upon a 183 Convention; two years later you have announced it in your manifesto and we cannot even ratify the Convention. [*Desk thumping*]

The hon. Minister has been very careful in his words, saying Trinidad and Tobago stands well. There is a lot of talk about the difficulties in the labour environment. Yes, there are difficulties in the labour environment. I posit, and I put it to the hon.

Minister, through you, most respectfully, Mr. President, that the difficulties that exist are because—and I do not think this is his fault—but that the Government of Trinidad and Tobago, the UNC-led coalition, does not truly believe in consultation; it believes in instruction. “You are instructed to accept a 5 per cent wage offer”; “you are instructed that Parliament will sit on a Wednesday with one week’s notice to discuss a Bill”—how many pages? 2,000 pages? Two thousand pages, one week’s notice—meaningful consultation.

You are instructed by this Government to take what they give and nobody must bark in relation to it. [*Desk thumping*] When you bark, you are labelled as a conspiracy theorist; you are labelled as causing mischief. This Government is not serious about consultation. If it was, the statistics from the Central Statistical Office relative to maternity protection leaves of absence requirements would be provided by the hon. Minister of Planning to the Government and therefore published. So where are they? You want to know what consultation is, Mr. President? I recommend to this hurriedly, curried Government, put together under an election called on May 24, 2010, that they reflect upon the very material that they would have looked at when they were currying together this motley position.

There is a very excellent document provided by the coalition government of the United Kingdom. It is called HM Government, Consultation on Modern Workplaces. It deals with flexible parental leave, flexible working, working time regulations, equal pay, published in May 2011. It is signed off by Rt. Hon. Dr. Vince Cable MP; Rt. Hon. Theresa May MP; Maria Miller MP, and it deals specifically with the challenges of consulting with respect to a culture of flexible, family-friendly employment practices, and it deals with maternity protection. It deals with freedom, fairness and responsibility being the central coalition government’s vision for modern workplaces.

It sounds all familiar; sounds like a manifesto. But do you know what these people did? They published a document for consultation, questionnaires reflected upon statistical information to make the discussion meaningful, Mr. President. I will pass it to the hon. Leader of Government Business so that he may distribute it because this is the form of what meaningful consultation looks like. It cannot be a reproduction in breach of copyright from ILO publications. It cannot be documentation brought forward here with essential gaps in it relative to source of funding. That cannot be consultation, with the greatest of respect, Mr. President.

Mr. President, the People’s National Movement will never stand in the way of progress, but we take our responsibility and our obligation seriously in making sure that we interrogate every position that this Government brings to us—[*Desk*

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*thumping*—and it is important by way of amelioration to the content of labour law in this country, something which is near and dear to my learned senior’s heart.

I know, and I am sure, notwithstanding the protestations of Members of his Government—not our protestations, you know, Mr. President; Members of the Cabinet of Trinidad and Tobago—telling him, or rather his colleagues and his successor in title—telling them, Mr. President—and I want to use the words that I heard: “As the young people say, apologize, res’ meh until yuh speak the truth.” [*Desk thumping*] “Res’ meh until yuh speak the truth. Don’t talk about social compact; don’t talk about reflection on statistics; don’t challenge me, res’ meh until yuh speak the truth.” [*Desk thumping*]

So, Mr. President, I am confident that the hon. Minister always speaks the truth. I am confident that he is perhaps in company that does not bring out the best in terms of product. I am being charitable when I say that. Today is a day of charity in this Senate, as we will see later in Bills that we will discuss after. But the hon. Minister must speak to Members on his left and right. The Minister responsible for gender affairs, the Minister responsible for the orchestration and management of the Central Statistical Office, he must speak to them and demand production of material for the citizens of this country. He must demand inclusion of rights dealing with parental leave in particular.

Now, Mr. President, the hon. Minister has spoken to the pleasure and distinction of being a grandfather, and I compliment him on that. I am a proud father of three children. I take my role as a father very seriously, and I have reflected upon the fact that—and I have to confess I noticed this only after having children—when I took my children around; I walk through the mall or I go to a place, there are more and more daddies holding babies than you ever saw in the past, something which I know is very dear to the Minister of National Security—the call for fathers to be part and parcel of the solution to this country.

We will see later on—and I am not anticipating the Bill—when we talk about the Children’s Bill—the cry for those who maintain and have responsibility for children, and fathers are a critical role. The number of studies that prevail in relation to paternal involvement and the difficulties that crash in our society around that are wide and many in number. There are many studies on this. But in the so-called holistic comprehensive review of legislation that we are doing today, with the Minister responsible for gender affairs sitting to the immediate left of the hon. Minister, what do we see? No recognition of the role of the father.

Trinidad and Tobago—I looked far and wide, I have not been able to find yet any form of paternity leave. I believe that there is a practice of two days or one day paternity leave in certain institutions.

**Hon. Senator:** Three.

**Sen. F. Al-Rawi:** Three days? There is a practice? It is not codified in our laws and I invite the hon. Minister, through you, Mr. President, to quickly move on to the agenda of fulfilling his promise made two years ago in his manifesto, to consider the rights of paternal leave. That is important to our society, Mr. President. In fact, he has reflected quite correctly upon the incidence of numbers of countries that have, what you call a leave entitlement pot, where the mother takes some leave and the father takes some leave. We must move in that direction, Mr. President. We must bring the fathers closer to the pleasure of looking after their children, closer to understanding the responsibilities that the law puts upon them, apart from the morality of our society.

We must encourage through a reflection of development of laws, the issue of paternity leave, and it is critical if we have meaningful interrogation of the Maternity Protection Act, as we are doing now, that we also factor in the concept of adoption leave and that we factor in the concept of multiple birth extension leave and complicated birth extension leave, with pay, because the parent Act—the Maternity Protection Act—deals with your entitlement to a leave of absence. It then calls that entitlement, maternity leave, but the Act really deals with the right to be paid on your maternity leave.

And, Mr. President, the Act does not form a fetter to maternity leave. It says so specifically, but it does fetter how often you can be paid for maternity leave. The Act specifically says you can only be paid once in every 24 months. You can have your maternity leave, but you cannot have paid maternity leave. There is a theory in society, and one which my wife and I subscribe to, which says, have your children “back to back”. It is easier to mix two bottles rather than one, or three rather than one. It is something that I call a certain theory. I cannot tell—it is called, “ketch-something theory”. If you are going to “ketch” it, “ketch” it all in one group; take your difficulty together.

There is a joy in children growing up together. In fact, a very wise gentleman once told me—a colleague of mine—when I asked for his reflection on what he considered to be an adequate number of children, he said one is a lonely experience as a child. A single child has a lonely experience. He then said that two children provide for learning the art of sibling rivalry and that therefore that is

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a social skill that you are giving them. And he said to me, but three is really the golden number because they learn the art of shifting allegiances, and that one child learns to play the politics against another child and has social interaction and discourse and amendment.

**Mr. President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made:* That the hon. Senator's speaking time be extended by 15 minutes.  
[*Sen. S. Cudjoe*]

*Question put and agreed to.*

**Sen. F. Al-Rawi:** Thank you, Mr. President. Mr. President, I was saying that the advice given is that three is an adequate number because they learn a social skill, and this Maternity Protection Act really provides the right of pay once every two years, and that is an age gap between children and denies ability for interaction.

So if there is to be meaningful consultation—and the Minister gave a useful caveat. He said, “What can Trinidad and Tobago afford today?” That, Mr. President, is an important reflection, and the ILO has provided those statistics. It gives, in the *Maternity at Work: A Review of National Legislation* document, a checklist of countries and how much they provide. Trinidad and Tobago is not doing its best in terms of our budget and our allocation when you look to the fact of Haiti's position; you look to Belize, and Belize is paying 100 per cent—14 weeks paid by social security, not even by a mix with the employer. Antigua and Barbuda, Cuba, 18 weeks entirely social security; Grenada, 105 per cent for two months and 65 per cent for the last two months. Five per cent times two, plus five per cent; 15 per cent more than Trinidad and Tobago pays.

So there are countries with less better economic circumstances than Trinidad and Tobago and that has not happened. But, Mr. President, I am not saying that we need to necessarily pay more. Part of the labour discussions afoot in this country and the difficulties in the labour environment relate to terms and conditions of employment.

We could, in our discourse with those who are engaged in collective bargaining, surely lay on the table an improvement by providing paid paternity leave, paid parental leave, an extension for payment in respect of multiple births and complicated pregnancies. We could also look to ameliorate the circumstance that prevails with our household assistants and domestic workers, our casual labourers. Those social benefits can be put on the table, and those social benefits are more valuable than cash in meaningful senses, if it is paid benefits.

So we have to look at the mix and match of our society; where we want to go to; how we want to develop; what is the mechanism to get us there. We must reflect upon those things with meaningful statistical information presented.

**11.45 a.m.**

The Government ought to speak to the Members opposite not when they get to Parliament and give them one week's notice, as the hon. Leader of Government Business has been forced to do—I do not know who tells him. But, the Government puts one week's notice for 2,000 pages of debate on one Bill, and the other Bill radical transformation and affecting of human rights. Mr. President, the consultation must come immediately opposite; speak to those closest to you.

The hon. Minister has to tell us in his winding-up, the source of funds ratio. He needs to put it clear on the *Hansard* record. I would assume he is going to tell us that the Government will bear the responsibility for the extra week, perhaps through the National Insurance System (NIS). He ought to tell us that he would reflect upon the potential conflict that section 9(3) of the Act provides to that mechanism of the national insurance paying, because, right now, it says that the employer must pay the balance.

The hon. Minister must tell us in his winding-up the specific pieces of legislation and subsidiary legislation which he would deal with where there are anomalies of 12-week provisions as opposed to 14-week provisions. He must tell us who is going to pay for those as well, lest he be found guilty of the very provisions in the Act itself. He may be causing a trade dispute to arise under the Act because wherever there is a difficulty between the employer and the employee a trade dispute arises and the hon. Minister would be conflicted in his ability to deal with it as a trade dispute.

Secondly, section 16 of the Act has a very interesting provision. Section 16 of the Maternity Protection Act says—with your leave:

Any person who in furnishing any particulars for the purpose of this Act makes or otherwise misleads—and I have left out a few words there—or attempts to mislead whether dishonestly or otherwise, commits an offence and is guilty on summary conviction to a fine of \$25,000 and imprisonment for two years.

Hon. Minister, I have put forward a difficult clause to tell you that I am sure you are honest in your presentation. Could you please look at the issue of payment, source of funding, clarify it for the record, call upon your colleagues in

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the Government to assist you in your purpose. Go back in a collective whole the Government of Trinidad and Tobago and advise those who speak from the Cabinet of Trinidad and Tobago or for themselves that naked conflict and attack upon leaders of your coalition partnership ought not to happen. There ought to be consensus and building.

And, could we please have better detail, hon. Minister. Could you tell us after consultation with your colleague, Sen. The Hon. Bhoendradatt Tewarie, what has happened to the statistical information which ought to be produced from the Central Statistical Office? Where is it? What does it say? What is the time frame? Because, if we are to perform something, a classic rule of management says, that if it cannot be measured, it cannot be performed.

Statistical information under the People's National Movement came consistently ever quarter. There has been an abdication and failure on the part of the Central Statistical Office. We need the data. You have the largest budget in the history of Trinidad and Tobago. The money is pouring through the system. Could we please have the information?

Mr. President, I thank you for this opportunity. I wish the mothers of Trinidad and Tobago continued success in their noble endeavour of raising the children of our society. I pray that the hon. Minister would encourage the paternity leave aspects to see the light of day; the parental leave aspects to see the light of day; the adoption aspects to see the light of day and the complicated pregnancies and multiple birth positions to see the light of day. And, I thank you for this opportunity. [*Desk thumping*]

**Sen. Dr. Victor Wheeler:** Thank you, Mr. President, for allowing me just a few brief comments on this Bill: "An Act to amend the Maternity Protection Act, Chap. 45:57 and to repeal the Masters and Servants Ordinance..."

Mr. President, I am very happy to lend my support to this Bill. I would like to say that I applaud all women who work during pregnancy either by choice or because they do not have a choice. [*Desk thumping*] This is because even though pregnancy is not an illness, it is a time when the woman's body goes through some most dramatic changes physically, mentally, psychologically. And, she is now providing for another human being, sometimes more than one. It is amazing that one woman can actually give birth to seven or even eight children, but they do.

So, during this process a women who works—whether it is behind a desk, whether it is manual labour, whether it involves critical thinking, whether it is someone at the level of a CEO, or maybe even a Prime Minister—those jobs can be very

demanding in the normal state of play. So to add the changes going through pregnancy that she will experience, it is even more remarkable that a woman can actually work.

The Bill here just addresses maternity leave from previously 13 weeks, now 14 weeks. And, in most instances a woman would take four to six weeks before giving birth and the balance after. But, there are some changes that a woman would go through during her normal pregnancy, for example: upset feeling, vomiting, tiredness, fatigue, back pains and aches and pains. If a man were to have those symptoms he would easily take sick leave. [*Interruption*]

**Hon. Senator:** Sure right.

**Sen. Dr. V. Wheeler:** But a woman—most have to bear and tolerate it. If the symptoms get severe and they stay home they only have recourse to, sick leave, and most employers, I think the requirement is only 14 days sick leave.

So there are many women who, in the first three to four months, might use up all of their sick leave; and, if they have issues related to pregnancy—we are not talking about complications of pregnancy, we are here just taking about the normal symptoms of pregnancy that requires them to stay home after their sick leave entitlement expires and before they are entitled to take maternity leave—there are some major problems that they face. They might choose to ask their employer to—with the assistance of the doctor—put them on light duties. Some might choose to come to work early, come to work late or not come to work at all. In those circumstances they face having to have leave that is not paid for.

Now, I know that the Minister had said that this entitlement minimum is 14 weeks and he and, of course, the other Senator, Sen. Faris Al-Rawi implore workers and their unions to advocate and negotiate for more maternity leave. I would like to suggest that a woman having to take sick leave during the course of pregnancy should be afforded some special consideration in how the sick leave is addressed because it is a very trying time. We all know that after delivery, when she has to look after the baby—in the past there were extended families: her mother, mother-in-law, grandmother, sisters. There were large families that would be available to take care of the newborn.

But for a pregnant woman, before she has given birth, sometimes there might be the need for her to rest. That is not really an illness requiring her to rest but just the sheer fatigue. If she stays home—and in most families now both parents work, the husband is at work—she is there at home alone, just her staying home may not be sufficient. She might need some help. So, the question of paternity

leave that was raised which is not mentioned in this Bill arises but there are some employers that afford their male employees paternity leave, and I believe it is anywhere from two to four days. This leave is usually only given at the time of the woman giving birth, but there may be the need for affording paternity leave at other times for things I have just mentioned.

So, Minister, I would just raise some of these things that I do not know if it is something that you can legislate but certainly as an influential member of the labour community, I am sure—and having other members of the labour community in Government—these can be considered.

Now, we have heard already the benefits of maternity leave in helping the woman prepare for birth: allowing her to go through the birth process and for allowing her to recover after she has given birth, also the bonding that is required for the baby. But, there is another area that I would like to mention: breastfeeding. Breastfeeding is encouraged for the first six months of the child's life. There are many medical reasons why that is the case. Breast milk is best. It provides better nutrients; it provides better immune system protection for the baby. In these challenging economic times breastfeeding is actually economical because it is free. The only thing you pay for is the mother getting enough nourishment so that she can produce milk to feed the baby. There are no bottles to wash after; there is no baby formula to mix. The breastfeeding in the first six months should be breastfeeding on demand.

Now the maternity leave only affords that woman about two months or so, two and a half months after she has given birth. Fourteen weeks will only add one week on to that. So, for the latter three and half months when she is required to breastfeed and she has to return to work, there will obviously be a challenge here.

For those women who go to work, their choices are expressing the breast milk before she leaves to work and having it stored in a refrigerator freezer. Then when she gets home at night she will express more milk and feed the baby. I would like to suggest that the Government considers, at least for the Government offices and Ministries, having day-care centres for the women. [*Desk thumping*] This would allow them to have their babies with them at work.

We do not expect them to have the babies at their desks but at least if it is in the same building it would allow them to breastfeed a little more frequently in comfort. It would encourage the bonding and it would be cheaper for the mother. These days, as you are aware, you have to find a babysitter; you do not have access to family members as before. You have to pay someone or take the baby to some day-care centre, maybe by people that you do not know. And we have heard stories of some of the disasters that can take place in some of these centres.

So, I hope Minister that it is your Government's intention, if not right away but soon, to consider having this facility at least started in the Government offices by showing leadership and example. Something like this would be difficult for small businesses that may not have the amount of employees or the space to afford such facilities but certainly for Government offices and Ministries it is something I think should be considered. With just those few words, I would like to thank you for allowing me to contribute. [*Desk thumping*]

**Sen. Nicole Dyer-Griffith:** Thank you very much, Mr. President. Thank you for affording me the opportunity to contribute to this very important Bill before us in this honourable Senate today.

**12 noon**

Mr. President, before I begin the substantive part of the contribution, I would just like to mention that I might be reviewing a number of notes because I was approached by a group of young women yesterday who took keen interest in this Bill and who had asked and requested that as hon. Senators of this Chamber we would speak a little slowly in the articulation of what this Bill means and how it would impact on those young women. They were rather enthused by the addition of the week, hon. Minister, and thus they wanted to ensure that they understood the intricacies in layman's terminology so that they would understand how it impacts on their well-being moving forward.

They also identified one or two areas and concerns pertaining to the actual maternity protection element of the Bill, so I would be speaking to some of those areas. If you find that I would expand a little more on one or two of those areas, it is for that reason that I am speaking to a number of difference audiences and, particularly, to that group of young women who wanted to have that support. So, this Bill that is before us today is to amend the Maternity Protection Act, Chap. 45:57 and to repeal the Masters and Servants Ordinance, Chap. 22 No. 5. The Explanatory Note states that the purpose of this Bill, as the hon. Minister would have presented, is to amend the Maternity Protection Act and to repeal the Masters and Servants Ordinance.

Clause 1 of the Bill contains the short title which is the phraseology of the Bill. Clause 2 of the Bill would allow the Bill to have effect, even though it is inconsistent with sections 4 and 5 of the Constitution. I believe that Sen. Al-Rawi would have expounded a little on that. Clause 3 of the Bill would amend the Maternity Protection Act, in section 4, by providing a new definition of maternity leave. So we would move and shift from what the current definition is into that new definition, and in sections 7(3)(b) and 9(1), by providing that the maternity leave entitlement be 14 weeks rather than 13 weeks in order to be consistent through the Act.

Mr. President, it was just interesting to note and I thought it rather interesting that the first contributors to this Bill—to be our partners in the process of the entire Maternity Act—was Sen. Al-Rawi, then we had Sen. Dr. Victor Wheeler and that I am the first female contributor on the Maternity Bill. I just thought that quite an interesting note as we began—[*Interruption*]

**Sen. Al-Rawi:** We saved the best for last.

**Sen. N. Dyer-Griffith:**—raising the issue of gender and gender awareness. [*Desk thumping*]

**Sen. Al-Rawi:** Our best would come last.

**Sen. N. Dyer-Griffith:** Clause 4 of the Bill would repeal the Masters and Servants Ordinance. So that is what we are having a conversation around today. Before I get into the Bill, I just wanted to speak to a few of the issues raised by the Opposition Sen. Al-Rawi, who presented in his usual charitable form and made significant mention about the issue of consultation.

The issue of consultation is very important to this Government, and when the hon. Senator raised that question, a few things immediately came to the forefront for me. One of those is that many times we would have discourse on certain Bills and Acts in this Senate, those things would come to us from the Lower House and sometimes I wonder where is the consultation between Members of the Opposition in both Houses because many times there seems to be a difference of opinion. Sometimes in one place it would be supported and in another it is not supported. So sometimes I wonder, Senator, about the issue of consultation as it pertains to that.

It takes me even further, when the hon. Senator had mentioned that “Oh, they will say blame PNM.” Yes, I would say that. Why was this Bill not brought to this Senate for 12 years? Why were the amendments not introduced for 12 years? I remember the hon. Minister stated that in 2000 the ILO brought the amendment. Why did it take 12 years for us to get to this point? So when we speak to issues around consultation and we want to lay blame and cast aspersions, it is important for us to understand the entire picture within which we speak. [*Desk thumping*]

Mr. President, through you, I really do enjoy the hon. Senator’s contributions because they illuminate me from a legal perspective. Sometimes I really do not get a lot of it because it is so very technical, but I am illuminated from a legal perspective. Even though I do not want to be uncharitable, the hon. Senator made mention of one or two things that I really wanted to respond to. He made mention—and I thank him for taking such keen interest in what takes place with the People’s Partnership Government. I really do—about Ministers having—[*Interruption*] I shall not be distracted—open confrontation.

When I was looking at today's *Express*, there was a really interesting article, written by Rev. Dr. Winston Cuffie, that spoke to the "New Electorate Maturity Punishing Petty Politicians". I spoke with the hon. President and I would just like to read a certain part which spoke to that issue of Ministers having open conversations:

"When Prime Minister Kamla Persad-Bissessar spoke during the break at the Partnership's meeting at the Diplomatic Centre on Wednesday 02, further highlighting, among other things, her stand on 'a new kind of politics' (building consensus in the spirit of partnership, collaboration and collective responsibility, rather than the old 'maximum leader' style) her ratings as a leader of class and maturity, relevant to her paradigm, would have skyrocketed in the mind of virtually everyone who heard her. This population must hold every Partnership member—and certainly every politician—to this standard of leadership maturity. Healthy disagreement and debate are acceptable..."

**Hon. Senators:** Yes, yes. [*Desk thumping*]

**Sen. N. Dyer-Griffith:** Mr. President, we have gone past the era of "not a dog bark" and I would not say the entire phrase. [*Desk thumping*] We have gone past that. The Partnership is made up of a group of people and I am sure that the hon. Senator understands group dynamics. When you have the forming, you have the storming, you have the norming, that is the way a group evolves. So, in the entire scenario of where we move forward as a mature political organism, you will have those issues and you will have those processes.

So, again, I would like to thank the hon. Senator for taking note of the dynamics within the People's Partnership and the organizational science thereto. I also would like to implement that organizational science when their debate centred around consultation for balisier tie, no balisier tie.

**Sen. Deyalsingh:** Do you have one? [*Desk thumping*]

**Sen. N. Dyer-Griffith:** So with that little comic relief, Mr. President, I would like to move on to the substantive Bill before us. [*Desk thumping*]

Mr. President, I would like to take this opportunity to place on record my gratitude to the hon. Minister. Thank you very much, hon. Minister, for placing [*Desk thumping*] due prominence and urgency in ensuring that this piece of legislation is amended. Congratulations, hon. Minister.

*Maternity Bill*  
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I speak not only, specifically, to the Maternity Protection Act, but so too, to the Masters and Servants Ordinance. Whilst affording the requisite plaudits to the hon. Minister, I stand here and as I mentioned, I wonder why it took so long to bring such an amendment to this honourable Chamber. I understand that every single piece of legislation that we introduce to this Senate is important and very noteworthy, and I am sure that there must have been a logical reason why such a piece of legislation would have been relegated to the proverbial back benches for over 12 years.

I am sure, but be that as it may, I again express my gratitude to the hon. Minister for piloting the Bill and for following in the footsteps of the hon. Prime Minister of the Republic of Trinidad and Tobago, Mrs. Kamla Persad-Bissessar SC, [*Desk thumping*] in underscoring her commitment to placing gender issues on the front burner, not only from the legislative perspective, but from that of a perspective of governance and development.

I would just like to speak to some of the issues of the conventions and so with respect to the ILO. The hon. Senator had made mention of the ILO Conventions and so, I would just like to expand on that. This amendment, though it seems very simple and it is a few clauses, is very strategic in the context of Government's framework for sustainability development. As you are aware, Mr. President, the Government's framework identifies certain key pieces of labour legislation to be reviewed, amended, and also, to be repealed including the two pieces of legislation that we are faced with in front of us today.

### **12.10 p.m.**

Mr. President, since the ILO was formed in 1919, international labour standards were established to provide maternity protection for our women workers. I would just like to quote from the ILO maternity protection document from the ILO website. It goes and I quote:

“The international labour standard instruments on maternity protection are the most recent ILO standards, which expand the scope and entitlements of maternity protection at work to all employed women, including those employed in atypical forms of dependent work.

The key elements of maternity protection reflect the concern to ensure that women's work does not pose risks to the health of the woman and her child, and that women's reproductive roles do not compromise their economic and employment security. These elements include the right to:

- maternity leave;
- cash benefits to ensure the mother can support herself and her child...;
- protection of the health of the pregnant and breastfeeding women and their children from workplace risks;
- protection from dismissal and discrimination; and
- breastfeeding on return to work.”

Now, Mr. President, Sen. Dr. Wheeler went into a little bit of detail pertaining to the entire maternity cycle. The maternity cycle and understanding the maternity cycle is very key to this Maternity Protection Bill and the amendment to this Bill. It is also very key for us to understand that cycle from the context within which I mentioned, that is, the governance context and the foresight of the hon. Prime Minister in developing Ministries that would suit that.

So, the maternity cycle starts with the prenatal, perinatal and the postnatal. In the prenatal phase—that is the phase where the woman becomes pregnant and you carry the child hopefully through to the full term or thereabouts—we have the Ministry of Health and the Ministry of Gender, Youth and Child Development intertwined that would have provided some supportive network for the woman during that period. In the perinatal phase, when the woman would have had the baby, it is imperative that we underscore and understand the importance of this amendment for that phase, particularly for women who might not have had regular pregnancies and regular gestational periods.

For example, I am a prime example of that, Mr. President. I carried my son through to nine months and at nine months he was 10 and a half pounds and he was also in a breached position, which means that it was becoming virtually impossible to have a regular delivery. As a result of that, I had to undergo what is called a C-section or surgical removal of the baby from the womb. With the C-section, you are then—and the postnatal phase after a C-section, you then have a post-surgical period of six weeks.

So for me, had I had that extra week, then it would have been the world of difference because I would have had six weeks post-surgical leave at home which is included in the 13 weeks and then from that, I had six weeks only in order to ambulate again, and to be strong enough to take care of that child, if it were just 13 weeks. Had I had the additional week at that point in time, it would have been that more impactful in terms of having developed that bond with the baby and so.

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I recall Sen. Dr. Wheeler making mention that it takes a community to raise a child and that is so true. Because for this particular experience, had I not had one of my family members give up a year of their lives to support me during that period, I am not sure what would have happened, so that I totally support that concept and that paradigm.

The hon. Minister, in seeking this Chamber's agreement to ratify ILO Convention No. 183, which entitles a woman to a period of 14 weeks maternity leave, not only propels this country to the standard according to ILO Conventions, and I would just like to pause here and to underscore something that the hon. Minister had mentioned, and I felt that it fell under the radar, and I would like to make mention of it again.

Hon. Minister, you can please, through you, Mr. President, correct me if I am incorrect. The hon. Minister made a statement that Trinidad and Tobago is the first country in the English-speaking Caribbean to provide paid leave for this period. Am I correct, hon. Minister? [*Desk thumping*] That is deserving of commendation again. So I just want to place that on the record again—the ILO Convention, so we are also there. But, this also speaks to the wider millennium development as articulated by the United Nations.

Over the past nine years plus, Trinidad and Tobago did not meet these required standards—nine to 12 years or so. As such, with the passage of this amendment, we will join the ranks of Belize, Costa Rica and Panama in providing at least 14 weeks of leave. Mr. President, I truly hope at some point, we will go past Convention No. 183, and even amend further to Recommendation No. 191 which provides 18 weeks of maternity leave, hon. Minister. So, at some point, I note that you made mention that we can do what we can do now, and that was in the current context, and even though we offer congratulations because it is noteworthy, at some point we may even consider looking at Recommendation 191.

Now, with respect to the Millennium Development Goals, I mentioned the UNDP Millennium Development Goals and these are called the MDGs because, remember, even though I am speaking to the Members of this honourable Chamber, there is a target audience out there who would like to understand a little bit further. The MDGs or the Millennium Development Goals are the declarations made by endorsee nations of the United Nations, all 189 countries, agreeing to commitments to reduce poverty, to tackle hunger and so on.

Maternity protection for women workers contributes to the health and well-being of mothers and their babies, and thus to the achievement of Millennium Development Goals 4 and 5 which seek the reduction of child mortality and the improvement of the health of mothers. By safeguarding women's employment and income security during and after maternity, maternity protection is also essential for ensuring women's access to equality of opportunity and treatment in the workplace, and progress towards Millennium Development Goal 3.

Now, Mr. President, there is a gap between technical and reality. The reason I make mention of that is because many times we would come to this honourable Chamber, and we would speak a lot of technical jargon and sometimes it might be remiss of us, as hon. Senators, to try and break it down so that the general population could understand exactly how these Bills would impact on their lives. So, I am trying to fill that gap between theoretical and reality, and this Maternity Protection Act is an Act that will be operationalized in order to do so.

I made mention, Mr. President, of a group of young women who came to me yesterday wanting to find out a little bit more about what the impact of this Maternity Protection Act would be on their lifestyles. One of the reasons they asked about this is because at least three of them are related, and they are employed in an occupation that seems to want to have a flagrant disregard for the law. I am not going to openly state what the occupational risks are, but, in the occupation that they currently undergo, one or two of them made mention that they were having issues.

One had issues of not being hired in the first place because of her gender, and because her employer said that "At some point, you will get pregnant and that means I will have to pay you and you will have to get maternity leave and I do not want to incur that." The other young women spoke to similar scenarios. As such, this is why it is so imperative for us to, not only ensure that this amendment is passed, but it is imperative, hon. Minister—aid I know that the hon. Minister will take a keen and close look at organizations to ensure that the legislation is implemented according to the law.

Mr. President, the hon. Sen. Al-Rawi made—*[Interruption and crosstalk]*

**Hon. Senator:** Al-Rawi!

**Sen. N. Dyer-Griffith:** That is what I am saying. It is because it is rolling off my tongue so beautifully—*[Crosstalk and laughter]*

**Sen. Maharaj:** She has it right.

**Sen. N. Dyer-Griffith:** It is because it rolls off my tongue with such beauty that it sounds that way to the hon. Senator. So that Sen. Al-Rawi made mention about the People's Partnership's commitment so I would just like to add that. This Government continues to—*[Interruption]* “It is not a Freudian slip, eh!” *[Laughter]* Mr. President, this Government continues to demonstrate its commitment to getting the job done as articulated in our manifesto and I am so—I do not know, Mr. President, but Sen. Al-Rawi was so very kind to us today in bringing forth many of the documents and points of the People's Partnership Government, and it makes this contribution really a lot easier.

So, I would like to refer to the similar document that the Senator referred to and that is the manifesto.

**Sen. Ramnarine:** Is he promoting us?

**Sen. N. Dyer-Griffith:** Apparently. I would like to go to page 43 and that speaks to gender equity and gender mainstreaming, and where it is stated in the manifesto. The reason I raise the manifesto, not only because the Senator raised it earlier, but also to demonstrate a thread throughout the governance structure of this Government, so that you would realize that we spoke to issues of gender mainstreaming, gender equality, gender equity, and maternity protection since 2010. You would see, as we move forward, that it continued in various pieces of legislation, it continues in the governmental framework, it continues in the sustainability, it continues in the issues of innovation, and it continues in every single *[Desk thumping]* thread of document, policy legislation and policy framework from the People's Partnership Government.

So, it states on page 43 of the manifesto of 2010:

“Our vision is to create a more gender sensitive society with a greater awareness of women's issues and rights.”

And it goes on to identify a few areas where this focus would be laid.

- “To pursue policies to allow women to have flexible working hours in recognition of the dual burden of women at home and at the workplace.”

I am sure that the Senators in this honourable Chamber would recognize and understand and underscore that.

- “We will enact legislation which makes it mandatory for all public and private enterprises to have private spaces which are available to mothers who are nursing their children.”

This speaks specifically to what Sen. Dr. Victor Wheeler spoke to about ensuring that we do have those private spaces for lactating women within the workplace, in addition to the private spaces for child-rearing and so.

- “We will champion legislation with particular relevance to women’s needs including equal opportunity in the workplace and universal maternity benefits.
- Strengthen the social service delivery sector to protect women’s rights and enhance women’s welfare.
- Establish Maternal Health and Support Units at every public health facility in a decentralized health system to provide information and education on the causes, symptoms, treatment and prevention of all diseases and illnesses that affect women. Services will include screening, treatment, medication and counselling for gender specific physical and mental illnesses.”

Mr. President, I am sure that we are aware of some of these mobile clinics that have been going through and through communities that conduct some of these similar services.

- “Establish a regular mobile clinic”—well, I just mentioned that—“programme to reach women in rural communities.
- Review of the curriculum to provide education, awareness, support and guidance to young persons, particularly girls, on reproductive health and life decisions.”

So, you see, Mr. President, in looking at the manifesto of 2010, it was clear that the hon. Prime Minister, in her foresight and in announcing a Ministry of Gender, Youth and Child Development, that she understood the continuum of services that needed to be implemented in order to understand and to underscore the importance of maternity protection, child-rearing, gender equality and equity. That was the first tier.

Then we articulated the vision thread—this is the thread I spoke to—where you look at pre-, peri- and post- and you have the interconnectedness of each of the Ministries involved or the key delivery Ministries including the Ministry of Gender, Youth and Child Development, the Ministry of the People and Social Development, the Ministry of Health and the Ministry of Labour and Small and Micro Enterprise Development. So this was the first tier.

Then we articulated the vision thread throughout a number of Ministries as I mentioned before. This was articulated in a document titled the *Medium Term Policy Framework and the Social Sector Investment Programme*. This is the other document to which I am referring, Mr. President. This document speaks to the area on gender development in the social sector programme 2012, *From Steady Foundation to Economic Transformation*.

**12.25 p.m.**

**Sen. Ramnarine:** A brilliant document.

**Sen. N. Dyer-Griffith:** A brilliant document. This speaks:

- “● To promote legislative review and reform for equitable advancement of men and women and boys and girls.
- To develop gender policies to promote equitable advancement of women and men, and boys and girls...
- To promote the socio-economic empowerment of women.”

It goes on to speak to maternal and child health under the Ministry of Health. That was the Ministry of Gender Youth and Child Development.

Then we speak to maternal and child health under the Ministry of Health. If I may quote from the document again:

“The strategic goal for Maternal and Child Health is to reduce maternal and child mortality and morbidity. To this end”—that is sickness and death—“the Ministry has identified strategic objectives that will not only meet, but surpass the Millennium Development Declaration of United Nations. The strategic objectives of the Ministry are:

- “● Achieve or surpass by 2015 the MDG 5 target...
- Achieve, by 2015, universal access to reproductive health services;
- Achieve or surpass by 2015 the MDG 4 target...”

And we are well on our way to surpassing all of those goals as outlined in many of our documents.

Mr. President, I just want to identify the reason I painstakingly pulled some of these documents to go through them. It is because many times we hear the cry: “Where is the plan? We not seeing what yuh doing. Yuh doing it and it is vaille-que-vaille.” [Interruption] What? “Vips, vaps, vaille-que-vaille.” This is not

“voops, vaps and vaille-que-vaille.” This is operational frameworks and policies placed in a position that can tell you exactly how we are moving forward. [*Desk Thumping*] This is a strategic roadmap. This is the start of the roadmap. This is the way in which the roadmap continues and it continues in that way in strategic threads of delivery-purpose solutions.

**Sen. Maharaj:** “Give dem ah GPS”.

**Sen. N. Dyer-Griffith:** It is imperative that we understand that there are, perhaps, many reasons for this type of legislation to have been brought before this Senate today. As I mentioned before, I commended the hon. Minister and I also commended the hon. Prime Minister for her continued demonstration of commitment to ensuring that women are agents of change, via women’s transformational leadership.

One may wonder about the relevance of the statement to the Bill, of that particular statement to the Bill. However, as someone who represents many of the demographics of which we are seeking here today: I am a woman—[*Interruption*]

**Sen. Ramnarine:** Clearly.

**Sen. N. Dyer-Griffith:** I am a mother, I am young and I am a leadership mentee, then I can totally understand. [*Desk thumping*] I can only appreciate the continued emphasis placed on the role of women, not only in the political process but so too in the general process of governance and the management of our homes, our families, our communities and by extension, this great nation that we all inhabit.

The role of our women cannot and must never be underestimated or undervalued and as such, we must endeavour to support any and all such legislation that attempt to provide a supportive framework for those of us, as the Prime Minister says, who hold up half the sky. [*Interruption*]

**Sen. Ramnarine:** Take some water. You deserve that.

**Sen. N. Dyer-Griffith:** Thank you. With respect to the other piece of legislation that is to be amended, namely the Masters and Servants Ordinance—[*Interruption*]

**Hon. McLeod:** Repealed.

**Sen. N. Dyer-Griffith:**—to be repealed, sorry. When it was introduced in 1938, it really spoke to the relationship between masters and servants. Even when we hear the terminology, it makes me almost cringe having to think that, in 2012, we are having a conversation to repeal a Bill that speaks to the relationship between masters and servants.

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Mr. President, I would not have much to contribute to the repealing of this Bill, as I believe the logical nature of having to have this Bill repealed in itself is something that speaks for itself and something that I am sure all hon. Senators in this Chamber would have no issue supporting. As such, I would like to reiterate my support for the hon. Minister of Labour and Small and Micro Enterprise Development for piloting this amendment to repeal this Bill in this honourable Chamber.

Thank you very much, hon. Minister for following the lead of the hon. Prime Minister in placing the issues of women and the issues of maternity protection on the front benches. Thank you for ensuring that after 12 years, it is brought to the forefront. Thank you for ensuring that it will be done. Thank you, Mr. President.  
[*Desk thumping*]

**Sen. Terrence Deyalsingh:** Thank you very much, Mr. President, for acknowledging me and for having me contribute on this Bill. As has become the norm with certain Bills, we are sometimes required to declare our interest as we did in the Clico (Amdt.) Bill, where people had to declare whether they had money in Clico or not. On this Maternity Protection Bill, I declare my interest, in that I have twice impregnated my wife, so I have two children.

**Sen. Maharaj:** “How much time yuh went on maternity leave?”

**Sen. T. Deyalsingh:** During one of those deliveries, I must confess, I did something naughty and I may have no place to sleep tonight so I may go by Sen. Bharath up in Santa Margarita and “beg ah lodging, ah doh know.” Her labour was so long, there waiting for 12 hours. “I hungry, ah turn to doctor and ah say: Doc, how long again this have to go? He say boy, we here for ah while.”  
[*Interruption*]

**Sen. Dyer-Griffith:** “Dis ting?” [*Laughter*]

**Sen. T. Deyalsingh:** “Ah say Doc, yuh see me, I going tuh get something tuh eat and I coming back.” I did that, but being a father and going through with my wife for her two pregnancies is a wonderful experience and I recommend it to anybody.

Sen. Nicole Dyer-Griffith inadvertently opened this debate into avenues that I do not think even the Minister of Labour and Small and Micro Enterprise Development intended. She spoke about PNM, the balisier tie, what happens in the PNM in the Lower House and the Upper House and consultation. But, it was Sen. Nicole Dyer-Griffith’s own husband, in a newspaper interview, who said: “Look,

I am COP and she is UNC and we doh talk politics home.” So, they “doh” even consult home when it come to politics because he is UNC, she is COP and “dey doh talk politics home”. I suppose that is consultation PP style.

Sen. Dyer-Griffith spoke about perinatal and prenatal. We could see she is “ah” real nurse. She is a registered nurse. Am I correct?

**Sen. Al-Rawi:** Yes.

**Sen. T. Deyalsingh:** Not a fake nurse or an assistant; people who pretend to be nurses and fly about and walk about the country. She is a real nurse, so I congratulate her on that; on being a real nurse with real qualifications.

Sen. Nicole Dyer-Griffith spoke about the balisier tie. I want to talk about the tie I am wearing because, since this Government has come into office, unfortunately, the threads that bind us are coming under increasing attack. I choose to wear this tie and I am defending the colours of this tie, the red, white and black because there is a move among certain supporters of this Government to change this tie to reflect some twisted version of what they think Trinidad and Tobago should be, and that, Sen. Dyer-Griffith is what you should be concerning yourself about—elements within your Government, supporters of your Government who want to change this tie.

**Sen. Karim:** That is your tie. We cannot change that.

**Sen. T. Deyalsingh:** Be careful. Mr. President, in the hatred for the People’s National Movement that Members opposite show, and they talk about consultation, I would like to talk about their version of consultation and broken promises—the \$3,000 pension, broken; the consultation on the highway; the profits at Caribbean Airlines; the donation to the Children’s Life Fund; all untruths, but they talk about consultation. They have broadened it to talk about consultation. Where was the consultation for all these issues?

Yes, they are a PP Government but in my book “PP” means Pinocchio’s Party. The symbol for the PP Government, for Pinocchio’s Party, is a nose; a nose that grows in length with each untruth that we hear about. So, yes, I would call you PP Government from today, but “PP” in my books means Pinocchio’s Party. So, I dub you Pinocchio’s Party.

Sen. Nicole Dyer-Griffith cast scorn on the People’s National Movement about the positions that the PNM takes between the Lower House and the Upper House and I cannot let that comment go unanswered and I would explain why she may misinterpret positions. The point is simply this, a Government, with the

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majority that they have in the Lower House, 29 versus 12, gives them the opportunity to use their votes to let legislation pass through the Lower House, unchecked, regardless of the protestations of the 12 honourable people in the Lower House, and I draw reference particularly to that dastardly piece of legislation called the DNA Bill.

That is why we in the Upper House had to take the position we took and very often, when legislation reaches the Senate, it is not because we take a different position, it is because of the abuse of the arithmetic in the Lower House, the total abuse of the arithmetic in the Lower House, where the Opposition views on legislation are not considered.

**Sen. Al-Rawi:** At all.

**Sen. T. Deyalsingh:** That is why we in the Senate, we six, where the arithmetic is different, and thank God for the Constitution and thank God for the Senate because this is the last bastion, this is the last check and balance to prevent what goes on in the Lower House. It is being totally incorrect, disingenuous, to try to put a wedge between the 12 honourable people in the Lower House and us six. We are one, but because of the arithmetic in the Lower House and the arithmetic in the Upper House, we have no choice sometimes but to take the positions that we do. So, I answer that.

**Sen. Al-Rawi:** The interest of the nation.

**Sen. T. Deyalsingh:** Mr. President—[*Interruption*]

**Sen. Dyer-Griffith:** Mr. President, Standing Order 34(b). Just to elucidate on the matter. I was making specific reference to the most recent TTPost discussion that was held in the honourable House. Thank you.

**Sen. T. Deyalsingh:** I thank you, Mr. President. If that is what you meant, you should have said so. Say what you mean. The country is fed up, fed up of Pinocchio Party.

If this Bill and this maternity issue were so important, I put it to Sen. Nicole Dyer-Griffith, in lauding her Minister of Labour and Small and Micro Enterprise Development, she should visit—and the hon. Minister should also visit—their own website, as I did on May 07, 2012 at 10.51 p.m. where you will see on page 2 of the website, under Workers' rights and Responsibilities it lists rate of pay, hours of work, overtime, payment for public holidays, sick leave, vacation leave, meal break and rest period. Do you know what is conspicuously absent? Maternity leave is conspicuously absent from the piloter of this Bill—consultation.

**12.40 p.m.**

The hon. Minister of Labour and Small and Micro Enterprise Development, when he piloted—and I took notes when he was speaking—spoke about the legislative agenda. What legislative agenda? We were told on three occasions in this honourable Senate; first when the Leader of Government Business was the then hon. Subhas Panday, shaking a piece of paper and saying: “Look it! Look it! All yuh want legislative agenda? Look it here!”

A second time we were told, if you want to know what the legislative agenda is, look and see what Bills were passed. So we have to look in the rearview mirror to see what their legislative agenda is.

Then, when Sen. Tewarie took up office in this Senate, he said that the legislative agenda was in the Pinocchio Party’s manifesto. Look in the manifesto, you will see the legislative agenda. Is that any way to treat a country? What legislative agenda? Where is it?

I asked the hon. Minister Vasant Bharath, across this table, I said: Minister, I am sure you have Bills in agriculture you would like to see passed. He said yes and very recently the hon. Minister is quoted in the newspaper as saying that he wants legislation to register fishing vessels. Am I correct? Where is that? That is important because it not only has an impact on marine life and agriculture, it has an impact on drug trafficking and trade. So what legislative agenda?

Let us get on to the Bill at hand. We are talking about a Bill where issues were spoken about unemployment rate, and I am quoting the hon. Minister in piloting the Bill.

“The unemployment rate at the end of 2009 was declining.”

But you know what was strange? Up until May 24, 2010, when the CSO was publishing unemployment figures, whether for women, men, age bands, those figures were freely available and people who sit opposite me now, who were in the then Opposition, would use those figures on a daily basis to organize marches to protest against unemployment and crime; but since this Government has come into office, the Central Statistical Office has been notoriously quiet, absent in the production of figures. That the hon. Minister could stand here, in May 2012, and quote figures for the end of 2009 is diabolical; nothing short of diabolical. [*Desk thumping*]

We hear Ministers saying that poverty has been eradicated. Based on what? Based on what data has poverty been eradicated? We hear unemployment is 5 per cent. Where are the figures? Can anybody go to the CSO and get an official document

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that tells me that employment is 5 five per cent? Why is the CSO, under this Government, not producing unemployment data? That is why I will repeat my call ad nauseam.

**Mr. President:** It is now 12.44 p.m. I propose to take the break and we will resume at 1.30 p.m.

**12.44 p.m.:** *Sitting suspended.*

**1.30 p.m.:** *Sitting resumed.*

**Mr. President:** Before the break, Sen. Deyalsingh was on his legs. I estimate you have another 31 minutes of original time. [*Desk thumping*]

**Sen. T. Deyalsingh:** Thank you, Mr. President. I give you my word as an officer and a gentleman that I would not be taking 31 more minutes. I should not be taking more than 10 to 15 minutes at the most.

Before we broke for lunch, I was making the point that the Ministry of Labour, Small and Micro Enterprise Development should have his webmaster revisit his website and, as I said, under Workers' Rights and Responsibilities, to please put the issue of maternity leave on that list.

I now turn to the issue of the Masters and Servants Ordinance, which the hon. Minister said we are going to repeal. We on this side have no problem, in principle, with repealing that outdated piece of legislation, but there is one important aspect of that ordinance you should look at and consider importing into other pieces of legislation that deal with labour.

The Masters and Servants Ordinance, as I understand it—and I stand to be corrected—is one of only two pieces of legislation that specifically has it statutorily enshrined about the terms and conditions that should be in an employment contract. The other one, I believe, is the Minimum Wages Act.

The reason for raising statutory inclusion of terms and conditions has to do with the fact that, notwithstanding the politics of the situation, as we move more and more to contract labour—whether in the public sector or the private sector, it falls within the realm of politics because in the public sector there has been a lot of disquiet about people having their contracts either not renewed or terminated, whether they are People's National Movement operatives or not—terms and conditions have to be spelt out more and more.

Yes, that piece of ordinance has to be repealed, but we need to retain that part that deals with written provisions and, as I said, import it into other pieces of labour legislation to protect the vulnerable, like women, the CEPEP women. Do not let

anybody forget that people who had CEPEP contracts under the last administration were called “pigs feeding at the trough”. Let us never, ever forget that—that same CEPEP you all have expanded.

The politically vulnerable, the women—and I say this to protect the workers at the Airports Authority where the chairman of the Airports Authority, Mr. Gerry Hadeed, has talked about PNM operatives stymieing the Airports Authority. That is what I mean by the politically vulnerable—pregnant women and the politically vulnerable. People are coming under attack for their political affiliations and will lose their jobs. So we want to import and keep certain parts that speak about writing. Do not let us forget also that in Mayaro, PNM people were told to go from there—the politically vulnerable. We have to protect them because PNM people are now totally politically vulnerable.

Mr. President, as I promised earlier, I will not be taking all 31 minutes of my original time, but I do want to recap some points. One point I want to draw to the hon. Minister’s attention—he was speaking about maternity leave and he made a very important statement, which I think may have flown over the heads of many of us. In piloting the Bill, he spoke about 14 weeks’ maternity leave as being a minimum floor. I think I am correct. Those were your words.

You also went on to say that you will ask employers, et cetera, to give more via the collective bargaining process. That, to me, is a very open-ended statement which speaks to the fact that the Minister is considering asking businesses and employers to give people more than 14 weeks’ maternity leave. What exactly does the Minister envisage? Does he have a figure in mind? [*Interruption*]

Twenty weeks; but more importantly who is to bear the cost of that extra maternity leave? Is it the businesses? Is it the NIS? Has an actuarial study been done to see whether the NIS can support this? It is a very loose statement to make just to say: Ask employers, et cetera, to give more via the collective bargaining process. Who is to bear the burden of this?

To understand the point I am making, I turn to the document, *Maternity at Work: A Review of National Legislation*, where, according to Sen. Al-Rawi, the major part of the Minister’s piloting came from.

Hon. Minister, you said in your presentation that, in the UK, they currently get 39 weeks. I have the same document, Mr. Minister—it is probably an error on your part or an error on my copy, I do not know—but on page 99 of that same document, when you were piloting, I was on the same page, “Annex I: Key national provisions for maternity protection by region”, it lists the United

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Kingdom second from the bottom. It says here 52 weeks. I am just unsure whether your figure is correct at 39 weeks or whether it is 52 weeks. My research tells me it is 52 weeks, so we need to correct that.

How are they paid? The first six weeks is paid at 90 per cent; a flat rate for week 7 to 39; and weeks 40 to 52 are unpaid. When you look through this annex, it shows you the ratios that different countries apply under their source of funding. So when the Minister makes a statement and asks the national community to give more via the collective bargaining process, the question is: how is that move to be funded? Is it to be funded by the employers? Is it to be funded by NIS; a combination of or, as in the UK, the last few weeks are unpaid?

It is a nice lofty statement, but when you drill down into the details, as we say, the devil is in the details. Yes, employers may be willing to give the whole year off, but are you going to be paid for it? The statement made: “ask employers to give more via the collective bargaining process is a good political statement, but the question has to be asked: Would these employees be willing to take this extra time with no pay. That is the question I am hoping that the hon. Minister would address in his wrapping up.

I have dealt with that and we have dealt with the correction as to the UK. It is not 39 weeks; it is 52 weeks.

We will see how the debate goes; we will see whether we support this Bill. As I close, I want to make one final point to this Government. I want to make one final appeal to the cliques within this Government to please leave the colours of the national tie alone.

Thank you very much, Mr. President. [*Desk thumping*]

**1.40 p.m.**

**Sen. Dr. Rolph Balgobin:** Thank you, Mr. President. I have a very short contribution to make on the matter of this Bill, An Act to amend the Maternity Protection Act, Chap. 45:57 and to repeal the Masters and Servants Ordinance, Ch. 22. No. 5.

I was very pleased to see this come forward. I think that it represents a progression of sorts. I think it is, of course, an improvement. Any expectant mother would appreciate the additional courtesy that this Bill seeks to provide. But if I think about the nature of human progress, how far we have come, as a society, as a civilization then I think that going from 13 to 14 weeks is not really very significant progress in terms of how we value that very important time, that

an expectant mother and eventually a new mother would have with her newborn baby, or babies, in the event that she has twins or triplets or whatever. But of course, that has to be balanced, and the Minister has a difficult job in this regard, has to be balanced with economic and other realities.

But, I still think—in my short talk I wish to address two opposing points of view. On the hand, I think that far more can be done other than just adjusting this by one week. I think it probably plays very well in the media and socially. I think that with the application of some imagination, perhaps, even more could have been got out of this particular effort which I nonetheless laud the Minister for bringing forward.

I just have two or three quick questions or observations, Mr. President. The first was a question and that is, what is the additional cost of this measure? Normally, if you are in your role as a householder or as a parent and a workman walks up to you or your child and says, “I have a proposal”. The workman says, “well I see some work here, and I would like to do some work for you.” Very often, what most rational adults would do is, at least psychologically, pad up. You sort of pad up.

So you say, okay, I have padded up now; you say, okay, well, “come with your delivery”. Of course, the modern lingo for that is, send me a proposal. You know, you pad up and you receive the thing and you try to create a little distance for yourself so that you can make a calm and rational judgment about whatever is in front of you.

So, if we are proposing to move this from 13 to 14 weeks then, as with anything else I would ask, what is the estimated cost? Do we have any data at all that would allow us to make a reasonable estimation of what our birth rates are and, of course, the answer is yes, we do, or we are supposed to. It is a source of continuing concern for me that we do not yet have our census. That is something that is supposed to be done every 10 years. It sort of unfortunately landed in hands of a new Minister, but the previous Minister certainly, for whatever reason found herself unable to produce it. Here we are, and it drags on. So, it would good, it would be useful for us to have some data and to make some sort of informed estimation of what this proposal is supposed to cost because there is not just a social impact, but an economic cost to measures like these.

As I question, well who is going to pay for it, it occurs to me that if we ask—can the NIS pay for it?—well the report to the National Insurance Board of Trinidad and Tobago’s special actuarial review which was of changes on January

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02, 2012, which is, I believe, a document in the public domain makes it very plain that the NIS would be extremely hard-pressed to take on additional costs. And that even with its current obligations would find itself in some degree of difficulty in years to come.

So this takes us squarely to where—I think Sen. Al-Rawi was previously trying to go on, that is to say, the liability of an employer is what? In Sections 9(2) and 9(3), if you sum those up, it is one month's salary for the first month, and a half month for the following two months. So Sections 9(2) and 9(3) of the Parent Act currently enunciate very clearly what the employer's liability is.

With these proposed amendments, of course, it is left open to interpretation—at least to my mind—who carries the burden, the cost, of the 14th week. I think that is something that we might use the opportunity, in the winding-up and in the committee stage, to clarify and to tighten so that what we have going forward is a very clean piece of legislation that we can all work with. I think that we should be very upfront with employers and with the economic partners we have in the society about what the additional costs are likely to be for the economy, and for employers to have a clear picture of what their obligations are likely to be.

We should have sympathy for employers. It is not a popular thing to say, but the majority of businesses in the world are SMEs. Provisions and arrangements like these almost presuppose that the business has or can afford some kind of cover. That is not always the case in fact, very often it is not. I do have some sympathy for an employer who is running an SME, is trying to get things moving, and feels himself or herself burdened, but it is not a burden. In the wider scheme of things it should not be. Motherhood is something that should be celebrated. I always say people who find themselves with child sometimes treat it as a burden or a problem, and I say, but you know there are people who pay big money now to try to get pregnant.

A few weeks ago I was in China, and there were a lot of Chinese babies with Caucasian mothers walking around. And I said, “what is going on here”? They say, “don't you know you're standing in the middle of a big business, that North American women actually come to China and take these babies.” You know, there are some very powerful arguments on all sides of the fence with this thing.

But I think we should acknowledge the challenge that businesses would have, particularly in the SME sector, in terms of cost and cover. So it would be useful for us to hear: what do we expect to be the cost, and who is going to pay? If the employer is expected to carry that 14th week, I think that would be difficult, but I see that the NIS is also having problems of its own. I do not know what the proposed solution in the Minister's mind would be.

I did not have much difficulty with the various other dimensions of what is proposed, save and except to say this: we find ourselves at a point where we have to question not just what is going on with mothers but in a very serious way, what is going on with fathers?

I read a very small piece in yesterday's *Express*, I believe, Mr. President, that spoke to the achievement of centenarian status by a former Independent Senator, whose name escapes me and would not want to try to recall—[*Interruption*]

**Hon. Senators:** Louise Horne.

**Sen. Dr. R. Balgobin:** Louise Horne, very good. It is the name I had in mind, but I just did not want to call the wrong name and get anybody upset. I wish to pay tribute to her, and to acknowledge her and her contribution to the development of the society. [*Desk thumping*]

What was very telling for me in that short, short article—and I must get a copy of her book—was her comment that a critical contributor to the fatherlessness that is attendants to many parts of our society really had to do with siting the location of an American base here, and the friendly nature of the locals and the relationships we established. Assuming that most of the occupants of that base were male, and making a further assumption that most were heterosexual, one can deduce that the goodly former Senator was saying that our women established relations with these men who fathered children by them and then left; they absconded.

I thought it was a very powerful notion that she had put forward. I have not seen it anywhere else before. She advanced it or appeared to advance it as a possible explanation—partial or complete—for why we are so accustomed today with this phenomenon of fatherless children which in the case of fatherless boys has, by the admission of the Minister of National Security, now turned deadly.

Mr. President, we give two days off for people when someone close to you dies, but no time when a child is born. You cannot establish an emotional relationship with someone who has just passed away. You cannot hold them, love them, cradle them, you cannot nurture them, you cannot bond with them. They are consigned immediately to your memory. So, I am a very firm advocate of paternity leave. [*Desk thumping*]

It cannot just be that we ask fathers to bring their sons when we have an event. When a child is born the father has to be there to cradle the child, and hold the child, and establish a relationship with the child. When the child opens his or her

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eyes, the father is supposed to be there; that is how we combat this notion of fatherlessness; not by a social programme, as well intentioned as it may be, and we have to do that, we do not have a choice, that is where we are. But how do we fix this going forward?

**1.55 p.m.**

This is why, hon. Minister, it was not a criticism of you. That is not my approach here and God willing, never will be. My thing is to try and make it better. I would say we have a crisis of fatherhood and of maleness in this society, and we need to address that rather than laying the burdens of parenthood, more and more, on the mother alone.

Let the fathers have a day or two, let them. As this goes to committee stage, of course, you know, I will push for that. Let the fathers have a day or two. Let them have some time. If you get time to bury the dead, you should get time to celebrate a birth.  
[Desk thumping]

The demographic information, if we had it, would tell you that many of our women are making children later. I cannot speak with the practised authority of my colleague Sen. Dr. Wheeler who, himself, is an accomplished obstetrician, but I can tell you from my own observation, reading and research, that it would appear that the later in life a woman comes to childbirth the greater her need for a recuperative period.

As crass as it may sound to say, someone in her teens can have children and be on her feet the next day, but when you are in your late 20s and, particularly, in your 30s, it becomes harder and harder to recover. We are having children, those of us who are, in a context where family bonds are being strained. It is no longer everybody living in a hut together—mother, father and two and three generations living in one house. That is not always the case anymore. So, it is not to say that a woman who is spent from her delivery has any kind of family support to carry her forward, at least, not for the critical day or two when she gets home and tries to recover. So, would not a day or two for the father be useful? How would that be disruptive to an organization, unless the organization has employed both the mother and the father? In this instance a pregnancy will either be a cause for great celebration or a headache, it depends.

Certainly, I would advocate, Mr. Minister, if we are going to solve the problem of rampant criminality that appears to be very closely correlated with fatherlessness in this society, it has to start here and in this Bill. What better place to put a provision for fathers than in the Maternity Protection Act. These children that are born, at least half of them or thereabouts, the statistics say are going to be men. They are going to be boys who will grow into men, and what happens to them.

So, it is very important that we identify the opportunity to be advanced in our thinking. Instead of just using the benchmarks that we see from abroad—we have children just like them. I do not know that they are any more scientific about it than we are. In fact, in the developing world, we could argue that we have a greater mastery of the art of reproduction than most of the industrialized world. Their populations are falling.

So, I wish to advocate that the Minister gives serious consideration to paternity leave for those fathers who need to identify with their children, and that identification is important. In the University of the West Indies, in the last decade, a study was done by the Sir Arthur Lewis Institute of Social and Economic Studies, (SALISES) a very good institute, which is now headed by Prof. Patrick Watson. But, as good as you are, it does not mean that you cannot produce a piece of erroneous research.

The research that they produced said that there is a correlation between poverty and crime. Sounds obvious, but somebody living in Trinidad and Tobago in the last 10 years would tell you that that could not have been true because, at a point in time, of great economic growth and development which catapulted our GDP per capita right up there into the middle income countries of the world, we had runaway crime. So what is the correlation then?

The correlation may not be crime with poverty or crime with economic progress. I know many poor people who are very, very, honest and decent and more upstanding than plenty wealthy people I know. So, perhaps, there is a correlation between crime and fatherlessness because this, admittedly, is unscientific—when a young man gets killed or who Gypsy would call a little black boy, it is only women I see crying there. “I doh see no man”. I do not see any men. No men! No father crying for his son!

So, in case I have not made it abundantly clear, I would like to see paternity leave considered and implemented—not considered, but implemented—by the Minister and, of course, answers to my other very simple questions about economic cost: who will pay and who carries the cost for the 14th week and so on. I do hope that the Minister would give some consideration and, perhaps, some action to my observations and comments. Mr. President, I thank you for the opportunity to speak. [*Desk thumping*]

**Sen. David Abdulah:** Thank you very much, Mr. President, [*Desk thumping*] for allowing me to contribute to the debate on this piece of legislation, a Bill to amend the Maternity Protection Act, Chap. 45:57 and to repeal the Masters and Servants Ordinance, Chap. 22. No. 5.

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In doing so, I would like to congratulate my very good friend and comrade, the hon. Minister of Labour and Small and Micro Enterprise Development, Mr. Errol Mc Leod, [*Desk thumping*] for bringing this piece of legislation to the Parliament of Trinidad and Tobago. As indicated in the laying of the legislation earlier today, he stated and it was reemphasized by my colleague, Sen. Dyer-Griffith, that this was, in fact, one of the commitments made in the manifesto of the People's Partnership.

Before I get into the substance of it, I want to let people know, first of all, Members of this honourable Senate and, obviously, through the media, the citizens of Trinidad and Tobago, that the repeal of the Masters and Servants Ordinance and the improvement of maternity benefits, by way of increasing the number of weeks of paid maternity leave from 13 to 14, were proposals long advocated by the labour movement. Our demands, proposals and recommendations—you could call it what you want—depending on when it was made, and how it was couched in terms of language, would have been articulated to governments over a very long time by individual unions, as well as by union federations collectively. These recommendations and demands would have been articulated on occasions such as June 19 or Labour Day in various memoranda submitted to the Government either for budget consideration or, generally, with respect to legislation over the years.

The fact that it has taken so long to come to pass, particularly with respect to the repeal of the Masters and Servants Ordinance, it is really quite a sad reflection on where the priority with respect to labour legislation lay at an earlier time, and I will come back to that in a moment.

Let me trace, however, the more recent articulation of these demands. It was in November 2009 that a group of trade unions joined by civil society organizations, NGOs and so on, came together and formed an ad hoc umbrella group of civil society known as the People's Democracy. I, myself, was very involved in that.

We had a process in late 2009 of developing policy recommendations and proposals, coming out of the work of individual organizations or collectives of organizations and federations as the case may be. Under the sector of our demands, which we presented actually at a national rally on November 22, 2009 in Woodford Square, we articulated, with respect to the labour and cooperative sector—this was item 4 in this sector—the amendment of the Maternity Protection Act, No. 1 of 2000 to provide for 14 weeks' maternity leave which is the international standard. At item No. 6, we articulated:

“The repeal of the Masters and Servants Ordinance which is an old colonial law and contrary to the Decent Work policy of the International Labour Organization.”

Sometime after that, Mr. President, in April, 2010, at our joint trade union conference of shop stewards and branch officers—on April 18, 2010 to be precise—representatives of many trade unions and other organizations approved a document which we called “the workers’ agenda” and one of the items of the workers’ agenda was—“the amendment of the Maternity Protection Act, No. 1 of 2000 to provide for 14 weeks maternity leave which is the international standard”—and then we went on to say—“In addition, day care centres to be built by government and companies.” At another point we stated: “The repeal of the Masters and Servants Ordinance which is an old colonial law and contrary to the Decent Work policy of the International Labour Organization.”

So, those were some very clearly articulated demands/policy proposals put forward by the labour movement which were, in fact, adopted in the People’s Partnership manifesto through the contribution of my own party, the Movement for Social Justice, and our contribution to the manifesto, because we took that workers’ agenda and sought to have key components of it incorporated in the manifesto.

Therefore, the bringing of this piece of legislation today by the hon. Minister of Labour and Small and Micro Enterprise Development is really a fulfilment of the commitment which he would have been part of, in terms of being aware of the People’s Democracy demands and the workers’ agenda, though he was not at those times the President General of the OWTU, but he would have been well aware of the demands and the proposals emanating out of labour for the increase in maternity benefit, in terms of leave from 13 to 14 weeks and also well aware of the demand to have the Masters and Servants Ordinance repealed. I just wanted to give that brief background and to situate the debate that we are having here today, in terms of the commitment by the Minister to those particular items.

Mr. President, one of the things that we have not focused on—Opposition Senators spoke about, perhaps, us going much further than the Government has gone today. One of the things I want to focus on is the fact that although the Maternity Protection Act exists and has existed now for some 12 years, there are many unscrupulous employers in this country who, quite honestly, do not adhere to the provisions of the law and, therefore, they have employees who, on becoming pregnant and having to proceed or leave their place of employment to have their babies, the employees have to resign their jobs or, certainly, are not reemployed when they have completed the period of maternity leave and so on, contrary to the law.

**2.10 p.m.**

What I would have liked to have heard from Sen. Al-Rawi this afternoon is an appeal as a legislator to all unscrupulous employers to adhere to the law and to ensure that our mothers are properly protected. That is what I would have liked to have heard from you, and to appeal to your friends in the business community in downtown Port of Spain, in DOMA, in the chambers of commerce, in the manufacturers association—those organizations of the employers who are very quick to condemn trade unions and workers for taking industrial action, legal as that industrial action is. They are very quick to condemn and talk about being irresponsible, but those employer organizations say nary a word to their own members who violate the basic laws of minimum wage and the Maternity Protection Act. [*Desk thumping*] That is something that has to be of very grave concern to all of us.

Certainly if we are seeking now to improve and to move from 13 to 14 weeks, we do not want to—we are well aware in the trade union movement that we have people coming to the unions who are not represented by a recognized majority union at their workplace, and they ask, “Well, what is my right?”

I recall as President of Fitun that we had developed a very simple pamphlet giving information on basic worker rights and referring to the various pieces of legislation that now exist, including the Maternity Protection Act. We went store to store in downtown Port of Spain, San Fernando and Chaguanas and other parts of this country handing out this leaflet, this brochure, to workers to tell them, “These are your rights enshrined in the law.” What then happened was that many workers came to some of the unions and said, “We have a problem because, from what we have read here, our rights are being infringed.”

So today I use this opportunity of speaking on this particular piece of legislation to appeal to and call on members of the business community to respect the law. Quite apart from respecting the law, which is obviously therefore a lawful—if you wish—or legal obligation to recognize the moral obligation of doing what is right to their employees, by ensuring that women who are in their employ do have the benefit of security of their jobs and also have the benefit of the paid maternity leave. And so I make that statement here this afternoon.

I would like to share, and I am sure the Minister, when he concludes as well, will also share, some insight to assist Sen. Deyalsingh with respect to the issue of collective bargaining. But before I say what I want to say about collective bargaining, Sen. Deyalsingh said that he entered a guilty plea with respect to

“impregnating his wife”. I certainly hope that it was not like a particular story I heard of someone going before the court and entering a guilty plea, only to be totally astounded when the court found him totally innocent. [*Laughter*]

**Sen. Deyalsingh:** Oh, nooo! [*Laughter*]

**Sen. D. Abdulah:** Since Sen. Deyalsingh left open the door for that, in another place I would say it slightly more differently, if we were among persons in a different situation.

On a serious point of collective bargaining, the Minister was absolutely right when he said that this is a minimum floor, in keeping with the international standard as set by the ILO in its Convention 183. The issue is obviously that it is not a cap or ceiling, it is a minimum floor. Sen. Deyalsingh was concerned about who would pay and how long would it be for, but collective bargaining is what it says, collective, between two parties, between the employer and a trade union, a recognized majority trade union. So where the agreement is arrived at, with respect to the quantity above that of 14 weeks, it is going to be voluntarily entered into by the employer.

The employer would very well know where the money is going to come from and whether that employer could afford it or not. It really is a false question to ask in the context of collective bargaining. What is the target that the Minister is seeking to arrive at? Where does he wish this to go or where is the source of funds? Collective bargaining would determine, quite frankly, what the target is and, as I said, it is a target that would be freely entered by the employer, so there is no need to fear the issue of the collective bargaining process to arrive at improvements to this particular piece of legislation, and so it should be.

Sen. Al-Rawi did make the point that long before the Maternity Protection Act of 2000 was passed, there were maternity leave provisions in collective agreements. Initially they were relatively weak, and today if we look back at some of those earlier agreements established in 1950 by the Oilfields Workers' Trade Union for maternity leave, we would probably say, “Gosh, that was horrible.” But considering that before that in the early 1950s there was nothing at all, it was a major advance.

There was a very well-known First Vice-President of the Oilfields Workers' Trade Union, the late John Abraham, who liked to say, “We have to get a foot in the door,” because once a foot is pushed in the door in the collective bargaining process, then the next round of negotiations you are going to get your whole body in and then you go right through the door.

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The maternity benefits have been improved through the years by the trade union movement through collective bargaining, as has the establishment in most collective agreements today, certainly those I am familiar with. Most collective agreements that I am familiar with have provisions for paternity leave. I was a little surprised that Sen. Al-Rawi said that he searched high and low, but he did not find it.

**Sen. Al-Rawi:** In law.

**Sen. D. Abdulah:** Well, in the law. But collective agreements do have the force of law.

**Sen. Al-Rawi:** They must be registered.

**Sen. D. Abdulah:** Right, they must be registered. He is catching up a little bit late, but the point is, Mr. President, as you are aware, collective agreements by very definition of being an agreement—a collective agreement that has been completed and signed by the recognized majority union and the employer is registered with the Industrial Court. Under the Industrial Relations Act, registered collective agreements have the effect of law and are enforceable. Therefore we do have, for a significant but nearly not large enough number of workers in this country, paternity leave. Certainly that is something that needs to be addressed in a more general way because the points made by others are well made, that paternity leave is important.

I will be more cautious in my words than Sen. Deyalsingh. [*Laughter*] I had the good fortune of seeing my wife give birth to three children. I agree that it is a very important experience—and one that I commend to all prospective fathers—one therefore which also requires, in that context, for fathers to be present for the birth of their children. It also requires, for example, the public health sector to look at the arrangements that are in place in hospitals because, at the moment, my understanding is that in public hospitals it is very difficult for fathers to be in the delivery room, if not impossible. Those things come from days gone by.

I am certain that if we want to encourage the responsibility of parenting, and it is something that Sen. The Hon. Brig. John Sandy has been constantly focusing on in terms of the responsibility of fathers, then we have to have reforms, not only in terms of legislation, but in terms of practice. It is also about culture. It is also about fathers and men wanting to take responsibility.

You could have it and say, “Well, there is paternity leave,” and the fathers could very well, if they are not serious, simply use the paternity leave to do other things and not provide support to the mothers of the children. We have to look at it in a

general way and encourage responsibility all around, even as legislative arrangements are put in place for it, even as it is done at the level of collective agreements, but it must also be done at the level of the individual.

Mr. President, having said those things, I want to come back to the issue of the priority of labour legislation. One cannot help but be amazed sometimes by the almost self-righteous position of some of the Senators opposite when they speak about what ought to be done and what has not been done, and so on, when in fact the issue of labour legislation was very, very low down. This is simply a fact. It is not trying to attack or to hide behind anything; it is simply fact. I think that Senators opposite have to accept that.

The priority for labour legislation was very, very low down on the totem pole of the legislative agenda of the PNM, in any era. In that, I am reminded of the fact that the Industrial Stabilization Act, when it was passed in 1965 through both Houses of Parliament in one day—and during a period of public emergency at the same time—mirrored what was done in 1920 when, in response to the general strike of 1919, the then colonial Government in 1920—and we are talking about a colonial piece of legislation like the Masters and Servants Ordinance—passed the Strike and Lock Out Ordinance, which was No. 1 of 1920, and the Industrial Court Ordinance, which was No. 26 of 1920. Many people do not realize that by statute, and not by actual institutional creation, the first Industrial Court was created in 1920, No. 26 of 1920, in response to the workers' protest starting on the docks and spreading throughout the country.

We have seen, in fact, the Maternity Protection Act being passed by the then UNC Government in 1998. The fact is that the PNM during that period did not seek to improve it in any way. You look at other pieces of labour legislation: the long outdated workmen's compensation, the fact that the Industrial Relations Act has not been amended in any significant way, from its passage in 1972 to the present time, and other things. The very fact that this odious Masters and Servants Ordinance of 1938 was not repealed throughout the very many years of the PNM administration really is an indication of the fact that labour legislation and progressive labour legislation was very low on the totem pole.

So when Sen. Al-Rawi says that the PNM will not stand in the way of progress, it seems a little dichotomous because, in some cases, not only did it stand in the way of progress, but it did not seek to progress labour legislation whatsoever. In fact, in some cases labour legislation frustrated and restricted the rights of trade unions and workers as the ISA did.

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References were made to recently published consultative documents in the United Kingdom. I want to say that right now, quite frankly, the UK is not the paragon of virtue. When I correspond, for example, with people like Owen Tudor, who is the International Relations Secretary of the TUC, and Brendan Barber, Secretary General of the TUC, they would say that workers and trade unions are under very severe attack in the United Kingdom. So I do not know that bringing a consultative document that may have been signed off on, and that may sound very good and may have very lofty ideals, but the practice of what is taking place in England right now is quite the opposite, as has been seen by major actions by unions.

**2.25 p.m.**

Mr. President, in this regard, I do want to say that insofar as this piece of legislation is concerned, there was consultation by the Ministry of Labour and Small and Micro Enterprise Development led by the hon. Minister himself, and I want to say that, as a matter of fact, representatives of trade unions participated in a consultative exercise on this particular piece of legislation and articulated views as to what we would like to see, and I am sure the employer's representatives were there as well in that consultative process.

So for Senators opposite to suggest that there was no consultation or that the consultation was not sufficient or was not in keeping with what the Minister said, quite honestly, that is not the case, certainly not in terms of this piece of legislation that is now before this honourable Senate.

As I indicated even before, the very proposals to have this piece of legislation before this Senate emanated out of the recommendations of the trade union movement itself. So it is very, very clear that the union movement was and is, quite pleased. That was reflected actually in a statement made by Vincent Cabrera, my colleague and comrade who is the President of the Banking, Insurance and General Workers Union, who, in a statement issued on the April 29, congratulated the Minister on the passage of this legislation, and in particular the repealing of the Masters and Servants Ordinance, and Vincent said:

“It is significant that this outdated and oppressive item of labour legislation has been repealed ... the fact that this offensive legislation was not repealed, despite attainment of national independence since 1962, speaks volumes for the nature of industrial relations in Trinidad and Tobago.”

And he went on to say, and I continue to quote:

“From a psychological and sociological perspective the last vestiges of the master-servant relationship has now been removed, and has been replaced by the employer-employee relationship.” [*Desk thumping*]

I wanted to place that on the record, which is not to say that the industrial relations environment is perfect or that the relations between employers and employees are perfect either. This is why the hon. Minister has indicated that there are additional pieces of legislation to come, importantly with respect to the Industrial Relations Act, but also to replace the very outdated Workmen’s Compensation Ordinance, and there are others that are necessary as well, as we seek to create a proper, fair and equitable environment for industrial relations to take place—which of course does not mean to say that once you create that environment there would not be conflict.

It is interesting that in Barbados, the workers and the unions there have an almost unfettered right to strike. You would be aware that in Trinidad and Tobago that the right to strike is very severely curtailed. In Barbados it is almost unfettered to allow even for things like sympathy strikes which are outlawed here in Trinidad and Tobago. Yet, there are fewer strikes in Barbados than perhaps there is conflict in Trinidad and Tobago.

So, one has to look at the need for the employer class to be enlightened to the point to recognize that more rights do not necessarily result in more conflict. More rights, in fact, result in less conflict because people now have entrenched rights, and therefore, there is more fairness and equity in the system. One of the problems that we have had over the years really, having to deal with a view, a perspective, that rights must be circumscribed, confined and constrained. I think that once that approach is the dominant approach, then the net result of that is greater conflict as people have no choice but to act.

Therefore, the repeal of the Masters and Servants Ordinance is an important step in the right direction, not that necessarily a whole lot of things were happening under this Ordinance—outdated as it was—but the fact that it existed, signified the view that there is still a relationship of master and servant in the workplace. So its removal, its repeal, signifies that we have to change our way of thinking, in terms of those relationships, and therefore it is a very important act that we are taking today in repealing this odious piece of legislation, the Masters and Servants Ordinance.

I want to say that as we proceed with issues such as parenting, ensuring that our mothers and children are protected—and very shortly we will be dealing with the Children Bill—we are really seeking to address the issues, concerns and problems of the more vulnerable in the society. In this regard—you know, I heard Sen.

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Deyalsingh speak about people who are politically vulnerable; and yes, there may be people who are politically vulnerable, but I certainly would like us, in the context of this particular piece of legislation, to see maternity protection as being protection regardless of political affiliation, very, very important.

Therefore, on a piece of legislation like this, we ought not to introduce things like, who is politically vulnerable or not. All of those who are prospective mothers require the protection of this piece of legislation, regardless of political affiliation, race, religion, whether they are from Tobago or Trinidad, as the case may be, and that is very, very important. [*Desk thumping*]

So what is important, and the important signal that we send to the national community, has to be that this piece of legislation supported, we hope, by all Members of the Senate, would send a signal that all employers ought not to just recognize that this law exists—maternity protection—but that the provisions of the Maternity Protection Act must be implemented; that there is not only a legal obligation, but there is a moral obligation on all employers to ensure that all of the provisions of the Maternity Protection Act, the Minimum Wages Orders and also are upheld, and implemented, and that we begin to remove from our psyche as we repeal the Masters and Servants Ordinance, the notion that some are masters and others are servants in the society.

We cannot build a nation if we are going to do it predicated on a master and servant relationship, regardless of who the master is or who the servant may be. That has to go. We can only build a nation if we do so on the principles of social justice and equity, and “master and servant” is antithetical to the philosophy of social justice, equity, fairness, and non-discrimination to each and every citizen of Trinidad and Tobago.

It is on that basis that I happily support this piece of legislation. Thank you very much.

**Sen. Shamfa Cudjoe:** Thank you, Mr. President. It is always a pleasure to be able to make a contribution in this Senate. I thank you for the opportunity to make a contribution on an Act to amend the Maternity Protection Act, Chap. 45:57 and to repeal the Masters and Servants Ordinance, Chap. 22 No. 5. I think this a step in the right direction, and I want to congratulate the Minister for bringing this to the Senate. [*Desk thumping*]

Now, it is interesting that I would present right after Sen. Abdulah, and I listened to his contribution, and he tried to send the signal that the PNM was not serious about labour laws and labour issues, and it was very low on our legislative

agenda. Just the whole point of him saying that is was low on our legislative agenda—at least we had a legislation agenda. It is two years into your term, and you do not have a legislative agenda. We do not know what is going to come next.

It is also interesting that I would come after Sen. Abdulah, who in the *Sunday Express* told us this Sunday that he was uncertain as to what the relationship of the MSJ was going to be with the People's Partnership because of unbroken social contracts between the People's Partnership and the citizens of Trinidad and Tobago.

**Sen. Karim:** Is that maternity benefit?

**Sen. S. Cudjoe:** He said that:

“Our view is that the Government needs to focus... on the key issues affecting the people and that is more important than a celebratory type rally”—which is going to come in a couple of days, and that—“People are not feeling stable”—

They are not comfortable with Government—[*Interruption*]

**Sen. Karim:** What Bill is that?

**Sen. S. Cudjoe:**—because they have not fulfilled their social responsibility—their social promises, to be exact.

The People's Partnership has lapsed in their social duty, and development is a continuous process. The PNM had lapsed in its social duty also. One party would come into Government and would improve legislation, would try to improve social conditions and economic conditions and so forth, and then they would hand the baton over to another party to do the same.

So, to sit here and to be all—he described the PNM as being self-righteous; to do so would be disingenuous because we all have our own issues. In 1998 or 2000 or in 2005, the party that was in Government at that time would not have done everything, but it is important for the person or the party that comes after, to pick up the baton and run on, to carry on, and to really take this country forward to where it is supposed to be.

I think that at the end of the day we all have our own issues, we have all fallen short of the glory of this nation, and we have so much work to do, we are not where we used to be. If you read material on maternity leave, we are actually playing catch up. We are now thumping our chests and patting each other's back about 14 weeks—and yes, it is a step in the direction, but we have a way to go. So what do we do the next time when another party is in Government—because we know this People's Partnership is a one-hit wonder. We are going to say, “They did not do this, and they did not do that”, and we are going to continue doing that? It really does not make sense, Mr. President.

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So we both have our issues. That is why I was somewhat disappointed—I would say disenchanted—when I heard Sen. Dyer-Griffith speaking about consultation, and PNM did not consult on this and did not consult on that, and balisier tie and all that kind of thing.

This People's Partnership has its own issues with consultation. I could not believe that it was the same Senator—I remember when the Government introduced new Senators to the House and some people would have left, and Sen. Dyer-Griffith was one of them, and at one point the Prime Minister is saying, “We have a COP Senator, and then the COP saying, “they never consulted us, we do not know how that happened”. Now, her husband is in the papers saying, “she is UNC”. So, we all have our own issues.

It is the same thing they said about Sen. Dr. Tewarie: they said that there was no consultation, he was not a member of the COP, and they heard he got appointed to be a Senator, and then the next Sunday or the next time they had a meeting, he showed up in a COP T-shirt. I saw that in the newspapers, Mr. President. So we all have our own issues with this whole lack of consultation, but we all have to strive to do better.

Look at what is present right now, the whole Marlene Coudray issue, and the poaching, and so forth. [*Crosstalk*] Mr. President, consultation, come on, we all have our own issues. They are trying to stop me, but I have my thing to say. Another thing on consultation, you have on one hand the Minister of Transport saying, he met CAL with that million dollar debt, or how much ever it is, and then you have Jack Warner saying, “no, it was not there when I was there”. Where is the consultation between those two?

We both have our issues [*Desk thumping*] so to sit here and be self-righteous that the People's Partnership, or the UNC, is doing everything right—I would not even waste time to say People's Partnership, at the end of the day, it is six in one bag, and half a dozen in the next; I call them all UNC at the end of day, they are all UNC. I see this partnership thing is a big conspiracy. They are fooling the people saying about this partnership, at the end of the day it is one UNC.

**2.40 p.m.**

So, this whole lack of consultation, saying “we have work to do”; I remember seeing the news last week where consultation in Debe turned out to be a “cussultation”. [*Interruption*] I will move on.

**Mr. President:** Sen. Cudjoe, I have no problem with your replying to the question of consultation on a passing basis; if it is going to be the dissertation of your whole contribution here this afternoon, I am afraid you would not be allowed to continue in that vein unless it has something to do with the Bill.

**Sen. S. Cudjoe:** Thank you, Mr. President, for your guidance; I have much to say on the Bill.

As it relates to the debates that we have going on today, I too want to share the concern that Sen. Al-Rawi would have raised. I heard talk about probably meeting today, probably meeting tomorrow again, and I just really think that it is important for us to talk and negotiate on that and I would just want to beg the Government and the powers that be, to have a little consideration, especially for those who are coming from Tobago.

I know for myself, I did not even walk with a change of clothes. If I have to come back here tomorrow I would be in the same suit. Even as we talk about the Miscellaneous Provisions (Maternity Protection and the Masters and Servants Ordinance) Bill, what would have been the situation if I had a child? [*Interruption*] What would have been the situation if I had a young one? It reminds me of what the hon. Minister said about women having to make that decision as to if they are going to move forward in their professional lives or if they are going to go ahead in childbearing and family life.

So, these are some things that we need to consider. Even us as parliamentarians, as women, as female parliamentarians, we have our responsibilities too. I know at the CPA Conferences we always talk about introducing maternity leave and maternity benefits for female parliamentarians. I do not know how that is going to work out, but it is something we talk about time and time again every time we meet. I think it is a rather difficult thing to try to work out since most people, especially in the Lower House, are elected to these positions, and if you become pregnant it is not like you could say let me have a replacement. I do not know how it would work in the Lower House, but I think it is something that could work out in the Senate.

Maybe we can look at Israel and the countries that would have introduced maternity leave for parliamentarians, and probably take proper notes from their books. [*Desk thumping*] But it is certainly not nice to hear, when you talk to other female parliamentarians who have been pregnant, that you write to the President and say I am sick. I am sick. This is 2012, being pregnant cannot be considered a sickness in this day and age.

**Hon. Senator:** Well said. [*Desk thumping*]

**Sen. S. Cudjoe:** Mr. President, let me move on. I am happy that this Bill is being introduced today. For the most part, women have come to make up a significant portion of the workforce. I heard the hon. Minister, when he piloted

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the Bill, he spoke about statistics moving from 40-plus per cent to 50-plus per cent of women in the workforce—well, as of 2009. I do not know what it is now in 2012; we are still awaiting the information from the census.

But it is a very challenging thing for employers when they are trying to manage women in the workforce who are interested in having children or who become pregnant while on the job. It has become a very, very contentious issue. I remember when I returned home and I got my first job, it was one of the first questions that I asked: what would happen if I become pregnant? Young women want to know about that kind of thing. So, it is one of the first questions that young women ask nowadays.

You find there are more young women particularly interested in that because, before, we would delay having children to obtain some kind of academic qualification, work experience and so on, but now times have changed and we have revolutionized and we find that we can do more. We could do both, thanks to having a better education at an earlier age, thanks to other female professionals who started working and championed the cause of women and championed the cause for maternal rights and so on.

Mr. President, through the years a lot of headway has been made in maternal rights and women's rights as it relates to employment and the labour force, but I still think that there is still some sexism in the workplace, because when you talk to some women who speak about having—they go on maternity leave and when they return to work they have difficulties in getting back their job. Or sometimes, they are demoted because that other person who would have filled in for them when they were ill or when they were not at work, that person is now doing their job and the employer placed them at a lower position or so forth.

As much as the legislation is important, it is very important for the Ministries, the powers that be and the other authorities and institutions to have the right checks and balances in place to treat with matters like this, and especially to inform and educate and enlighten workers because there are some people who feel like there is nothing that they can do about it, so women need to be educated about this.

I think that the business people—the employers—also need to be educated about the benefits of having maternity leave because, at the end of the day I see it as a win-win situation because I think it makes good business sense and it is a cost-effective way of attracting and retaining skilled employees, of preserving corporate knowledge, a good way of increasing staff morale, loyalty and staff

commitment. It also helps the business or the employer to sell themselves well, to promote a very positive public image. So, at the end of the day it turns out to be a win-win situation for both the employer and the employee.

Mr. President, I join the call by Sen. Balgobin also for paternal or paternity leave. There is one English-speaking Caribbean country, the Bahamas, that has paternity leave in its law; it is actually called family leave, and they allow the fathers to be home for one week. I think that is just a couple days, but it is better than nothing. In this day and age we have cases of the single father—we would have grown up accustomed to single mothers but now we are having more cases of the single father. I remember a newspaper article sometime last month where the father was the sole person responsible for a child and he was not allowed to go in on the children's ward at the hospital and stay there.

So, we need to make provisions for men who are the sole providers, and as Sen. Dr. Balgobin was saying, men are very, very important in family life, in raising a child, in bonding with the child. I know when I was younger, in my earlier days when you are out there—*[Interruption]*—scouting and looking, a single father was always much more attractive than a guy without a child because it gives you that impression that he can take care of a family; he knows how to take care of a child. *[Interruption]* When you are in the mall and a man is carrying a baby, he is a bit more attractive.

**Sen. Al-Rawi:** Sen. Abdulah is taking notes. *[Laughter]*

**Sen. S. Cudjoe:** No, it is very true. When a man has a baby and you are out you are more drawn to him. *[Laughter]*

Mr. President, it tells you that he is into family and that he knows how to care for a child and so forth. *[Interruption]* Even nowadays some of my family members—males in my family—would ask to borrow my sister's child, my nephew and say, "let's go to the mall", because all the girls start gathering around the men with the babies. *[Interruption]*

But anyway, men are very, very important and critical to the raising of children. Even before the child is born sometimes the man gets morning sickness. I hear that from some women speaking about their husbands, and I know when my mother was going into labour she was having complications and—"I doh know if it's an old Tobago thing", or some belief from the older people, but the nurses at the hospital would send for the father when the mother is having complication—it was not easy for me to come out until they got my father to leave work and come to the hospital to be by my mother's side. *[Interruption]* I

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do not know the science behind it, but there are a lot of Tobago people—and even the nurses at the hospital could actually be asking, “where is the father, send for him, send for him”, that means they really believe in it. I do not know the science behind it, but it is an old practice in Tobago. [*Interruption*]

Anyway, Mr. President, I really think that we need to consider paternal leave or paternity leave. I know the People’s Partnership would have mentioned this on page 50 of their manifesto, and just as I said, somebody could come next and say they promised this and they did not do that, but you have to take things in stride. You start with one step and you go on to the next. So, I really think we need to step up to the plate and follow what—not follow, but learn from what we are seeing in other countries. There are countries that are not following this thing—maternity leave anymore, or even paternity leave. They call it now—

**Sen. Dyer-Griffith:** “Parental leave”.

**Sen. S. Cudjoe:** “Parental leave”, and that is because the responsibility could fall on the mother, it could fall on the father, it can be both, and then we have to consider the people who have children to adopt. Just because you do not see somebody walking around with a belly, or say, “okay, my wife is having a baby”, you do not have to have a baby. As they say, children that are adopted are born from the heart and not necessarily from the womb. [*Desk thumping*]

So, Mr. President, we have to take into consideration the people who have children to adopt. I saw in, I think, the *Newsday* last week Sunday an article on infertility in the Caribbean, and there are a number of women these days who suffer from PCOS and suffer from different illnesses, who are unable to have children; there are also young women who say then, “I do not want to put my body through this I just want to adopt.” So, for the people who choose to adopt, for whatever reason they choose to adopt, we have to consider them also and consider parental leave for them to bond with the child and make arrangement for the welfare and the care of the child.

Maybe, we can even move further like New Zealand. They have a parental leave system where the mother could transfer some of her leave time to the father. We can certainly learn from other countries. While we are making a big move today, there is much work to be done in the area of leave for the purpose of taking care of a child and bonding with a child. We can even go further for lactation rooms as Sen. Wheeler would have mentioned, so that women could have a break to breastfeed on the job and we can have nurseries, daycare centres and so on at the workplace.

It might sound like I am asking the Government to do a lot, but these kinds of initiatives do not always have to be funded by the Government. We can have private/public partnerships, the women or the people who are employed in a certain business place or even in the public service, they can put moneys together and invest in that kind of service. So, we do not always have to depend on the Government to do certain things. The Government cannot do everything for everybody, so we have to find ways that the private sector, even NGOs and people who are interested in this kind of thing to get out there and do their work, and we have to find ways to support them.

I also would like to see work-from-home programmes. I know when I was interning in Washington, DC, my cousin there would have at least two days of the week to stay home and work from home. I do not know if it was to ease up traffic congestion or to simply spend time with the children. Whatever the reason may be I see this as a way for mothers to have some time to spend with their children.

**2.55 p.m.**

Another concern for us here in Trinidad and Tobago, specifically for Tobago, I can speak about my own experience—we have to establish standards for the workplace to make it safe and to make working conditions safe, so that people who are pregnant on the job could get around easily and do not have to worry about falling.

I fell at my job about three weeks ago and I thank God for two things: that I did not fall in front of the conference that was taking place in the conference room, but on the side and only about 10 people were able to see, and I thank God that I did not have a “bun in the oven” because it would have been gone.

So, Mr. President, we need to take substantial steps to improve our safety measures, working conditions and the environment at work so that people who are pregnant can work properly.

Mr. President, I want to point out that this Government came into office on a wave of hope with labour in its corner. It is difficult to get labour in your corner. When you have labour in your corner that is a big thing. I was looking for news articles on maternal leave and so forth in Trinidad and Tobago, and I came across this article on the labour unions, OWTU and others, rallying around the Prime Minister. This is the *Sunday Express*, June 20, 2010, when the People’s Partnership and its members were rock stars.

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I am just saying we are a far cry from that today. There are serious labour issues that need to be sorted out and you may not be able to do everything, but at least try to get to some of your promises. I remember MSJ would have stood for social justice, better working conditions, better compensation, sick leave, casual leave and maternity leave.

Now, Mr. President, I remember listening to the campaigning and I heard the members of the People's Partnership making pronouncements about maternity leave for URP and CEPEP. I wondered to myself how could you have maternity leave for URP and CEPEP; these people were not intended to be permanent. I know that CEPEP was created by the Tobago House of Assembly; it was a House of Assembly initiative that was expanded nationally.

I remember when that programme was being created. It was never the intention for people to build a career out of CEPEP and URP. It was supposed to be short term so that people could get skills and move on. So I was just really surprised that this People's Partnership was talking about maternity leave for CEPEP and URP, but as we all know this People's Partnership, when they were campaigning, they make all kinds of promises that they could not keep.

I want to also point out that when this UNC was in government they made a lot of noise about having maternity leave for CEPEP and URP. I point to the March 8, 2005 issue, the *Newsday*. The name of it is:

"UNC: Government exploiting women".

The UNC did a press release in March of 2005 saying that the People's National Movement had introduced the CEPEP and URP programmes and that they were having no maternity leave and so on, and it was total exploitation of women and we will get in trouble with the ILO and so forth.

In another issue, August 21, 2007, of the *Newsday* again written by Irene Medina, it is called:

"Kamla, Bas not feeling the love".

They were protesting the same thing, that there is no maternity leave and so on for CEPEP. When this UNC was in Opposition they made all kinds of pronouncements and protested, when they know really and truly it may not make sense to have maternity leave, vacation leave and casual leave and so forth.

Now, I am no pro in the labour area, but to me it just did not add up. If the people who are a genius in that area can tell me how that could work, and how that could be economically efficient, then I would like to hear. But when you are in Opposition it is not good to cry down on everything and to oppose everything, and now you

are in government and you have a chance to make that change here in this Bill, and it is nothing for CEPEP and URP. Making promises that you know that you could not have fulfilled. So, Mr. President, I see that part of it, that URP, CEPEP maternity leave part of it as a big hoax. I feel like the Government had fooled the people and they are still fooling the people in more ways than one. Despite all that, Mr. President, I want to join in supporting the Bill in that it brings us in line with the rest of the world, pretty much; we are certainly ahead of the others in the region and it brings us into step and on par, in line, with ILO standards and rules and regulations. It is true that we are only making the bare minimum requirements and as Sen. Dyer-Griffith said, she would like to see us move on to 18 weeks and 20 weeks; hopefully, we can get to that.

So while I commend this Bill and commend the Minister for bringing this Bill, I say that we certainly have a way to go as it relates to parental leave. With those few words, Mr. President, I thank you.

**Sen. Sherrie Ali:** Assalaamu Alaikum colleagues and Mr. President. Sen. Shamfa Cudjoe made a few excellent points and I am going to tell you probably some things you have already heard this evening and you have heard already during the process of this debate. The one thing I do not have to tell you, because I have said it many times before, I have a beautiful baby boy who is only seven weeks old at home. [*Desk thumping*]

My husband, my wonderful, loving, caring, giving husband is the one who is at home with our child and in order to do so, my self-employed husband has sacrificed as we both make the sacrifices, to ensure that our son is going to grow up knowing that women can take up a noble cause, women can be strong. His mommy can participate in the development of the country that he was born into. While his mommy is doing that, his daddy will be there. When he opens his eyes today and all during the course of the day, his daddy will be there until his mommy can get back to him.

I would like nothing better to have seen though, to Sen. Dr. Wheeler's point, a room in the tea room—because we could offer the space—where I could have brought my child to work with me, where he could be in this process along with me, where the Government can set an example for mothers who have a contribution [*Desk thumping*] and are continuing to make a contribution; where the Government can show our people and our community that they are progressive, that they are moving forward.

Although I thank you, hon. Minister, for that one week that you are presenting on this Bill, how much more excited the women of this country would be if you can give us 10 weeks, because 14 weeks is nothing. Fourteen weeks is merely

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enough to have to sacrifice breastfeeding and to leave that little face behind. Some countries as you pointed out, the Czech Republic, they go up to three years; in England they go up to 52 weeks; in Canada they go—since the year 2000 they are at 35 weeks, a shared responsibility with mother and father. Right next door, on a clear day, we can see their borders Venezuela is up to 26 weeks; two weeks paid paternal.

Not only would I like to see this Bill designed more to be, as Sen. Cudjoe pointed out, a parental protection Act, [*Desk thumping*] I would like to see a family protection Act. This should also approve for allowances for grandparents such as yourself, proud grandparents, working grandparents who will be willing and are willing as my father would happily do, to put aside some time, granted his work allows him, to be with his grandson. Is that not something that we all should consider? The Germans have in their GYES programme, their maternity protection extends to all working grandparents.

So there is a lot that has been said today and like I said I am at your mercy for having to repeat so much of this. Lots of the points that were brought up, the part that touches me mostly is, like I said, I have a son and we are losing a lot of the maleness in our society. Fathers have been more absent than they are present, unfortunately. There are a lot of makeshift families in our society today, unfortunately. This Bill has the opportunity to bring our family back. As you yourself said, Minister, when you were piloting the Bill, family is the most critical institution. And I quote: “Strong families bring strong economies.” More right you could have never been.

When a father is present in that child’s life and is present on a constant and consistent level, that boy or that girl becomes a stronger member of society, becomes a more adequate adult and a more hard working individual. And although I do not have the studies available to me, society and facts have proven it time and time again. We can raise more well-adjusted individuals with this simple backbone and that is what I would like to see. We may not see it now, but I would like, as a Senator pointed out, I would like to open that door to see it all down the road. Again, we thank you for the week, but what 10 would have done, what 10 would have given us.

I am a member of a party which believed in me enough to give me my first appointment eight months pregnant. [*Desk thumping*] The PNM party believed in my ability to contribute to this country. So I am a member of a progressive situation and I would like to see that continue. Yes, there are businesses and business men who unfortunately in this country need to be policed, who cannot

turn their backs on a woman because she is pregnant or cannot make her job unavailable when she returns from being pregnant. This is a burden again that lies, I feel, on our Government.

I believe it is up to the Government to incentivize our business owners so that they can continue to look positively on a contributing woman and not because she is taking time off to contribute as a mother to society will she return less of an employee, if the Government supports our small businesses. Again on the small businesses, as I said earlier on, my husband is self-employed. We are registered, we pay into the system, we contribute, we report our earnings, yet when he has to take time off to be a father, to be a parent, we do so at great sacrifice. No, when he does not go to work he does not earn money. There is no benefit and that is a gap. Where is the benefit for the self-employed? The self-employed is also the backbone of this country. [*Desk thumping*]

So there are so many doors that have not been approached much less opened in this Bill, unfortunately. And as much as I would like to say kudos and thank you for bringing it to the table, let us look at fathers, let us look at grandfathers, let us look at adoptive parents. Let us, for the sake of argument in the nature of being progressive, look at same-sex relationships, let us raise the bar not by one hurdle but by five.

### **3.10 p.m.**

Let us give the other countries around us who look at Trinidadians and Tobagonians to set the example, let us show them that we can do it, not by the bare minimum and continue the standards, but to do it well. [*Desk thumping*] We can give our country more, so let us do so.

As you know, it is in my nature to remain brief. Brevity is the soul of wit. I thank you for the opportunity to contribute and have a wonderful day. [*Desk thumping*]

**Sen. Pannelope Beckles:** [*Desk thumping*] Thank you very much, Mr. President. I, too, would like to join with all my colleagues in contributing to this Bill to amend the Maternity Protection Act, Chap. 45:57 and to repeal the Masters and Servants Ordinance, Chap. 22, No. 5, and to join with all my other senatorial colleagues in welcoming the hon. Minister of Labour and Small and Micro Enterprise Development, the hon. Errol Mc Leod. I know that this is a particular area that he has not just some passion about, but I suppose he is extremely happy that he is the Minister at the time when this piece of legislation is piloted. I hope that he would bring before us many other pieces of legislation that would help improve the terms and conditions, not just of women, but workers and employees generally.

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Having said that, I noted his pride and joy with which he spoke about being a grandfather and having the opportunity to be a father, and I noticed most of the other speakers who have that privilege—I cannot say I have had that privilege, but I think that I feel equally passionate about the topic and feel that I do have the right as everybody else. I cannot say that I can speak about the experience like Nicole and Mrs. Ali and others, but nonetheless I consider myself to have—I mean, my husband has children, so some of us are fortunate to have almost a readymade family at times, and several nieces and nephews. So I have had my share, and it is a topic that is very close to my heart.

Certainly for all the fathers and mothers in the Senate who, from time to time would have to be here very long hours, some have—I see Sen. St. Rose-Greaves is laughing; she gave a little chuckle there—but particularly like Sen. Ali who would, I guess on a day like today where her baby is still a couple of months old, that might have pretty long sessions. You know, there are tremendous sacrifices that parliamentarians as well have to go through, although for some strange reason people believe that parliamentarians do not work hard sometimes and do not have those similar sacrifices, joys and challenges of motherhood and fatherhood. So I think we need to remind them of that from time to time.

I am sure the Minister of Labour might remember a couple years ago when the number of women increased in Parliament, and I know Verna remembers that. I remember being at a conference when it was raised when they had, well, almost tripled the number of women in the Parliament in Britain, and they had to construct some more washrooms.

Apparently they thought that the number of women in the Parliament in Britain would remain static, so they did not have enough washrooms to cater for women and they had to very hurriedly go and have some more because you then had this influx of women wanting to go to the washroom. They realized, well, when they are looking it is because they are lining up, as we know that we have to do from time to time when we go to football and others. For some strange reason the men sometimes pass laughing when they see the line “bending the corner”.  
[*Interruption*]

I have witnessed many times, actually, when the men are entering the washroom labelled “male” and then they realize that women are coming out and they cannot even enter their own space. All it tells us is that we have not always dealt with those matters as seriously as we should, but as we improve on understanding these challenges I am sure it is a matter that would be taken a little more seriously.

Mr. President, you know, there was some unfortunate news that I got just a couple of minutes ago from the hon. Member of Parliament for Point Fortin, Paula Gopee-Scoon, about a pregnant woman. Her name is Carlene Cooper. She was mauled by five pit bulls and is in critical condition in Point Fortin. [*Interruption*] I do not know if that is the person. I do not know the condition of the baby, but the mother certainly is critical. So, certainly, on behalf of the Senate, we would want to express our sympathy and hope that it is not one of those really critical situations.

When it is mother and child it is even of greater concern, and as we are debating this Bill today and we talk about maternity leave, I know the Minister has mentioned several other situations that he would want to address, recognizing that it is not just a question of the week, but there are some other very important issues that need to be addressed, which I will talk about later, and I am sure we join him in agreeing with that.

The truth is that if one is working and one is under that kind of situation, one could understand the challenges that one faces, and one of the areas that I would like to challenge the Minister on would be in relation to the issue of what you call, women in the “informal” sector—you know, women in the agricultural sector, our women in URP and CEPEP, some who have not really—sometimes because of the time they have worked—have not yet qualified to make that criteria. How would we be able to treat with so many women in the informal sector? We know that it is much easier for those who are in contract labour or those who actually have tenure and work in the government service, that this almost immediately applies, but the real creativity for the society would be how we would actually treat with those kinds of situations.

Mr. President, I just wanted to share with the hon. Minister that there are at least two countries that I have looked at that have found some kind of solution, and that is India and Ghana. In India, in particular, they have some 20 million women, I think, who are in the informal sector and they have found a method, through the Ministry of Labour, of a concept called the contribution fund. It is a welfare fund where they have been able to deal with these women who are not in the formal sector and who may not have worked and may not have met the normal criteria for insurance or to have maternity leave, and they have been able to treat with that.

I listened to the Minister on my way from court to Parliament as it relates to the fact that we have had, in terms of the unemployment rate moving, I think he said, from—is it 10 per cent, Minister, in 2000, to 6.2? Was that the figure that you gave?

**Hon. McLeod:** 2009, yes.

**Sen. P. Beckles:** Okay, fine. But we do know that in terms of how we calculate unemployment, sometimes we do not always get the true reflection of what is happening on the ground. But, clearly, we do know that there are a number of women, like those who are there selling newspapers and those who are in the field, you know—particularly now that we have a lot of women employed in the night who sell their hot dogs and those who sell doubles and a lot of other things—who are not in the formal sector but who certainly make the kind of contribution to which the Minister referred.

I think our real challenge, having made this step of going to the 14 weeks is, how might we treat with this? I know the Minister was at pains to point out exactly what is the objective of the maternity leave and exactly what it is that one is trying to do, and I certainly support that, but I want to challenge him to look and see what possibilities exist as they relate to treating with those several matters.

Mr. President, as a matter of fact, there are some countries that have made maternity protection at the workplace a legal right. You know, some people have actually put in their Constitution the whole issue of the right to work and have really focused a lot more on the challenges that women face where you have unscrupulous employers who, after maternity leave, find some way to dismiss you. A lot of times, as a pregnant woman, you would hear the comments from the employer like, “Oh God, she pregnant again.” I mean, some women who have had five, six, seven and eight children; sometimes even two or three, some employers talk about it: “What does she expect me to do”, in very local terms, now that she is pregnant again?

Those are some realities we have to face. I think Sen. Dr. Wheeler talked about the economic challenges; some businesses which are sometimes maybe all female and you may have a small staff, let us say of 10 persons and three or four women are pregnant at the same time, and those women may be doing very, very important functions in the organization.

Those are the challenges, and sometimes the temptation is that because an employer finds himself in that predicament, you know, there is a kind of discrimination that takes place, rather than realizing that—as I think almost all the speakers mentioned—it is an important activity; it is a necessary activity, and you ought not to look at it as a crime almost, as some people do, and make very uncomplimentary statements about women becoming pregnant in the workplace to the extent that it can cause a certain amount of discomfort, hostility and stress when you return to the workplace.

I know that the hon. Minister spoke about Convention 183 which is the Maternity Protection Convention of 2000, and, of course, they have gone much further in terms of issues of health protection; in terms of issues of breastfeeding; in terms of issues of ensuring nondiscrimination and also in terms of looking at issues of ensuring that in the workplace employers now, for example, have nurseries or have places of care where women can go and breastfeed and where fathers can come, even during the day.

Some of us see that as a luxury. They do not see it as a privilege. Some of them see it as a situation where some women are certainly not going to be putting out as much, and the hours of work are going to be reduced. The ILO Convention and the discussion of many trade unions and people in the workplace is that that time that you breastfeed should be actually considered as hours of work. Research done over the years and presented by trade unions and presented by women in the women's movement, and men as well, who understand the seriousness of these matters, shows that, in truth and in fact, what you are doing is ensuring a certain level of comfort for mother, father and for child, in that the mother does not have to worry about what is happening to the child.

**3.25 p.m.**

Some women work extremely long hours even in the Parliament here. I am not only talking about the politicians, I am talking about the employees. You know, we ask ourselves whether it would take too much to have some particular room assigned, not just in the Parliament but in other places. You cannot always afford to pay for childcare. I am sure in most instances they will function much better if when they have to be here, one o'clock; two o'clock; three o'clock; four o'clock and five o'clock in the morning, in some instances, their children are right here.

I am sure the Minister of Labour and Small and Micro Enterprise Development is not going to object to that kind of thinking but I am saying that is, ideally, where we would want to go as a society. We understand that as we do the cost-benefit analysis we are not going to lose out, the society is not going to lose. As a matter of fact, I think the society is going to gain considerably by us understanding the relationship between maternity and paternity leave and developing the kind of support systems that allow us in a real way as many persons talked—I think, it is Sen. Dyer-Griffith who talked about the whole concept of family and I think that is where we would want to go ultimately.

Now, let us take for example the case of David Cameron. He became the first Prime Minister to become a father—well, not the first sorry. I think Tony Blair also became a father whilst he was the Prime Minister. But certainly, it is not a kind of activity that happens. It is very rare in political circles where leaders and Prime Ministers and so have children. Under the British system, you would know that there is a Deputy Prime Minister, so there was a smooth transition from Mr. David Cameron to Deputy Prime Minister Nick Clegg.

The Prime Minister and his wife and the baby left the hospital and he was able to go and comfortably take his paternity leave for a period of two weeks. I think most people actually celebrated it because it is the kind of leadership that one would like to see at that level, where if you are a Prime Minister, and whilst serving as a Prime Minister your wife gives birth and you take time off to be able to spend time with the baby and to certainly do your part. So he went on his holiday and returned to work and his Deputy Prime Minister took over.

Tony Blair who also had a child did not take his paternity leave. He actually introduced the paid paternity leave in 2003. But, he did indicate that he reduced his hours of work so he could contribute.

Nafeesa Mohammed was probably the only politician I can think of who was pregnant during her time as a Senator. Interestingly enough, I think several of us raised that there is not any maternity leave for politicians. As far as I know that is still the case. So often we pass legislation for everybody else but we do not see about ourselves, for whatever reason. Minister, I see you smiling, as we certainly have younger politicians. Sen. Dyer-Griffith spoke about her situation but if she was in Parliament at the time when she had her baby, there are no provisions for that as a politician. So, let us hope, as we deal with everybody else's business, that we remember that we are equally important.

**Sen. Al-Rawi:** We can amend the law now. [*Desk thumping*]

**Sen. P. Beckles:** Sorry.

**Sen. Al-Rawi:**—by the definition of leave, section 4.

**Sen. P. Beckles:** I see, Sen. George is saying no, no, no; let us not put it in the Act.

**Sen. Al-Rawi:** Is the Minister capable—

**Sen. George:** Not now.

**Sen. P. Beckles:** I suppose—

**Sen. George:** We have to discuss that.

**Sen. P. Beckles:** We have to discuss that—I guess that is what everybody has been saying all the time.

**Sen. Cudjoe:** You promised that at a CPA Conference last year.

**Sen. P. Beckles:** We will put it at some stage.

**Sen. George:** Yes.

**Sen. P. Beckles:** Everybody says well not now, later on. And the later on never comes. Until, of course, it happens to somebody in a very serious way. I know, Sen. Maharaj has a very young daughter. I am sure he has to explain all the time the hours of work when he goes home those very late hours. So, it is not just for the women, it is also for the men who have young child or grandchildren who become spoilt by their grandfathers. So, I just want to raise that as a very important point.

Mr. President, I know that the hon. Minister shared with us a number of countries that have moved from not just the 12 weeks but have moved to 17 weeks and even much more than that. I think one of the countries that has been very progressive is Canada, where their federal law states that if employed by the same employer for at least six months the maternity leave entitlement is 17 weeks and this can be taken anytime in the 11 weeks before the baby is due but must end 17 weeks after the baby is born. Legally, a pregnant woman's job must be kept open until she returns from maternity leave. It is illegal to fire an employee while she is pregnant. That is one of the issues that I raised.

Mr. President, I know for a fact that even in the government service—and maybe the Minister of Labour can say what his experience has been; I do not know if Sen. Abdulah spoke about it—there are subtle pressures that are placed on women which are contrary to the legislation in terms of the actual time that you should start taking your maternity leave. Some women are pressured to go as early as six weeks before. I am advised that in a number of government services you hear that people call you and keep asking you, “Well don't you think you should go now, don't you think you should go now?” As a matter of fact, in some instances they actually tell you six weeks before, even though it is contrary to the law.

Sen. Dr. Wheeler spoke about the fact that pregnancy is not an illness. But, you know, some people become so personal as it relates to some women and they seem to be measuring almost the growth of your stomach and decide something is

going to happen in the next hour, the next day, the next minute. Therefore, they become your doctor more than your doctor, and therefore, feel that they should be the ones who should dictate exactly when that time is, rather than allowing you the luxury of the very important advice that you receive from your doctor.

We all know in most cases women monitor the situation very, very carefully. Whilst all of them may not do that, the point is the majority of them have done it over the years. I think it is something we have to look at very, very carefully to ensure that persons do not put more pressures on women than they already have.

Now, Mr. President, Canada, in order to arrive at the situation on which they arrived—it was not just a question of conferences, it was not just a question of workshops; it was actually a question of two women going to the Supreme Court of Canada and filing actions before the court that in some instances forced the Government to make changes.

Mr. President, one of the first cases was a case of a woman called Bliss. In 1979, the Supreme Court of Canada decided that this differential treatment was not discrimination against women. Stella Bliss was told she was not entitled to maternity leave under the UI Act because she did not meet the stringent requirements. Yet, she was not entitled to regular benefits because she was pregnant. The court ruled that she was not discriminated against because she was a woman, rather there were simply special rules for pregnant persons. Any inequality between the sexes in this area is not created by legislation but by nature. That was in 1979.

In 1989, the Supreme Court overturned that case and recognized— this is in another case now, the Brooks case—that pregnancy discrimination is a form of sex discriminations because of the basic biological fact that only women have the capacity to become pregnant. So, this was the ruling of the court. It said:

“It is difficult to conceive that distinctions or discriminations based upon pregnancy could ever be regarded as other than discrimination based upon sex, or that restrictive statutory conditions applicable only to pregnant women did not discriminate against them as women. It is difficult to accept that the inequality to which Stella Bliss was subject was created by nature, and therefore there was no discrimination; the better view, I now venture to think, is that the inequality was created by legislation, more particularly, the Unemployment Insurance Act...” Distinctions based on pregnancy can be nothing other than distinctions based on sex...strongly, ‘sex related.’”

Therefore, those two cases certainly caused a revolution in Canada. It is a matter that they continue to debate and develop and you have different pieces of legislation in provinces as it relates to how—what we could call the controversial one week that we are discussing—how they have dealt with it. Many countries have found different ways to treat with it. Some have the statutory leave; some have maternity leave; some have sort to deal with it in different ways. And, that is how Canada has solved the problem.

They have solved that problem by looking at some other methods. You could take your unpaid leave, for example, but the fact of the matter is that there are ways and means in which, I think, as a Government and as a country they have decided that the whole issue of maternity leave childcare is very, very important.

Now, as we talk about support services, Mr. President, when you read most documents relating to maternity and paternity, support services are not just about the maternity leave, it is about the issue of childcare—what happens when the mother returns to work. I know for a fact that under the PNM—and I know this Government has continued the issue of building childcare centres. Because, that is a very important way of ensuring that the whole issue of protection and the whole issue of comfort for the mother and proper development of the children continue.

I know there is a centre, for example, in Lopinot/Bon Air that has been completed for quite some time and has not been opened. There was one in La Horquetta that took a very long time. But, I just want to say that if those centres are built, wherever there are centres that are built and completed, to urge the Government to open those centres.

Now, Mr. President, when we talk about support services there is an interesting development that I have observed from time to time in my practice. I know that Sen. St. Rose-Greaves, who has been a social worker, can probably attest to it more than I can, and that is why I talk about the informal sector.

Now, I have seen situations where women become pregnant and have to go to court to get welfare, where the fathers are unemployed; sometimes the father could be mentally ill. In order to qualify for that welfare you must go to court, apply for an order, satisfy the court that the father is incapable of paying that maintenance before you can actually go and obtain welfare. It is one of those situations that really cries out for urgent, urgent attention.

**3.40 p.m.**

I witnessed in court recently where a father was arrested. He is actually an outpatient from the St. Ann's Hospital, but the mother needed to have him brought before the court because the Ministry of the People and Social Development insisted that he be brought before the court and the court then make an order that he is not capable of paying that maintenance so that she can get that order to take it back to the Ministry of the People and Social Development.

Now, there must be some other way because there it is you ended up with an angry father, you ended up with the police officers who clearly were not happy about this exercise because here it is you have to go and find him. The length of time that she took before they could find him, because he is legally a patient at St. Ann's, means that she has her own disruption because she has the difficulty of finding him, his own anger. We must find some way other than that method and that—I consider it quite frankly to be very humiliating that that is the only method through which, as a country, we can go through for women to be able to access social welfare, and that scenario has to be renewed. I do not recall how often—Sen. St. Rose-Greaves, is it a year you normally have to renew that?

**Sen. St. Rose Greaves:** It depends. Six months to a year.

**Sen. P. Beckles:** Yes, six months to a year you have to go through that exercise—all the time. As we deal with issues of the maternity leave and as I talk about the informal sector, that is one of the things that certainly is a red flag for me. There are just a couple of other areas that I would like to talk about.

When we talk about the support systems, again, I could not help but—when I read the papers this morning about Batia Ramsumair, that 70-year-old mother whose son killed her and then killed himself, her only wish, joy and passion was to make peace with her son. We go back to the whole issue of bonding because it is not really just the issue of finance, it is not just the issue of paid leave or unpaid leave or ensuring that during the time that the mother is there, that there is money for all the support, but parenting is a continuous process.

It is not just prior to the birth of the baby or after the birth, but as a mother you continue to have that bonding, that relationship, that issue, and there she was—contrary to what others may have advised her—on Mother's Day, her only wish was, I really just want to make peace with him. It really cries out for us to find ways and means to ensure that there are systems in place in our country where parents, children, where there are conflicts, that a situation like what happened to Mrs. Ramsumair could be avoided.

In a lot of the rural communities where you do not always have a community centre, where you do not always have a mediation centre—actually the nearest facility could be half an hour or an hour away—they may not have the funds to go and pay a counsellor, a psychiatrist or a psychologist. They simply depend on their own instincts. So the challenges we face as we talk about issues of maternity and paternity leave—which is as the Minister said, ultimately, it is to have the best possible family life that you can—is how do we, as a society, understand the challenges that these families face so that some of the violence that we see could be avoided.

I know last week when we were dealing with the RHA Bill, the issue of mental illness and the challenges that people face—a number of us would have actually seen some socially displaced women who are pregnant, and as a society from time to time you would see them sleeping on the pavements, be it in Port of Spain or Arima, and those situations cry out for assistance in many ways.

Of course, we probably even talk about the scenario about being taken advantage of on the streets at times—where they are being raped—because some of us look at them, again we judge, and we do not understand that from the challenges they may have faced they have found themselves in that environment where they are on the streets and somebody takes advantage of them in the night. They would probably have the baby in the hospital or elsewhere and those children then become street children. There is a whole cycle.

That is the kind of informal sector of which I speak, because as persons with rights, the issue of their child rearing and the issue of how do we treat with those kinds of children who may be products of the socially displaced, those women need just as important consideration and care as others who are in the formal sector and who may or may not have the challenges, and who—similar to Mrs. Ramsumair—may not have a centre where they can walk in for assistance.

I know many of us who are involved in social work are aware of situations where women who are victims of domestic violence and who become pregnant and are looking for a home to stay, the majority of homes will tell you, “Okay, I will take the child, but I cannot take you”, or the majority of homes will say, “Well, we do not take women and children”. You have to make some very difficult choices and those choices are: do you return to the domestic violence situation; do you separate yourself from the baby; do you leave the baby with the grandmother? In some instances, they leave the child in the violent situation. In that scenario, sometimes your maternity leave is up, you then have to return to work and you have to keep thinking about what is taking place. That is a reality we have to treat with.

I read with interest—I think the hon. Minister of Gender, Youth and Child Development spoke about the issue of increased spaces for women. It is really a matter that is urgent, not just for women, but for children. As we do the Children Bill later on, I am sure it is a matter that would be raised. We know some time ago a report was commissioned as it relates to how children are treated in several homes and, again, this is a matter that requires some urgent attention. I know it is very much on the front burner, not just of this Government, but it has been on past governments, and many NGOs who understand the challenges that are faced.

Again, women find themselves in difficulties. You are pregnant and you have to go back to work and you must find somewhere for persons to keep your children. In returning to work and not having anywhere else for the children to stay, as in many cases as we think about Amy and many others, having to make that choice that many of the speakers spoke about, that choice between—your maternity leave is up, you have to return to work in order to earn an income and you have to make some choices that you do not want to make in terms of leaving your children in the company of persons who you trust, persons who you love, persons who the children love, just to earn a living because again that support system does not exist and you have no other choice but to leave him with a stepfather, sometimes with a father, sometimes with a grandfather, sometimes with a brother or a sister, aunt, uncle, whoever it is.

Having made that choice and having to have that balance between work and child rearing, the challenges that the mother faces in returning to work—and we have seen within the last couple of years that a lot of children have ended up dead simply because of those difficult choices that women have to make. Having had children and having had no other alternative but to return to work when your leave has expired, and you have no other choice but to leave them in the custody and care of persons who you trust, who the children trust. Having returned to work, you are there in a certain measure of comfort that everything is okay, and lo and behold somebody calls you and you have the very unfortunate news that something has happened.

**3.50 p.m.**

So, I think it is very important for us to recognize that we have made—this is a very important step that we are making. I am hoping that the issue that has been raised by others, in relation to that issue of the one-week payment, that the Minister would give us an idea. It might not be something that can be addressed immediately because, again, I say from time to time, that it is unfortunate that we have to legislate everything. And that people who are recognized as employers and that issue of women being paid for that period, you should not always have to legislate, but people should understand the significance it.

Some people should really have a conscience but some do not have at all. Some people actually take policy decisions that they would prefer not to employ women who are pregnant, or not to employ women at all, so that the possibility of them becoming pregnant, and you having to make the decision as it relates to maternity and paternity leave does not arise. So, you go in some businesses and some institutions, and they are totally male-dominated, and some of them do not hesitate to tell you, “Well, nah, I doh want no women working here because, you know, some ah dem does get pregnant too often and I, therefore doh want that.” They decide they do not want to deal with it and that is how they sort it out.

So, I just want to say that I agree that it should be a top priority to examine, as I said, the possibilities of extending maternity protection to women in the informal sector as they generally do not enjoy any formal maternity protection. It is stated by the ILO that informal workers constitute a large proportion of workers in many countries, up to 80 per cent. Most of them are women who run their own businesses. As I said, for example, selling food, tea, vegetables in the market, sewing garments in sweatshops, and, in general, these enterprises and jobs are not officially registered and workers have no entitlements.

These women work under harsh conditions, with meagre earnings, often in temporary and seasonal activities, with little or no job security, and no health or financial benefits. They are most often not organised, and as a consequence, they lack most forms of protection.

Mr. President, the final two matters that I would like to address, you know, as we talk about other support services, and other matters relating—because I noted that the hon. Minister indicated that he would be bringing before us other pieces of legislation to treat with issues relating to women—and that is the issue of sexual harassment in the workplace. I raise that matter because—I mean, I have, myself, either as an employer or as a Minister, had situations where women who are pregnant have had some very uncomplimentary remarks being told to them by fellow employees when they are pregnant. And there is very little that you can do.

Some of them are very hesitant to report it for fear that they would be fired, because sometimes the persons who are harassing them, of course, are their immediate bosses, who have the power to write them up, and to do their performance appraisal and assessment, and it can certainly affect them in terms of their future. That is why in some countries, as I said, they have made the dismissal of women who are pregnant—once you can establish that, of course—illegal. But, it is not all women who may be able to afford attorneys, or not all of them who

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are brave enough or strong enough out there; not many of them are unionized, and can go to their unions and give them the information so that the union can take the case or their lawyers can take up their cases.

**Mr. President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made:* That the hon. Senator's speaking time be extended by 15 minutes.  
[*Sen. F. Al-Rawi*]

*Question put and agreed to.*

**Sen. P. Beckles:** Thank you. So, there are not many countries in the Caribbean that have had legislation to deal with sexual harassment in the workplace, and I do hope that the hon. Minister, who I am sure in his very long and distinguished career in the trade union movement, would have had to deal with those kinds of complaints. I hope that is one of the matters on the agenda.

Mr. President, there are many countries as well which have recognized—and I know that Sen. Al-Rawi spoke about it—pregnancies that are complicated and require an entirely different approach from the legislation or requires that legislation be passed to treat with it. In my practice, I came across a very interesting situation, and it really had to do with the post-partum syndrome and challenges that some women face following pregnancy, which some people are ignorant of, really have not taken the time to learn about or they do not care about it. When they are in the hospital or even after the hospital, people actually recognize, by the way they are behaving, that something is not right.

I saw a documentary recently about a woman who killed her child and is serving, I think, lifetime in prison and she wrote a book about it. I think they now recognize that she was actually mentally ill, so I do not know if maybe they would review the case. But, the truth is that she was able to document what happened to her when she became pregnant. Well, you can say she literally became unstable, and as a result of that, she killed the child.

The point I want to make is that there are many women who, during pregnancy, require special help. Some of us do not recognize it, some of us are quick to judge, either simply they say, you know, our famous words, “dey mad”, or whatever the words we use to coin a phrase, rather than realize that—if it is in our health care systems and even in our workplaces—if we have special care, special persons who will identify those, and probably avoid some critical situations that later on, all of us might even be ashamed about because if we had thought differently, if we had cared differently, maybe some of those women would save their children or even sometimes save themselves.

Sometimes they harm themselves, they may harm others and they harm the children, and some of us do not understand some of the challenges that they have faced. Some of us do not understand that it is genuinely an issue of nature, and it is genuinely a health problem, and it is not that the mother deliberately set about to kill the child as some people claim. Studies have shown that there are many complications that can take place during pregnancy that generally cry out for help.

Mr. President, there are women who have passed through challenges in terms of sexual molestation from as early as two years and three years. That influences their entire life, and that is passed on sometimes to their daughters and sons. Those issues are very relevant for us, as a society, whenever we deal with these pieces of legislation. It is not simply a question of us saying, “Yes, you get another week, you get another two weeks.”

I believe that when we look at other countries like Canada and Britain and some of the Nordic countries, Sweden and others, who have moved from 17 weeks and 18 weeks, who have even gone to as much as 30 weeks, and in some instances, a year and some of them who actually allow you a discretion for unpaid leave, or some of them who balance it in such a way that when the mother returns from maternity leave, the father can now take paternity leave. They have recognized that the role of parenting is not just for one person, it is not just for two persons, it is for an entire community. [*Desk thumping*]

So with those few words, I lend my support to this Bill to amend the Maternity Protection Act, Chap. 45:57 and to repeal the Masters and Servants Ordinance, Ch. 22, No. 5, and to certainly ask that some of the questions that have been raised, particularly the one on the one week and the issue of how we are going to ensure that the payment takes place for those who have taken the leave. That is a matter that should be dealt with. Thank you. [*Desk thumping*]

**The Minister of Planning and Economy (Sen. The Hon. Dr. Bhoendradatt Tewarie):** Mr. President, and hon. Members, I stand to give support to this Bill, the Maternity Protection Act, and to support the repeal of the Masters and Servants Ordinance Bill, 2012. The first Bill, Maternity Protection Act, as many Members have observed, is a very important Bill, and it seeks to increase the maternity leave from 13 weeks to 14 weeks. The one-week difference might not seem much, but the significance of it is that it meets the minimum requirement of the ILO, and honours a promise and commitment made in the manifesto of the People’s Partnership in 2010.

So, we are trying to attain in Trinidad and Tobago some parity with international standards, and we are moving step by step, but we are also seeking systematically, if perhaps slower than we intended, to honour the commitments that

we made in the manifesto. Therefore, the amendment is yet another indication of the commitment of the Government of Trinidad and Tobago to the people of this country, and in this particular case, to women.

I think people forget sometimes that the People's Partnership, which is the institution that now governs this country, made it possible for a woman to become Prime Minister. [*Desk thumping*] I think people sometimes want us to forget too that that woman Prime Minister is not afraid to be a woman—[*Desk thumping*—and to allow her experience as a woman to influence the manner in which her administration governs in this country. Sometimes, people, even in this Senate, are rather disrespectful to that lady who now leads this country. It is something, really, that we should abhor collectively.

#### **4.05 p.m.**

Now, the Bill recognizes the need for mother and child to bond in the days and weeks preceding and following birth. At the same time, it honours the mother's right to ensure that she does not lose her job during this time and remains unaffected, with regard to the other aspects of the 1998 Act which remains in force.

Sen. Al-Rawi made reference to a number of pieces of legislation that are connected and I could not understand how he would assume that the hon. Minister, in his presentation—which I thought was quite thoughtful and well presented. I could not understand how he would make the case that in fact the Bill was not thought-out and that aspects of legislation which existed on the books were ignored. I could not understand also how he could assume that the parent Bill and all the elements which existed in it would be nullified by anything that was done in this particular amendment because the logic of it could not possibly be correct, because what is on the statute book remains and the amendments that come here are simply amendments which renew and modify the law and take into account all the existing pieces of legislation that are on the books.

There is no such thing as one coherent piece of legislation that would govern all things for all men at all times over all periods, and that is the purpose of amendments. You do not amend every piece of legislation. You come and you do, in this manner piecemeal, but taking into account the fact that you are dealing contextually with a legislative framework that we have inherited over time and which have been modified over time.

Minister McLeod, in piloting the Bill, noted that the increased maternity leave will also assist the country in meeting its millennium development goals 4 and 5. This is very important because this country has now been able to achieve about 90 per cent of the millennium development goals and we are very, very likely to achieve

100 per cent of it by 2015, and to meet those minimum standards, because in some places we exceed some of the standards. If we fall short in any area it will be by a very, very small percentage. This is but one further step in meeting those millennium goals. So, we not only honour our manifesto, we not only try to keep parity with what is happening in other parts of the world, but we also honour our international obligations which are focused on the business of human development.

Through the protection of the unemployment status of women and the protection of their salary, the hon. Minister also mentioned that we accomplished MDG 3, which has to do with gender equality and women's empowerment. I would say something about that in a minute. Therefore, for all of these reasons, I have the greatest sense of pride in supporting the hon. Minister and in supporting the commitment of this Government to alter and modify the Bill.

I want to commend Sen. Sherrie Ali on her thoughts and feelings about her seven-week-old baby boy, and I want to congratulate her for the care that she brings to motherhood. It is something that we should cherish. It is a very important thing.

I want to commend the hon. Minister of Labour and Small and Micro Enterprise Development for the pride with which he talked about his grandchildren because those are very, very important things, as is the commitment to family and to family development.

I also want to express with Sen. Penelope Beckles sympathy for the lady who was accosted by these five pit bulls. I hope the legislation we have now put into law will begin to make a little more sense, because of this traffic situation which should not have occurred in the first place.

I want to say a few words about the CSO and the business of statistics that was raised here. Before I do so, I do want to say too that I support the repeal of the Masters and Servants Ordinance. It is an irrelevant piece of legislation. It should have been wiped out of the books a long time ago. We made a commitment to do so and we are doing it now. The only servants we should have in this country, in the sense of what servanthship should mean in the 21<sup>st</sup> Century, are servant leaders and servants of the people in the community to lead in a certain way and the notion of servants then becomes not servitude but service and that is what we should be focused on. [*Desk thumping*]

I want to say a little bit about this business of statistics and the CSO and the information that I am giving now from the CSO: human development indicators. I am reading from a document that was prepared, on the basis of statistics from the CSO, by my staff. I do that, and as I do so I remind you that when I was speaking

on the last occasion in this Senate, I showed to all Senators a human development atlas for the country that was regionally dissected, in terms of the regions of Trinidad and Tobago. I read:

In general, the north-western regions of Trinidad and Tobago appear to be better off, according to the National Human Development Index. The more urbanized regions of Port of Spain, Chaguanas, San Fernando and Point Fortin exhibit the highest levels of development.

That sentence alone undermines the mythology of Trinidad and Tobago.

The more rural areas, especially the south and eastern regions of Trinidad, show the lowest values. This holds also when factoring in other measures including those for chronic illnesses, household income and educational attainment.

Adjusting the index to factor in inequality across the three dimensions of long and healthy life, knowledge and decent standard of living, the patterns remain similar.

That is to say the pattern of development across the country by regions.

In terms of gender inequality, the index across Trinidad and Tobago show fairly similar values. Although the female participation ratios are consistently lower throughout Trinidad and Tobago, with the exception of Tobago, patterns in adolescent fertility rates are not so discernible, as both urban and rural areas show both high rates in some and low in others. However, north Trinidad has generally higher adolescent fertility rates.

Using the multidimensional poverty index, some similar patterns are evident. The more rural areas tend to have higher values. The regions with the highest multi-dimension poverty index (MDIs) are Sangre Grande and Princes Town; the lowest in Tobago and San Fernando.

What this tells us is that the pattern and development in the country is not equal and that the equity issue is a major challenge in Trinidad and Tobago, in terms of development.

The second thing I want to say—again, this is based on CSO statistics and this is the write-up of the statistics:

Life expectancy at birth for both sexes in Trinidad and Tobago is fairly consistent across regions at or near the country average of 73 years. However, Port of Spain and San Fernando show a marked difference due to lower life expectancies for males in Port of Spain, of 64 years—

You can surmise what might be the reason.

—and San Fernando 66 years. Tobago has the highest life expectancy of 77 years.

There is no obvious pattern in the distribution across the country in terms of households where a child has died. The Trinidad and Tobago average is 5.4. Port of Spain has the highest value with 8.4, while Siparia has the lowest with 1.4.

The distribution of households without access to electricity service shows the more urbanized areas of Trinidad and Tobago are less likely to have deficiencies in service. The less urban regions have populations without access in between 1.7 and 4.17.

It goes on.

To take an issue that is current and relevant:

In general, the north-west of Trinidad can be considered the areas with the highest crimes. The Port of Spain Police Division has the highest rates of serious crimes in Trinidad and Tobago, more than double the rate as the next highest, the Northern Division.

The Southwestern Police Division has the lowest rates of incidents of serious crimes. Tobago has a notably high rate of 1,732.5 per 100,000 of population, although many of these crimes were against property and not against persons.

The more rural areas show a pattern of having higher incidences of serious crime in the categories of sexual offences, serious indecency, fraud and narcotic offences.

In 2011, most categories of serious crime showed a decline. In general, the patterns of distribution of each type of serious crime remained, however, similar across various police divisions in 2011, when compared to 2012.

I want to say that this could not be written if we did not have statistics that showed the condition of the country, and they are all written here. With GIS now, we can do it. The reason I raised those things is because, in the manifesto under Workers at the Centre it says:

“Achieving a more equitable distribution of wealth

- Ensure that the objective of decent work, which includes the right to join a trade union and the right to collective bargaining, focusing specially on workers in the security sector, fast food industry, retail sales and those employed by contractors who are particularly at risk, benefit from a more equitable position of wealth;

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- Adhere to the general objectives of the ILO position on Decent Work”

I think, Minister, you brought legislation in relation to the ILO position on decent work already.

The business of equity and the distribution of the country is not unrelated to this matter of how you address the issue of workers’ rights and the condition of working people in this country.

Sen. Al-Rawi is not here now, but I want to share some statistics with him.

**Sen. Deyalsingh:** He is here in spirit.

**Sen. The Hon. Dr. B. Tewarie:** In 1851, the population of Trinidad and Tobago was 82,978. In 1861, it was 99,848, less than 100,000; in 1871, it was 126,692; in 1881, it was just over 171,000—171,179—and I will spare you; 1891, 218,000; 1901, 273,000; 1911, 333,000; 1921, 365,000; 1931, 412,000; 1946, 557,000; 1960, 827,000; 1970, 931,000; 1980, 1,00,079, 1990, 1,213,733; 2000, 1,262,366; and 2011—I can only give you the statistics because we have done the first report on the census, which I was going to present here in the Parliament next week.

**4.20 p.m.**

Of course, the people on the Opposition side want to run the Government from over there. They want to dictate the agenda of this Government and to tell us when to do this and when to do that. Everything we do right is wrong and everything we do wrong is exploded.

That is what I have to deal with here, but I want to tell you what the 2011 statistics are now. It is 1-3-2-4. I heard Sen. Al-Rawi; maybe Sen. Balgobin asked for it, but I was not here when he asked it. He has every right to make his contribution as an Independent Senator and to ask for the information. The difference is the approach and attitude of the Opposition. [*Desk thumping*]

The 2011 statistics: 1,324,699 people in Trinidad and Tobago and because it is 2011 statistics, I want to give you the number of males and females. There are 1,267,889 in Trinidad and 56,810 in Tobago. Of course, it is broken down in all kinds of statistical form here, so that you can have a sense—by regions, by cities, by boroughs, et cetera. I will not read all of this for you. I will take the opportunity some other time, maybe next week, to present this information. This is the preliminary count.

I want to assure the population that the—and I insist on it—I have told the CSO that I insist on it. I want the delivery of the demographic data ready to be delivered to the population on September 15. Now they are late, but all the Senators in this

House, especially the Opposition, know what the story is. This census was supposed to take place in 2010. It did not take place because of the change of administration and the difficulty of making the transition. It did not begin until January 2011. I did not become a Minister in this Government until May 12 last year and within one year of my going there, I want to tell you that we have the census results and we are going to have more in two months. We are going to clean up the place.

We are in a transformation exercise now with the Swedish consultants who are here. We have done a demand study. We are now going to do a supply study. We are going to interconnect the governmental system and we are going to clean up this place.

I want to tell you why the CSO is in the condition it is. The CSO is in the condition that it is—and before I say that, I want to say this: a great economist, who spent time as ambassador to India, a fellow by the name of John Kenneth Galbraith, once had this to say about enterprises: he said that it does not matter who owns an enterprise; whether it is owned by the private sector or whether it is owned by the public sector. [*Desk thumping*] He says that what matters and what matters intensely is whether or not there is political interference and whether or not the enterprise is run according to business principles.

I want to say that the reason the CSO is in this state is that there was always political interference by the last administration and there was always an attempt to prevent the enterprise from running itself as the business that it was.

I give the people of Trinidad and Tobago the commitment—I do not care what the Opposition might assess my commitment to be—that I will clean up the CSO. I will make sure that data has integrity in this country. I will make sure that information makes sense in Trinidad and Tobago because I am doing it for the people of Trinidad and Tobago. I understand the importance of information. I understand the significance of data and I understand that no modern society can operate without it. If you think I do not know what I am talking about, ask them at the University of the West Indies where I began the process of doing serious data collection and analysis for the University of the West Indies. We will clean it up. [*Desk thumping*]

I am tired of the Opposition coming here and blaming me as if I have something to do with the condition of the CSO. I have been there since May 12, 2011. Every problem that is there, I inherited it, every single one of them. When I went there, the first meeting I had with the CSO director and his team, I asked:

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how many people do you have in the CSO that you will describe as university educated and technically competent? He said: Minister, I will have to check. When he came back with the information, he told me it was 18 per cent. How can you run a national statistical capability with that kind of ratio?

You know what had happened. It had become a place for hiring of underlings down below, who did little “commess” work and little data, no thought in the process. Now, do not get me wrong, the CSO was a repository of information and data and it continues to be so, that is why I can read out the statistics going back to 18-whatever-it-was; but it had been so tampered with and interfered with—and “ah told all yuh before doh interfere with me, yuh know”. [*Desk thumping and laughter*] A great man once said that there is the known/known; there is the known/unknown; and there is the unknown/unknown. You have to be able to distinguish among these three. I want to say that the inheritance that I had, to put that together was not easy. We have taken the process; we have gone to do it.

I want to tell you other things, too. When I got the terms of reference that had been settled by the IDB, the Inter-American Development Bank, which has helped my Ministry considerably, and this country, in various areas—they have been very, very generous—most of the money my Ministry has gotten from the IDB has been grants. They have not been loans. They have supported important work in my Ministry.

I have been able to do work on the five growth poles through grants that they have given me. I have been able to do work on the Economic Development Board and the Council for Competitiveness with grants that they have made possible to the Ministry, and I am very grateful for it; but when they came with the terms of reference, I changed everything.

**Mr. President:** Senator, it is now 4.30 p.m. I propose to take the tea break and we will resume at 5.00 p.m.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Mr. President:** Hon. Senators, before the tea break, Sen. the Hon. Dr. B. Tewarie, Minister of Planning and the Economy, was on his legs. By my estimation, he has another 17 minutes of original time.

**Sen. The Hon. Dr. B. Tewarie:** Thank you very much, Mr. President. You would appreciate, and Senators would as well, that if you had a proper statistical system for this country that actually worked and provided data on time—that

would be the objective; to provide accurate data; to provide it on time and to provide it in a user-friendly way—if you were to have that and you had a land use plan; and you had a national physical development plan; all of these things, the two, the land use plan and the physical development plan, together with the planning and facilitation of development and regulations Bill—all of that would be available to this country by September.

If you had the statistics, the land use and the physical development plan, it means that you have the basis for orderly development in this society. You would have the information; you would have the system; you would have the zoning; you would have some rationality coming to bear on the process of development and that is what we are after here.

Besides the manifesto and all the things that are promised here—and I was saying to the hon. Minister of Labour and Small and Micro Enterprise Development that in the manifesto all the commitments we made under Workers at the Centre are actually being addressed. We committed that amendments would be made to the IRA. We committed that appointment of judges to the Industrial Court would be in keeping with the following principles, and it begins with an independent Judiciary, maternity and paternity protection. So, you see, we do not have to put both in the same amendment. Minimum wage has been done; masters and servants is now being done; migrant labour, et cetera. So the agenda is being pursued and so, too, I want to say is the medium-term framework, which derives from the manifesto.

I want to read something from page 82 of the Medium-Term Policy Framework.

“Based on the 2008/2009 Household Budgetary Survey, indications are that the level of poverty has...increased by approximately two (2) per cent between 2005 and 2009.”

Now in 2005, it was 16.7 per cent, so that it had increased by 2009 to about 18.7. This means that the most recent energy boom, that is to say prior to 2008, did nothing to reduce poverty and that the financial/economic crisis of 2008 exacerbated the situation.

The Government makes a commitment that the level of poverty in this country would be reduced and we have set a target, 2 per cent per year. I want to tell you that the poverty rate in this country now, based on incomes data, is about 14.7 per cent, which is a significant reduction from the 19 per cent that it was in 2009. [Desk thumping]

I want to tell you, as well, that the information on which the map is based was based on 2008 and 2009 data and, in some cases, 2010. What we have been able to map out is the condition in which we inherited this country and, therefore, we will be able to track how we move from what we inherited to what we have committed to and promised.

The country will be able to judge poverty rates. They are going to be able to judge growth. They are going to be able to judge diversification. They are going to be able to address educational achievement and statistics and they are going to be able to judge the issue of equity because the equity data is available for 2008, 2009, 2010. The statistics are all there; it will be mapped out. That is how we are going to proceed.

Sen. Deyalsingh was just asking me about statistical data having to do with employment. He said that the employment figures are not on the website. I do not know what that is so. I do not go on the website every day so I do not know. If that is in fact so, I will have it corrected.

#### **5.05 p.m.**

I want to say that we started to proceed with the census in January 2011, and there were a lot of problems along the way. I am not making excuses for the Central Statistical Office, but you would remember that we had a state of emergency when they were tabulating the data after they had done the census, and that state of emergency affected hours of work.

Now, if we had a proper online system people could go on, work and organize and so on, but it has to do with the archaic nature in which the entire public service has been left by the last administration. We are now taking steps to try and do things about it.

In my Ministry, for instance, I am trying to integrate social data with physical data about land use and national development, and linking it to 524 communities in Trinidad and 61 in Tobago, 585; so that, in any community you can see what is happening at any one time—whether they have a police station; whether they have a health centre; whether they have a community centre; what is the nature of the employment; whether more women than men; what is the ratio of the population; how many children; whether you have pre-schools—so that you can plan properly. That is what we are addressing.

But on this issue, because the census data collection and then the analysis took so long—not took so long but took so many resources, what happened was that as they threw their resources into the census data in January, February, March, April, May, June, they slipped on the collection of data having to do with employment.

So, we only now have the third quarter of 2011; and the fourth quarter of 2011 would be available at the end of June. I will read what the third quarter—as I said, the latest statistics—says.

**Sen. Deyalsingh:** Would the hon. Minister give way? I accept what you are saying, hon. Minister, but my point is and always has been, if these unemployment figures are not available, on what basis do your ministerial colleagues pronounce that unemployment is any percentage?

**Sen. The Hon. Dr. B. Tewarie:** Well, I think this data has been published. Usually, what happens is the data is circulated to every Ministry. I do not do it, it is done by the CSO, and it is done by the Central Bank. The unemployment rate—the Central Bank operates on the basis of data provided by the CSO, for some information.

“The unemployment rate for the Republic of Trinidad and Tobago—I am reading now from a public release—decreased from 5.8 % in the 2<sup>nd</sup>. quarter, 2011 to 5.2 % in the 3<sup>rd</sup>. quarter, 2011; a decrease of 0.6 percentage points. When compared with the 3<sup>rd</sup>. quarter 2010 the unemployment rate...5.9%”

So it decreased compared to the year before the same quarter, or which was 0.7 percentage points higher than the 3rd quarter in 2011 unemployment rate.

Notice, we do not hide anything in the publishing of the data. My people at the CSO have freedom. I “doh” interfere with their reports. It is useful to note that this decline in unemployment rate coincides with a fall in the number of persons with jobs. If we were hiding anything they would not write that.

This apparent paradox is explained by the fact that the total labour force has declined by 11,300 persons or 1.8 during the 3rd quarter 2010 to the 3rd quarter 2011; and by 8,300 persons or 1.3 during the period 2nd quarter 2011 to 3rd quarter 2011.

Given that the unemployment rate is calculated by dividing the number of unemployed persons by the total labour force, the unemployment rate falls despite the fall in persons in jobs.

This is objective interpretation of accurate data, and you cannot fault the people for doing the right thing. They may be late with the statistics, but they are following methodology that is internationally acceptable. I hope this is the last time that I will come and hear criticisms about the CSO that are unfounded in fact. This is all I am asking, “I doh mind”, you criticize, you criticize me, you criticize the CSO, you criticize the Government, that is fine. But found it in some facts. Try and bring some facts.

Therefore, I make this point, Mr. President, because I want to say that we are proceeding with our business, we are reorganizing, we are doing the best we can under the circumstances. And I said we are going for demographic data in the middle of September in which we will have a pretty full demographic report.

Now, there were many things said by hon. Senators on the other side, and I really do not want to take the time to deal with a lot of things. I do want to say that one of the things that struck me here is, they talk about the politically vulnerable, as if this Government is taking advantage of somebody. And I want to say that, you know, there are many people on this side who know, not only in their own right, but who know people who understand what this business of being politically vulnerable is all about. So let us try—I think somebody said that you all were being self-righteous—and not be self-righteous about things like that because this Government tries to manage this country. You see how we are proceeding, looking at the statistics, trying to depoliticize policy through reliable data analysis and on the basis of that trying to design and develop policy.

We are proceeding on this basis; we have certain objectives that we are trying to achieve. We are trying to achieve growth in this country; we are trying to achieve diversification; we are trying to achieve economic inclusion; we are trying to achieve people participation in the economic benefits of the country, and in the political system.

And the commitment to consultation is very real. In my own Ministry we have had 14 consultations with civil society groups across the 14 regions of Trinidad. We have used the medium-term programme, and the proposed structure of the civil society board working with the Office of the Prime Minister, and the Minister there, the representative for Arima, to get people to engage these issues. And we continue the process of consultation. Now, I am not saying that mistakes have not been made. Sometimes you are too swift with the consultation or you take things for granted, but we are proceeding with the consultation.

The other thing that we are involved in is diversification because this is important. How are you going to absorb 5,000 people coming out of the tertiary system in the country if you do not diversify, if you do not create opportunities? You would have heard me talking about the industries related to culture and the creative industries, et cetera, but that is only one aspect. There is a whole set of industries that are identified in the medium term. And there are number of industries that are being further pursued.

The hon. Prime Minister, speaking to the conference of investors yesterday, I think, made the point that the diversification we are pursuing is diversification of industries and diversification of markets. It is important to understand that,

because at the one time it is diversification of industries as we move into new areas. Those areas include downstream from gas and it includes new industries that are linked both to IT and intellectual capital movement into the workplace, but it is also geographical diversification. So, we have five growth poles; we have Chaguaramas Development Authority; we have Cove Estate, which we inherited from the last administration; we have the Tamana Park. So these are geographical in nature.

Then you have the market diversification, which is—as you make trade arrangements, and you sign agreements with people, and you create partial scope opportunities and you create new open free-trade agreement—you get the opportunity to sell to them what you are making and doing and they get the opportunity to sell to you what they are making and doing. And that is proceeding apace. Believe you me, we are going very methodically.

I know that people believe that it is not happening fast enough and we are anxious. We feel that it is not happening fast enough. But when a man is going to invest his money or a company is going to invest its money, they take their time about it. They are very cautious because they are taking a risk, all right? There are all kinds of investments coming, and people are coming a dime a dozen with investments every day. They want the Government to guarantee—transferring the risk from the investor to the Government. The Government “cyah” do that. We have to create the conditions in which we get genuine investments that make a difference in the country.

The Minister of Food Production, Land and Marine Affairs spoke to a full house yesterday, talking to them about the opportunities in agribusiness. The Minister of Housing and the Environment spoke to another big group of people, talking about various things, and so too did the Minister of Energy and Energy Affairs. This is what you have to do. You have to win people over to your strategy so that you can get the money to follow the plan, the objectives, et cetera. This takes a lot of discussion, it takes meaningful discussion and that is why we are proceeding in that way.

All of this would be good for workers in the country because at the end of the day the intention is, of course, to create a full employment economy that is high in value, and in which people can benefit. That means, men in the workplace, women in the workplace, under humane conditions that serve both sexes well and that serve all in the society well.

Now, the hon. Senator raised other issues but I would not touch those for now; there will be time for that, but I think I have some views on those that I would like to express strongly; another time, Mr. President. Thank you very much. [*Desk thumping*]

**The Minister of Labour and Small and Micro Enterprise Development (Hon. Errol Mc Leod):** Thank you very much, Mr. President. I first want to thank colleagues on this side of the Senate who rose to the occasion and complemented the efforts which I sought to make earlier. I must also express my appreciation for the views expressed by Members of the Opposition and, I think, two Members of the Independent bench.

I wish to regard the work that we are doing as a work in progress. My view is that you will not be absolute in measures that affect conditions of labour, the compensation that one would afford labour and the many social programmes that we are called upon to put in place to assist, particularly, those who are less fortunate in the society. Now, I say that because I must make the point that maternity benefit, such as we have brought here—the amendment of the provisions for maternity benefit—must also relate with insurance and that it has to be paid for.

**5.20 p.m.**

Because it depends very heavily on the worker, the employer and the Government, we found it necessary in the Ministry of Labour and Small and Micro Enterprise Development—notwithstanding the statements made in the People's Partnership manifesto—that once coming into office, to still go back and talk with those people whom these important measures are expected to affect.

We had a well-represented trade union sector. There was the employers' representative, the ECA; there were representatives of the Trinidad and Tobago Manufacturers' Association and the Chambers of Commerce; and there were non-governmental organizations present. As a matter of fact, a particular organization, the Breast Feeding Association—I think they call themselves—we had a 19-page memorandum from them.

As I had said in my earlier presentation, the demand essentially was for us to go to the point of 18 weeks, but the question of payment for the extra five weeks, of course, came in for discussion. Who is going to pay? The employers represented by certain Senators opposite decided that they are not paying, but we made sure to invite the National Insurance Board to our deliberations.

The employers' position is that they already contribute to a benefit to which their workers are entitled. I do not know that they spend sufficient time trying to determine the extent to which that contribution would cover additional benefits, such as we are suggesting. So to answer the question as to the source of funding, we concluded with the concurrence of the National Insurance Board that it is that insured benefit to which we contribute that the 14th week will be paid for.

Those of us who are familiar with the schedule of benefits, particularly as they affect maternity benefit and grants and so on, they have all the classes to which our contributors belong, and we identify the benefit on a weekly basis and those that apply on a monthly basis.

For instance, the income class 1, the weekly benefit is \$106.84, and for somebody who falls in the monthly paid category, the benefit is \$462.97, and that goes right up to class 16 where the weekly benefit is \$249.58 and the monthly benefit is \$1,081.51. Mr. President and Members of the Senate, that is in addition to the special maternity grant of \$2,500. In the case of a mother having twins, triplets or quadruplets—I think I saw in one of the newspapers yesterday four beautiful little girls, quadruplets, born, I think, about five years ago—in such a case, it is \$2,500 multiplied by four.

There is the continuing incidence of employers—I did not want to use such unkind words as unscrupulous and so on today—who continue to deny particularly unorganized workers the benefits to which they are entitled, and the Ministry of Labour and Small and Micro Enterprise Development has had to do much work in this regard.

In the Labour Inspectorate Unit, for instance, there are officers who are familiar—as a condition of their employment as labour inspectors—with the full range of benefits to which people are entitled like minimum wage, maternity benefit and all of those. We were able—on the basis of reports that had come and conditions which, on investigation, were found to be in breach of the provisions in the law—we were able in 2011 to recover from faulting employers \$96,881.51, which then was paid to those persons who had been cheated in the first case by those employers, and there is a similar number with regard to people being denied the minimum wage.

Indeed, as we speak here in the Senate, there are some employers who are still not paying the \$9 from which we have come. They are continuing to pay \$7, some of them, and their workers are threatened with separation—dismissal of one kind or another—if the employer were to see anybody resembling a trade union official coming near the premises.

But even so, Mr. President, we could not propose to legislate for every single thing in Trinidad and Tobago. There must be room left for other organizations to do their part, and workers must come to accept that if they want the fullest possible protection on the job, they must find the trade union that must represent them on the job. [*Desk thumping*] It is very important.

*Maternity Bill*  
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Paternity leave is a matter that we have promised in the manifesto of 2010 and, as I said earlier, all of this is work in progress and, shortly, we will be coming to the Parliament with a provision to set a floor for paternity leave. [*Desk thumping*]

**Sen. Al-Rawi:** Very good.

**Hon. E. McLeod:** But this must not take away from the essence of the collective bargaining process, a process that could be very difficult; a process that will bear great benefit for industry and for the worker if we were to subscribe to it in the manner that the ILO would have considered and determined.

I have had very many enjoyable days—long days and long nights—across the bargaining table, hard bargaining, but the bargaining would have been pursued in the context of our building the industry and, by extension, building the country ensuring that the most satisfied worker is going to be the most productive worker, if he is not crazy. But there are still too many employers who prefer to have workers depend on a generosity that is not existent quite often, and legislating for such conditions in any way that will take away from the commitment to engage as we ought to be engaging is really not going to bear us the kind of fruit that we should like.

Neither should we misinterpret the positions taken by this Government as one in which we are instructing people as to what will happen and what ought to happen. If ever there were instructions from above to those of us at the lower level, as I would have been placed previous to 2010, such instructions are not coming from this Government. Indeed, Mr. President, we hear very little about the instructions, in 2007/2008, that no more than 1 per cent in the first year, 1 per cent in the second and 1 per cent in the third year can be afforded. Not only was it said, the employer was refusing to sit and talk with the workers' representatives. Not the People's Partnership Government, as much as it may be deemed to have made mistakes itself.

**5.35 p.m.**

It did not stop there. When unions—and I know three of them—engaged in demonstrations to bring attention to the problems that they were experiencing, and the political directorate considered that these people were beside themselves, injunctive measures were sought. These unions were effectively prevented from engaging in such activity that would have helped to advance their own cause. I am talking about situations that I met as Minister of Labour and Small and Micro Enterprise Development on my appointment to that portfolio. Three unions, injunctive measures taken out against them, and they were complaining and the press was reporting, but there were people who were not listening.

Once I sat in the seat of the Minister of Labour and Small and Micro Enterprise Development, I advised our legal officers that we should go to the Industrial Court forthwith and have those injunctions discharged so that those unions would have the freedom. One would hope that they would do it with discipline and that they would do it with a commitment to serving the workers properly and, by extension, serving Trinidad and Tobago. You do not condemn an organization because it stands up for its rights; you do not do that. We had enough of those instructions coming from those who were in charge, so to speak, prior to May 24, 2010. So one coming here and preaching self-righteousness will not impress me; certainly it will not.

An accusation was made, and I did not want to deal too much with the negatives that have been enunciated here in this debate, but there is one that I find to be very mischievous, very wicked: the claim that there was plagiarism in my presentation. I alluded, Mr. President, to the ILO's 2010 report, and I think that I was reasonably extensive in quoting from that report. In each case where I quoted from the ILO report, I mentioned the ILO and I quoted accordingly and appropriately. After however many years that I would have been doing this work as an advocate of workers and their rights and so on, I do not need to plagiarize anybody or any source. [*Desk thumping*]

It is well known to me, and the hon. Senator talked about his having been taught many things by me, so I have just remembered—is it an axiom they call it, Senator?

**Sen. Al-Rawi:** Tell it first and we will tell you after. [*Laughter*]

**Hon. E. Mc Leod:** That if the student did not learn, then the teacher faulted. I faulted, he did not learn. [*Desk thumping and laughter*]

**Sen. Al-Rawi:** Good speech, but you are not reading now. [*Laughter*]

**Hon. E. Mc Leod:** Mr. President, we have taken almost two years next week to bring this amendment to the Maternity Protection Act. If one is familiar with the work that we have been doing, one will not at all think that we were doing nothing else. I could not have spent two years working on an amendment that calls only for the substitution of 14 in place of 13. Essentially, that is what the amendment deals with. The law itself, having come into being at a time when they were not in office, is good law. We needed only to change the numbers to be in step with the floor of the benefit, as determined by ILO.

A lot more work than this maternity benefit and the repeal of the Masters and Servants Ordinance is being done. A lot more work has been done. Let me give an idea as to what we are dealing with. It would appear that some of us would like the colonial throne speech to indicate Government's legislative agenda. I was

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talking about an agenda that the Ministry of Labour and Small and Micro Enterprise Development has responsibility for. Members of my staff at the Ministry, indeed all of us at the Ministry, have been working assiduously, and I am satisfied that they have in fact been delivering in a very serious way consistent with what is expected of us by the Government.

Prior to December 2010, when the national minimum wage was increased from \$9 to \$12.50 per hour, becoming effective January 01, 2011, the last time that the minimum wage was improved was 2005. In 2007, an additional \$1 was promised but was never implemented. It was the People's Partnership Government, considering how things had moved in the country, the cost of living and whatever, we went to \$12.50.

**Sen. Deyalsingh:** After promising \$20.

**Hon. E. McLeod:** I have heard that said before—and you are saying that under your breath. Nobody who has claimed that was said on our platform could have brought evidence of it having been said. It was not said at all; it is not true. [*Desk thumping*]

**Sen. Deyalsingh:** What about the \$3,000 pension?

**Hon. E. McLeod:** We would have been very irresponsible. If you had registered collective agreements, terms and conditions of employment negotiated between serious unions and employers, with rates of pay at \$18 an hour, how could we, in the face of that, suggest a national minimum wage of \$20 an hour? It is in their enthusiasm that they allow themselves to be driven to serious infractions of indiscipline and indiscretion. That is what is happening across there. [*Desk thumping*]

Mr. President, we have the Maternity Protection Act, as we are discussing today, and the Masters and Servants Ordinance work being done, the Workmen's Compensation Act. Consultations are conducted on every issue that we are going to bring to the Parliament. As some of them might know, we have the consultations, broad-based, thoroughgoing consultation, real meaningful consultations, and then a policy is determined. This policy then goes to the Cabinet, and when one gets Cabinet concurrence on it, it then goes for the legal framers. Coming from there it goes before the Legislative Review Committee. That takes time, and it is not only the labour issues that we are dealing with.

We came into a situation where crime has been and continues to be rampant, so that Government's attention certainly has been drawn to legislation that assists in the crime-fighting effort. One has to stand in line sometimes to have one's own agenda advanced, but this must be advanced in the context of the overall agenda for Trinidad and Tobago. [*Desk thumping*]

So the Workmen's Compensation Act—the policy is being formulated and we should soon be going before the LRC. The Co-operative Societies Act—work is being done on that, and the new Credit Union Act, as we seek to separate non-financial cooperatives from the credit unions.

**5.50 p.m.**

I spoke earlier about the task that is being undertaken, and indeed it is a task, it is massive one, to overhaul the Industrial Relations Act, and we are so particular with that one that we decided to go the way of the provision in the very Act, at section 80, establish the industrial relations advisory committee, and they are going to conduct the work that must be done. And we go to consultation with all the unions, the employers and Government, and all of those who would be affected by what we have as laws, rules, codes, and regulations that would govern the practice of industrial relations, establishing the framework. As we do that to ensure that it is done in the context of the Decent Work Agenda and programme that we must have, we must do that to ensure that there is equality across the board. We must no longer have an IRA that leaves doubt as to who is worker, and who is not; that is what we have now.

A manager in an enterprise is a worker in an enterprise, albeit at a higher level, but action is taken against that manager, he is denied benefits, and he knows that his recourse is to go to a union, and he joins a union, and he applies to the employer for a meeting to deal with this case, the employer refuses to respond. So then the union applies to the Minister of Labour and Small and Micro Enterprise Development, and the parties are brought before the Minister, and the employer challenges the worker's right and the union's right to apply for the Minister's recognition of the dispute and the worker.

Then it goes to the Industrial Court for a determination, and the court would ask the recognition board to prove that this worker, this manager, is a worker within the meaning of the Act, and that the employer must show, or the union must show, that this worker has been a member in good standing.

Three people will come together in the quiet of their sitting room and establish a company, and determine who is the CEO, chief operations officer and who is chief financial officer, and not a question is asked, and that can be registered, and it is recognized.

A worker has to knock on every pillar and every post to get recognition. You must prove that you have contributed for at least eight weeks, and then the recognition board comes and takes up all the union's books to see where did Errol

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Mc Leod's name appear on the list of transactions in the particular union. We have lived with it since 1972, and before that, the ISA of 1965. This People's Partnership Government is determined to ensure that we see the last day of that as soon as possible. [*Desk thumping*] The recognition process has to be amended. This is 2012, this is not 1920, it is not 1937, but an important point was made in 1937, and we did not listen to it. Let it not happen again.

We must also deal with the appointment and security of tenure of judges in the Industrial Court. We are looking at the Severance and Retrenchment Benefits Act, and who suggests that we could not have a floor of benefits with the Maternity Protection Act—[*Interruption*]

**Sen. Dr. Tewarie:** Paternity.

**Hon. E. Mc Leod:**—Maternity Protection Act. Who is suggesting that we could not have a floor there, and have through the collective bargaining process, better terms and conditions established in that regard? We have it with the Retrenchment and Severance Benefits Act, Act 32 of 1985. In that Act you are paid, I think it is two weeks. I left it a little while now, if I do not remember it exactly, comrade Abdulah will help me.

**Hon. Senator:** Under five years, two weeks currently.

**Hon. E. Mc Leod:** Two weeks, up to five years—[*Interruption*]

**Hon. Senator:**—three weeks thereafter.

**Hon. E. Mc Leod:**—three weeks thereafter, okay. I have negotiated collective agreements in which the worker would be entitled to up to seven weeks per year above 15 years, and we renewed those contracts as we meet every three years.

The ILO did not say that you must legislate 14 weeks, and not go one day beyond that you know, and if it was for me to give, and I had the wherewithal to ensure its payment, Mr. President, today we would not be talking about 14 weeks, we would be talking more than that, but where does the money come from? That is the reality. The goodly Senator talked about some impending difficulties that NIB might have, and that had to be taken into consideration. So the NIB engaged its—how “yuh” call them—[*Interruption*]

**Hon. Senator:** Actuaries.

**Hon. E. Mc Leod:**—actuaries, and they determined that the NIB can pay for the 14<sup>th</sup> week, everything else in the law, in the Act, remains except that you change 13 to 14, and Senators would be familiar with the process in these regards.

As this is done, and I wish to thank very much all Members of the Senate for the indicated support that we will have, without amendments Senator, [*Laughter*] on these measures. We really appreciate that, and I think this is the way we must work together, as we have done this, then by negative resolution I think— [*Interruption*—yes, the NIB regulations would come before us here.

So, I was identifying a number of issues that we are working on. There is the sexual harassment in the workplace, and we have set up a commission, I think, recently, to examine that, and to proffer legislation which we would bring to Parliament to deal with the unscrupulous among our supervisors, managers, employers and whoever. So that we have been doing quite a lot.

I dealt with the IRA, and the action we have taken so far, the commitment we have made—commitment to involve the unions in a constructive role in productivity and competitiveness. My colleague, Sen. Dr. Tewarie, dealt with that in his contribution, and the action we have taken to date is that the National Productivity Council was launched on January 31, 2012. The council comprises representatives of Government, employers, workers and academia.

We made a commitment on migrant labour, and we said that we would implement a proper policy on migrant labour, we would establish an authority to monitor migrant labour, we would ensure that migrant labour is not to be used to the disadvantage of local labour. The action we have taken so far: a work permit subunit was established in 2011 within the national employment service to monitor the work of migrant labourers who were granted work permits, and ensure that the transfer of knowledge to workers takes place.

Another commitment: a healthy nation, and we are responding to chronic diseases—cardiovascular, cancer, diabetes and HIV/AIDS—and we committed to strengthening the implementation of the national HIV/AIDS policy. The action taken to date: the establishment of the HIV/AIDS Advocacy and Sustainability Centre in November 2010, which was officially launched in February 2011, and the HASC is responsible for implementation of the National Workplace Policy on HIV/AIDS, and the sustainability plan.

**Mr. President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made:* That the hon. Member's speaking time be extended by 15 minutes. [*Sen. The Hon. E. George*]

*Question put and agreed to.*

**Hon. E. Mc Leod:** Thank you very much, Mr. President. Thank you very much colleagues. We have not been looking only at legislation, amendment, repeal, introduction of new legislation; we have also been engaged in an attempt to lend a hand to the economic transformation that we have talked so much about, lending a hand in the provision of an enabling environment for growth and expansion of locally owned businesses—yes, Ministry of Labour and Small and Micro Enterprise Development.

What have we done to date? The action taken: we obtained Cabinet's approval for the establishment of community-based business incubators over three years. Consultants from the National Small Industries Corporation of India have provided technical assistance in the development of business incubators. A national integrated business incubator system policy document was completed and launched in October 2011. A business incubator operational model has been completed. We launched two business incubators—one in Sangre Grande and the other in Siparia. The Integrated Business Incubation System programme began in September 2011, with 40 clients selected and interview for Sangre Grande and Siparia. Accommodation has been identified, and these two incubators are expected to be fully operational by June, next month.

**6.05 p.m.**

Additional community-based incubators are being considered for Point Fortin, Tobago and San Juan/Laventille/Barataria area. These are areas that we particularly identified as needing this kind of activity so that people have yet another choice to go to something that is productive, something that is worthwhile, something that is supportable; rather than going the way to stand in the path of another bullet.

The implementation of the Fair Share Programme: yes, the other administration that went before us had talked about this for some time—Fair Share Programme which will provide preferential arrangements for qualifying SMEs, small and micro enterprises and cooperatives, preferential for up to \$1 million. Well, there are some issues with that as it would be affected by the procurement legislation that is being dealt with.

Approval was given to grant loans to maxi-taxis and taxis in keeping—well, I guess it is the operators of these—with Government's thrust to expand the tourism sector, contributing to internal tourism. We have raised the loan ceiling by Nedco. We have increased the ceiling from \$100,000 to \$250,000 for first-time borrowers and \$500,000 for second-and third-time borrowers. And we had quite a job—and

it is continuing—cleaning up Nedco. Nedco was like another slush fund where people would have gone with a letter, sometimes just a telephone call from politicians in office, in power, and they would have received very handsome loans to play mas.

Disbursement of 237 loans—this is to the end of December 2011—we disbursed 237 loans valued at \$7,334,063.72 to enhance employment and wealth creation and poverty reduction by the end of December 2011.

So, we are not being boastful. We are just stating facts as they are. We have indeed been working very hard, and the amendment to the Miscellaneous Provisions (Maternity Protection and the Masters and Servants Ordinance) Bill, is just one small part of the tremendous load of work that we have been carrying. [*Desk thumping*]

#### PROCEDURAL MOTION

**The Minister of Public Utilities (Sen. The Hon. Emmanuel George):** Mr. President, in light of the fact that we are approaching 6.20 p.m., I would like to move that this Senate do continue to sit in order to complete the debate on this particular Bill and also to commence the debate on the Children Bill, which we indicated would come immediately after and that the Senate continue to sit until 11 o'clock.

*Question put and agreed to.*

#### MISCELLANEOUS PROVISIONS (MATERNITY PROTECTION AND THE MASTERS AND SERVANTS ORDINANCE) BILL

**Hon. E. McLeod:** Thank you very much, Mr. President. Finally, let me just indicate some numbers here, as to cost for the improvement in the benefit. I have a table here from the NIB which sets out the estimated cost increase in respect of the extension of the benefit from 13 weeks to 14 weeks. But before that, 2005—2011: in 2005 there were 5,109 benefit recipients and that caused an expenditure by the NIB of \$36.4 million; 2006, there were 5,628 recipients, costing \$42 million; 2007, 6,106 recipients, costing \$46.6 million; 2008, 6,373 recipients, costing \$53.1 million; 2009, 7,392 recipients, costing \$75.9 million; 2010, 7,536 recipients, costing \$77.4 million; and 2011, 6,883 recipients, costing \$76.1 million.

A one-week increase in the maximum maternity benefit period, from 13 weeks to 14 weeks, would result in an estimated 6 per cent to 7 per cent increase in maternity benefit paid by the NIB. Between the financial years 2012—2015, we estimate that this increased cost would range between \$5 million and \$8 million in respect of the increase in the benefit period.

*Maternity Bill*  
[HON. E. MC LEOD]

*Tuesday May 15, 2012*

This has been a really wonderful task, if I might call it that, Mr. President. In the other place I had very able support from both sides of the House and I came to the Senate today and I spent a full day with you in the Senate. I came to the Senate today expecting no less than I got in the Lower House—[*Interruption*—]—in the other place, except that, in this place it has come more graciously.

Mr. President, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Clause 3.*

*Question proposed:* That clause 3 stand part of the Bill.

**Sen. Al-Rawi:** Mr. Chairman, through you, to the hon. Minister, insofar as we have had undertakings from Ministers before, relative to observations on Bills, if I could ask the hon. Minister to humbly think, and I know it is not possible now, but relative to the definition section, an amendment to “employee” in the parent Act, to include a parliamentarian or member of a local council or other factors—in all seriousness—would actually provide the right for maternity leave to officers in that public capacity, so if he could perhaps take note for another occasion.

We have had undertakings by the Attorney General, et cetera, to look at clauses, but that would solve a mischief that we are experiencing in Parliament and in other institutions by a look to refit the definition of “employee” which is in section 4 of the parent Act, and of course clause 3 seeks to amend section 4 right now, so if I could just make that observation and say nothing more on that.

**Mr. McLeod:** Mr. Chairman, I mentioned that this is a work in progress. I am not sure yet whether we will bring as a separate measure the paternity Bill or we would seek to amend this that we have before us now, title it the parent-something Bill and do all that is being suggested now. But for the time being, we would like to leave it as is.

**Sen. Al-Rawi:** Thank you, hon. Minister, I accept that. Thank you. Mr. Chairman. Just a clarification by the way. I noticed in the parent Act in section 4, when I looked at it, clause 3(a) seeks to make the amendment: “maternity leave

means 14 weeks leave entitlement referred to in section 7(1)". When we look to maternity leave in the parent Act it referred to section 8(1). Now, I believe 8(1) to be an error in the 1998 legislation, I just wanted to confirm that that is in fact the case.

**Mr. Mc Leod:** It is.

**Sen. Al-Rawi:** Thank you.

*Question put and agreed to.*

*Clause 3 ordered to stand part of the Bill.*

*Clause 4.*

*Question proposed:* That clause 4 stand part of the Bill.

**Sen. Dr. Balgobin:** May I just ask one question, Mr. Chairman, of the hon. Minister, and it may take us back to clause 3. Who pays for the 14th week?

**Hon. Senator:** The NIB.

**Sen. Dr. Balgobin:** The NIB?

**Mr. Mc Leod:** Yes.

**Sen. Dr. Balgobin:** Okay, I know I heard it in your winding-up. I just wanted to be clear. Okay, thank you, no other question.

*Question put and agreed to.*

*Clause 4 ordered to stand part of the Bill.*

**Sen. Beckles:** Mr. Chairman, could I ask the Minister for clarification please. We are repealing the Masters and Servants Ordinance—now, just to go back to 1, where you have Maternity Protection and Masters and Servants Ordinance in brackets, is that remaining as is? I do not understand. Where you have, "1. This Act may be cited as the Miscellaneous Provisions (Maternity Protection and the Masters and Servants Ordinance) Act—*[Interruption]*—no, I am just asking.

**Mr. Mc Leod:** Yes, that is good, and when we would have completed our tasks here you would not see that appearing again.

**Sen. Beckles:** Beautiful.

**Mr. Mc Leod:** Because masters and servants would have gone back to the pre-colonial days.

**Sen. Beckles:** Good. Fine, that satisfies me. I was just wondering, thank you.

**6.20 p.m.**

**Mr. Chairman:** This Act is going to be called the Miscellaneous Provisions (Maternity Protection and the Masters and Servants Ordinance), and therefore, you are embodying within our legislation reference to Masters and Servants which we so want to get rid of. It sounds odd. Why make that a title to your Act? I think that is what Sen. Beckles is saying. Rather than ending it, you are—*[Crosstalk]*

**Sen. George:** What he was explaining is that the amendments we are doing are referring to two separate pieces of legislation, so you must make reference to them, but it refers to the Act which is titled the Miscellaneous Provisions Act, 2012, but it is the two pieces of legislation that you are amending and therefore you refer to them.

**Mr. Chairman:** I understand that. It is just that it will remain on the statute books, be that as it may. Perhaps on another occasion you could wipe it out altogether.

**Sen. Beckles:** So are you suggesting that in repealing a piece of legislation—I mean, the new title could be changed altogether? You do not even have to refer to the past. I do not understand that explanation.

Hon. Minister, the explanation they gave to me certainly does not make any sense because, in choosing a new title to any piece of legislation if you are amending it, the impression that they are giving is that you have to put in this Masters and Servants Ordinance because of the fact that you are dealing with basically two pieces of legislation. I am saying that in any event, you would have had the discretion if you chose to have a totally different title, to have that title. I am just wondering in the context of what we all agree, which is this Masters and Servants Ordinance, why would it be necessary to have that included as the name of the Act? If that is the advice, I am not going to make a fuss about it, but I just have a—*[Interruption]*

**Mr. McLeod:** It is important that you raised that. I am seeking some advice on it here now.

**Sen. Dr. Balgobin:** The advice should be that these are not words and terms that we want in modern legislation, and I have a copy of it here, December 08, 1938. Take it out. Just take it out. It has no bearing in a modern society; so just take it out would be my advice to the advisors.

**Mr. McLeod:** This Act may be cited as the Miscellaneous Provisions (Maternity Protection and Repeal of the Masters and Servants Ordinance).

**Sen. Beckles:** Clause 4 would have already repealed it. So in truth and in fact it is off.

**Dr. Balgobin:** It is off. So you are making reference now to something that you have repealed.

**Sen. Beckles:** I am asking why is it necessary—*[Interruption]*

**Sen. Dr. Balgobin:** Just take it out.

**Sen. Beckles:** If you have repealed the Act and it is no more, why is it necessary to refer to it in the title?

**Sen. Prescott SC:** I am speaking from a position of ignorance on this occasion, but we do have a fairly sensible, experienced battery of draftsmen here. Would it really not be possible to name this the Miscellaneous Provisions (No. 1) Act or (No. 2) as the case may be, for this year, in the event that there may be more? Does it have to make any reference in the title to that which we are repealing?

**Mr. McLeod:** We are advised that there is precedent and that this is awkward—obviously it is awkward, but it is okay.

**Mr. Chairman:** I am sure it is okay, but it is whether you want to retain it. It is not going to cause any sin except the sins that some future generation will tell us we continue to use the terminology which we tried to get rid of.

**Sen. Dr. Tewarie:** Chair, could I ask through you, Sir, I do not know if I am allowed to do this, to the legal advisor?

**Mr. Chairman:** Sure, you can ask the question. They will hear you.

**Sen. Dr. Tewarie:** Okay. What I want to ask is, should we leave out what we generally considered the offending part, would it in any way interfere with this substance of this Bill, and is there any reason at all why we could not leave it out?

**Mr. McLeod:** Yes, Chair, it is awkward, okay. We should perhaps have come with two separate amendments. We did not do that. We have done great work already. This is awkward, yes, but we are suggesting that we live with it and when we come back to do those things that we have promised to Sen. Al-Rawi, we will seek to deal with that.

**Mr. Chairman:** That is not a question that we put, by the way, under the Standing Orders. The question of the title of the Bill is not something we put to this Senate. We could amend it without putting it, but it is not something that is put, so my job is done here.

*Maternity Bill*  
[MR. CHAIRMAN]

*Tuesday May 15, 2012*

*Preamble approved.*

*Question put and agreed to, That the Bill be reported to the Senate.*

*Senate resumed.*

*Question put, That the Bill be now read a third time.*

**Mr. President:** This Bill requires a three-fifths majority and therefore the Clerk will now conduct the division of the Senate.

*The Senate voted:*           Ayes       30

AYES

George, Hon. E.

Sandy, Hon. Brig. J.

Bharath, Hon. V.

St. Rose-Greaves, Hon. V.

Tewarie, Hon. Dr. B.

Karim, Hon. F.

Ramnarine, Hon. K.

Maharaj, Hon. D.

Moheni, Hon. E.

Dyer-Griffith, Mrs. N.

Oudit, Mrs. L.

Abdulah, D.

Maharaj, D.

Baynes, T.

Ram, A.

Beckles, Miss P.

Cudjoe, Miss S.

Al-Rawi, F.

Deyalsingh, T.

Ali, Mrs. S

Ali, B.

Ramkhelawan, S.

Baptiste-Mc Knight, Mrs. C.

Balgobin, Dr. R.

Ramkissoon, Prof. H.

Wheeler, Dr. V.

Prescott SC, E.

Armstrong, Dr. J.

Sydney, A.

Henry, Dr. L.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

#### TRIBUTE TO DAME LOUISE HORNE (100<sup>th</sup> Birthday)

**Mr. President:** I want to take this opportunity to ask Senators to perhaps join in at paying tribute to Dame Louise Horne who has celebrated her 100<sup>th</sup> birthday just recently. She was an Independent Senator of this Senate and I think that is a fitting—*[Interruption and desk thumping]*

**The Minister of Public Utilities (Sen. The Hon. Emmanuel George):** Thank you very much, Mr. President. I rise to invite this Senate to take due note of the celebration by one of our most distinguished former Senators on the occasion of her 100<sup>th</sup> birthday. I think for that alone she needs a—*[Desk thumping]*

A well-known and active supporter and participant of the independence movement, Sen. Louise Horne without doubt would always be a part of the history of this honourable Senate, she being the longest serving female member of the Independent bench, having been appointed thereto on three successive occasions. Sen. Horne was appointed to serve as an Independent Senator in 1976, by His Excellency Sir Ellis Clarke at the commencement of the first Republican Parliament; she was reappointed in 1981 and in 1987.

A review of her contributions to this Senate will reveal her abiding interest and unqualified support for social issues with particular reference to the status of women and children and the effects of legislation on these groups. We passed today the Maternity Protection Act, of which, I think Sen. Horne would certainly

*Tribute to Dame Louise Horne*  
[SEN. THE HON. E. GEORGE]

*Tuesday May 15, 2012*

have been proud. Indeed a more careful scrutiny of her contributions would also reveal what has today turned out to be the groundwork and advocacy for modern legislation promoting and reinforcing the rights of women and children.

Sen. Horne did not only promote these issues here in this Senate. She devoted much of her time working in community groups. In fact, she also has the distinguished reputation for her long and dedicated service to the well-known Soroptimist Club. Sen. Horne has been an active participant and leading figure in the Soroptimist Club, a body with an enviable reputation for social work.

**6.35 p.m.**

Hon. Senators, it is not often that man or woman is blessed with such individual success and longevity while still maintaining astuteness and presence of mind. Sen. Horne has and continues to be so blessed.

On behalf of the Government of Trinidad and Tobago, on behalf of this Senate and on my own behalf, I wish a very happy 100<sup>th</sup> birthday to Sen. Louise Horne in the sincere hope that she enjoys many more and I extend our best wishes as she goes forward in faith.

Thank you, Mr. President. [*Desk thumping*]

**Sen. Penelope Beckles:** Thank you very much, Mr. President. I would like to join with all my colleagues in the Senate in paying tribute to Sen. Louise Horne on attaining that milestone that I think a lot of us would probably dream about but may not be so fortunate.

Of course, as someone who has had the opportunity to represent the constituency of Arima, I know Dame Louise Horne personally. Actually, I had the opportunity to be in the Senate when Sen. Horne was a Member of the Senate and, you know, there are a number of things you remember about her. Some of you would remember a couple of years ago a bandit broke into her home because she lives alone, and she was able to fend him off. I am sure that he regretted that he entered her home.

One of the interesting things about Sen. Horne is that she wanted to be a lawyer, and what I find interesting is what her father told her because he was strongly opposed to it, and his response was, “Pappie said decent women do not enter the courthouse— [*Laughter*]—so I decided I would become a teacher.”

Mr. President, I wondered why you laughed at that. [*Laughter*] Sen. George, you are repeating that statement, and I do not know if you are repeating it because I entered the courthouse. [*Laughter*] I am sure that, you know, if we had the opportunity to speak to her father he would probably give to us exactly what are his reservations.

The point is that she obtained a scholarship and she went to the University of London and the University of Edinburgh, and she studied to be a dietitian and a nutritionist. She indicated that among her most memorable moments in the university was when Prince Phillip visited the campus and a professor gave her an invitation to go to the gala dinner with the new Duke of Edinburgh. During the time abroad the university sent her to Holland for two months to observe how the hospitals ensured the nutrition of the patients in their care.

She is still active. She goes to church and she would attend functions and so, and to the people of Arima, she is really very, very special. There are certain things about Arima she is passionate about. She was very concerned recently when the dial was removed during the wee hours of the night because it is such a significant landmark in Arima.

The other issue that she has been also concerned about is the Arima hospital. She is part of the Friends of the Arima Hospital and I do hope, in her lifetime, that the hospital will be built because I know the extent to which she feels really very passionate about that.

She is also passionate about the credit union movement. She has written a book. From time to time in Arima I have had the opportunity to sit and listen to her speak, and she is very passionate on issues of—talking about the world war; her own experiences. I think earlier Sen. Balgobin spoke about the interview with her and the *Express*, and she is very passionate about the whole issue that took place between the soldiers that came and the young women, and the consequences of that.

You know, if she has the opportunity to talk to young women, she really talks a lot about issues of integrity, pride; education. It is really for us, I think, special, not just in Arima, but in Trinidad and Tobago that somebody is still alive who can talk about world war and, certainly, people like that, really, we should find some way of documenting their experiences because it is not every day that you are going to have somebody who turns 100.

We talked about the maternity Bill a while ago and women and their contribution to family. She does not have any children, but she certainly has mothered a lot of children in Arima and she continues to serve in whatever capacity. She has been active in the Anglican Church. I know there is another “centenarian”, a Valentine, from Aripo, who is being buried today, actually, who is 100 years. Arima has been very fortunate in having quite a number of persons in the Carib community, and others, who have made 100 years.

*Tribute to Dame Louise Horne*  
[SEN. BECKLES]

*Tuesday May 15, 2012*

I just want to join with all the Members of the Senate, and I am certain on behalf of the Borough of Arima and all the Arimians, to wish her a happy birthday, to wish her continued life and strength, to thank her for the contribution she has made to the development of Arima, to the development of Trinidad and Tobago, and to say that we are really happy that she served in the Senate.

I know we laid some reports today, the Salaries Review Commission Report. She was the longest serving Senator and one of those who left the Parliament without a pension, because of how our laws are. I am sure at 100, when you think of the fact that she would have retired as a teacher since age 60—40 years ago—

**Sen. George:** Forty years ago your pension is nothing.

**Sen. P. Beckles:** Well, as Sen. George said, that pension is nothing. Then she came to serve in the Senate very graciously. And we think of people when they get to 100, 40 years after they have retired, serving in very humble professions, clearly how they would survive as they get older, and they need medication and all those kinds of things. So it is always something for us to think about. We pay tribute, but we always have to be conscious of these opportunities that we get to reflect on persons in those circumstances.

So I say happy birthday to Sen. Horne and, again, we thank her for her long and distinguished service to the people of Trinidad and Tobago. [*Desk thumping*]

**Sen. Corinne Baptiste-Mc Knight:** Thank you, Mr. President. Mr. President, I deem it an honour to rise on behalf of the Independent benches which Miss Horne served with distinction and dynamism for the longest period in the history of Independent Senators.

To have lived and given 100 years of service as teacher, dietitian, nutritionist, mentor, historian, Senator, social activist, is really not only substantial, but the extraordinary manner in which she served, not only her country of Trinidad and Tobago but throughout the region Miss Horne is known, having served in Dominica, Grenada, St. Lucia. And every phase of her career has been marked by absolute excellence.

She has left an indelible mark wherever she has trodden. She set standards in the health service, in the teaching service, in social services and here in Parliament, that we are still struggling to achieve. For this, I thank her. We, on the Independent benches, thank her, [*Desk thumping*] because she reminds us of the nobility of the cause that we have undertaken to serve.

Mr. President, I think that in addition to all that has been said about her, what I think we will remember most is the fact that she has proven by her very existence that it is possible to live and love the country and the youth even when their

behaviour is a little aberrant. She has proven that it is possible to live and serve in this country with pride, with dignity and with impeccable integrity. For this, we all thank her and on behalf of my bench, I wish her God's richest blessing and I hope that she does see some of the things that she has always worked for come to fruition, i.e. the hospital in Arima.

I thank you, Mr. President. [*Desk thumping*]

**Mr. President:** I would certainly like to join with Senators who preceded me in wishing a very happy birthday to Dame Louise Horne. What has not been mentioned, of course, Dame Louise Horne was also in Tobago after Hurricane Flora in 1964. She spent a year in Tobago trying to resuscitate their nutrition programme after long years of service.

Of course, she has been 15 years as an Independent Senator. I think that is something that we should pay glowing tribute to. I do hope that perhaps the words of Sen. Beckles might fall upon listening ears in terms of the fact that maybe a birthday gift may be due to her from Parliament.

What perhaps is not as well known is that Dame Louise Horne also won the Medal of Merit, (Gold) for service, of course, and was recognized by the State for so doing. The actual title of Dame Louise Horne was granted to her in 2004 by Pope John Paul II, in fact, for her work to the Roman Catholic Church in Trinidad.

She certainly describes herself as a teacher, nutritionist, voluntary social worker and parliamentarian, but, of course, she was far more than that, and I think it is great that we could celebrate contributions made by our former Senators; contributions made by Members altogether in Parliament, and so often we pay tribute after the event when they are no longer with us. So I certainly was delighted to have the opportunity to pay tribute to Dame Louise Horne during her lifetime for the work that she has done and I will certainly ask my Clerk to send her a letter of congratulations on her 100<sup>th</sup> birthday, and maybe the Government side might want to do something more tangible.

Thank you. [*Desk thumping*]

#### **THE CHILDREN BILL, 2012**

*Order for second reading read.*

**The Minister of Gender, Youth and Child Development (Sen. The Hon. Verna St. Rose-Greaves):** [*Desk thumping*] Thank you, Mr. President. I beg to move,

That a Bill relating to the protection of children and for matters related thereto, be now read a second time.

Mr. President, the Bill before us has been extensively debated in the other place and has benefited tremendously from that process. Amendments put forward by both sides were unanimously supported and I believe we now have an improved Bill.

**6.50 p.m.**

Mr. President, the prevalence of offences perpetrated against the children of our beloved nation has called for a re-examination of the laws pertaining to their protection. Children are increasingly being mistreated, abused, neglected and even killed by the people who are closest to them and others who are responsible for their care. They are also harmed or taken away by strangers. Cases highlighted in the media reveal the level of brutality inflicted against some of our children. If we were to look closer, we would also see the manifestation of that mistreatment in their later years.

A number of modern-day offences have also emerged that confront us and our children. These include: child pornography, trafficking of children and cyber-related sex crimes. These call for adequate mechanisms for detection and treatment and must be appropriately dealt with in the criminal law.

Mr. President, our existing legislation: the Children Act 46.01 relating to the protection for children dates back to 1925, and notwithstanding several amendments, it lacks structure and cohesion for providing the levels of detection and treatment which are required. It remains a mix of the old and the new and largely ineffective in establishing an adequate child protection regime. The several amendments, although well intended, represent a fragmented and piecemeal approach to the development of an effective child protection network. It is clear, given the evidence that has emerged, that the atrocities to which children were subjected at the time the legislation was initially enacted were of a different nature, a different scale, and a different intensity compared to what exists today.

With respect to the adequacy of the criminal law, while there were attempts in 1986 and again in 2000 to modernize our sexual offences law in order to increase the protection afforded to children and to impose stricter penalties, this too did not go far enough.

In 1990, Trinidad and Tobago ratified the United Nations Convention on the Rights of the Child which firmly establishes the independent rights of children and locates children's issues at the core of human rights work. It has rightly been described as the Magna Carta for our children.

The convention addresses child abuse in all its forms and establishes legislative and administrative standards for the protection of children. This Government is cognizant of its obligations under the convention and is fully committed to ensuring that our children are adequately protected against all forms of abuse. The Bill before us attests to this commitment. Children who are being abused cannot enjoy their other rights, such as their rights to education, to leisure or to the many other rights articulated in this convention.

Mr. President, the Children Bill, 2012 has had a fairly long history. It is a culmination of the efforts of many persons from both the governmental and non-governmental sectors. A process of re-examination of laws relating to children took place during the period 1995 to 2000 and culminated in the enactment, in 2000, of a package of legislation which included the Children's Authority Act; the Children Community Residences, Foster Home and Nurseries Act; the Adoption of Children Act and the Children (Amdt) Act. The last mentioned, the Children (Amdt.) Act of 2000, was yet another attempt to amend the 1925 Act, in order to strengthen the protection of our children.

Subsequently, the Children (Amdt) Act, 2000 was reviewed by a family court committee which comprised, among others, officers of the Ministry of the Attorney General, the Ministry of Social Development and a range of key stakeholders, and it was determined that the parent Act of 1925 needed substantive revision due to its archaic structure and should be repealed and replaced by new legislation.

As such, the committee recommended that the Children Act should be repealed and replaced with a new Bill incorporating all the amendments of the committee. In August 2007, Cabinet approved a package of legislation relating to children including the Children Bill, 2007. This was introduced in the other place but lapsed upon the prorogation of Parliament on September 28, 2007. It was subsequently successively reintroduced in the other place and substantively debated on October 24, 2008, and again, on November 28, 2008.

However, it was referred to a special select committee which carried out detailed and comprehensive work to improve the 2008 Bill. However, before its work was completed, the elections of 2010 were called and the Bill lapsed. Since that time, an ad hoc committee chaired by Mrs. Stephanie Daly, who is now the chair of the Children's Authority, was established and again considered the Bill in detail. Many for the amendments proposed by the special select committee and the ad hoc committee have been incorporated in this Bill. In December 2011, Cabinet agreed that the Children Bill, 2011—now the 2012 Bill—be introduced in Parliament at the earliest opportunity.

Mr. President, the passage of this Bill will see us as a collective, bring to fruition critical work that we have tried to bring into being on several occasions—as I just traced—and will redound to the benefit of all of us and to our nation. Our country is weary of blood, gore and bad news, things which deplete our sense of self. This Bill affords us as a nation an opportunity to restore self at the personal, professional, political, community and State levels.

There is no doubt in my mind that legislation alone will not protect our children. We must do much more. There are changes which need to be made in the way we do business. There must be cultural shifts in the nature of our relationships, in child-making, in child-minding, in our work ethic and in our attitudes towards each other and our children. This legislation will need support through infrastructure, proper organization, management systems, policies and protocols, and most importantly public buy-in and community support.

More than anything, it requires, if not demands, political will not just of Government but by a population propelled by care and commitment to the children of this nation. It must be a political will that will not wane with the passage of the Bill or at proclamation but will endure in order to ensure implementation. It will ensure that the resources, structures and systems are applied so that we can do the work that this Bill is intended to do.

Mr. President, I want to take this opportunity to acknowledge the valuable contributions of all those who worked towards the development of this Bill and indeed to all those who continue to contribute to the welfare of our children. There are many in the society who labour to ensure the safety and well-being of our children. Nevertheless, in spite of the many efforts, there are children who remain invisible or who fall through the cracks and we as Government must do as much as is humanly possible to rescue and protect them.

The present legislation as it pertains to children falls far short of establishing a comprehensive child protection system. It is therefore imperative that the State intervene to more adequately protect the nation's children. A more relevant and effective legislation scheme coupled with better infrastructure, both physically and in terms of social services, would do much to provide the kind of protection that our children need. Mr. President, with your leave, I will now give a brief overview of the Bill.

The primary purpose of the Children Bill is to repeal and replace the Children Act, Chap. 46:01 hereinafter referred to as the Act, in order to establish a more effective child protection regime that takes into consideration the atrocities that

are perpetuated against children today and to more appropriately deal with children who offend. Essentially, the Bill seeks to introduce a new criminal regime to address sexual offences against children and strengthen the civil regime for their protection. It also modernizes the law relating to child offenders and the employment of children in keeping with international best practice. I will turn to the criminal aspects of the Bill.

Firstly, it may be noted that the offence of cruelty to children has been retained. However, changes are proposed with respect to the age of the offender and the penalties prescribed. The category of offender has also been expanded to include all persons with responsibility for a child instead of being limited to those persons who have custody, charge or care. A child is also now defined as a person under the age of 18.

The offence of cruelty is particularly relevant where there is no clear evidence of incidents or the specific time of the incidents. As has been observed in recent times, very young children are particularly susceptible to repeated acts of cruelty that go undetected and they are often the ones who fall through the cracks. In order for the law to work for these children who are voiceless and defenceless, we need the support of neighbours, community members and even family members.

Mr. President, Members would also note that the suffocation of a child by an adult whilst in bed or any other place of rest has been extended from under the influence of drink to include dangerous drugs or other substances having a similar effect.

Further, Part III of the Bill makes provision for offences in relation to begging, risk of burning, firearms and ammunition. These provisions have considerably strengthened the existing law. New offences have been introduced which criminalize failure to take reasonable precautions to guard against a child having access to a firearm or ammunition; and the giving, selling, lending or renting a firearm or ammunition to a child. Criminalizing the giving, selling, lending or renting a firearm to a child is crucial to the context of criminal activities pursued by some of our young people and enabled by those who supply them with guns and ammunition. Severe penalties have been prescribed for these offences.

Mr. President, Part IV introduces the offence of female genital mutilation. Questions around the need for this offence have arisen. The world has become a global village and inclusion of this offence is a proactive move and will ensure that our legislation is consistent with international best practice. Clause 9(1) sets out this offence and the person who contravenes this provision will be liable on

summary conviction to a fine of \$50,000 and imprisonment for 10 years or alternatively on conviction on indictment to imprisonment for 20 years. Aiding and abetting the offence is also criminalized.

Part V, very importantly provides for offences relating to abuse of children through prostitution. The existing law is woefully inadequate in addressing this issue. The offences under this part are specifically designed to tackle the use of children in the sex industry and make it very clear that children involved in prostitution are primarily victims of abuse and people who take advantage of them by exploiting them are child abusers.

Mr. President, we will note that more severe penalties are prescribed for persons with the responsibility for children who cause them to frequent or reside in a brothel or who cause, encourage or favour their seduction, their prostitution or penetration. These are concepts already in the Children Act but have been strengthened in the Bill.

A new offence of paying for the sexual services of a child has been introduced. This targets not only those who engage in sexual conduct with a child for payment but those who are the enablers of such transactions. It therefore, targets the entire criminal enterprise of child prostitution. The offences of causing or inciting a child to become a prostitute, controlling a child prostitute and arranging or facilitating child prostitution will apply both in Trinidad and Tobago or elsewhere.

The specific circumstances where the conduct will be criminalized outside of Trinidad and Tobago extend to nationals who engage in such conduct which, had it be done in Trinidad and Tobago, would constitute such an offence under these sections. Mr. President, the provisions under Part V, which deals with the abuse of children through prostitution, will complement the Trafficking in Persons Act that was passed in 2011.

**7.05 p.m.**

We turn to conduct which is covered under the Sexual Offences Act, but which has been significantly widened under Part VI of the Bill. The inclusion of these offences is intended to bring them in close proximity to the comprehensive child protection system reflected in the Bill. These offences introduce a new criminal regime to deal with sexual conduct against children, and include sexual penetration, touching, causing or inciting a child to engage in sexual activity and meeting a child following grooming.

Mr. President, the proposed offences under Part VI also address fundamental policy issues. These include issues such as the age of consent to sexual activity, and how the law should deal with sexual activity that has been genuinely agreed to between adolescents. The age of sexual consent in any society is one that must reflect the views of the wider society. In 1986, we determined this age as 16, and this continues to be the age of sexual consent up to the present time.

The Bill proposes to change it somewhat in that, while the age of sexual consent remains 16 for certain types of conduct, such as sexual touching as proposed in clause 19(1) and 19(2), it will be raised to age 18 for sexual penetration. In other words, the Bill introduces two ages of consent—18 for what may be considered very serious conduct and 16 for conduct that is less serious.

Mr. President, the issue of how to treat with genuinely, mutually agreed, sexual activity between adolescents who are close in age is critically important, and one that has exercised the minds of all who have been engaged in the development of this Bill. The opinion of the experts is that such conduct should not be criminalized, and this Government fully supports this position. Under the existing Sexual Offences Act, such conduct is criminalized except in two instances. In those two instances, the accused and the complainant must be close in age, and the court must be of the opinion that the accused was not wholly or chiefly to blame.

However, the Sexual Offences Act remains silent with respect to conduct between children outside of these categories. Thus, for example, innocent or experimental sexual activity between a 13-year old and a 14-year-old is fully criminalized without the benefit of a defence while the defence is available for the same activity between older adolescents. This represents a major anomaly. Mr. President, how the law should treat with such children begs of no easy answers.

Some jurisdictions such as Guyana and others have dealt with the issue by including a Romeo clause or Romeo clauses to cover sexual activity of all children above the age of criminal responsibility. The United Kingdom, on the other hand, has dealt with this issue by abolishing the Romeo clause altogether. On the face of the UK Sexual Offences Act of 2003, all sexual activity between children, whether forced or genuinely, mutually agreed, consists of criminal conduct. What they have done, however, is to issue administrative guidelines from the Crown Prosecution Service in order to filter out cases of genuinely, mutually-agreed conduct between children so that such cases would not be prosecuted.

Some of these factors include the age and understanding of the offender, the relevant ages of the parties which should be the same, or there should be no significant disparity in age, whether the complainant entered into sexual activity willingly, that is, did he or she understand the nature of his/her actions, and was able to communicate his/her willingness freely and so on. Mr. President, where an accused, for example, is exploitative or coercive, or is much older than the victim, the balance may be in favour of prosecution. Whereas, if the sexual activity is truly of the victim's own free will, it may not be in the public interest to prosecute. In the UK, Crown prosecutors must follow these guidelines before prosecuting children.

We have had extensive discussions with many stakeholders, and with the Office of the Director of Public Prosecutions. We have looked at other jurisdictions here in the Caribbean and elsewhere, in an effort to determine what the best way forward might be. Based on all the consultations that we have held on this issue, we have now included Romeo clauses to cover different age categories. The DPP will act as the filter where the conduct is one that does not involve exploitation, coercion, threat, deception, et cetera. Further, clause 116 also expressly states that

“Proceedings for an offence under Parts V, VI or VIII with respect to which the alleged perpetrator is a child, shall not be instituted except by or with the consent of the Director of Public Prosecutions.”

Mr. President, we are of the firm view that children ought not to engage in sexual activity, but we cannot ignore that it can and it does happen, as the experts have advised, as research has shown and as we know. Including a Romeo clause to cover the age group 12 years to 14 years is to acknowledge that sexual activity can and does happen between children in this age category, but children should not be criminalized for this. For the law to stay silent with respect to sexual activity within this age group is to create the anomaly to which I previously alluded. The law must deal with this, and should no longer remain silent.

We strongly believe that in such cases, protection will normally be best achieved by providing education and counselling for these children, and support for those responsible for their care. We are committed to providing the support, and the mechanisms will be put in place to ensure that children who engage in underage sex come to the attention of the appropriate social services. The time has perhaps come for us to start a conversation, or conversations, at a national level for parents and children on sex education and to do that in age appropriate ways.

There has been much discussion in the public domain about the offence of sexual touching of a child, and precisely what the offence entails. The offence covers a range of conduct which is encompassed by the offence of indecent assault under the Sexual Offences Act, but goes much wider. It covers, for example, conduct such as kissing and fondling. However, where there is genuinely, mutually-agreed between adolescents, such conduct, the Romeo clauses under clause 20, ought to ensure that such children will not be prosecuted.

Other new offences include: causing or inciting a child to engage in sexual activity; engaging in sexual activity in the presence of a child, and meeting a child following sexual grooming. Clause 25 defines sexual grooming as “gaining the trust of a child, or of a person who takes care of the child, for the purpose of sexual activity with the child”.

Mr. President, the advent of the Internet and other similar technological advances means that many of our children are susceptible to this form of abuse while in the apparent safety of their own homes. It is important, therefore, to ensure that the law keeps up with these modern-day offences, and children are adequately protected. It may be noted that the Bill prescribes severe penalties for these offences.

Clauses 29, 30 and 31 address offences that are committed by persons in positions of trust and in familial relationships with the child. Higher penalties are prescribed in some instances.

Mr. President, it will be observed that the Bill retains a defence of marriage for some of these offences, notwithstanding the conflict between this defence and the ages of sexual consent—an issue that has received much attention in recent months. However, the issue of raising the respective minimum ages of marriage, in order to eliminate this conflict, requires consultation and agreement with the various interest groups. These consultations are underway, and we have made a great deal of progress, I am happy to report. We hope that we will soon be in a position to address this in the law and the marriage exceptions will no longer be required.

Mr. President, the need to deal with child pornography, and the intense harm this causes, has become more urgent, especially in light of the ease with which child pornography can be published, distributed and accessed in the modern-day context of the Internet, cellular devices, other information and communication technologies. Part VIII of the Bill addresses the many criminal facets of child pornography.

Clause 40 sets out the offence, and we have had the benefit of the advice of a cybercrime expert, Professor Marco Gercke, who worked with the Government in formulating the definition. The offence will encompass acts where the offender uses more recent technologies such as streaming video. The scope of circulating child pornography is expansive, and it will include distribution through direct file exchange, for example. Exposure of a child to pornography, and inciting or facilitating child pornography, in Trinidad and Tobago or elsewhere, are important aspects of criminality that are covered.

Mr. President, an extremely important issue is the need to ensure that the juvenile penal policy reflected in this Bill is in sync with the overall juvenile penal policy. The Government agrees that child offenders must be treated differently and at clause 43, the Bill reflects penalties for child offenders that are in keeping with the juvenile penal policy in Trinidad and Tobago, and with international best practice.

The need to treat with young offenders in a manner that recognizes their vulnerability is further demonstrated at clause 33 which provides that if a police officer has reasonable cause to believe that a child has committed a sexual offence, the officer is mandated to immediately notify a parent, guardian or the person responsible for the child, and also, to notify the Children's Authority. Moreover, the police officer will be required to make a written report to his superior within 72 hours of the taking of such action.

Child offenders constitute a vulnerable group of children, and all effort should be made to rehabilitate them so that they do not become repeat offenders. The evidence in our prisons suggests that many of our seasoned criminals began their careers as young offenders. The Bill recognizes that a holistic approach is needed in treating with child offenders. The Children's Authority, therefore, is a critical part of this response.

Moreover, clause 59 of the Bill will give the court discretion to make a range of orders in determining the sentence for a child offender. The intention of this clause is to provide a range of options which the court may employ in the best interest of the child offender. Investigations and reports by a probation officer, social worker, child psychologist, child psychiatrist or others, may also be requested by the court and taken into account.

Part VII of the Bill goes on to deal with offences relating to dangerous drugs, tobacco and alcohol, and comprises clause 35 to clause 39. Important provisions, under this part, are those which seek to criminalize the exposure of a child to a

dangerous drug, or a substance having an effect similar to that of a dangerous drug; giving a child a dangerous drug, and use of a child to sell, buy or deliver a dangerous drug. Here again, the importance of a holistic and rehabilitative approach is implanted in the Bill.

Mr. President, we have covered the criminal aspects of the protection of children. However, fundamental to a regime of child protection is the structure in place for dealing with children who have been harmed, are being harmed or are likely to be harmed. This is set out in Part IX of the Bill. Removal of children from their homes to places of safety is a critical aspect of this which must be properly coordinated and executed. The Bill obliges a person, including a police officer, who removes a child to a place of safety to immediately notify the Children's Authority so that steps can be taken with respect to the protection of that child. This includes bringing the child before the court.

**7.20 p.m.**

Norms and standards articulated in the Convention of the Rights of the Child are incorporated under Part IX. For example, the court, in making any order with respect to that child, must do so with the child's welfare as the paramount consideration and, where appropriate, must take the wishes of the child into account.

Mr. President, I must stress that effective implementation of the provisions under Part IX depends, to a large extent, on detection and reporting. While the State, through the intervention of its social workers and other frontline officers, is critical to the detection of child abuse, it is frequently the case that abusers and victims are widely known to members of their communities, who remain silent for one reason or the other. In many cases, child abuse will only come to the attention of the authorities if those persons in their communities report the abuse to the relevant authorities.

I have already mentioned that the vulnerability of young offenders means that they ought to be treated differently from adult offenders, a principle embedded in our existing Children Act. Children need to be held accountable for the offending in a way that acknowledges this vulnerability, and Part X deals comprehensively with this philosophy.

An issue that has long been recognized in Trinidad and Tobago is the need for children to have independent legal representation in court proceedings. Part XII of the Bill provides for children's attorneys to be appointed by the Judicial and Legal Service Commission and to be assigned to represent and safeguard the interest of a child in any court proceeding, thus ensuring the realization of the best interest of the child principle.

Part XIII contains detailed provisions relating to evidence and procedures dealing with child witnesses, which emphasize that child witnesses comprise a special category and that the need to reduce courtroom trauma is paramount.

Part XIV deals with employment of young persons, specifying age restrictions, the duty of employers to keep registers of persons under the age of 18 and the responsibilities of inspectors to ensure that employers conform to the requirements specified. These provisions, more or less, reflect amendments made in 2007.

Part XV deals with miscellaneous provisions. A critical provision under this part is clause 116, which stipulates that proceedings for an offence under Parts V, VI or VIII, where the alleged perpetrator is a child, shall not be instituted except by or with the consent of the Director of Public Prosecutions. As I have stated earlier, the DPP, by virtue of this power, will act as the filter for genuinely, mutually agreed, sexual conduct between young people.

Clause 120 provides for the application of certain sections of the Sexual Offences Act, Chap. 11:28. These relate to the age of criminal responsibility, admissibility of a minor's statement, anonymity of the complainant, and notification requirements for sex offenders.

Importantly, clause 121 provides that where a person may be charged in respect of the same conduct specified in any other law, the provisions under the Bill, when enacted, will take precedence.

Clause 122 of the Bill provides for the repeal of the Children Act, Chap. 46:01, upon the coming into force of the Children Act 2012, for which this is the Bill, and clause 123 provides for consequential amendments to various Acts.

It is the duty of the Government to adopt and put in place necessary measures to ensure the safety of the nation's children. The Government must be ready to respond to the needs, hopes and aspirations of citizens of this nation and particularly to its children. The Government must adopt a more stringent child protection regime, and this legislative measure will afford special attention to the children of Trinidad and Tobago in a more cohesive and comprehensive manner.

Our signing of the various international agreements for the protection of children attests to our commitment to their principles. These principles are reflected in the Children Bill, 2012. As a nation, we not only have a moral obligation to protect our children but a legal obligation to do so.

As Minister of Gender, Youth and Child Development, as a social worker and as an activist, I am only too well aware of the many challenges that must be faced in order to give this Bill life. This includes the strengthening of our support services and systems and building community awareness and community response.

Mr. President, may I humbly submit that we the people of Trinidad and Tobago have taken long enough working towards this envisioned perfect package of legislation to protect our children. Our ways of proceeding have been to the detriment of many of our children.

I do understand the caution over the years. Sometimes, in trying to help, we fear that we may cause further harm and sometimes we do. We do not want to alienate parents from their children. We do not want to simply take children from their homes. We do not wish to create a generation of hyper-vigilant children, afraid to love, afraid to care, afraid to trust, or children who recoil from being touched. We do not want our young people listed on a register of sex offenders. We do not want our children to have adult responsibility forced upon them. We do not want them to be brutalized in prison. Interestingly, for the most part, we identify easily what we do not want for them. We need to identify, pronounce and claim what we do want for them and what we must do and how we must proceed as a nation in order to achieve it.

Mr. President, with your leave, I want to share some thoughts from the Ministry of Gender, Youth and Child Development, as they relate to our children. I have shared it before, but I think I need to do it again. Our philosophy is that our children must come first because our future and the future of Trinidad and Tobago depend on the effort we make today to take care of our children.

Raising children is full-time work, and parents, families and caregivers must be supported to do this most important job in our country. We believe that our children will thrive best in a child-centred, family-focused environment that is welcoming, stimulating, safe and nurturing. We acknowledge the legitimacy and uniqueness of Caribbean family forms and commit to respect their differences. We believe that each child born or resident in our country is entitled to and must benefit from the highest standard of care we can provide.

We commit, therefore, to act in ways that value children and acknowledge them as special. We believe in the potential of all the nation's children and not just our own. We believe that children need words of encouragement to become resourceful, resilient and compassionate adults. We work to encourage in our

children a strong self-image, based on a deep and profound understanding of self, tools that will teach them how to stand up for themselves, manage their emotions and live according to their highest values. In so doing, they may have the presence of mind and the confidence to treat others as they would want to be or have been treated by us.

We commit to provide quality care, overcoming obstacles and finding solutions, modelling excellence, exemplary behaviour and respect for each other. We know that our children will do well if we, as a society, lead by example and care enough to provide and care for them.

Mr. President, we need to work together to create a safe and secure environment for children wherever they are—in our families, in communities, in institutions, in our nation—but at the same time we must send a clear message, a strong message, that child abuse will not be tolerated. It will not find a place of comfort with us. This is the intent of the Bill before us.

Mr. President, with these words, I beg to move. [*Desk thumping*]

*Question proposed.*

**Sen. Faris Al-Rawi:** Thank you, Mr. President. I wish to declare at the very outset my complete and total support for this Bill, not only on my own behalf but on behalf of the Members of the Opposition bench. This subject matter before the Senate today is one of burning and critically important concern to us all. If I dare to say that today is a day that we do not sit across from each other in the adversarial system of Parliament that is prescribed for us. Today is a day that we all sit on the same bench in the unified purpose of providing the very best law for our citizens with that particular focus upon the most cherished aspects of our lives as a nation, those who hold the future for us, our children.

The hon. Minister had a very unenviable task of trying to do justice in the very limited time that is permitted to her, to explain the rationale behind a Bill like this. She did it well. She has put forward for this Senate consideration of a very, very, very complex piece of law.

The Bill is 122 clauses. It comprises 15 parts and the hon. Minister has in fact tabled to this Senate, I think it is somewhere close to 34 or 38 amendments to the Bill.

The purpose of a Senate and the purpose of a Parliament, in interrogating law, is to ensure that we put forward an explanation for the intention behind the words that comprise the laws of Trinidad and Tobago. That is so because the courts of

this land, and presently courts elsewhere, have the task of interpreting the meaning of laws, because we will be in this Act, when the light of reality shines upon it, when this Bill becomes an Act, it is going to intersect and collide with other rights.

Our Constitution has in its preamble, certain desires which the people of Trinidad and Tobago have ascribed to, under what we call the banner of the rule of law, and we have certain rights enshrined in section 4 of our Constitution, in particular the right to private life. We have, in section 4 of the Constitution, also one right specifically in relation to children and that is a parental right to choose a school of the parent's choice for his or her child, but that is it.

This piece of legislation is very far-reaching and I wish to join the hon. Minister in paying glowing tribute to all those persons in society who have contributed to this particular Bill being laid on our desk. I wish to start back in the year 1999, in particular, when the Attorney General of Trinidad and Tobago then, Ramesh Lawrence Maharaj SC, properly, brought forward a package of legislation which we deemed to be the children's legislation, and established the Children's Authority, the Children Act, the Foster Care Homes, I would abbreviate that position, and other bits of legislation, which went through an interrogation process of a joint select committee with Members of the Opposition then, which was the People's National Movement.

**7.35 p.m.**

I wish to pay the then Attorney General, Ramesh Lawrence Maharaj SC, a special vote of thanks for coordinating, in 1999 I believe it was, several Acts of Parliament then, Acts Nos. 64, 65, 66, 67, 68 of 1999 and 2000, if I get the dates right. In piloting those Bills, we saw very important work.

I wish also to pay serious tribute to the persons who contributed, in the years 2003 and 2008, both Members of Government and Opposition—the then Government was the People's National Movement and the Opposition was the United National Congress—to the joint select committee exercises, which saw amendments to the Children Act and the Children's Authority Act in particular.

I wish also to pay very glowing tribute, especially, to those persons in society who contributed to the development of the legislation which we have now before us in draft form, in particular the members of the ad hoc committee under the chairmanship of Stephanie Daly SC, and, very importantly, her predecessor in title at the Children's Authority, Madam Justice Sealy, who chaired the last Children's Authority board very ably and very competently.

Mr. President, with that said and the tribute put, I wish to state that I have certain concerns which I would like to lay for consideration by Senators, which relate to certain broad areas. Those would relate perhaps to no more than eight areas. I wish to state—and I do not know how we will deal with this one—that I have probably about 58 observations in relation to the particular clauses themselves. Those are observations which relate to the manner in which the Bill is going to be interpreted when it comes into law.

Mr. President, I am guided by the fact—I mentioned it earlier in another Bill's debate—that there is a purposive interpretation to be provided to legislation, but we are also cognizant of the fact that the case of *Pepper v Hart* provides for us the authority for the use of *Hansard* as a mechanism for statutory interpretation.

Now, with that said, I wish, for the benefit of the national community, to seat this legislation in the context of certain observations. The first thing is, in my interrogation of the Bill before us, I came across 24 pieces of legislation, current law, which intersect with this particular Act. Some of that current law has not yet been proclaimed, but it stands as law and some of it exists as law. For the record, I would like to read them in.

The legislation would be:

the Children's Authority Act;

the Children's Community Residences Foster Homes and Nurseries Act;

the Adoption of Children Act;

the International Child Abduction Act;

the Family Law (Guardianship of Minors, Domicile and Maintenance) Act;

the Matrimonial Proceedings and Property Act;

the Attachment of Earnings (Maintenance) Act;

the Family Proceedings Act;

as the main ones. There are, of course, very importantly:

the Attachment of Earnings (Maintenance) Act;

the Sexual Offences Act;

the Administration of Estates Act;

the Marriage Act;

the Muslim Marriage and Divorce Act;  
the Hindu Marriage Act;  
the Married Persons Act;  
the Maintenance Orders;  
the Infants Act;  
the Adoption Act;  
the Age of Majority Act;  
the Status of Children Act;  
the Succession Act;  
the Cohabital Relationships Act; and  
the Orisha Marriage Act.

Twenty-four [sic] pieces of legislation.

The reason I have mentioned that is that, in this particular Bill, there is a clause which says if you compare this Act with any other piece of legislation, the terms of this Act shall prevail. That is very important because I do not know if we have really looked at the full impact in relation to the intersection. The inconsistency clause which I referred to is clause 121 of the Bill, which says that:

“Where a person may be charged in respect of the same conduct both with an offence under the provisions of this Act and an offence specified in any other enactment, the provisions of this Act shall apply to the exclusion of any such enactment.”

Clause 121 deals only with duplication of offences. The question is going to be relative to statutory interpretation of provisions of Acts when they articulate with others.

Mr. President, that causes a measure for pause because my reading of this Act tells me that we have an effect on other pieces of legislation causing conflict by way of interpretation, but not dealing with offences. Therefore, we have to consider whether we want to broaden the effect of clause 121 of the Bill.

If I can say, the Bill does a very important thing. It recognizes the United Nations Convention on the Rights of the Child in a very important way in that it accepts three major things. The first thing it does is it accepts the paramountcy principle, and that is that the interest of the child is paramount as a concern at all times. It is important for that to be on the record.

Secondly, it also deals with a recognition of the parental responsibility principle; and thirdly, the Bill also deals with the concept of harm. Harm is, in fact, dealt with specifically in subclause 50(14).

With that on the record, we are dealing in terms of architecture—and this is for the benefit of those listening other than in the Senate—which contemplates jurisdiction of law in a civil law setting and also in a criminal law setting in two separate courts. It deals with the Magistrates' Courts by virtue of calling into aid section 401 of the Summary Courts Act and it deals also with the High Court jurisdiction or the Supreme Court Act, which would be section 401 again and that deals with the jurisdiction of the Family Court in particular.

While we say that, it is important for us to bear in mind—and this is where we as a nation will have to assist the hon. Minister—that the operationalization of this law is critical to making sure that we bring life to the mechanisms which are to support this legislation and, specifically, I refer to the Children's Authority.

The Children's Authority is the main vehicle intended to assist in the articulation of children's interests. As we all know or ought to know, that Children's Authority Act is only partly proclaimed. It was partly proclaimed to allow for the appointment of a board of directors of management, to begin to get it operational.

That Children's Authority is the entity which must deal with foster homes to which children are to be taken under the provisions of this legislation when it becomes law. It is the entity which is referred to by the courts with family jurisdiction and it is the main hub of activity.

I am proud to say that the past Government and the present Government are of equal mind to the fact that there must be absolute and complete dedication and support to that cause of making sure that the Act can be operationalized. That is critical.

It is also noteworthy, in that rubric, to bear in mind that the Children's Community Residences, Foster Homes, and Nurseries Act is also not yet proclaimed and that the Bill before us is one, in clause 1(2), which provides that it is to be made operational upon proclamation.

So, we are creating law which has to be proclaimed and it is to be built upon the operationalization of other laws standing on our books which are also yet, in one instance to be fully proclaimed, and in another instance to be proclaimed entirely.

Mr. President, we have to make sure that the Children's Authority can work. If I can say now that my concerns in relation to this Act, of a general nature, the broad issues would be:

- (1) the operational issues as to how to make the legislation work;
- (2) the very important broad issue, the concept of the definition of "responsibility" under the Act;
- (3) the concept of children's counsel as prescribed by clause 88 of the Bill;
- (4) the extra-territorial operability of this legislation;
- (5) the concept provided in section 51, which deals with what the English refer to in their case law as kettling. That is the stage where you "hurdle" people in riots and protests into one group and then you detain them; then laws similar to laws now proposed by this Bill require that children ought to be separated out from adults and treated differently; a concept which this Bill speaks to. So, we are looking also at the operation inside this Bill as to the separation and segregation of children versus adults.
- (6) the concept of the sufficiency of the provisions to deal with the mutilation of female genitalia; and
- (7) the concept of sexual grooming.

The subject matter of this particular Bill is distressing in the extreme. When I read this Bill, went through the provisions and did the research upon it, I have to tell you, Mr. President, that tears welled in my eyes. It wrenches your heart, not only because of the subject matter that you are dealing with, but also because we have need as human beings to legislate for things like this because they are a reality. That is the tragedy of the human condition, that we can be beautiful at one point and absolutely and totally horrific, in the most devilish way, at another point. The mere fact that we need to legislate for this kind of conduct is distressing in itself.

Mr. President, when we look to the concept of responsibility—if I deal with the broad areas—the definition section of this Bill, in clause 3, we deal with, first of all, the definition of "guardian" at page 3.

"'guardian' in relation to a child, includes any person who has, in the opinion of a Court having cognizance of any case in relation to the child, responsibility for the child;".

At page 6, subclause (3) of that clause, we have a very important subclause which says:

“For the purpose of this Act”

and then it is divided into subclauses (a), (b) and (c);

“(a) any person who is the parent or legal guardian of a child or who is legally liable to maintain a child is presumed to have responsibility for the child...”

Then we have in subclause (b):

“any person to whose charge a child is committed by any person who has responsibility for the child is presumed to have charge of the child;”

and subparagraph (c):

“any other person having actual possession or control of a child is presumed to have care of the child.”

So the definition of “guardian” is fettered by the explanation of responsibility in clause 3(3)(a) of the Bill. That is important because littered throughout the Bill, we seek to ascribe offence and then penalty or responsibility to persons described as the “parent” or “guardian”. In other places, we say “the person who is responsible for the child”.

What crosses my mind immediately is whether there is any conflict in the splitting of definitions on the one hand using “parent or guardian” and, on the other hand, using “person responsible”. You are potentially tacking on a responsibility which is narrower in the first instance, that is guardian or parent, and broader in the second instance.

In law, those of us who practise in family law, know that legal custody is a very different concept from care and control. Care and control is distinct from legal custody.

**7.50 p.m.**

Now, mothers have an absolute right in respect of their children up to the age of majority by virtue of the concept of parturition, the fact that you had given birth to someone. Fathers do not enjoy the same right at law, at least recognized in the common law. It is a different kind of right.

Mr. President, the concept of responsibility as defined in this Bill causes me concern when we look at its usage throughout the Bill. I think that is something that we have to have careful attention to and I will—in the committee stage in the many hours that I think that we will spend in committee stage—be considering

how that is going to happen if only for the fact that we must do it to be clear as to meaning so that when the interpretation falls to the court, that the rule in *Pepper v Hart* may be invoked.

Mr. President, we see in this Bill—and I am going to another broad concept—I wish to switch immediately to clause 88 of the Bill. Clause 88 of the Bill deals with Part XII of the Bill, children’s attorney. Now, clause 88 of the Bill says that we are going to include into the first schedule of the Judicial and Legal Services Act—I believe that is Chap. 6:01—we are going to include in Part I of the first schedule the “children’s attorney” as an office there.

When you look to Chap. 6:01 of the laws of Trinidad and Tobago, Part I of the First Schedule, you would see that Part I deals with civil attorneys. Part II of that schedule deals with criminal attorneys. This Bill contemplates dealing with children in courtrooms with a matter of immediacy. It even includes the original jurisdiction granted to the court to take a child away—without reference to anyone—and refer that child to the attention of the Children’s Authority. You will see then, when you trace that through, that includes putting the child in someone else’s care and custody and/or legal responsibility.

So, the use of the “children’s attorney” is not as wide as I would like to see it in the Bill, Mr. President, because on the one hand the Bill deals with, as I said earlier, the civil law consequences, and on the other hand it deals with the criminal law consequences. This legislation, when it becomes law, is going to deal with offences, and it is going to deal with civil tort or negligence aspects. It does not preclude any other form of operation as well.

It seems to me to be incumbent upon us as a Senate to consider the use of “children’s attorneys”, not only as prescribed under civil law category by an amendment to the Judicial and Legal Services Act, the first schedule, the first part, but also in relation to the criminal position.

Now, Mr. President, I wish us to harken back to the very material which we discussed when we were dealing with the concept of duty counsel under the Legal Aid Act. That is actually referred to in subclause 6 of clause 88 of the Bill which says:

“Notwithstanding the assignment of a Children’s Attorney... the Court may, where necessary, adjourn the matter for an application to be made under the Legal Aid and Advice Act”

Mr. President, let us jump up one clause higher, subclause 5:

“In any court proceedings, the Court may request that the Solicitor General assign a Children’s Attorney...”

Mr. President, my best-case scenario, without wanting to “see the horse starve while the grass is growing”, with the intention of making this thing law as quickly as possible, would be for us to have a special category of attorney to be put into effect the minute a child is put into detention, or custody, or brought before an authority, the Children’s Authority, or brought before any court, whether criminal or civil. I would wish that we could employ a concept of an automatic attendance by a children’s attorney skilled not only in family law, but with reference to criminal law as well; not in the manner in which this Bill proposes—which is that a court may invoke the Solicitor General to then appoint a children’s attorney—but as a matter of immediate course.

I think, Mr. President, that that would be prudent because the Bill, in fettering custody and allowing detention of a child as this Bill does, it is all the much more important for us, in the context of the United Nations Convention, to see that a child has immediate independent advice. And that the court is also permitted through an officer of the court—because the children’s attorney will properly be an officer of the court as all attorneys-at-law called to the Bar are—that the officer of the court would be able to assist the court in the best way possible.

It would not be reaching too far, Mr. President, to suggest that, because if we have the wherewithal to bring a child before a court, we ought to have the wherewithal to bring an attorney before the court as well. It is important, particularly when our law—if we reflect upon provisions such as the Deoxyribonucleic Acid Act which we dealt with recently—allows for sampling of DNA on a child, by force; something which we advocated very strenuously against in that Bill, but which is relative here because we are dealing with child offenders in this Bill.

So, you have the ability to do something by force in relation to child offenders, which are dealt with under this Bill. My prescription for consideration to the hon. Minister is, let us look at the concept of an automatic bring-on of the children’s attorney, in similar vein to the duty counsel position. Let us make sure that we are doing the very best, particularly when the Government has passed legislation to deal with things compulsorily, which includes bodily invasion in the case of DNA.

Mr. President, that is under the aspect of children’s attorney. That is something which ties on to many provisions in the Bill which I will deal with in

better detail in the committee stage, because it is littered throughout there the opportunity to have a children's attorney interact at the very first opportunity.

The other area that I would like to look at is—and this is for broad discussion clause 51, under Part XI of the Bill which deals with child offenders. Clause 51 deals with—and if I may

“Where a person who appears to be under the age of eighteen years is apprehended with or without warrant, and cannot be brought forthwith before a Court, the officer in charge of the Police Station to which such person is brought shall enquire into the case and may—(a) unless the charge is for murder or any other offence which would have been indictable if it were committed by an adult;”

Let me stop there.

“Release such person”—I jumped to the end of the clause skipping (b) and (c)—“on bail in accordance with the Bail Act...”

Clause 52, I will point out a mistake which is there, says that it refers to clause 49. I am sure that it meant clause 51. But if we go further to 53, clause 53;

“Where a child has been detained in a Police Station, the Commissioner of Police shall make arrangements for preventing”—hear these words—“so far as practicable, the child from associating with an adult charged or convicted of an offence.”

That is to be married with clause 60(5) which deals with restrictions on punishment of children and substitution of custody. Subclause 5:

“Where a child is detained in any facility...”

So, Mr. President, we have the ability to detain a child, arrest a child, take a child before the authority. We have in clause 51 a prescription that says; look, if you think it is a child—and there is another clause in the Bill later on—whenever you think that there is a child you ought to do particular things. If you think that this is a child, release this person on bail. However, do not release this person on bail if it is for—in the simplest translation, if there is an indictable offence, you cannot release this person. And then clause 53 says that;

The Commissioner of Police may, as far as practicable, keep them separate from adults.

Mr. President, that does not do it best for us, with the greatest of respect. We have to note that we should make it—and we can do it—mandatory, that children be segregated from adults, full stop.

Mr. President, I have visited the jails of this country on many occasions to interview clients. I have dealt with the holding cells in the police stations as well, at the courts as well. There is no way on God's earth that I would wish for any child to be associated with any adult in any form of detention. I think that the Bill ought to prescribe not "as far as practicable" but an absolute provision that children should be segregated. That is all the much more so if I were to tell you about an event that happened today.

In the constituency of Port of Spain North this evening, I received a call, Mr. President, whilst here, that several young persons—who are children under this Bill—were arrested for protesting in relation to lack of job opportunities, saying that they did not want "colour me orange", or other positions, but the point is, several of them are now at the Belmont Police Station in detention.

Mr. President, it is important that when we are viewing the context of the world example of the right to protest, which is in fact something provided for under our Constitution, that we must be careful not to fall into the trap of the many cases which deal with kittling, as I referred to earlier. There is a plethora of case law in the United Kingdom which deals with young persons who are protesting in rallies and marches who are herded into a corner by the police, kept there for many, many, many hours and then dealt with through a feeding station and separation point. And there have been allegations as to breach of the similar provisions in United Kingdom law of not being segregated.

We want to avoid those sorts of issues. We are seeing examples of it happening in our own country, in fact, today. What we need to do is to pay attention that we keep our children separate and apart from adults.

Mr. President, if I could refer to the extraterritoriality. Perhaps, I should deal with the issue of sexual grooming first. When I first read that term in this Bill I asked myself, what on earth is it? Later on in the Bill, sexual grooming is essentially defined as forming a relationship with a child such that at some later purpose you intend to commit an offence under this Act by having a sexual relationship with the child. I think, perhaps, that ought to be in the definition section and not left for us to find it in a subclause somewhere. We should make it a little bit more user-friendly.

In the United Kingdom, Mr. President, I noted—when I looked for comparative terms—that the manner of description of offences and the mere language of legislation in the United Kingdom, of course, as I am sure you are aware, Mr. President, is towards simple English.

**8.05 p.m.**

In fact, the English Act deals with things in this manner. “Sexual grooming” is defined and dealt with in the Criminal Justice and Immigration Act, 2000—by the way, that was an example of a clause which did not reflect the type of clause which we had a problem with in the previous Bill, but I did not want to prolong the last debate. It says in subclause (1)—sorry, here is how they describe it:

It says here in section 15(1) of the Sexual Offences Act, 2003—“Meeting a child following sexual grooming, etc.”—for paragraphs (a) and (b); hear the language:

- “(a) A has met or communicated with another person (B) on at least two occasions and subsequently—
  - (i) A intentionally meets B,
  - (ii) A travels with the intention of meeting B in any part of the world or arranges to meet B in any part of the world, or
  - (iii) B travels with the intention of meeting A in any part of the world,
- (b) A intends to do anything to or in respect of B, during or after the meeting mentioned in paragraph...in any part of world, which if done will involve the commission by A of a relevant offence,”

The language used is so simple and clear, and that might be something that we wish to look at, not necessarily in this Bill, but for future positioning.

Under the aspect of “sexual grooming” I would like the hon. Minister to have her legal advisors look at the extraterritorial buy-on of “sexual grooming”. And on that, Mr. President, I wish to look at the extraterritoriality principle, which is dealt with later on in the Bill. That is dealt with at clause 119 and it says—there is a description provided for giving jurisdiction in Trinidad and Tobago to try offences. I found a much better definition, again, in the English Act and that is, again, in the Criminal Justice and Immigration Act, 2008 which deals with extraterritoriality and that prescribes extraterritoriality, not only in relation to nationals, but also to residents.

Also, Mr. President, you can have extraterritoriality apply in a very technical concept which we refer to in law as the Doctrine of Renvoi or Double Renvoi, and that is where another country has a citizen or resident of Trinidad and Tobago, for example, and that person is to be dealt with under our law, the issue of extradition—where we do not have an extradition treaty—would have to be dealt

with by an application of private international law principles which is dealt with under two concepts of law: one called the Doctrine of Renvoi and the other the Doctrine of Double Renvoi which says, a judge in Trinidad and Tobago must think the way and be bound by the rules of how a judge in the other country would be dealt with.

The English provision provides a much better and neater position for those of us who dealt with aspects of private international law for issues which can arise relative to extradition. We have cases where people have flown to Guyana or other parts of the world, where we may wish to extradite them, and these are offences which we must deal with and treat with very, very, seriously.

Mr. President, there are anomalies in the Bill. We have, for instance, in relation to sexual activity with an animal a provision for 25 years. When one looks at the Sexual Offences Act, bestiality is defined—I think it is in section 13 or 14—as holding an imprisonment term of 25 years for an adult. It is an extremely gross position and an abhorrent position for this Act to be dealt with in relation to a child. My prescription, and it will come in the committee stage, would be that those kinds of things ought to have life imprisonment. So the sentencing aspect—I pulled out one of them that I will refer to in committee stage—the parity of sentencing and the prescription of the length of sentence needs to be looked at better in the Bill.

There is also a further anomaly in respect of the sanctions which apply to offences, and that is that this Bill proposes the use of a mixed civil concept. The Bill says that a complainant can recover costs and fines, but a complainant at law, in court, is the police officer. The “virtual complainant” is the person who is charged, who has been offended. The victim is referred to as the “virtual complainant”.

If I am not mistaken, it may be just a matter of clarification, I hope it is that the definitions that are provided in the interpretation of our laws provide that “complainant” includes “virtual complainant” so that anomaly can be certainly dealt with. I hope that is the case. I would just ask the Minister to take note and double check it.

We have a position where the offences attract, in some instances, an offence and fine for summary offences, and for indictable offences a term of imprisonment, but there are other indictable offences which have a term of imprisonment and a fine. And insofar as this Bill prescribes for compensation to be paid to the “virtual complainant” labelled as “complainant”, I would

recommend that we look to improving the indictable offences side of it such that the term of imprisonment is supplemented with hefty fines so that we can, at least, have the ability to make some small measure of repatriation or recompensation to the victim, and the victim's family.

The Compensation Fund in Trinidad and Tobago has not been accessed properly, and the Proceeds of Crime Act is not given a specific buy-on by this Bill. That is another position we might want to look at because there may be proceeds of crime which we can deal with there.

Mr. President, counselling: counselling in Trinidad and Tobago is a very expensive thing, and the very least that we ought to do for the victims of these very horrible crimes is to, at least, allow them the benefit of the money, not only for summary offences, but also for indictable offences so that the parents of these children could have some resource to spend time on the psychology to let our unfortunate children who are victims understand that they are not the ones to blame, and that they can rise over this, and we do not have to reinvent the wheel.

Mr. President, I have noted as well, apart from fines, penalties and positions, that we have quite a lot of consideration to give in relation to the evidence sections. For instance, clause 91 of the Bill deals with evidence and process under Part XIII of the Bill. Now, this Bill has applied *mutatis mutandis*, that is word for word, the provisions of certain sections of the Sexual Offences Act, and that is to be had at section 120 of the Act.

Sections 31(b)—(e) and section 32 of the Sexual Offences Act are specifically incorporated into this Bill, and also sections 26, 30 and Part III of that Act. Mr. President, the first part deals with age. Section 26 of the Sexual Offences Act deals with the fact that it is the age of discretion—the fact that you cannot have a *mens rea*, a mental intention, for somebody under 12 years of age, but this Act proposes to deal with child offenders who are 10 years and younger, but we have incorporated section 26 of the Sexual Offences Act.

So, in my mind there was that whole concept of, are we now providing *mens rea* or some special circumstance with respect to children who are under 10 years of age, because we are punishing them—we can detain them and put them in children's homes and rehabilitation centres, but the concept of the conflict between the Sexual Offences Act, section 26, in particular, arises and that is something we need to look at. I am not sure of the answer, but we need to look at it.

**Mr. President:** Hon. Senators, the speaking time of the hon. Senator has expired.

*Motion made:* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. S. Cudjoe*]

*Question put and agreed to.*

**Sen. F. Al-Rawi:** Thank you, Mr. President. [*Desk thumping*] While I sat and the extension was being moved—thank you to my colleagues—I leaned over and asked, am I being too technical? I got a few “yeeses”—

**Sen. George:** The answer was yes.

**Sen. F. Al-Rawi:** And the thing is this. This is why I said the hon. Minister had a very unenviable task of piloting this Bill. I wish to apologize upfront that it is very technical, but I have to be technical on a Bill like this. So to the citizens I have to say this—

**Sen. Baptiste-McKnight:** No, your people there understand.

**Sen. F. Al-Rawi:** I see. I see the legal advisors and I hope, through you, if I could take notice, understand.

**Sen. Beckles:** Not necessarily.

**Sen. F. Al-Rawi:** Now, Mr. President, the concept of the conflict between the Sexual Offences Act as to ages—that is section 26 of the Sexual Offences Act—incorporated specifically, *mutatis mutandis*, by virtue of section 120 of this Act, but it is the rules of admissibility of evidence that causes me concern with respect, in particular, to sections 30(a), (b), (c), (d) and (e) of the Sexual Offences Act. Was it section 31? I think it is section 31.

Under the Sexual Offences Act, Mr. President, we have provided in this particular Bill, a concept as to how we are going to treat with the gathering of evidence. We provided safeguard provisions to say the child who is the victim—if there is a certification by a judge or medical practitioner—we ought to have the ability to segregate the child, use audio-visual recording or deposition statements, *et cetera*.

But, I would think it better for us to incorporate not the section 20 inclusion, *mutatis mutandis*, of the sections of the Sexual Offences Act as they relate to evidence, but that we specifically deal with the set-out of evidential requirements and, particularly, as to the admissibility of the evidence as to fact, which is something that the Sexual Offences Act does specifically. It is not only admitted *de bene esse*—for its good—it is admitted as proof of the contents of the statement at times. It can be done that way.

Now, there are judges' directions which will apply to a jury and to a court, et cetera, but we need to look at that position better. We also need to look at the provision which says that where the child has given audio-visual evidence that he or she can only be—it says “shall” be cross-examined by the same media. I do not know if we want to use the word “shall”. We may want to allow judicial discretion in an appropriate instance. So there are provisions like that which I would come to in the committee stage. [*Crosstalk*]

Mr. President, what I would recommend to the hon. Minister is that she takes the amendments, the 34 or 38 amendments—I may have miscounted. Forgive me, they just came to the table or rather they came earlier this morning, but I just looked at them—and we ought to look at them. Please provide—insofar as it is proposed that this Senate will adjourn and that this debate will continue with other speakers—through you, Mr. President, a marked-up copy of where the amendments are to go because it is very difficult to look at the provisions in the manner provided. [*Desk thumping*]

**8.20 p.m.**

Mr. President, I wonder about the best use of time; that is part of my considerations in how to approach debate on this Bill. I have only given you the tip of the iceberg. When I paid attention to the debate in the House of Representatives, I did hear the Leader of Government Business shout repeatedly across the floor to a particular Member on our bench, “Make sure to tell Al-Rawi;” his exact words. He said it many, many times, and the undertaking was given, “Yes, we will tell Al-Rawi.”

The reason I raise this is that we are not going to refuse to give our consent, but insofar as the hon. Minister has the ability and will have to take this Bill back to the Lower House, to the House of Representatives, I would like her to consider taking a larger range of amendments back. We support the position, but I am very concerned as to the understanding of the law behind many of the provisions.

I have counted them; I have made 58 annotations with respect to the operationality of the terms defined in the Bill, and we will have to go through all of those; hopefully some of them would be quick. Some of them may not be quick, but we must do it because this is going to be a law which repeals the previous legislation, one which is meant to safeguard our children, and more particularly, one which we do not want to see the courts having extreme difficulty in interpreting, and where the true villains in society could escape on a mere technicality. It would be critical for us.

I believe, if I could have judged by the amount of red ink that I saw Sen. Prescott exercised on his copy, that he too has a lot of consideration as well. It would have been lovely if we heard his contributions now as well. I do not know how it would be best to provide the hon. Minister with some of the positions I wish to recommend in committee, and perhaps with her leave I could have a chat with the attorneys present, separately and voluntarily, to indicate some of those. But the circulation of the issues may be problematic, if I were to condescend to writing because they might be dealt with faster.

Mr. President, if I could ask you to consider just a few more general observations, and that would include—relative solely now to female genital mutilation. That is in section 6. The English legislation also makes it an offence for you to take the child abroad and have the infibulation—is that what they call it?—and mutilation done. I had to Google “infibulation” at the WHO website to actually figure out what it meant. It is a horrible thing. We should include in that section the ability to prosecute someone who takes a child abroad, extraterritorial, to get those things done.

Mr. President, there is pause for consideration as well—and I think this would probably be my penultimate point—in relation to the need to consider making it an offence for the parent or guardian or those with responsibility to absolutely report a child. Right now we say it is an offence for anybody who harbours or assists, et cetera, but that is not to send them back from whence they came when they were in custody, that is, child offenders.

Insofar as we are dealing with children, we may want to consider—and I do not know how this could be achieved—a mechanism by which we make it mandatory to report the offence, that is the offence of having escaped, and to keep the child there, provided a report is made, so that the appropriate intervention can happen, so that you do not have further absconsion or mental degradation or detriment to the child offender, the one whom we wish to reform. That is one aspect that we may want to consider.

Mr. President, we also want to consider, as a subset to that, the issue of providing the court with slightly more discretion in relation to moving of its own volition, in relation to protection. The Sexual Offences Act has a requirement by which it is an offence not to report certain things, which are sexual offences. A similar clause would be welcomed inside of this particular Bill when it becomes an Act.

There are also exceptions for legal professional privilege which may be required by officers of the court if they disclose under certain conditions. There are mechanisms in the Bill for which there is no exception to lawyers having, for instance, pornographic material. I have dealt with a case in court, a very unfortunate case, where I had to be in custody of the evidence; a very unfortunate case. Under this Bill, as an attorney with legal professional privilege, I would be guilty of an offence, so the exception to the lawyer or the court officer is not provided. We have exceptions to all sorts of other people, but not the attorneys themselves. We have got to look at that.

Mr. President, I will leave the 58-plus observations to the committee stage. I wish to say that I offer the hon. Minister my wholehearted support in the passage of this legislation. I genuinely wish that I could have been a participant to the process of considering the law. Regrettably I came on to the scene much later in this Parliament than those who were sitting prior.

I wish to state for the record, insofar as the Leader of Government Business in the Lower House may be looking at these proceedings, that I am not going against anything that my bench has suggested in the Lower House, in the House of Representatives. I am seeking merely, insofar as there are amendments tabled here which have to go back to that House, to encourage a better interrogation and appreciation of amelioration to the Bill, which we would hope finds favour in the Lower House.

I know that we do not have much time in this parliamentary session left. Parliament has to prorogue by June 26, but I am sure that we will make every opportunity to assist in any fashion that we are called upon.

Again, I congratulate the hon. Minister on her work and her dedication to this cause. I congratulate Members of the Opposition, members of the non-governmental organizations, the parliamentary staff, the members and counsel that assisted in the drafting of this Bill in particular. To them I say a sincere thanks for considering the best interest of our country and our children. This Bill has been in gestation for a long while, and with very good reason. I gave you 23 Acts that articulate together with this, and that is the reason why any one Government has not had the magic bullet which we could hope would provide the solution to this.

With those few words, I thank you, Mr. President.

**Sen. Corinne Baptiste-Mc Knight:** Mr. President, I thank you for allowing me to intervene in what I consider one of the most important pieces of legislation to have come to this Senate.

Let me join in congratulating the hon. Minister and all who have been involved in bringing this Bill to this stage. My support is more or less guaranteed. My comments definitely will not be technical, since I am a lawyer of no variety, not even bush, [*Laughter*] but I have a considerable number of serious concerns.

Let me preface my remarks by saying that I think it would be fair to say that the safety of our children cannot be guaranteed by any laws. That would not be guaranteed by courts, police, parents or teachers. This is something that requires the concerted will and effort of every adult in this country. We have got to have the will and express the will to change what is wrong in our society and what endangers our children. Without that, the best legislation is not going to do it.

That having been said, let me say from the onset that there are two aspects of this Bill that disappoint me. One is the lack of a children's ombudsman. This is something that I had called for when we considered the Children's Authority in this Senate. I really do feel that we are missing yet another opportunity to provide an officer whose sole job it is to do duty for any child in danger. But it was not the policy of the last Government and it obviously is not the policy of this Government, so I shall just leave it on the table for what it is worth. I am pretty sure in time it will come.

The next thing that bothers me, and this is not in this Bill nor can it be included in this Bill, but I feel that it is very crucial that our Family Court be put on a strong foundation and be rolled out over the country. This Bill becoming law without the support of that Family Court throughout the whole of Trinidad and Tobago is going to be less than it is meant to be and should be.

The implementation of this Bill, as has been pointed out by Sen. Al-Rawi, is dependent on the full proclamation and implementation of other Bills that have been passed in this Senate since I have been here, and have been laid. I do not know whether the ground in which these Bills are is fallow or barren, but the fact is that, if in four years these Bills have not seen the light of day to become Acts, I worry about the fate of this additional piece of legislation.

With those general comments let me turn to the Bill itself because I have quite a few areas that I would like to make specific mention of. I start with clause 4(1)(b)(i) and (ii). I will just simply say that I do not understand why it is, in order to commit an offence of cruelty, a child must not only be suffocated by an adult,

but the adult must also be under the influence of drugs, alcohol or something else. I feel that “and” here at the end of (i) should be replaced by “or”, for the simple reason that in this country there are too many avenues for social assistance that would allow a new mother to provide a basket or a cot in which the child could be placed, to avoid rolling over on a child even accidentally.

**8.35 p.m.**

Now, let me put a parenthesis here. This would mean that all of these avenues of assistance must be made known to the public, so that people can ensure that their neighbours know they can go to social development and get assistance to have a bassinet for the child. In the olden days, a lot of children slept in drawers; a drawer from a chest of drawers, until they graduated to a bigger drawer and eventually to a bed. But if we have become so sophisticated that this not on, provide a basket or something for the child, but penalize the person who refuses to come to get assistance to get this.

Moving on swiftly to 12(4)(a). Now, I noticed that the period of recognizance must not be more than eight years, but this covers child offenders, children who are uncontrollable, from age below 10. What if the child is eight or nine? In eight years’ time that child is 16 or 17, and you are going to relieve the parent of the responsibility, obligation and duty of paying specific attention to that child. I think that this limit should be removed, and it should be left to the discretion of the court to determine the length of that recognizance.

I want to come immediately to what I know is going to be very controversial, but as I stand here, I feel I have a duty to everyone here, and to everyone outside there, to do it. We are living through an age where bullying is rampant in our school system. A lot of the bullying takes place, boy upon boy, a lot of it is taking place because one of them is thought or suspected of being gay. Now we cannot as adults come here, under the guise of representing a country, and behave as if we live in the only country in the world where there are no homosexuals, no gays, no lesbians, and no transvestites. My God, you only have to be in Curepe at too late an hour, and you do not know which is female from which is male because all of them are dressed in high heels, lipstick, and have a lot of hair. “What happen”, are we not making laws for them too?

I want us to think because a lot of you have children, and your children arrive on earth and they are called male or female. What if one of your children is unhappy in his or her skin, uncomfortable in their given sexuality, and that child is not able to come to either parent, and unburden? What if that child has no adult

in its life to whom the child can turn for comfort, even when the child is being persecuted at school for this? I would hate to think that the 31 of us in here are so homophobic, that we would shut our eyes to seeing an infant, a child, suffer through no fault of his or her own.

We say that this clause 20 is to decriminalize sexual activity between children, but subclause 1(c), and it is repeated for under 18, under 16, under 12, the age where children, they are just investigating each other, and it is a criminal offence if he is not the same sex as the child. Am I misinterpreting this? [*Crosstalk*] Clause 20 says, he is not liable if:

“he is not the same sex as the child;”

So that he is not liable if he is touching sexually a girl, but if this is happening with a boy, he is criminalized; or a girl with a girl.

This is what I am talking about. We have got to open our eyes and face the facts. [*Crosstalk*] What is that? Excuse me? [*Interruption*] No, we have to talk in public about this because there are people out there who are hurting. There are children, there are parents who are waiting for approval to deal with their gay children, and we have to send them the message that it is all right to deal with their gay children, not have them closeting the children because they would be persecuted, and prosecuted. I really want to propose that this “(c)” be removed from every subclause in 20.

In addition to this, you talk about a child who is in a position of trust in relation to the child three years or two years younger than him. This is okay for someone who is under 18, because at age 16, 17, I would accept that you could be put in a position of trust over your younger siblings, but when you are going to stretch that to a 14-year-old, and my God, to a 12-year-old! Do you realize that we are telling people, that it is all right for them to put their 12-year-old child in charge of siblings younger than them? I cannot accept that. I am very sorry. I might be just old-fashioned—no, let us be honest about it, just old; too old to understand, but a 12-year-old cannot be in a position trust. Does a 12-year-old understand that? That you would have to convince me of, and I am pretty sure it is going to be difficult, if not impossible.

Let us move on to 38—no, 38 I am okay with—40. In 40 we are dealing with child pornography, and 40(1)(d) and (e) talk about a person who “knowingly obtains access” to child pornography or who “knowingly has in his possession child pornography”. But in 40(3), it says that—it is a defence for these persons to

prove that they had not seen the child pornography. Hello! How can you knowingly be in possession of something and come and tell me, “I did not see it”. No, I do not know whether it is a typo or just something that slipped through, but not good enough.

Then we go to 40(10), in fact the whole of 40(5)(f), page 26 over to 27. Now, Sen. Al-Rawi mentioned that lawyers, attorneys, ought to be included here, I have no problem with that, but I think a significant omission here is teachers, and I do not think that (f):

“any other officer employed by the State in the preventing, detection” et cetera, —fits the Bill because a teacher is not employed in prevention of child pornography. This is something that happens. Unless of course, the idea is, that having given the children computers, they are expected to access pornography, so that the teacher now becomes an agent of prevention. I do not think so. I think that teachers, just like attorneys, must be specifically included here, so that they have the responsibility of dealing with the pornography, if they find the children with it in school.

Clause 43: I wonder why it is here, and not in Part 10, which deals with offenders. Somebody needs to explain to me: there is provision for children 16 and over, and there is one penalty for 16 and over, and then there is a penalty for 16 and under. Am I the only person that strikes as odd? The child who is 16, is that child over 16 or under 16, according to this?

I always felt that when I became one, the next day I was over one, I was one-plus, so that when you become 16, you are actually older than 16 from the next morning. So, it has got to be either 16 and over, or under 16, you cannot be both. I will deal with the matter of all these fines that are given to children at a later stage.

**8.50 p.m.**

Part IX, that deals with child offenders; I have two general comments on this.

**Hon. Senator:** What page is that?

**Sen. C. Baptiste-Mc Knight:** Page 36. Right now, I am told that a child guilty of an offence of using obscene language—which, in this territory is rampant—and/or resisting arrest can be put away in YTC for three to four years, but an adult from whom the child would have learnt that wonderful habit, guilty of the same thing, gets a fine. Amen.

Is there anything in Part X that I have missed that means that that would no longer be the case? It is probably there, but I have not seen it. In addition, somewhere in this part, I would like to see, if it is at all possible, that the DPP be charged with giving guidelines to the police which they would have to follow in order to bring a prosecution against a child. And that that prosecution would not be carried out until the DPP has received some records, report, from the probation services. To me that is very important.

On page 37, 55(4); there is mention of section 48(1) or (2); that is a wrong section, because 48 deals with something completely different, and I think it just was not corrected with all the changes that were made in the House. Just bringing that to your attention. [*Interruption*] No, he raised the other one, 49, which is in 52. Now, 55(6) seems to make sense. It says that if a child is taken away from the parent or guardian, the attendance of the parent or guardian shall not be required in court. I think that this is wrong because even, or especially, if the parent or guardian is deemed unfit, that parent remains the parent of the child, and I think that every effort must be made to heal the breach, to give the parent the opportunity to become a better parent, to be there for the child. I feel that that parent should be required to follow every step of that child's journey through the courts and rehabilitation, rather than being exempted and hence have the responsibility for the child removed from him or her. I do not think that this bodes well for parenting.

**Hon. Senator:** But the child is already taken away.

**Sen. C. Baptiste-Mc Knight:** Even though the child is already taken away from the parent you cannot break the bond. You remove the child physically, but when that child comes out of rehabilitation, where is the child going? You are making no arrangements; you are putting nothing in place for there to be reconciliation between the parent and child. It might not happen but it must not be because the court has made it impossible.

Then we have 57; I think it is important that the court be given greater latitude here to decide on the basis, on a case-to-case basis, of the period for which the guardian shall enter into recognizance. Stipulating three years, I do not think, really, is good enough.

Then I would like to move on to 61—oh, that has been changed by the amendment that has been offered.

Clause 66: temporary placement of a child. Now, this clause deals with a child offender, but it says, that where a person wishes to care for a child who is not a child offender—then why is that in this part, page 47, 66(1)(b) and then when you go to 66(4) on page 48, it talks about revoking the licence of the offender. So, there is

no consonance between 66(1) and the rest of 66, because 66(1) talks about a child who is not an offender, but yet the whole tenor of the rest of the clause deals with a child who actually is an offender.

I would like to move on to clause 72; and all I can say about clause 72 is that I really do not understand what is meant to be conveyed here. If a child is already in a rehabilitation centre—I can see if the child has been discharged that the child can be recommitted for another offence. But in the case where a child has had more than one charge pending, the child is convicted and sent to a rehabilitation centre, if the second charge is heard, can you recommit the child to the same centre that he is in? I do not understand it, really. I would like to have that clarified. I am sure it is something very serious that is meant, but I do not understand.

Clauses 73 and 74: it says that a child who is under the age of 17 can be transferred from prison to a rehabilitation centre and be placed there for not less than one year or more than five years, but in any case not beyond the age of 18. Now, if you transfer a 16-year-old who happens to have been incarcerated in a prison with a sentence of more than two years and this child, under this clause, is now transferred to a rehabilitation centre, the child would become 18 before the end of the term of sentence; the child cannot stay in the rehabilitation centre beyond the age of 18, what then happens to this child? This is what I would like to know, what is the fate of this child?

Now, clause 74 I find heartbreaking because I can see the intention here. The intention is to rehabilitate a wayward, bright child, and it says that if the child is under the age of 13—[*Interruption*—no, that is okay; over the age of 13. At (2) it says, “no term of training referred to in subsection (1) shall continue for longer than five years beyond the day when the child”—

**Sen. Beckles:** Or beyond.

**Sen. C. Baptiste-Mc Knight:** Or beyond? [*Interruption*] Yes, but if a child starts to show promise at age 16 and this child starts a course leading to CXC, and the child then goes on to CAPE, but at the end of the first year in CAPE—or they might even be sending the child to COSTAATT, nothing is out of bounds with this—but the course does not finish before the child is 21. Now, by mandating that this training must stop at age 21, are you not setting the child and the whole society up for great disillusion on the child’s part?

The child is in a course of education and it is interrupted because the child hits 21, but if that child happens to be over 14 instead of older, the education stops at age 18; now, is this truly rehabilitation? I do not think so. I think that we need—because you got to understand that in this society when children, “doh” matter how well

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they are rehabilitated, come out of these institutions, the likelihood of their going back into a family situation is almost nil so, unless the child is allowed to finish the training so that they come out with something that allows them to lead a productive life, it means that everything that was done within the institution is wasted. I think we ought to look at that very carefully.

Now, I would like to go to clause 78, and this affects 78 and 79, where we talk about an order committing a child to a community residence. Now, someone tried to explain to me the difference between order with a small “o” and order with a capital “O”—[*Laughter*—and I got the impression that order with a capital “O” was what was meant here—a court order they tell me that that is basically with a capital “O”. So just a thought, because an order made by the courts—

**Sen. Beckles:** What clause is that?

**Sen. C. Baptiste-Mc Knight:** This is clause 78. All of these orders, perhaps, we might need to look at and decide whether they are official orders or just, you know, like commands.

**9.05 p.m.**

The same thing happens in clause 87, but 87 has another problem. Is it normal or sane to equate the manager of a community residence with the secretary or the clerk? I get the impression that there should be some hierarchy of responsibility, and a clerk and a secretary ought not to be able to sign orders of this magnitude, not even on behalf of. And then if an order is to be served on the manager—not the manager or clerk or secretary—but it can be delivered to the last known place of abode, not to the person you know, but to the person’s last known place of abode, which makes me to wonder if Government is going to be hiring managers of these community residences and not know where the people are actively living in real time. This does not speak well for us. So from the point of view of good sense alone, this needs to be looked at and I cannot really approve a clause that says anybody who is working in the office can sign an order or receive an order on behalf of.

Moving on smartly to Part XII, which deals with the children’s attorney, I am all in favour of this, but it occurs to me that what we are doing is really establishing a new subset of law. You will have your criminal lawyers, constitutional lawyers, corporate lawyers, et cetera, et cetera. Now we want to create a specialty, children’s lawyers. I am all in favour of this, but it talks about special training, appropriate training with respect to matters relating to children.

What arrangements are being put in place to provide this training for these lawyers? Now, I do not think that it is beyond us because there is the Judicial Education Institute which I am sure can mount absolutely appropriate courses, but I do not think that we are talking about a six-month course here. So I can see again a postponement of the implementation of this piece of legislation unless people are already in discussion with the institute with a view—or perhaps Hugh Wooding, some place—to identifying the training and having people know that it is available. And here again at 89 where mention was made of section 66(4)—I think it is 88(4) that that should be.

I would just like to close by expressing my concern about the fines that are being suggested for these young offenders. Now, I recognize that there are some young offenders who themselves might be in a position to pay fines. Some of them, their parents would be in a position to pay fines on their behalf. I understand the need for restitution; I understand the need for provision, especially for the psychological and medical treatment of victims, but where we are dealing with children, I feel that the State must be prepared, through the authority, to provide this assistance especially for child victims and not have the onus placed on the child offender. Where the money is just not there, what happens?

There is one other bee that I have in my bonnet—I left the bonnet at home today. [*Laughter*] With age these things happen, you forget your bonnet and then you talk about the bees in it. But it is where—76(2), page 51, and you know what bothers me about this, it says:

“A child placed in a Community Residence under subsection (1) shall be deemed to be in legal custody.”

Has anybody thought that by this stroke of the pen you criminalize every child who is in a community residence? Because only one child has to be sent there in legal custody and the whole community knows that is a jail for young children. So everybody who is there for whatever reason, they are just orphans, they are just in need of care, they are stigmatized. I think that we have to tidy this language up because, if the idea is that you place children to get the appropriate attention, care and training to rehabilitate them, the psychological burden of being a criminal might not be erased and the last state could be worse than the first.

Mr. President, I know that many people would like to add their bit to this Bill, so I close by congratulating all involved in the work they have done and I hope that we can finish with this in the state that would allow it to be implemented and contribute to the betterment of our youth. I thank you.

**Sen. Lyndira Oudit:** Good night and thank you very much, Mr. President, for the opportunity to speak—relatively short contribution today at 9.13 tonight. Mexican anthropologist, Mr. Pável Uranga, I had the very good fortune to be part of a programme—a seminar last week—where he spoke about gender violence and the concept of femicide, and in particular with children and abuses that are not only within one or two countries, but have grown regionally and internationally and it is a huge phenomenon.

I would like to offer to this Parliament a definition that he gave for what he referred to as systemic sexual femicide. The reason I am saying this is so that it may be seen that while the term femicide seems to reflect upon women it can easily—given the ambit of this particular piece of legislation—cover child abuse and sexual exploitation of children. The definition that he offered for this systemic abuse and I am quoting here:

“...the encoded murder of young girls and women for their condition as such, whose bodies have been tortured, raped, murdered and dumped into transgressive spaces (including forced prostitution in the case of women trafficking), committed by men who turn to sexism and misogyny to cruelly draw gender barriers by imposing State Terrorism...”

I propose, Mr. President, that this should be expanded and used if we try to understand what is taking place with our children. So this sort of definition and this Bill in particular forces us to shift our perception. Too often—and a very inappropriate outlook prevents many from taking child abuse and violence against children much more seriously. This inherent misconception reflects the notion that such crimes exist or belong in a personal or feminine or private family sphere.

We often hear the cry that “it is not my business”, it is “the family business.” You hear cases that are reported and the police say “that is a family matter, leave it alone”. So many times, cases against children, along with women, are often seen as not the business of the State or business of many institutions so charged with dealing with it. This is a root problem, I believe, which is an unforgiving misunderstanding of the philosophy that really deals with how this is allowed to be perpetuated and so any solution that we have must attack this cultural and psychological misdirection.

Mr. President, as I say that, I would like to commend the Minister. Since 2010, I know that there has been some effort on the part of this particular administration to highlight the work that is required for children, and I know this

particular Minister has been very, very vocal and emotional in trying to bring this particular piece of legislation, and for that I say she must be commended. Her emotional response must be commended. [*Desk thumping*]

Mr. President, until very recently the phenomenon of youth violence was often seen in the same way as homicide, and too often the killing and abuse and exploitation of children were outward manifestations of what was, in my mind, a deeper and more profound illness within the society that seems to accept and tolerate a level of violence. Where it is bad for adults it is horrific and inhumane against children. Somehow, this Bill has sought to reflect a deeper understanding of the nature of the illness that has perpetuated itself, and so child violence and child cruelty, which is addressed in this particular Bill, it is something that I believe is going to open the eyes of our national community because I do not believe violence and abuse against children is going to be changed by changing legislation. It is more than just a legislative concept—this concept of violence—and therefore if we are to establish any protocols for prevention we must deal with the philosophical misunderstanding.

We must also see, Mr. President, the violence against children and in particular sexual violence as something not separate from the economic needs or social challenges that face us as a society. So, solutions must address cultural norms, economic deprivation and the excessive laxity in the way that current and even proposed legislations are often implemented. Hand in hand with that is what I call the explosive drug culture that seems to have fostered a high unnatural acceptance of child abuse and exploitation.

**9.20 p.m.**

Mr. President, this Bill speaks quite clearly about child pornography, cruelty, burning, genital mutilation, prostitution and other sexual offences. In the Caribbean, intimate family violence, many times within the homes of children, and violence associated with drug use, kidnapping and prostitution, seem commonplace. We have, within recent times—but throughout, for decades, we have seen the phenomenon of abuse within homes, the very protectors, sometimes blood relatives, but oftentimes even step and reconstituted families have seen their share of violence against children. And so even among children today, words like child prostitution, sexual violence and sexual exploitation are commonplace in the language that we use.

In the Caribbean, and in particular in Trinidad and Tobago, a lack of political action in the past—and this is not only within recent times, and this has no reflection on any one party or administration, but for decades we have seen a lack of political action

that has caused inadequate budgetary allocations, a manipulation of statistics that have been submitted not only to regional but international agencies, and the social misdirection of these issues.

Mention at this time must be made of the Institute for Gender and Development Studies established in 1993 under the University of the West Indies along with the Women's Institute for Alternative Development established in 1999 in Trinidad and Tobago, which have been actively trying to promote social transformation that is required to change, especially some of the divisive perceptions that feed into our culture, which support violence at every level for every gender, but in particular for our women and children. At the end of the day it is clear that policies and factors that have allowed, in the past, children to be so victimized wantonly and almost systematically, have been either directly or indirectly supported and tolerated by the State and other institutions to some varying degree.

Part III of this Bill refers to offences in relation to begging, burning, firearms and ammunition. Mr. President, many of us in the Caribbean are connected regionally and internationally, and as a result of that connection have become vulnerable, because of socio-economic conditions such as income inequality, uneven settlement patterns and even a skewed pattern of urbanization, poverty, a large youth population, and within the last several decades easy access to guns, a pervasive drug environment and a weakened political system.

Violence against our women and children often accompany poverty, crime, deprivation and inadequate or inappropriate learning. Further, violence against our children is often rooted deep within the corridors of drug and human trafficking, and that is something that this country must wake up to because it has been happening; it is happening; and it will not disappear overnight. We must see the connection between this particular Bill and what it seeks to do—the Children's Authority, the Children Bill, violence against children, prostitution, sexual exploitation. When we look at the need, why is there such a great need? We need to see the connection in the economics. If there is a demand there will always be a need for a supply.

The Caribbean—and Trinidad, in particular—is at risk because of our geographic position, trapped between some of the world's biggest suppliers and consumers of narcotic drugs. Trafficking of drugs and ammunition has carved pathways of destruction within our region. Crime, child abuse, sexual exploitation have flourished, while real development lags behind.

I heard Senators today lament about the lack of statistics, and I ask, even with the little statistics that we had, even with information that came out of, for example, CSO, or any institution, what have we done? What have we done with the statistics that were given in the '60s, '70s, '80s, '90s, and in this decade? What have we done with the little bit of information when we spoke about our borders?

When we spoke about our children, for decades an open secret is the fact that we have a number of South American women and children operating in our institutions and some of our colorful business enterprises. What have we done? How many children, and how many parents in South America might have had this same discussion? And Trinidad would have been a recipient country for a number of their children that have gone missing. How many of them in Trinidad were really children of South America, and what did we do? We did nothing. We did absolutely nothing because it was almost a proud fact that we have South American women here, and that, as I said, is an open secret.

I challenge anyone today, that despite any statistics, the horrors associated with child exploitation and abuse have grown almost exponentially. This suggests, Mr. President, that having statistical data alone is woefully inadequate to even begin any sort of healing. Having legislation alone, as well, does not guarantee any solution. There are many developed countries with the requisite legislation but, in fact, they continue to see systemic abuses of their own children and in their own exploitation, sexual or otherwise. So the existence of laws alone, the existence of statistics alone, is not enough.

We must, above all, and without compromise, effect a change in our psyche so that where we were unable to save the children of the past, we have the opportunity today. When I say, today, I mean in my lifetime and possibly in our position now as legislators and people who are in the position and in the know; we have the opportunity to affect a change in the psyche of the society in which we live and of which we are a part.

Clause 5 of this Bill refers to abuse of children through prostitution, and we must come to terms with the fact that prostitution is not only local, it is cross-border and international in scale. Mr. President, I am shocked—and I see the word “procurement” in Part V referring to how we obtain the sexual services of a child. So we have come to the term and the understanding, and that is a good start because we must tie it to the economics—demand and supply. Mr. President, the law of demand and supply, as with every other good or service, is what drives the need for sexual and human exploitation and, most particularly, of children.

So we have to understand that the underlying philosophy of sexual abuse and the internationalization of those elements must take place. The understanding must take place if we have to better identify not only the victims—because there are many that are unidentified—there are many that have fallen outside of the statistics. The fact is, kidnapping does not even explain a child who has disappeared. With a kidnapping, you may still recover a body. But what about those children who, over 10 and 15 years, not even a body has been found. Therefore, the idea of having kidnapping statistics or homicide statistics is part of it, but there are absent statistics. It is simply unclear how we deal with issues that are even, in many cases, not measurable.

Mr. President, we have to see child abuse, exploitation, forced migration, human trafficking—children and otherwise—as mechanisms for exploitative labour and it must, at all costs—there must be an understanding of the relationship and the nexus between child pornography, as the Bill refers, sexual exploitation and human trafficking.

In the past, Mr. President, many studies have come out, and in the past this region—in particular, a major constraint out of this region to deal with child abuse, violence and human trafficking was the absence of a single agency or institution to comprehensively coordinate preventative and curative responses. Oftentimes there was a duplication of efforts and many cases—which at some point would have been preventable had they been picked up by the services and social institutions present and existing, may not have fallen through the cracks to become a statistic of either death, kidnapping or disappearance.

So what we have found is that when you look at the source point, the source of the problem, oftentimes we do not even recognize there is a connection between a child who is absent from school, for example. A continuous absence from school should be a red flag that there is something wrong. We have children who, coming to the end of their school year, are absent for three terms and then you do not see them, and somebody says, you know, they migrated or they went somewhere. Who picks up on that? Where and who is responsible? I do not blame teachers. I blame the system that does not adequately equip our institutions with the know-how, the expertise, the facilities and the tools, that when such situations arise, that we deal with it.

Mr. President, we have hospitals that when we have child abuse, and cases, I think what would be very telling would be over, let us say, a 20-year period, to track how many cases of child abuse were reported by our hospital administrations. How many cases of persons who were killed, or children who were killed, had a track record of child abuse and went unreported from hospital, and hospital cases?

This Bill makes specific reference to several pieces of legislation, and part of my point earlier was that there was no comprehensive dealing, no institution, that dealt with this, and what I found very good about this particular piece of legislation is the fact that this Bill specifically and generally refers to the Sexual Offences Act, the Bail Act, the Probation of Offenders Act, the Children's Community Residences, Foster Home and Nurseries Act, Family Proceedings Act and the Summary Courts Act.

I would imagine, not being a lawyer, that there are many other pieces of legislation which could be tied into this specific one. But this is a start in coordinating the pieces of legislation and the institutions thus governed so that we can have some measure of a comprehensive authority or a comprehensive piece of legislation that we can use from source point to some form of tracking over time.

Mr. President, we have to look at one other point, and that is simply world economics. We are regionally positioned and we have benefited in many regards from world economics, but there is a downside and there is a high price that we have to pay. Oftentimes we do not question how some goods can be offered to international markets at such low cost, and when we ask, we hear of people who are in sweatshops; we hear of children who are forced into child labour. The mortality rate among such persons, especially children, is very high, and so, again, we come back to what I say is the law of demand and supply. There is a recurrent need to replenish the labour source, and so we again have to look at the nexus between what we are dealing with in this piece of legislation because this piece of legislation specifically looks at child prostitution.

**9.35 p.m.**

Child prostitution, I will say it again, is not only local. We must see the connection between regional and international prostitution and child trafficking. It would be counterproductive to move forward after today with this piece of legislation, this singular, very comprehensive piece of legislation—we will fail if we cannot take this piece of legislation and then move into other areas. Under the Ministry of National Security you have the International Organization for Migration and human trafficking. We have to start filling the gaps and we have to start making the connections between all of that.

Mr. President, I believe very sincerely that the time for what I call rhetoric conversation is over. Child abuse is not an overnight story. It is not a story that either stands on its own or is singular in its dimension. I believe it is a story that is interwoven—as the Bill refers, genital mutilation. This story is woven with pornography, sexual exploitation, child trafficking and human trafficking.

In all, we must understand that there is an evil—I do not know any other word to say—that those who can afford the unnatural pleasures have been demanding in greater number, children, to satisfy what was at one time maybe a sacred act. So we now have children who are exploited because they provide sexual pleasure for many; not for other children but for adults. We have to understand what we do as adults. We have to understand how we feed into child pornography that this Bill speaks to and our own growing need for child pornography personal or otherwise. We have to see how we look at our children. What eyes do we look at when we see a child—and we know it is a child—with a short skirt or pants. Have we changed? How have we as men, as adults in our society, how have we changed and how has our psyche collectively changed? So we have been able to probably contribute to a psyche that has allowed and in a way inadvertently turned a blind eye when our neighbour's child was being abused. So we have to understand.

Mr. President, in 1947, at the eve of India's independence, Jawaharlal Nehru said and I quote:

“A moment comes, which comes but rarely in history, when we step out from the old to the new; when an age ends; and when the soul of a nation long suppressed finds utterance.”

Mr. President, I believe today, today must be seen as a turning point. We have come to this Parliament—and I listened to my sister, Verna St. Rose-Greaves, and I understand the depth of pain. Whether she has a child or does not have a child, whether she is a mother or not, there is a level of humanity that exists and must exist in all of us if we are to address what this Bill seeks to do through legislative means.

The challenge, I believe, of our time is how we use our education; our skill and our wealth to advance a change in our psyche; our imagination and our indignation against injustices that this Bill speaks to will determine whether we build a society that serves our needs or would we be a society where our old values and visions are buried under decades of monumental corruption or even lack of public trust in the institutions so charged to protect our children.

I believe that this Bill is linked to international protocols and we must give far more local support to international protocols and interventions that help us to deal with prostitution—children or otherwise—drugs, human trade and human trafficking. It is only through combined efforts of regional and international cooperation that solutions will truly be achieved. We cannot do this alone. Global problems require global partnering. Our region must develop further the political and cultural will to make headway into this undertaking. We have as citizens a constitutional right to protect our children—our constitutional right.

I wish to remind Senators, the Constitution of Trinidad and Tobago begins by affirming our nation as founded among other things upon principles that acknowledge the position of the family, the dignity of the human person and the principles of social justice.

Mr. President, it goes even further and my point today is that we have to use the resources of the State. It is imperative that we use the resources of the State, as we have started to do with this piece of legislation, to effect what is a common good. I believe our country has possibly forgotten; in the past several decades, we seem to have forgotten what was the common good. The preamble in our Constitution says:

“Whereas the People of Trinidad and Tobago—

(b) believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good...”

Mr. President, I say today collectively, regardless of party, regardless of affiliation, the common good is very clear to me, it is the children. We must remove the shackles of racial and religious division and seek to understand that our national consciousness is rooted in a similar historical sphere.

What is required is a clear psychological paradigm shift which is crucial to our ethos and the orientation of all involved including every officer, every individual and employee of the State: be it a police officer, school administrator, hospital administrator; we come up the ranks, judicial and legal services, there is an ethos that we need to build. We need to reorient how we look at, how we define sexual abuse; how we define the role of a parent. I believe this document in front of us is an excellent start. Again, I keep saying, I cannot thank Sen. St. Rose-Greaves enough for the work that she has done in bringing this today. This is significant legislation and it must be seen as that.

Mr. President, even the most effective Parliaments and the most well-intentioned legislation, however, will not do what it is this Bill sets out to do. We have to establish a climate of strong public opinion that looks upon manifest or latent, overt and covert abuse of our children in any form as a threat to our society. It is our responsibility to do so. It is said that if a collective will of the people to resist injustice in any society is weak, then the culture of the people will remain decadent and divisive.

I do not believe a piece of legislation like this requires us to be divisive. I believe the common good must underscore our need for a unity in purpose. I believe we must deal with this issue and issues such as this pertaining in this Bill in a drastic and immediate manner. I believe we need to live up to the expectations and the faith that have been placed on us by the national community and most especially by those we consider our future.

I believe as well, Mr. President, that we must never settle for tokenism and we must never relegate our efforts to a mere minimum. I believe much is expected of us today and I fully support this particular piece of legislation, Mr. President. I thank you.

#### ADJOURNMENT

**The Minister of Public Utilities (Sen. The Hon. Emmanuel George):** Mr. President, I beg to move that this Senate do now adjourn to Tuesday, May 22, 2012, which will be Private Members' Day. On Private Members' Day we will, I hope—sorry, sorry, Mr. President, to Friday 18, 2012, at 1.30 p.m., when we will continue debate on this Bill. I am sorry, I was thinking ahead to next Tuesday and Private Members' Day, I am sorry, thank you, Mr. President.

**Mr. President:** Hon. Senators, before I put the question, I do want to bring to your attention Standing Order 53, in particular. I recognize at some stage we will be going into committee stage on this Bill. And based on the contributions I have heard so far, in order to ensure that it is most effective and efficient, I draw your attention to the order which really requires Senators who wish to make amendments to the legislation to circulate it and give a copy to the Chairman in advance.

Of course, Sen. Al-Rawi did point out about wanting to get a marked copy from the Government side. But, likewise, a marked copy from any other Senator—if he wants a Word version of the Bill, I am sure the Clerk of the Senate will make that available to you. I ask, therefore, if before the next sitting we could have that circulated in time. You have a question Sen. Al-Rawi?

**Sen. Al-Rawi:** Thank you, Mr. President, for allowing me to put a question in. Mr. President, thank you for your guidance with respect to Standing Order 53. The question is whether it will be strictly enforced because some of the observations to be made are observations relative to policy. Once the answer is given it may affect the amendment to be made. So just asking if it will be strict on that position and, of course, taking your guidance that it should be short of course.

*Adjournment*

*Tuesday May 15, 2012*

**Mr. President:** I did not mean that it would be strictly enforced. What I am trying to do is to encourage you so that the committee stage would be effective and efficient, as I hope this Senate will seek to strive to do at all times. Therefore, I am bringing it to your attention. I think it would be the most efficient use of our time, when we come to committee stage, even though I am unlikely to be sitting in this Chair at that time.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 9.49 p.m.*