LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. Taharqa Obika and Sen. Saddam Hosein, both of whom are ill. Hon. Senators, with your leave we will do the swearing in of the temporary Senators a little later in the proceedings.

JOINT SELECT COMMITTEE
(APPOINTMENT OF)
Fisheries Management Bill, 2020

Madam President: Hon Senators, I have received the following correspondence from the Speaker of the House of Representatives:

“Our June 16, 2020

Dear President of the Senate,

Membership of Joint Select Committee
At a sitting held on Tuesday June 16, 2020 the House of Representatives agreed to the following resolution:

Resolved:
That the following six (6) Members be appointed to serve on the Joint Select Committee established to consider and report on the Fisheries Management Bill, 2020:
Mr. Randall Mitchell, MP
Ms. Shamfa Cudjoe, MP

UNREVISED
Dr. Lovell Frances, MP  
Maj. Gen. (Ret.) Edmund Dillon, MP  
Mrs. Vidia Gayadeen-Gopeesingh, MP  
Ms. Ramona Ramdial, MP  

I request that the Senate be informed of the decision at the earliest convenience please.  

Thank you.  

Respectfully,  
Hon. Bridgid Mary Annisette-George, MP  

Speaker”

PAPERS LAID


URGENT QUESTION

Sabotage - Heritage Petroleum Company Limited  
(Preventative Measures Implemented)

Sen. Wade Mark: Thank you, Madam President. To the hon. Minister of Energy and Energy Industries: In light of reports of sabotage at Heritage Petroleum Company Limited, can the Minister indicate what preventative measures are being implemented?

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The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, Sen. Mark is referring to an incident that took place on June the 19th at Wilson Road in Barrackpore. It involved more theft than sabotage, where people were cutting three-inch pipe with a welding torch, largely to steal what is called “fence post”. I would not say it is common practice, but the incident of these things does occur in the south western peninsula where there are hundreds of miles of pipeline, especially the small sized pipeline, and it has been a perennial problem over the years.

However, Heritage reported the matter immediately to the Barrackpore Police Station and Heritage plans to increase mobile patrol in the areas with the assistance of the Trinidad and Tobago police force; very importantly, ask the community for assistance in helping to monitor the assets of Heritage; where possible to implement a CCTV camera system, and more importantly to establish a hotline so that these incidents can be reported to Petrotrin directly no matter what part of its asset based it occurs in. Hopefully, this will alleviate and probably bring to a zero position incidents like these in the future.

Sen. Mark: Can the hon. Minister indicate whether there is any timeline to have established these hotlines as well as the interaction between Heritage and the communities so that they can serve as “alerters”, Madam President?

Sen. The Hon. F. Khan: And it is very important we must engage the community because over the decades of the oil industry in the south west peninsula the community used to be really the watchman of the company. But very important the point I need to make, that is a dangerous exercise because while we luckily these lines were dormant, there was no fuel, no gas, no oil passing through them. What is the position if that was a gas line? It would have been a major disaster. For two
fence posts. It does not worth the risk, ladies and gentlemen.

**Sen. Mark:** Madam President, may I ask the hon. Minister whether there is any attempt on the part of Heritage to step up security personnel in those areas as well as other areas that could be exposed to that kind of illegal activities by members of the public?

**Madam President:** Sen. Mark, I would not allow that question.

**ANSWERS TO QUESTIONS**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam President. Madam President, the Government is pleased to announce that it would be answering question 112, questions 138, 139 and 147. With regard to question 140, we ask for a deferral of two weeks. And turning to the back under Written Answers, even though it is not due we will submit the answer for question No. 165.

**WRITTEN ANSWER TO QUESTION**

**Data Assessing the Impact of COVID-19**

**(Details of)**

165. **Sen. Amrita Deonarine** asked the hon. Minister of Planning and Development:

Having regard to the key sources of data critical for assessing the impact of COVID-19 on the population such as the Housing and Budgetary Survey (HBS), the Survey of Living Conditions (SLC), the Continuous Sampling Survey of the Population (CSSP), the Unemployment Rate, Quarter 1 of 2020 GDP and the 2020-2023 GDP forecasts, can the Minister:

(i) provide the Senate with the abovementioned data;

(ii) if said data is not readily available, what are the completion and publication dates of same; and

**UNREVISED**
(iii) what is being done to prevent delay of the completion of said data in light of COVID-19 conditions?

*Vide end of sitting for written answer.*

**ORAL ANSWERS TO QUESTIONS**

*The following question stood on the Order Paper in the name of Sen. Wade Mark:*

**Brooklyn, Sangre Grande Step-Down Facility**

**(Action Taken Re Substandard Conditions)**

**140.** Can the hon. Attorney General indicate what action(s) have been taken by his office since taking receipt of the report into the substandard conditions at a “step-down facility” at Brooklyn, Sangre Grande?

*Question, by leave, deferred.*

**DPP Appeal for Support Systems**

**(Measures Taken)**

**112.** Sen. Wade Mark asked the hon. Attorney General:

In light of the appeal made by the Director of Public Prosecutions (DPP) for increased resources and support systems for the office, can the Attorney General indicate what immediate measures are being taken to address the needs of the Office of the DPP?

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam President. Whilst the question does not stipulate where this purported appeal by the DPP comes from, notwithstanding, the Government over the last four years has prioritized the needs of the DPP’s Office recognizing its critical role within the criminal justice system. With respect to several heads, therefore, I am able to report as follows:

Under the head of finance, for the first time in the history of the Ministry of
the Attorney General and Legal Affairs, there is a ring-fencing of the DPP’s funding. The lion share of the Ministry’s budgetary allocation has been allocated to the Office of the DPP even though approximately 19 other bodies fall for coordination under the Attorney General.

With respect to staffing, whilst it is the JLSC which treats with the filing and filling of legal positions in the DPP’s Office, the AGLA has written to the DPP on various occasions regarding outstanding performance appraisal reports which are required in the promotion and confirmation of appointments, and the process that the Ministry has adopted is that we are currently awaiting that as it must come from the DPP himself. The DPP has previously indicated that recommendations to fill vacant positions were under consideration and we are confident that he would take steps necessary, the JLSC having already finished the allocation of all positions within their purview. Under established positions, at present there are 199 established positions, 129 legal positions, and 70 non-legal.

With respect to legal positions, 55 of the 129 were filled by the process mentioned above; 74 positions are vacant on account of the fact that we are awaiting the recommendations from the DPP’s Office which are contingent as he has said upon the move of the DPP’s Office to its new Park Street accommodation which will be finished in a matter of weeks, Madam President.

Madam President, with respect to accommodation, the Government continues to pursue the preparation of suitable accommodation for use by the DPP. It is now public knowledge that in August 2018 we opened the DDP’s Office at Lowlands in Tobago. With respect to its office at Port of Spain a massive expansion is intended to be completed within a matter of mere weeks at Park Street, and at San Fernando the outfitting of the DPP’s Office at the Gulf City Mall is in progress as we speak. We have gone further, we have added technology,
Madam President. The Government has procured new information technology and communication equipment inclusive of laptops, network printers, scanners for both the north and south offices. The current offices are also outfitted and in respect of the new Practice Direction by the AG’s Office, Wi-Fi, other enabling devices for virtual courtroom settings have been installed. Up to last week we had the procurement of over 50 laptops for State Counsel. Contrary to the situation that existed in all years prior to this Government, we have dedicated the outfitting of the DPP’s plant, machinery, people and processes, and finally there is a solution that is at work, Madam President. I thank you.

**Sen. Mark:** Madam President, can I ask the Attorney General whether he can share with this House, or Senate, a particular time frame that would be sufficient for the DPP to submit the various outstanding appraisal reports?

**Hon. F. Al-Rawi:** I would, of course, have to ask the DPP for that response. Obviously, I am not the originator of that process, but the hon. DPP has informed that due to no other Government but this taking space constraints seriously, it is only upon the opening of the Port of Spain offices, which is a massive expansion of the DPP services, together with our San Fernando offices, that he will be able to accommodate the extra staff. I know that the hon. DPP has taken steps to ensure that the files are all prepared, but he has, of course, and quite correctly, said that the spacial requirements need to be met. We have added all technology to that. We have procured all laptops and positions in anticipation of the new bodies coming into the system, and we are confident that when the Park Street offices open in a matter of weeks, Madam President, that we will probably be able to fill out a significant number of the balanced positions.

**Sen. Mark:** Madam President, apart from the 74 vacancies that are hinged on accommodation, can the hon. Attorney General indicate whether the 70 non-legal
offices mentioned in his contribution, those offices have been filled?

**Hon. F. Al-Rawi:** Madam President, of the 70 we filled seven at present, 63 are next on deck, and the rationale for this is again the accommodation of the offices. You see, Madam President, I really recommend that we need to focus upon the reality of getting things done. I welcome Sen. Mark’s newfound passion for the DPP’s Office. It languished and crumbled under the administration led by his political leader. Fortunately, now that all of these are happening, people are paying attention. So I thank Sen. Mark sincerely for this newfound passion for the delivery of justice.

**Sen. Mark:** You are warmly welcome, AG. Madam President, may I continue?

**Madam President:** Yes.

**Sen. Mark:** I would like to ask the Attorney General, given his newfound passion for accommodating the DPP as it relates to accommodation, can the Attorney General provide this Senate with a specific time period for accommodation, massive accommodation, of the DPP’s Offices at Park Street?

**Madam President:** Sen. Mark, I would not allow that. That has formed a major part of the answer the Attorney General gave. You have one more question.

**Sen. Mark:** Can I ask again, Madam President, whether the Attorney General is in a position to indicate where are we in the progress of the DPP offices in San Fernando? Can the AG indicate what is the present position on that accommodation on those offices?

**Hon. F. Al-Rawi:** Sure, Madam President, and I would like to put this into context. It certainly cannot be newfound passion for accommodation in a five-year period to have opened three offices, when in a 20-year period no offices were opened at all. In answer to the San Fernando outfitting, which comes a matter of weeks after the opening of the Port of Spain offices which are scheduled in the
month of July to be opened, the San Fernando offices are in the course of construction as we speak. We have secured the rental. The build-out of the space is afoot. That is intended to be managed in the shortest period of time, and one estimates that probably about a month to six weeks is required.

Obviously, the COVID pandemic caused restriction on build-out, but these come at the same time as the opening of the Public Defenders office, the opening of 169 new courts in Trinidad and Tobago with the Waterfront and Criminal Division, and the Magistracy courts. So I understand the panic that this may cause to my learned friend, Sen. Mark, to know that so much has been achieved in such a short period of time, but I assure him, under this Attorney General, these things get accomplished and it is more than just old talk, Madam President.

General Manager, COVID Operations NCRHA

(Details of)

138. **Sen. Wade Mark** asked the hon. Minister of Health:

With respect to reports that a position of General Manager, COVID Operations has been established at the North Central Regional Health Authority, can the Minister advise:

(i) whether such a position has been established;

(ii) if the answer to (i) above is in the affirmative, has said position been filled; and

(iii) what was the recruitment process used to fill said position?

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam President, in response to the first part of the question, approval was granted by the board of directors of the North Central Regional Health Authority to create a position of General Manager, Operations. In response to the second part of the question, the said position was temporarily filled in order.
to manage the operations at the Couva Hospital and Multi-Training Facility for the treatment of the COVID-19 patients. And in response to the third part of the question, the recruitment process used included the standard practice according to Public Service Regulations of advertising and selection of the preferred candidate through an interview panel. Thank you.

**Sen. Mark:** Madam President, can the Minister indicate whether under the statutory authority regulations that this particular post was subject to the approval of the Statutory Authorities Service Commission?

**Sen. The Hon. C. Rambhart:** Madam President, I am quite surprised my colleague Sen. Mark was a former Minister of Public Administration and he should know that in the public sector we have three categories or—more than three, but the three main ones are contract, those governed by the Public Service Commission, and those governed by the SASC. In the health sector, I do not believe that any are dealt with by the SASC. So his question is bewildering, difficult on a Monday morning, difficult after a long weekend, and impossible, impossible, to respond to.

**Sen. Mark:** Can the hon. Minister indicate, Madam President, when the decision was taken to establish the position of General Manager, COVID Operations, by the board, that is?

**Sen. The Hon. C. Rambhart:** Madam President, I am not in a position to answer that question.

**Sen. Mark:** Can I ask the hon. Minister in the interest of transparency and accountability to make that information available to the Senate through the President, and could you give us a time frame for receiving same?

**Sen. The Hon. C. Rambhart:** Madam President, not necessarily in the interest of transparency and accountability. I do not believe there is any absence of...
transparency. I have not seen anything in the question pointing to that or lack of accountability, but in the public interest we would provide the information within one week. Thank you.

Madam President: Next question, Sen. Mark

Sen. Mark: It is 139, Ma’am?

Madam President: Yes.

Caribbean Airlines Limited

(Financial Losses - COVID-19)

139. Sen. Wade Mark asked the hon. Minister of Finance:

Can the Minister indicate the estimated financial losses experienced by Caribbean Airlines Limited over the period March 23 to April 30, 2020, as a result of the COVID-19 pandemic?

The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. Madam President, the financial impact to Caribbean Airlines Limited from losses arising from the COVID-19 pandemic took effect from the beginning of March 2020 prior to the closure of our national borders. Since the demand for air travel had already been significantly reduced locally, the impact was further exacerbated following the closure of our borders at midnight on March the 22nd, 2020. As a wholly-owned state enterprise, Caribbean Airlines Limited has complied with Government policy during the COVID-19 pandemic and maintained all of its staff on payroll. Further, notwithstanding the fact that air travel is severely restricted at present, the airline has also been required to keep its aircraft leases up to date and ensure that its aircraft are airworthy and all of its systems are functioning in readiness for the resumption of flights. As a consequence, Caribbean Airlines estimated operating loss for the period March 23rd to April 30th, 2020 is US $14.2 million, or TT $96.1
million. I thank you, Madam President.

**Sen. Mark:** Madam President, can the hon. Minister indicate how these losses amounting to US $14.2 million, how is that going to be made up by the airline? Can the Minister outline any mechanisms or approaches that will be taken by the Ministry of Finance to address this major shortfall arising out of COVID-19?

**Madam President:** Sen. Mark, that question does not arise based on the question posed and the answer received. Next question, Sen. Mark.

**Sen. Mark:** Can the hon. Minister indicate in light of the gradual lifting of restrictions by the Government, can the Minister indicate when would Caribbean Airlines begin to fly once again?

**Madam President:** That question also does not arise. Next question, Sen. Mark.

**Sen. Mark:** Can I ask the hon. Minister whether Caribbean Airlines, as a public institution, public and state-owned institution, are there any regulations governing political expressions by staff that can be viewed as very inimical to the operations of this very important public institution?

**Sen. Gopee-Scoon:** What kind of question that is?

**Madam President:** Sen. Mark, that question does not arise.

**Sen. Mark:** It seems like Sen. Paula Gopee-Scoon—[Interruption]

**Madam President:** No, Sen. Mark.

**Sen. Mark:**—wishes to take over your role?

**Madam President:** Sen. Mark—[Interruption]

**Sen. Mark:** I am guided, Madam President.

**Madam President:** Thank you very much.

**Sen. Mark:** I am guided. Can I proceed, Madam President?

**Madam President:** You do. There is one more question—[Interruption]

**Sen. Mark:** Do I go to 147?
Madam President: Yes, will you ask it on behalf—[Interruption]

Sen. Mark: I will be asking on behalf of Sen. Taharqa Obika question 147. Do I have your leave, Madam President?

Madam President: Yes, you do.

New Debt Obligations by Government

(Information on)

147. Sen. Wade Mark on behalf of Sen. Taharqa Obika asked the hon. Minister of Finance:

Can the Minister provide information on any new debt obligations engaged by the Government, directly and by Government guarantee, for the period October 01, 2019 to April 30, 2020?

The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. Madam President, the information on new debt obligations engaged by the Government directly and/or by Government guarantee for the period October 01, 2019 to April 30, 2020. It is fairly voluminous and, as a result, it has been circulated to hon. Members in tabular form as an appendix. Thank you, Madam President.

Sen. Mark: Can I ask—Madam President, I know what have been told to us, but can the Minister provide this honourable Senate with a crisp and sharp summary of the data involved in the particular question without us having to wait until the material is circulated? Can you give us a tight summary through the President?

Sen. The Hon. A. West: Madam President, while I do have the table before me, I do not have totals at the end, so it would be difficult to comply with Sen. Mark’s request.

Sen. Mark: Can you indicate to this honourable Senate the institutions that were involved in those arrangements between the periods identified?
Sen. The Hon. A. West: Yes, Madam President. The institutions involved are First Citizens Bank which appears on several occasions; First Citizens Bank and Republic Bank together; EFIC; Export-Import Bank of China; First Citizens Bank again; Scotiabank appears a couple of times; FCLB; RCB Merchant Bank; Scotiabank; Republic Bank; and ANSA Merchant Bank. I am sorry to disappoint you, Sen. Mark. Thank you, Madam President.

Sen. Mark: Did you say NCB Global Finance? I did not hear that.

Sen. The Hon. A. West: That is why I apologized for disappointing you because NCB does not appear on the list, Sen. Mark.


Sen. Mark: Madam President—

Madam President: Yes.

Sen. Mark: I am okay.

Vide end of sitting for written part of the answer.

JOINT SELECT COMMITTEE
(APPOINTMENT TO)

Fisheries Management Bill, 2020

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, having regard to the correspondence from the Speaker of the House in relation to the establishment of a Joint Select Committee to consider and report by August 31, 2020 on the Fisheries Management Bill, 2020, I beg to move that the following six Senators be appointed to serve:

Mr. Franklin Khan

Mr. Clarence Rambharat

Mr. Nigel De Freitas
Mr. Taharqa Obika
Dr. Varma Deyalsingh
Dr. Maria Dillion-Remy

Question put and agreed to.

DOMESTIC VIOLENCE (AMDT.) BILL, 2020

Order for second reading read.

The Minister of State in the Office of the Prime Minister (Hon. Ayanna Webster-Roy): Thank you, Madam President. I beg to move:

That a Bill to amend the Domestic Violence Act, Chap. 45:56 to provide for emergency protection orders and for related matters, be now read a second time.

Madam President, I am privileged to stand here on behalf of the Government, led by our hon. Prime Minister, Dr. Keith Rowley, to lead a debate on the Domestic Violence (Amdt.) Bill, 2020. The amendments being proposed by the Government this morning represent at least two and a half years of hard work and consultation led by the hon. Attorney General and his team, with support from the Office of the Prime Minister and other stakeholders including non-governmental agencies, the Equal Opportunity Commission, and the Law Association, to name a few.

Madam President, the amendments are both relevant and timely as they seek to address specific weaknesses in the current legislation and promises remedies to lacuna within the existing law that disadvantage those the law meant to protect.

10.30 a.m.

The most recent data emerging from the Central Registry on Domestic Violence reveals that in 2017, there were 1,199 domestic violence reports; in 2018, there were 1,244 domestic violence reports; in 2019, there were 1,158 domestic violence reports and as of April 2020, the Central Registry on Domestic Violence
Domestic Violence (Amdt.) Bill, 2020

Hon. A. Webster Roy (cont’d)

has recorded 134 reports of domestic violence. Data coming out of the Crime and Problem Analysis Branch of the Trinidad and Tobago Police Service reveals that for the period 2010 to June 12, 2020, reports on breach of Protection Orders across the nine divisions of the Trinidad and Tobago Police Service totalled 2,664. Undoubtedly, domestic violence remains a pressing issues in Trinidad and Tobago and requires the attention of all segments of our society.

Over the years, the Government has steadfastly implemented administrative, legislative and programming measures in response to the need to protect victims of domestic violence of whom women make up the higher percentage. Madam President, when the hon. Prime Minister signed Gender and Child Affairs portfolio to the Office of the Prime Minister, this signalled the commitment of the Dr. Keith Rowley-led Government to place, as a national priority, the safety and well-being of the nation’s women and children. Some of the most recent administrative measures include:

- The appointment of an inter-ministerial committee to coordinate the national response to domestic violence and overall gender-based violence.
- A revised structure to the Gender Affairs Division in the Office of the Prime Minister and filling key vacancies within the Division.
- The establishment of a Gender-Based Violence Unit in the police service and training of professionals and other staff who took up their positions at the State-run domestic violence shelters over the weekend. These State-run shelters opened their doors today, Monday, June 22, 2020.

This legislation is just another response to the critical issue of family violence.
Madam President, in 2018, when the Cabinet laid the National Policy on Gender and Development as a Green Paper, the Government also agreed to use this policy to guide gender and development. One of the policy measures identified is that the policy was a review of the legislation from a gender perspective to address perceived and implied gender bias. There was an expressed commitment to review, in particular, the Domestic Violence Act so that it gives better protection to those impacted by such family violence.

Madam President, this Bill seeks to fill the gaps identified in the existing Act as well as create alignment with the goals and objectives of the various policy documents which seek to protect the rights of our citizens and in particular our women and girls who, in some 75 per cent of cases, are the victims of such violence. The Bill, therefore, takes a contemporary approach as it tries to grapple with the realities of domestic violence to strengthen the protection of victims, including children and the elderly who are affected.

The Bill provides clarity in many areas and addresses limitations. It removes the ambiguities relating to the several definitions in the parent Act, in particular, the definitions of a “child”, “domestic violence” and “member of household”. It does so by inserting a definition of “domestic relationship”, clearly setting out the categories of persons entitled to apply for a protection order under the Act. The range of persons so entitled is also significantly widened as I will address later.

The Bill also provides a much more expansive definition of “emotional or psychological abuse” and removes certain limitations. Firstly, under the existing Act, a victim alleging emotional and psychological abuse must first establish a pattern of behaviour on the part of the perpetrator before a protection order can be granted by the court. The current definition does not take cognizance that a single act or omission can severely undermine the victim’s emotional or mental well-
Domestic Violence (Amendment) Bill, 2020

2020.06.22

Hon. A. Webster Roy (cont’d)

being. It also neglects to take account of the progressive nature of domestic violence and the need to prevent its escalation. This Bill removes this limitation and now defines “emotional or psychological abuse” as:

“(a) any act, omission or a pattern of behaviour of any kind…”—that can—“undermine the emotional or mental well-being of a person…”

Therefore, in a particular case, a single act or omission can be sufficient to trigger a protection order against this form of abuse.

Secondly, the definition of “emotional or psychological abuse” now captures conduct in keeping with the new digital environment. The Government is cognizant of the fact that computers, the Internet and many possibilities of the digital world have opened up new avenues for controlling or threatening behaviour which could severely undermine a person’s emotional or mental well-being. Controlling or threatening behaviour is frequently a predictor of great harm or even death of an intimate partner. The Act is silent on these issues.

Clause 3 therefore widens the scope of emotional or psychological abuse to expressly include unwelcomed or intimidatory contact by any means including electronic means. This would extend, for example, to all forms of online bullying, stalking and other forms of unwelcomed or intimidatory online conduct. Emotional or psychological abuse will also now extend to the dissemination of intimate images of an applicant or child electronically or by any other means. These issues have caused much psychological and emotional harm to some victims and the death of others. The absence of protection as well as a legislative remedy have been highlighted in recent court decisions and police matters. Controlling, threatening or coercive behaviour towards a person or his child or dependant and the need to prevent this from escalating, as noted, is crucially important. The definition of “emotional or psychological abuse” therefore now includes an all-
encompassing clause to deal with such behaviour.

This Government is absolute in its belief that no one should have to endure violence in any form until a pattern is discerned or be subjected to a wait period before they can apply for a Protection Order. This fundamental infringement of a victim’s right to protection has been removed from the legislation. This has denied a significant number of victims the right to justice and protection. It also gave the perpetrators the leeway and space to continue the abuse. This Bill is significant as it attempts to stop the abuse immediately by recognizing that violence against an intimate partner is not limited by time and may occur very early in the relationship. The Bill therefore removes the 12-month requirement and it is for the court to decide whether a visiting relationship exists or has existed.

Madam President, based on the experience of the past 20 years or so and the important feedback from stakeholders, the categories of persons entitled to protection under the Domestic Violence Act as seen in the definition of “domestic relationship” has been significantly expanded. The definition of “child”, “dependant” and “member of household” have been widened. New categories have also been added to include a relative; a person who would be a relative of the respondent related by marriage, if the respondent and the cohabitant were married to each other; dating relationships; engagement relationships; and adults in residential institutions, which include the elderly. Adults in residential institutions are particularly vulnerable to abuse by those who have their care and charge and stakeholders have highlighted the critical need for such persons to be brought under the Act.

The Government is also cognizant of the need to protect victims in dating and relationships where a person has agreed to marry the respondent whether or not the agreement has been terminated. The Bill defines a “dating relationship” as
one:

“3 (b) …where the parties do not live together in the same household, but may be engaged in a romantic, intimate or sexual relations;”

As we know, many young persons are in dating and engagement relationships. Violence in dating relationships, in particular, remains largely hidden partly due to the extreme reluctance of young persons to make police reports. Their exclusion from the operation of the Act means that persons in these relationships, particularly girls and young women, are denied the remedy under the Act as well as the support that may be provided to them. In this case also, it will be for the courts to decide whether these relationships exist or have existed.

Madam President, a protection order ought not to be refused on the basis of a single act, omission or threat. Stakeholders have repeatedly emphasized the absolute importance of ensuring that a single act or omission or a single threat should not preclude the making of a protection order. A thread which runs throughout the Bill. A single act or omission, a threat to kill or even a silent threat such as a placement of a weapon under the bed can cause harm, can undermine a person’s emotional or mental well-being or can cause that person to fear for their safety or that of a child or dependant. The progressive nature of domestic violence often means that escalation may rapidly occur after even a single threat or act and may end tragically. Clause 5(b) therefore requires that:

“(3) A Court shall not refuse to grant an Interim Order or Protection Order on the basis only that a single act or omission or a single threat has been made by the respondent.”

The message being telegraphed, Madam President, is that a culture of zero tolerance towards domestic violence must be fostered.

The Bill places a great deal of emphasis on the protection of children. It does
this in many ways which I will now elaborate upon. The Government views it as extremely important that the relief provided under the Bill be made available to children such that a child need not necessarily be removed from their home where abuse occurs or there is risk of such abuse. Removal from the home under the Children’s Authority Act is frequently the first option where a child is in imminent danger. The disruption, the separation from family, the inability to continue attending the same school combine to have a significant negative impact on the child; this, in addition to the trauma already caused by the abuse.

The Bill seeks to fill this lacuna in several ways. Most importantly, clause 4, (8) makes it mandatory for a police officer, a probation officer or a social worker to forthwith apply for a protection order where there is reason to believe that a child has suffered or is in imminent danger of physical injury at the hands of another person in a situation amounting to domestic violence. The court will then fashion the order to fit the circumstances of the child including removal of the perpetrator where necessary. The Government further recognizes that children 16 years and over are in a unique age category where they find it difficult to confide on or lean on another person, even a parent or guardian, to apply for relief on their behalf. Giving children 16 years of age or over agency to apply for a protection on their own behalf is therefore critically important for their protection and finds expression at clause 4, (3). The court nevertheless has a discretion after assessing the case to direct that such a child apply for a protection order through a parent, a guardian, a person with responsibility for the child or who is in loco parentis to the child, an adult member of his household or the Children’s Authority. The Children’s Authority is well placed to make such applications and the role has been carved out for the Authority in this as well as other instances in the Bill.

To further address the lacuna with respect to the underutilization of
protective jurisdiction of the Act in respect of children, clause 7 provides that:

“6A A Protection Order granted to an applicant shall apply to a child of the applicant or respondent, unless the Court orders otherwise.”

There are circumstances where the court may determine that the order or some of his conditions cannot apply to a child and therefore fashion the order accordingly. This provision is particularly important for applicants who are intimidated in a court setting and who may not have the courage to speak up in court to request that the order applied to a child or children and to explain why. Importantly also, clause 4 also authorizes a court during any proceedings to issue a Protection Order in respect of a child where it becomes aware that the child has suffered, is suffering or is likely to suffer domestic violence. This is a relatively simple but far-reaching reform designed to protect children irrespective of the nature of the court proceedings.

It has also become evident that several categories of vulnerable children in domestic relationships are not captured under the existing Act. To fill this gap, the Bill significantly widens the definition of “child” and importantly, extends protection to children in children’s homes. Many children spend considerable periods in a children’s home. For some, it is the only home they know. Madam President, while termination of employment or intervention by the Children’s Authority remains options available for addressing abuse or ill-treatment in such institutions, it is important to provide an additional layer of protection via Protection Order which can deal with issues not catered for under other criminal or other remedies.

The Bill also seeks to close a major gap with respect to children who witness domestic violence. This is a critically important issue. The Bill seeks to close this gap by widening the definition of “emotional or psychological abuse” to include
situations where a person causes or allows a child to see, hear or experience the effects of physical or sexual or emotional or psychological abuse of other person with whom the child has a domestic relationship or where there is a real risk of this happening. Experiencing the effects of abuse may include seeing bruises and other evidence of violence to a parent or other person with whom the child is in a domestic relationship without actually being physically present or to witness or hear the abuse.

This is an important inclusion as we know from our local experts working in this area and from international literature of the harmful effects on the emotional and behavioural development of children who have witnessed abuse or who are aware of occurrences of abuse. It affects children of all ages and it is not uncommon for such children to exhibit emotional distress or high levels of aggression and/or become withdrawn and anxious compared to children in non-violent families. These children may also suffer deep and lasting scars.

Madam President, this Bill not only strengthens the protection of children but it also does so for vulnerable adults. This is supported by the introduction of a mandatory reporting provision which requires specified categories of persons to report suspected domestic violence against an adult who by reason of their physical or mental disability, age or infirmity, is dependent on another person or against a child to the police. Failure to report without a reasonable excuse constitutes a criminal offence.

Madam President, another area I wish to focus on is Emergency Protection Order. Over the past 29 years or so, since the enactment of the 1991 Act, there have been instances where victims require emergency protection where the court is not sitting such as on a weekend or during the late hours, or it may not be practicable for the victim to assess the court due to reasons such as having to
escape the perpetrator or requiring hospitalization or for many other reasons. In these circumstances, the victim is unable to obtain emergency protection which could have devastating consequences.

Clause 19 of the Bill seeks to address this critical gap by authorizing a police officer of or above the rank of Assistant Superintendent to make an emergency application for a Protection Order to a master or judge of the Family Court or Children Court in circumstances the applicant has suffered or is in imminent danger of serious physical injury at the hands of the respondent. The application may be made by telephone, video conferencing or other appropriate electronic means and it may be noted that a precedent for this is to be found at section 5(2) of the Family and Children Division Act of 2016. For child victims, the Children’s Authority is required to make the emergency application. The clause also sets out the procedure to be adopted following the grant of the order including directions and time limits with respect to the filing of the application.

Service of court documents personally on the respondent has been a major problem since dedicated legislation was first enacted in 1991. It is regarded as a major factor for the relatively high attrition rates of applicants, the majority of whom are women. Many of these women can ill afford to return to court on numerous occasions on account of failure of the police to effect service. Under the existing section 12, the notice of proceedings must either be served personally on the respondent or the court may order substituted service under section 17. While the applicant or her agent may also effect service, few elect this option because of the obvious risk. Much reliance is therefore placed on the police for effecting service. Substituted service under section 17 has not produced the intended results for quick delivery of justice.

The Bill therefore introduces significant reforms to section 12 to provide a
robust legal platform for service of the notice of proceedings on the respondent. New section 12(1A) makes a clear statement that the court shall not require the applicant to effect service of the notice. New 12(1B) identifies two categories of persons who may be directed by the court to effect service, the police and persons other than the police. A timeline of five days is given to effect notice and if this fails, then a notice must be filed with the clerk within two days informing the clerk of the failure to effect to notice. The clerk must immediately bring this notice to the attention of a judge or magistrate where upon the judge or magistrate is required to make an order for substituted service.

A similar process is introduced for the service of a Protection Order under sections 16 and 17. In that case, the person directed to effect service must do so within a short period of three days.

Madam President: Minister, you have five more minutes.

Hon. A. Webster-Roy: The Government is mindful that much has to be done to eradicate domestic and family violence and will continue to focus on administrative programming and legislative remedies to create the changes required and the vision of a life free of violence for all victims. In this regard, the Government of Trinidad and Tobago has partnered with the United Nations, NGOs and community-based groups, the private sector and trade unions to establish, for the first time in Trinidad and Tobago, a foundation for sustained and integrated approaches to preventing family violence. This programme will facilitate the improvement of institutional capabilities evidenced by timely accountability, problem-solving, increased use of services by women and girls who are survivors of family violence.

A lifecycle approach to prevention programming will also ensure that institutions of socialization such as our families, schools, youth groups, faith-based
institutions and cultural influencers are equipped to implement prevention programmes based on best practices in changing on equal gender norms and harmful stereotypes. These approaches will have advanced gender equality, end indifference and impunity for gender-based violence against women and girls. That programme, Madam President, the Spotlight Initiative was launched online on the 28th of May, 2020. Thank you.

**Madam President:** Minister, I need four words from you as you.

**Hon. A. Webster-Roy:** I beg to move. [*Desk thumping*]

*Question proposed.*

**Sen. Khadijah Ameen:** Thank you very much, Madam President. This morning, as a deputy political leader of the United National Congress and perhaps one of the youngest deputy political leaders in the country, and as a woman who continues to interface with communities in Trinidad and Tobago and with women in particular, it is my honour to lead the Opposition’s response on this Act to amend the Domestic Violence Act and to provide for emergency protection orders and related matters.

Madam President, in the first 10 days of 2020, there were nine murders. Three of these were listed as domestic violence. All three victims were women. In 2005 to 2015, in Trinidad and Tobago, there were 300 women who were murdered. In 2017, 43 of the 52 women killed in this country were victims of domestic violence. Up until 2015, the Coalition Against Domestic Violence listed 7,000 cases of domestic violence reported to the authorities. One of the first acts of this Government was to remove the Ministry of gender. I have spoken about it, I have condemned that move before and I condemn it today again. The role of gender and gender development in our society deserves to be more than a division within a Ministry.
The psychological effect on children who witness such incidents in our nation should also be taken into consideration when we consider that many of them exist within this environment of abuse or may be victims and witnesses and that also has an effect on them. It is well established that domestic violence correlates significantly with depression and the suicidal behaviours among victims and in fact less than 50 per cent of victims seek medical attention which often becomes necessary. In Trinidad and Tobago, there is a failure to address the factors contributing to this crisis. This Domestic Violence Act is for measures after the act is committed. We are not speaking prevention, we are not speaking about issues that shape behaviour in our society and issues that make domestic violence or violence on a whole acceptable or something to hide.

This Bill, also, Madam President, does not address Caribbean relationships. We have in our country, Madam President, to address the words of our leaders. When women can be likened to “golf courses that need grooming”, when victims who lose their lives could be shamed publicly by public officials, that must be condemned.

The words of politicians, businessmen, entertainers, are important in how we shape our response to violence and domestic violence.

11.00 a.m.

During this debate, Madam President, I want to appeal to all Members who will contribute to remember to keep balance. Victims of domestic violence are not only women and children; men are also victims of domestic violence. We must also bear in mind that the issue of false allegations and how easy we can make it for a person who makes a false allegation to be successful in ruining the reputation of another person must also be borne.

Madam President, we are still within the COVID-19 pandemic lockdown
even though we are being phased out at this time. Around the globe, many countries that have instituted lockdown to contain the spread of COVID-19 are reporting an increase in the incidence of domestic violence. In Trinidad and Tobago, unfortunately, we are no exception.

The Commissioner of Police, Mr. Gary Griffith, in a press conference at the beginning of April, shared some information, some statistics, confirming that domestic violence and such crime has been on the rise. He indicated that the TTPS had received 39 reports of assaults by beating in February 2020 and that that figure had climbed to 43 in April.

Similarly, in March of 2019, reports of domestic violence numbered 42, and in March of 2020, there were 96. Mr. Griffith also reported an increase in domestic violence cases from 232 in 2019 to 558 in 2020. He also shared with the public, measures to increase reporting and shared that the Gender-Based Violence Unit may be responsible for more reports coming forward. He also, very significantly, shared that the TTPS App, was one method for victims to make reports of domestic violence and, Madam President, while that would make it easier for reports to be taken, the procedure to apply for a Protection Order requires a person to do certain things that often intimidates them based on their psychological state of mind.

Madam President, in February of this year, there was a group of activists who delivered a petition to the Office of the Prime Minister. I do not know if the Minister who piloted the Bill would be aware of it. She did not make mention in her contribution on it, but it calls for the amendments to this Domestic Violence Act and it asked for special funding to be set aside to ensure that shelters for abused women and children continue to operate. At this time, there are a number of shelters and half-way homes that have had decreased funding or a suppression in funding. They have made requests as they usually do and the funding is not
forthcoming. This must be addressed. As many as six women were murdered in domestic violence incidents in Trinidad and Tobago within the first two months of 2020.

Madam President, there are a number of issues that my colleagues will drill deeper into. I mentioned in my opening the concepts of Caribbean relationships. This Act has now widened the definition of those who can apply, the definition of an adult, meaning a person over the age of 18, persons in a dating relationship where the parties do not live together in the same household but may be engaged in romantic, intimate or sexual relations. Significantly, this also covers persons in same sex relationships. Domestic relationship, its definition meaning a relationship between the respondent and a person, where the person is a spouse or former spouse, a cohabitant or former cohabitant, a child, a dependent, a relative, and there are 13 relationships that are actually named.

Madam President, the definition of “domestic violence”. It is a bit difficult to exactly define what is violence and what is abuse. A lot of it has to do with what we perceive is acceptable culturally. There are increased reports or increased sensitivity now to what domestic violence is and what is not acceptable. Whereas previously, and I say “previously” because I do not think such a thing is condoned anymore, it was said that women in relationships, “if de man doh hit you, he does not love you”. That must be a thing of the past. But that is a cultural thing that tells women what is acceptable in a relationship. The definition of “domestic violence” is now broadened, and the present category of persons who may be considered domestic violence victims is also widened.

Presently, domestic violence is limited to abuse against a spouse, a child, a member of the household or a dependent. The new definition, thankfully, will allow for abuse against anyone in a domestic relationship with the respondent,
including the cohabitant or a person in a domestic relationship. The definition of “emotional or psychological abuse”, again an area that victims would find difficult to define in their own minds. The previous definition is deleted and substituted with a new definition and it expands the scope of what is considered emotional and psychological abuse.

Very critical is the definition of “emotional abuse” to:

“…include…the unwelcome or intimidatory contact with the person by any means including electronic means…”

The widespread use of cell phones and computers makes a victim accessible even if they are not geographically or physical close to the perpetrator.

“…the dissemination of intimate images of the applicant or applicant’s child, electronically or by any other means.”

Madam President, with the advent of social media and many apps that allow photographs or images to be shared, this particular measure I think will be very significant. Women in particular may feel shamed if an image—an intimate image—is shared, because culturally, we make a woman feel ashamed as opposed to man. I remember a colleague of mine sharing an incident where a popular person in the entertainment industry, a photograph of him was released by an aggrieved ex, and he subsequently put that as his status picture, as his display picture. If it were a woman, there would be a lot of shame and condemnation if such an image were made public. We must also be careful not to encourage that behaviour by third parties.

Madam President, for instance, we are going into an election period and it is very possible for—in fact I know of an incident where there is in fact a threat at present—attempts to be made to intimidate candidates and particularly women because of how we view these things culturally at present. But for political parties
to purchase images from aggrieved persons and threaten candidates to expose these images, this would not be captured under the Domestic Violence Act, but certainly, it encourages it. So I want to urge any person who might be encouraged to engage in that type of behaviour to desist.

Madam President, I also want to mention that there was a report on Aljazeera concerning domestic violence in Trinidad and Tobago and it shed light on something that we are very familiar with, and that is, that the police or the authorities often get stopped in their tracks when there is a domestic violence report because the victims either refuse to give evidence going forward, they change their mind, they may be intimidated, and they may wish to stop the procedure.

The proceedings in respect of an application for a Protection Order, which I would not have time during my contribution to go in depth into, has to take this into account. When we provide these opportunities for an application to be made, we must also bear in mind what the possibilities are and what causes them.

Madam President, I now want to touch very quickly on the National Domestic Violence Register.

“Clause 22 amends section 21 of the Act and prescribes that the Commissioner of Police shall establish electronically a National Domestic Violence Register. The amendment places a responsibility on the Commissioner to ensure all domestic violence reports are entered in the Register. The Register shall be accessible to police officers in each police station but shall not be accessible to the public.”

Madam President, I do believe that a National Domestic Violence Register does exist at present. This measure gives the Commissioner of Police the responsibility. But I do not know how much attention was given to updating this register in the
past. Now that it is here and it will be part of the new Act, it is important, just as when we were speaking about establishing the sexual offenders Act, to ensure that persons who names do appear on this register are in fact a danger to society, a danger to potential partners and/or children who come under their purview, and that we minimize incidents where we have false reports or we have incidents that are not fully established coming on that would cause harm to a person’s reputation.

The fact that this register is not accessible to the public but is accessible to the police, in our small society there is a very fine line because, many police officers who are related to people may share that information, there is no provision here with regard to confidentiality. There is no offence for a police officer who has access to this register, who makes this information available to a member of the public, that he faces any sort of punishment, any fine or anything like that. So wherever we have this type of information being stored, proper measures to protect the information must be considered.

This is an area I know the Attorney General would have spoken about in the past on Bills such as the SSA, the interception of communication, and so on, would speak about, protecting the data that the authorities have. That measure, because this register is accessible to all police officers, there is no limit in rank, it is not restricted to senior person, so it is a positive thing for a police officer who may be investigating a report, but we must put measures in place to protect the data if it is not something that is proposed to the public.

Clause 23, that:

“…prescribes that a police officer shall respond to every complaint or report alleging domestic violence.”

Madam President, I do not know that it was an option before. Every report that goes to the police ought to be investigated, including domestic violence. The fact
that a prescription like this has to be made in law speaks volumes. Many victims of domestic violence desist from pursuing the matter because they feel that the police does not pay enough attention. The establishment of the Gender-Based Violence Unit within the TTPS is a big plus in that people are trained in using the right language, dealing with the victims, and so on. But for many police officers, complaints in the past would have been that there is a document to be served for the person against whom the allegations is made to appear in court and there is a significant delay with getting that document to the person, a report is made or even by a phone call and no one responds or the response is too short. Many persons, many of us, a huge number of the women who are victims of domestic violence who lose their lives, their families talk about the fact that there are numerous reports of domestic violence.

Madam President, one of the things I also feel we could have done in this Bill, is when it comes to those who know of domestic violence. Apart from police reports being made, there are instances where children or women are victims of domestic violence; the whole neighbourhood knows. There are no police reports. No action is ever taken and then a child dies or a woman is murdered and everybody could talk about “what dey hear and what dey knew”, and there is no obligation for a person to report.

When it comes to sexual offences, in law there are provisions for a person who knows of a sexual offence against a child to be held responsible if they do not bring that information to the attention of the authorities. But when it comes to domestic violence, there is no such provision. There is no offence if an adult or another person is aware of domestic violence and fails to report it.

So, Madam President, I just want to go—one of the key principles that is, I think, a part of modernizing domestic violence legislation is for there to be
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Sen. Ameen (cont’d)

transient and non-discriminatory eligibility for protection by everyone, anyone who is experiencing domestic violence, by covering all domestic relationships. In this Bill, it covers relationship between people linked in that, one, they have a child in common; two, they are engaged; Three, they are or were cohabitants, similar to, well that is spelt out in the cohabitation part. Right? But it also includes persons who are or were in a visiting relationship as opposed to living together, people who are or were in a dating relationship; relationships between spouses, persons in common law relationships, a child in a family, a parent or grandparent, because elderly abuse is also domestic abuse. There are 13 blood relations that are listed. You also have provision for a dependent, for an adult in a residential institution, for a member of the same household, provided that they are also—

Madam President: Sen. Ameen, you have five more minutes.

Sen. K. Ameen: Thank you. They are also related by affinity or adoption.

Madam President, so while the Bill strengthens the protection of child victim, one of the things that I mentioned before is Caribbean relationships. So, in Trinidad and in Tobago, and the Caribbean in fact, what we call family and the family arrangements that exist also include relationships like godchildren which, Madam President, I am not very clear if it is included, as opposed to simply a child which is expected to be a blood relative or a person adopted, because adoption is also listed. But when you have godchildren who go to live with their godparents and they experience abuse in that domestic situation, because they are not legally related, and at present, I mean they are not adopted either, that is something we have to bear in mind in the Caribbean. There is a very simple amendment that could be made by redefining at clause 3 which we will put forward during the committee stage.

Madam President, in the United Kingdom, there is no statutory definition of
“domestic abuse” but they do have “behaviour of a person towards another person”. And it just says “where the persons are personally connected”. So that is a bit more broad, and it may be something that we can consider.

Madam President, very quickly though I want to state that we on the Opposition Bench, we also want to endorse some recommendations that were put forward by the Law Association of Trinidad and Tobago in collaboration with the Alliance for State Action to End Gender-Based Violence and Equal Opportunity Commission. It is for the eligibility to apply for a Protection Order that the Act should ensure that there is equal protection of law and to make provision for anyone in a familial or household relationship to apply for Protection Order. We have an amendment to put forward with regard to that.

With regard to the agencies to receive mandatory reporting, there is a recommendation that:

A person, whom in this sub-section applies, who has reasonable grounds to believe that a person has engaged, is engaged or is likely to engage in conduct that constitutes domestic violence against an adult, who by reason of physical, mental or disability, age or infirmity, is dependent on another person shall report the grounds of his belief to a police officer or the Division of Family Services or Children's Authority as soon as possible.

We will put forward that amendment as well at the appropriate time.

The reiteration of police duties when a report of domestic violence has been received, their recommendation that given the under-policing of domestic violence report despite the police standing orders, there is a recommendation that where a police officer has reasonable cause to believe that a person is engaged in, or attempted, or threatened physical violence, the police must investigate. This is as opposed to a report triggering the police investigation. And they can decide
whether to arrest, to charge or to refer to social services for an intervention. So that, Madam President, that would take care of victims' tendency to not want to report, and that once a police officer becomes aware of a situation, they can intervene, they can investigate, and they can take action.

Madam President, I look forward to hearing the contributions on all sides. I look forward to measures, not only in this Bill, that would influence the root causes of domestic violence and lead to an approach of protection for all persons in our country.

I also feel, Madam President, that the 20 minutes that is given for all persons is a bit too short and it is time for us to allow Members their full speaking time once again. Thank you very much, Madam President. [Desk thumping]

**Sen. Hazel Thompson-Ahye:** Thank you, Madam President, for this opportunity to enter the debate on the Domestic Violence (Amdt.) Bill, 2020. Do forgive me having recourse to my notes.

Sir William Blackstone, writing in his commentaries on the laws of England in the 18th Century noted:

Because her husband was legally responsible for his wife's misbehaviour he should be legally entrusted within reasonable bounds with the power to restrain her by domestic chastisement. It took many years for society to reject the wildly held view that a man could beat his wife with a rod no bigger than his thumb; the rule of thumb.

Now, Trinidad and Tobago’s first step towards legal recognition that domestic violence was not a private affair, not a family affair, but a societal issue, was the enactment of the Domestic Violence Act in 1991, amended in 1999, in 2006. Today, the Domestic Violence (Amdt.) Bill 2020, seeks to further reform the law. Lives depend on us getting it right. Domestic violence is a complex issue. It
involves a wide range of abuse within a variety of family relationships. It crosses boundaries of race, colour, creed, class, ethnicity, culture, geography, age, gender, education and economic status.

The 2013 WHO Report on the “Prevalence and health effects of intimate partner violence and non-partner violence and non-partner sexual violence” describes violence against women as a global pandemic; public health problem of epidemic proportions requiring urgent action. In Uruguay, gender-based violence is called the Shadow Pandemic, as there, like everywhere else, it has exacerbated since COVID-19.

Two of the Sustainable Development Goals, Goal 5, gender equality and; and Goal 16, peace, justice and strong institution, speak to domestic violence. Thus, it is imperative that we ramp up our efforts to eradicate all violence against women and girls.

Over the years, I have dealt with dozens of domestic violence cases. One of my clients was murdered. I have spoken about her before. One fled her home from violence, spent the night hiding in a drain in La Horquetta. Another one told me she spent the day, the whole night in Auzonville Park with her children. Another had her skull fractured, because her husband's lawyer told her that he could go back in the home because we had left the court and had not asked the court to renew the injunction. A young neighbour that I had watched grow up was shot dead by her husband who then shot himself. The list is long.

Madam President, many a time and often, this Senate, a Government Minister who will remain nameless, has trumpeted “no other Government has done this, no other Government has done that”, as I sigh: “Here we go again.” Today is a red letter day, because I commend the Government for the tremendous amount of work that evidently went into this Domestic Violence (Amdt.) Bill. [Desk
thumping] Not once, twice, but three times a lady with a mission, I have testified that the Government stands accused and is guilty of not listening to my cries. Today I humbly say: “I beg your pardon.” [Desk thumping]

You did promise me a rose garden, and you have delivered some blossoms in this Bill.

11.30 a.m.

I begin not in the beginning but in the middle, clause 26. By virtue of clause 26 our law will for the first time provide for mandatory reporting of child abuse other than child sexual abuse. Barbados’ Domestic Violence (Protection Orders) (Amendment) Act, 2016, also provides for mandatory reporting of domestic violence perpetrated against children, but there is an important difference. Our law provides for the report to be made to the police. Barbados gives a choice of reporting either to that child care board or the police. Now, reporting to their child care board is reminiscent of our reporting to the Children’s Authority and I have complained about the nature of that provision, and that is why I am so particularly happy about clause 26. We make the police the recipient of the report. By doing this, I feel we send a clear message that domestic violence is equally a crime against children as it is a crime against adult family members, especially spouses.

So, in the cases of child abuse and neglect complaints can be made under the Children Act. It can continue to happen. In an appropriate case it can be made under the DV Act where there is a wider range and greater severity of penalties. Our referral to the Children’s Authority, when we do that the emphasis there is on child protection, not punishment of the perpetrator. There is a tendency, as it was said here earlier, “to remove the child”. There is no power to remove the parent as it is done in domestic violence cases. And support for my view comes from a paper by Thomas L. Hafemeister. It is entitled: “If All You Have is a Hammer: Society’s
Ineffective Response to Intimate Partner Violence” and is published in the *Catholic University Law Review* in 2011. The author viewed the social service agencies that had been responsible for cases of neglect and minor cases of child abuse where the injuries do not suggest a criminal act but point towards cases where parental immunity may be invoked.

Now, I know that you have heard before from the former speaker that the dual reporting responsibility is attractive for some, but my view is to leave the Children’s Authority with the minor cases, let the major cases be handled by the police. One must know that the Children’s Authority is empowered to apply for protection order on behalf of the child. So the Children’s Authority is not shut out of this legislation.

Clause 26, I see, is doing another function. It is building awareness that we are serious about abuse of children. It makes us cognizant of the adage, “hitting people is wrong”, and children are people too. The law forbids cruelty to animals, but the law allows parents to hit their children once it is deemed corporal punishment that does not cross the line, as that annoying TV6 ad sanctioned by Children’s Authority promotes. Corporal punishment, however light, violates Article 19 of the Child Rights Convention. You know, you must have some thorns among the roses. Despite overwhelming evidence from psychologists on its negative effects, we continue to grapple to our bosom like hoops of steel corporal punishment and we wonder why we are so violent? We make the children violent.

Clause 26 also provides for mandatory reporting of domestic violence or threats of domestic violence against vulnerable adults who are dependents by reason of physical or mental disability, age, or infirmity. I would have preferred to see “psychological impairment” because sometimes it is a whole question of being able to empower the person and to me “psychological” would more present that
than mental. So it protects elderly people in institutions and again I am happy for that. So I have started in the middle, let me go to the top. Clause 3 amends numerous definitions. We are happy about the expanded definition of a “child”. About “court” now, “court” means “High Court or Court of Summary Jurisdiction”. Now this signifies to me that we do not yet have a unified Family Court to eliminate forum shopping. One day, one day.

Clause 4 of the Bill names applicant for a Protection Order.

“4. (1) ...a person...a domestic relationship with the respondent on the ground that the respondent engaged in domestic violence against that person.”

We heard the Minister speak:

“(2) A child...under...sixteen years”—who can—“...apply...through”—designated persons.

Child over 16 years of age now has agency, and still the court can deem that she should apply through one of the specified persons who would deal with a child under 16. Then we have:

“(5) An adult in a residential institution, or...”—you have—“...a dependant...”—who can—“...apply...”—through a number of other persons as well.

And you have (7):

“(a)—the—“ a police officer;
(b)—the—“probation officer;
(c)—the—“social worker;”—and—
“(e) a person who, in the opinion of the Court, is acting in the interest of the child”

And as a blanket provision we have (8):
“...police officer, probation officer or social worker...”—who—“has reason to believe that a child has suffered or is in imminent danger...”

They can make an application “...forthwith...” for the protection of this child. And a very important provision which is again something new, innovative:

“...during any proceedings, the Court becomes aware that a child has suffered, is suffering or is likely to suffer from domestic violence, the Court may issue a Protection Order...”

Now, when we look at Zimbabwe’s Domestic Violence Act, Chap. 5:16 it includes among applicants a:

“(d) …person acting as the complainant’s representative, with or without the consent of the complainant:”

And this group includes in addition to:

“(a) a police officer;
(b) a social welfare officer;
(d) a person acting on behalf of
   (i) a church or other religious institution;”

Some people are very close to their church leaders and that person may be able to help them. Also:

“(ii) a private voluntary organisation concerned with the welfare of victims of domestic violence;”

And we have a lot of them mushrooming all over the place. Then we have:

“(e) a relative, neighbour or”—even a—“fellow employee.”

So I commend these provisions as useful additions that can be made to the law. Now, how do we define “domestic relationship”?

“the relationship between a respondent and a person, where the person—
   (a) is, in relation to the respondent—”

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And you have:

“(i)   a spouse...
(ii)   ...cohabitant...
(iii)  ...Child;”—coming down the list.

Then we have:

“(i)   a person in a visiting relationship...”—and—
“(ii)   ... Dating relationship;”—and—
“(c)   would be a relative...”—if they—
“(a)   (ii)   were married...”—and so on.

And then we have an important provision:

“(d)   ...member of the same household as the respondent...”

And when we look at the definition we also have:

“(i)   an owner or, a manager or employee of the institution;...”
—who can be brought to book for a person in the institution. They can be made to answer domestic violence complaint, and that is so important because a lot is happening in some of our homes for the elderly.

“‘member of the same household’ ...a person who ordinarily or periodically resides in the same dwelling house as the applicant or respondent and—

(a) is related to the applicant...”—by—“consanguinity affinity...”
—for the viewers, consanguinity talking about blood and affinity talking about marriage, or the person by—

“... Adoption”

Now, this definition does not capture all the domestic relationships which are a reality in this society, where persons dwell together in unity outside of the stated categories. So I would recommend an amendment similar to what obtains in Ghana’s Domestic Violence Act. We know a lot about Ghana these days. It
includes within “domestic relationship”:

“2. (I) ... A relationship where the complainant...

(g) and respondent share or shared the same residence or are co-tenants;”

And that will take care of the god-children and members of the family like that, no blood relationship but they share the same residence.

Now, when you look at New Zealand Family Violence Act, it says, it is not necessary for a person to have a sexual relationship with another person for them to have a close personal relationship, because they talk about close personal relationship.

Now, a missing component from that exhaustive list of applicants, the elephant in the room, the thorn among the roses, is an intent to afford protection to persons in same sex unions. When we look at the Province of Ontario’s Domestic Violence Protection Act, 2000, it lists among the applicants:

“2. A same-sex partner or former same-sex partner...”—of the respondent. When we look at in Queensland which is one of the Acts that we looked at in framing our amendments, it affords protection to persons in relevant relationship, and defines:

“(a) ... Intimate personal relationship”—and including a:

“(c) a couple relationship…

(5) A couple relationship may exist between 2 persons whether the persons are of the same or a different...”—sex.

Now, Hong Kong’s Domestic Violence Amendment Bill, when it was under consideration, Amnesty International stressed to the committee the importance of including same sex couples in the Bill so that, they could be handled in similar manner by the police, social services, and where seeking protection from abuse.

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And they reminded the committee that:

Explicit discrimination based on sexual orientation on the part of the Government will not be overlooked by the United Nations Human Rights Committee.

I think they meant the Council.

Now, we are also under the United Nations Human Rights Council, and in fact in September 2016 when we had to respond to our Universal Periodic Review, we said some things there that made me have to pinch “mehself” and if I did not have on a long jacket, I would show you how I pinched “mehself”. This is what the Government for Trinidad and Tobago said to my great surprise:

The issue of discrimination based on sexual orientation is one which remains a matter of concern in the forefront of the mind of the Government of Trinidad and Tobago with regard to cases of violence against a member of the LGBTI community.

Section 4 of the Constitution enshrines fundamental human rights and freedom:

“(a) the right of the individual to life, liberty, security...”—of the person.

Every person has the right to equality before and protection of the law. A person has the right:

“(c) ... to respect for his private and family life;”

The exercise of these rights is guaranteed free from discrimination based on:

“race, origin, colour...or sex...”

The Government of Trinidad and Tobago with particular reference to violence against LGBTI community said:

The definition of rape—so we are boasting—in the Sexual Offences 86 Act was amended by Act 31 of 2000, to reflect a gender neutral position with regard to the complainant and the victim.
Now:

This amendment—they said—served to include protection for victims of violence in same-sex relationships.

So based on these laudable intentions I expect Government to extend protection under domestic violence legislation to people in this community. This will evidence the belief that human rights are universal, inherent, invisible and interdependent. We cannot be viewed as talking out of the two sides of our mouth. As Stalin would say, “We make dat bow to give LGBTI their human rights, we cyah tun back now”.

Some of our brothers and sisters in the law as being ordinary people are in same sex unions. They run the risk of being victims of domestic violence. Some have been killed in situations suggesting a same sex domestic relationship. Their lives may have been saved had protection order been available, who knows? How much time do I have left?

Madam President: You finish at 11:56.

Sen. H. Thompson-Ahye: One Independence Day I went to see the parade. I found myself in the middle of a melee, a man being pelted with bottles and stones. I had to run. I could not understand what was happening until I heard the words, and I realized he was being abused because of his orientation.

Now, I used to be on a radio programme so I spoke about it and I published in the Express an article, “How sad are the gays in Trinidad and Tobago”. A senior attorney told me he and a priest had a discussion on my article and they were so disappointed in me. That was many years ago. Saturday I called a priest and I asked his view, he agreed with me it is a matter of human right, but he did tell me do not call his name. Protection should be for all.

According to Outright Action International, the opposition to Hong Kong’s
Domestic Violence Amendment Bill by the Christian Roman Catholic Groups and lawmakers stems from the fact here that if the amendment was passed, it might be interpreted as a sign that Hong Kong would recognize same-sex union and promote same-sex relationship. So Trinidad and Tobago, like Hong Kong, only recognizes heterosexual married couples and heterosexual cohabitants and we confer no legal status on civil partnership or same sex relationship. I am not advocating that we do, but I am saying that it is important that we have protection for them.

So Hong Kong, because they had a different definition for cohabitation relationships and included persons of the same sex, they decided to change the name of their Act and they decided to call it “Domestic and Cohabitation Relationship Violence Ordinance”. Now, we cannot do that because our definition of “cohabitant” means a person who has lived or is living with the person of the opposite sex, as husband or wife though not legally married to the person.

So, are we going to display the courage of our convictions and take the Ontario route and explicitly include same sex person? What are we going to do? “Dependant” has been redefined to now include person under 25 undergoing education and training, is a welcomed change, it reflects the reality of our lives. Now, when it comes to “emotional or psychological abuse”, there is one aspect which says:

“(vi) interfering with or damaging the property of the person;”

And this can present difficulties if people are not properly advised.

I once represented a man in a domestic violence case. Yes, I represent men too, and none of them have reoffended I can tell you. The applicant complained the husband had damaged her property. When I cross examined her, everything she admitted that he damaged belonged to him. So, the magistrate threw out the case. I did not send him on his merry way, you know, I took him back to my office, I
listened to his hurt and anger, and I prevailed upon him, “Stop stalking your wife nah. Stop going by the house 2 o’clock and telling me you gone to visit the children. Two o’ clock in the morning? Accept the marriage is over, start rebuilding your life.” We had long chats until he could actually laugh at some of the nonsense he had done. Months later he hailed me out at a show, he was a happy man who had found love again.

To prevent recurrence of the situation, I am proposing that where clause 3(j)(xii) speaks about “any other controlling threatened or corrosive behaviour”, that we insert the word “intimidating” after “threatening” because I viewed my client’s intent in smashing his items in his wife’s presence in an attempt to intimidate her. The unspoken message was, “Just as I smashed these things, I can and I will smash you.”

Now, “emotional or psychological abuse” is extensive but I am still recommending that we look at Queensland’s law and we include “unauthorized surveillance of a person”. This means “reading a person’s SMS messages; monitoring a person’s email account; or internet browser history; monitoring a person’s account; social networking internet site; using a GPS device to track a person’s movement; and checking the recorded history in a person’s GPS device”.

So those are things that we can include. Now, secondary trauma to children, emotional or psychological abuse of a child by a person who:

“(a) causes or allows the child to see or hear, or experience”—domestic violence or:
“(b) puts the child, or allows the child to be put, at real risk of seeing, hearing or experiencing the effects of, the physical or sexual abuse of, or any behaviour described… ‘emotional…””
I have heard some stories, I am sorry I do not have the time to give you now, maybe when we bring back the 40 minutes.

Now, parents do not really appreciate—I understand why it is there—the effect of domestic violence on children. When I was a teacher, a parent came to me and said, “Miss, I want you talk to meh daughter.” I said, “What happened?” He said, “The Madam and I had a little thing last night and she give the mother a cutlass.” I said, “I need to talk to you, not the child. The only reason she would have done that,” I explained “because she saw an imbalance in the fight and she feared for her mother’s life. She has a most important exam coming up in three weeks. I would not tolerate anybody interfering with my children when they have Common Entrance coming. You understand?” He said, “Yes.” I said, “Go home and behave yourself.” He said, “Yes, Miss.” I had no further reports, the child did well in her exam.

A client said, “I want you to counsel my teenage son, he lifting weights, Miss, he want to build muscles to beat he father. He fed-up of he father beating me.” Client came to me in tears, she stayed, she said, “Ms. Ahye, I stay and take licks for years with this man, and you know, I tell the children I getting a divorce, you know what they tell me, Miss? You should ah leave daddy long time. The sacrifice I make”—I explained the effects witnessing violence had on the children.

And you know, once a woman came with her husband, the husband showed me physical abuse. It was evident, emotional and psychological abuse. In the office she said, “Shut up”. My secretary rushed in, she thought I was getting “licks” too. I later learnt that her husband was the sacrificial lamb for the years of abuse suffered by her mother at the hands of her father.

Research on the impact of domestic violence on children show depression; anxiety; trauma symptom; increased aggression; presence of pervasive fear;
loneliness; mood problem; school difficulties; copying the behaviour; bullying others; cruelty to animals; being bullied by others; relapse into bed wetting; thumb sucking; nightmares; headache; asthma; stuttering; run away from home; attempt at suicide; self-harm; abuse of drugs and alcohol; it is so much. There is no mention about children who are perpetrators. We need to look at that. We had an allegation of a son being—chopped up in his mother’s hand. That case I do not think was properly handled, raising several issues. So, Ghana’s Domestic Violence Act says, if the child is the perpetrator, we send you to the children court.

I am glad that we have removed the cap from the quantum of domestic violence compensation, and another thing that we can take from the Domestic Violence Protection Order Act of Ontario 2000 is that:

“13. ... A child attend specified counselling at the respondent’s expense.”

And, a police officer or other court officer:

“4. ...accompany the applicant, respondent or a specified person to the applicant’s residence and supervise the removal of that person’s...”

You know what we have to go through as lawyers, write letters to the police and beg them to help and all that nonsense.

Now, there is a provision for a suspended arrest warrant and we have it in Zimbabwe’s law; we also have it in some of the Caribbean. I welcome the risk assessment, it is very important innovation so that whoever is presiding will know exactly what kind of order they should be making.

Now, New Zealand’s law has an extensive provision with risk assessment. I would advise that we look at them for our regulations. I welcome the service because by the court; we know how it is to be running down police officers. The question of the matter not being dismissed when there is affidavit evidence is also important. “Emergency applications”, very important as well, that you can make it
in this way. But I would not advise as some are saying that the police issue the Protection Order. When we look at Eswatini which is formerly Swaziland, Sexual Offence and Domestic Violence Act, it makes provision for the police to apply:

“…if the officer believes that because of distance, time, or other circumstances, it is not possible for an applicant to wait until his or her case can be heard…in…court…”

And Ireland as well, their Domestic Violence Act 2018, they talked about moving the court a senior police officer, there is no court going on to make sure that somebody who needs an order can have that order made.

So that the question of the register now, the duties of the police officer, this domestic violence register which says after completing a report provide the person with a copy of the report is not in our law. It says that you fill it out. Barbados specifically says that you should give a copy of the report. Now, that would obviate the confusion in the last case we had where the Commissioner of Police was saying one thing, and the deceased mother is saying something else, if you actually have that report in your hand. There is need for training after the coming into force of the Act; serious training, all must know the law and understand what should happen in terms of the law.

Now, many lawyers and police are frustrated over what sociologist Mindy Lazarus Black, some of you know the research she did in Trinidad called, “Vanishing complainant”—

Madam President: Sen. Thompson-Ahye, you have five more minutes.

Sen. H. Thompson-Ahye: Thank you. Now the European Court of Human Rights has warned that the more serious the offences, the greater the risk of further offences, the more likely the prosecution should continue in the public interest even if victims withdraw their complaints. The prosecution of serious domestic
violence is not solely for the satisfaction of the victim. It also has a broader public interest objective to punish those who commit such act, to provide reassurance to other victims and deter other would be offenders.

The British Parliament’s joint select committee enquiry into restorative justice said a perpetrator should be prosecuted but alongside that, victims have a right to access restorative services to help them address their needs. There is a word of caution that restorative justice should be conducted by skilled persons after careful risk assessment. But it seems to be working well in Europe, Australia, Canada, US and New Zealand, many programmes reporting success with restorative justice. It gives the applicant a sense of agency because sometimes what happens is that they feel that the process has been stolen away from them. There are many myths and misunderstanding about family violence and sexual violence. People do not understand the dynamics and the drivers, how it can escalate, where it comes from. It can continue when the person is out of the house and of course, when you leave that is the most dangerous time.

So lawyers play a crucial role in the process of achieving justice and resolution for victims and survivors as well as ensuring the right to a fair trial and help to change for the defendants. You can have a tremendous impact and this was what was said by Jan Logie when she was piloting the New Zealand Family Violence Amendment Bill in their New Zealand Parliament. The right to a fair trial can help to change for the defendants. You can have a tremendous impact. How does it work? It makes the process easier, you need to know how to respond, identify risk and act in ways to enable safety.

In teaching domestic violence, I used to teach my students about the myths that it is not caused by drugs, or alcohol or stress. These are not causes; these are triggers. All violence have in common two things, a belief that an individual has
the right to use violence and An intention that by using violence the results sought will be achieved. I used to urge my law students help your clients make a safety plan. I teach the power and control and equality wheels and everybody who is involved in this must understand these things, must understand the dynamics, must understand the law, must understand CEDAW, and our regional convention Belém do Pará, lawyers, police, court staff, social workers, families too, to win the war against violence, here is what you must do. Stop ringing your hands and crying in despair as another woman is killed realizing your greatest fear. A new dawn is here with this new Domestic Violence (Amdt.) Bill. Let us all vow to do our part, let us make that solemn pact. I thank you. [Desk thumping]

Madam President: Before I call on the next speaker, may I just remind all Senators that if there are any amendments to be proposed that they be prepared and be submitted in writing prior to our beginning the committee stage. Minister of Labour and Small Enterprise Development. [Desk thumping]

The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus): Thank you. Thank you very much, Madam President, for recognizing me to make a contribution on this very, very important piece of legislation. And, Madam President, I stand before this House as a product of the women’s movement in Trinidad and Tobago and having worked alongside so many women in the movement over the years regarding ensuring the passage of certain pieces of legislation to protect women. And I want to recognize the work of women like Lynnette Sebaran Suite, Prof. Merle Hodge, and others whose contribution really is invaluable.

Madam President, as a woman who has stood against injustice and who stands for empowerment and equality, my contribution to this debate on the Domestic Violence (Amdt.) Bill, 2020, would focus on the following.
Domestic Violence (Amid.) Bill, 2020

Sen. The Hon. J. Baptiste Primus (cont’d)

Madam President, the objective of this Bill is to make several amendments to the Domestic Violence Act, Chap. 45:56, in order to expand the scope of protection offered by the current Act and to ensure wider and effective access to justice for all victims of domestic violence in Trinidad and Tobago.

Madam President, there is absolutely no doubt that in Trinidad and Tobago domestic violence is a perennial societal problem which we as a society and in this esteemed House as parliamentarians must address to ensure the protection, the safety, and well-being of victims. We must also seek to ensure that less and less of us become victims of domestic violence.

Within the last few years, Madam President, Trinidad and Tobago has seen a disturbing rise in the frequency of domestic violence cases with far too deadly consequences. Between 2005 and 2015 the Trinidad and Tobago Coalition Against Domestic Violence reported that 300 women were murdered in this country. In 2017 alone, the Coalition noted that 43 of the 52 women killed were victims of domestic violence. Even more alarming, Madam President, is the fact that these incidents of domestic violence have increased during this period of COVID-19 during this pandemic period. Since the first reported case of COVID-19 in this country in March of this year, the Institute for Gender and Development Studies of the University of the West Indies, St. Augustine campus, noted that 203 police reports of domestic violence were made for March 2020, compared with 42 reports for the same month in 2019. The gender unit noted that COVID-19 triggered greater economic and psychological stress on families due to income loss and heightened insecurity.

According to the unit, and Madam President, I quote:

Pre COVID-19, one in three women reported experiencing sexual or physical violence from their partners in their lifetime and one in five
reported experiencing child sexual abuse at least once in their lifetime, suggesting that home and family were already sites of threat, fear and potential harm. These are the spaces to which women are now confined. Madam President, in a press conference held on April 09, 2020, Commissioner of Police, Captain Gary Griffith, reported a rise in domestic violence cases from 232 reported in 2019 to 558 in 2020. This represents an increase of well over 100 per cent, certainly frightening. He also noted that the increased number of reports may have been linked to the January 2020 launch of the Trinidad and Tobago Police Service Gender-Based Violence Unit.

12.00 noon

And in that context, Madam President, I would like to seize the opportunity to commend our hard-working Commissioner of Police for seizing the opportunity of ensuring such a unit is in place so that more women can be offered protection in this country.

Madam President, this increase in reported incidents of domestic violence only highlights the harrowing truth that domestic violence is even more prevalent in our society than we may have thought, warranting much more action and attention than has been undertaken in the past.

Madam President, domestic violence affects all persons, irrespective of their sex, gender, age or social status. And whilst the majority of reported cases of domestic violence may be committed by men against women, we know that our men are affected just the same. Just last weekend, we would have heard in the news, and we would have read in the newspapers, the case of a 22-year-old young man who was brutally stabbed to death by a female after a domestic dispute.

Moreover, our elderly are also not exempt from such violence and as Her Excellency Paula-Mae Weekes, President of the Republic of Trinidad and Tobago,
stated on the occasion of World Elder Abuse Awareness Day 2020, which was observed on June 15th, last week, and I quote Her Excellency:

“We all have a shared responsibility to ensure that older persons feel safe, included and significant in our communities and to protect them from harm.”

It is therefore imperative that the law affords protection to all victims of these heinous acts whether the victims are men or women, the young or the old.

Madam President, citizens of Trinidad and Tobago expect and deserve laws that safeguard their lives and the personal autonomy of all members of our national community. This Government, as it has consistently done throughout its term, is once again seeking to protect the citizenry with this Bill that is before this honourable House.

Domestic violence is a violation of an individual's fundamental human rights and negatively impacts the physical and psychological well-being of its victims. This has far-reaching consequences for victims’ families, their communities, workplaces and the wider society.

Madam President, the International Labour Organization’s Violence and Harassment Convention of 2019, No. 190, I had the honour of attending that conference of the ILO and voting on this particular convention. And this convention is designed to combat violence and harassment at work, notes that domestic violence could affect employment, productivity and health and safety, and that Governments should have to recognize, respond to, and address the impacts of domestic violence, since it has been identified as a major obstacle to equal opportunities, is unacceptable, and incompatible with decent work and hampers the growth of an inclusive, equitable and sustainable society.

Madam President, this Government has been making meaningful changes to reforming our legislative system and this Bill is a continuation of that work. This
Bill reflects our continued commitment to protecting the citizenry against acts of domestic violence and ensuring that wider access to justice for all victims of domestic violence.

Madam President, I turn now to the key provision of the Bill. An analysis of the Bill demonstrates that the amendments primarily focus on expanding the scope of protection afforded by the current Act to ensure a wider access to all victims of domestic violence in Trinidad and Tobago. Madam President, clause 3 amends section 3 of the current Act by introducing 16 new definitions. Many of these new definitions have already been incorporated in other pieces of legislation, and so the aim is to bring the various pieces of legislation into conformity and harmony, so as to avoid ambiguities and inconsistencies.

Due to the introduction of these 16 new terms, the Act will be brought into line with definitions present in the Children Act, Chap. 46:01; the Adoption of Children Act, Chap. 46:03; the Children's Authority Act, Chap. 46:10; the Family and Children Division Act, 2016 (Act No. 6 of 2016); the Children's Community Residences, Foster Care and Nurseries Act, Chap. 46:04; and the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08.

Most notably, the new definition for the term “domestic relationship” and “relative” are broadly stated. Furthermore, the existing definitions of “child”, “applicant” and “dependant” have been amended to be more widely stated, and this is all in keeping with Government’s intention to reform legislation so as to expand the scope of justice for all the citizens of our beloved twin island state.

The term “emotional or psychological abuse” has been amended and expanded in line with a modern emphasis on the mental health and well-being of the individual. This takes into consideration the fact that increased levels of anxiety
and stress, not only affects the individual, but can also affect their families, their workplaces, and even the society at large.

Madam President, in order to reflect this expanded category of persons able to apply for a Protection Order, clause 4 will repeal and replace the existing section 4 in the Act. Clause 5 will amend section 5 of the Act to allow the court to consider conduct amounting to domestic violence before making a determination on the grant of a Protection Order. Importantly, the court will also have the power to grant an Interim Protection Order on the basis of a single act, omission or threat by the respondent.

Consequently, Madam President, protection is provided to applicants from the beginning and there is no delay in justice. Victims should not have to wait until the eleventh hour after having suffered severe or several repeated attacks before they are able to access justice. Too many times, we have seen that one sole incident of domestic violence could suffice to end the life of a victim. And my advice to my sisters and others out there, Madam President, is to do as calypsonian Francine said, run away, run away far, far, far from that relative.

Moreover, Interim Protection Orders will no longer be only valid for a 21-day period. By the amendments introduced in clause 9 to section 8, an interim order will remain in place until:

“(a) it is revoked;
(b) the application for a Protection Order is withdrawn or dismissed; or
(c)”—the final—“Protection Order is”—granted.

This will eliminate the need for the applicant to continuously apply to extend the lifespan of an interim order, making justice more effective, and this will ensure the victims are protected throughout the entirety of the proceedings before the
court. This is in keeping with the Government's intention to protect and preserve the lives of victims. Since we have seen instances—

**Madam President:** Minister, you have five more minutes.

**Sen. The Hon. J. Baptiste-Primus:**—since we have seen instances where perpetrators of domestic violence have continued their heinous act, even whilst matters are before the jurisdiction of the court.

Madam President, we know that children are victims of domestic violence often becomes victims themselves. And it was not too long ago in 2018 to be exact, we all heard the horrifying report of four persons being brutally murdered in La Brea. The victim had made reports of threats to her life to the La Brea Police Station mere days before the incident occurred. But the incident, unfortunately, resulted in the victim's murder and that of her daughter, her daughter's friend and the landlord who sought to come to the victims’ aid. This incident sent shockwaves throughout Trinidad and Tobago. Clause 7 will insert a new section 6A into the Act which will give the court the power to extend a Protection Order application to that of the child of the applicant or the child of the respondent. In so doing, the court will be safeguarding the well-being of some of the most vulnerable members of our society.

Madam President, for too long, our men, women and children suffered from the devastating effects of domestic violence, as many as six women were murdered in domestic violence incidents in Trinidad and Tobago within the first two months of 2020. Headlines detailing horrific acts of domestic violence must become a thing of the past. And our men, women and children must be protected from perpetrators of such acts and be allowed to peaceably enjoy their lives and realize their full potential. Many victims hide and cower in fear for their lives, thereby failing to come forward and report acts of domestic violence, while some of their
perpetrators never face the consequences of their actions. By these amendments, mandatory reporting will be implemented and police officers will be obligated to respond to every complaint or report of domestic violence.

Madam President, in closing, I see it as a duty of the Government and the Opposition and the Independents, all of us, to support this Bill and maintain a policy of zero tolerance of domestic violence against all victims. Madam President, the welfare of our citizens must be paramount and all circumstances must be taken into account and weighed so that the course of action we undertake in this House is in the best interest of the citizens of Trinidad and Tobago. This Government has consistently demonstrated its willingness to act in the best interest of the citizenry. The amendments being proposed by this Bill will improve the lives of all of us, not only the lives of those who are victims of domestic violence. With great access to the victim to the protection afforded under the amended act, we can avert the negative repercussions on the family, the community and the workplace and society at large.

Madam President, I therefore strongly urge Members of this honourable House to support the passage of this Bill, and so secure a brighter future for Trinidad and Tobago. Madam President, I thank you. [Desk thumping]

ARRANGEMENT OF BUSINESS

Madam President: Hon. Senators, before I call on the next speaker, with your leave I would like to revert to the earlier item on the Order Paper. I am now in receipt of the instruments of appointment.

12.15 p.m.

SENATORS’ APPOINTMENT

Madam President:
“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

By Her Excellency PAULA-MAE WEEKES, O.R.T.T., President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Paula-Mae Weekes
President

TO: ROBERT AMAR

WHEREAS Senator Taharqa Obika is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, ROBERT AMAR to be a member of the Senate temporarily, with effect from 22nd June, 2020 and continuing during the absence of Senator Taharqa Obika by reason of illness.

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 22nd day of June, 2020.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES, O.R.T.T., President of the Republic of

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Senators’ Appointment (cont’d)  

2020.06.22  

Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Paula-Mae Weekes  
President  

TO: NIGEL TRANCOSO

WHEREAS Senator Saddam Hosein is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, NIGEL TRANCOSO to be a member of the Senate temporarily, with effect from 22nd June, 2020 and continuing during the absence of Senator Saddam Hosein by reason of illness.

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 22nd day of June, 2020.”

OATH OF ALLEGIANCE

Senator Robert Amar took and subscribed the Oath of Allegiance as required by law.

AFFIRMATION OF ALLEGIANCE

Senator Nigel Trancoso took and subscribed the Affirmation of Allegiance as required by law.

DOMESTIC VIOLENCE (AMDT.) BILL, 2020

Sen. Sean Sobers: Thank you, Madam President, for recognizing me so that I can

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make a contribution here this afternoon. Now, when I first looked at the Bill a couple weeks ago when we got it, as I usually do in terms of preparation, I looked at the parent piece of legislation because we are aiming to amend that currently, and what caught me by surprise—and I think it has been said by many other speakers here this morning—is the alarming number of reports, alarming number of incidents of violence being attributed to both men, women and even children in our society, by persons who should have a greater respect for those who they assault. And in terms of how we as a country, the court systems themselves would have treated with this issue for a number of years, I think it is safe to say that we have in fact failed. That when I looked at the parent legislation at section 2 of the parent legislation, it says:

“The objects of the Act are inter alia to—

(a) provide immediate injunctive relief to victims of domestic violence; and

(b) ensure a prompt and just legal remedy for victims of domestic violence.”

You can make an enquiry of any lawyer in this country who has done applications for Protection Orders, you can make an enquiry of any lawyer involved in family matters in the Family Court, of police officers involved in those matters as well, of court staff, of most importantly, the victims in these matters, and they will categorically indicate to you that this is never achieved. And I, having gone through the amendments being proposed, I tend to definitely agree with Sen. Thompson-Ahye and say from the outset that this Bill does, in fact, treat with a number of issues that currently plague the system in a comprehensive and fair way. And as I have indicated on a number of occasions, I always try my best to be as objective as possible, and I will do so in terms of going through the legislation as
well, the proposed legislation.

But by listening to the mover of the Bill, the hon. Minister, and I listened specifically to the data, that there were thousands of reports of domestic violence, thousands of reports of breaches of Protection Orders and those are the numbers and the figures that we have the data for, but there are many, many, more cases that go unreported. There are many, many more victims of domestic violence that still exist in Trinidad and Tobago, and it is my hope that this piece of legislation, this amendment, will be the platform of which there will be many more amendments as we move forward and as society grows and it changes, to really assist people who are victims of domestic violence.

I do not think it has been clearly articulated to the listening and viewing public what an individual goes through when they make an application to the court and I will try to do so very briefly. When persons visit the courthouses and they intend to make an application for a Protection Order, they will have to sit and wait just like everyone else to have a chat with the Justice of the Peace or the Clerk of the Court, which is now being changed and you will have a lawyer who will be dealing with it. But in times gone by, you would have to sit sometimes for hours, waiting to get that opportunity to see this Justice of the Peace, who will then ask of you certain questions to fill out the relevant form for the matter to be docketed before the court.

Now, I remember explaining the situation to a client and informing the client that that matter would only find its way on the docket system seven days after we actually go to the court to take out the application, seven days after, and the look of sheer disbelief on the face of that client really upset me. That the story of the abuse, the story of the violence being perpetrated to this particular individual and her child, by the hands of her husband as it was then, that she had to wait seven
days for this matter to come up before the court, left me really, really upset. And I think in terms of closing when I move on later on in my contribution, I will indicate as well too, we as lawyers, we as members of society, should also educate persons when it comes to issues of domestic violence.

Protection Orders are good. They are one tool that can be utilized, but now we have other tools available, and it is really incumbent upon us all, especially as legislators, lawyers, members of civil society, to educate individuals when they come to us on issues. You are talking to a friend, you must be able to tell them: “Listen, apart from the Protection Order, you need to go to the police”, especially if this person is showing visible signs of physical abuse. These are things that the police can arrest that individual for. You do not need to go to private court for an assault. That is something that the police can act immediately on and in most instances they do, especially with Commissioner Griffith at the helm.

There is the harassment Act, which I will touch on as well too, which is not really an Act, but it falls under section 30A of the OAPA, Offences Against the Person Act that allows for a broader ability for an individual to take action against someone who commits an offence or is alleged to commit an offence as laid out under the harassment section of that Offences Against the Person Act. So, it is incumbent upon us to educate friends, family members, anyone that we are aware is going through an issue of domestic violence, with the level of tools that are available or at their disposal. And in the round I will indicate that now we have a broader ambit with respect to electronic monitoring which we sat and we dealt with in this Parliament a couple weeks ago as well too. And, for once, I would definitely indicate that it goes together as a proper suite of legislation that will in fact have a serious dent on issues like this before us.

So, in any event, after the matter is docketed, the victim will be coming to

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court and, again, you will have issues with respect to service. The respondent must be served. He must be made aware that he has to come to court to answer this matter of domestic violence and that, you ask any practitioner, sometimes takes weeks to be effected properly. For whatever reasons, sometimes there is an issue with respect to the documents leaving the court room and reaching to the police station, and when it reaches the police station, there is another issue with the police officers actually procuring the documents to make an attempt to serve, and then when they actually make the attempt to serve, they cannot find the respondent and the list of excuses goes on and on and on. This particular piece of legislation treats with it in some way.

And then even when the person is served and then they come to court, you go through a trial. The person, the respondent is found guilty, the Protection Order is made out. The Protection Order is served upon the respondent. He knows what he is not supposed to do and what he is supposed to do, and then he breaches the Order, because let us be real. It is a piece of paper; it is a document. There are sanctions that are now being increased which I applaud and commend as well too. Madam President, $15,000 was way too low, but he breaches the order, because there are no reins upon him, no shackles preventing him or her from continuously assaulting. What happens then? To the listening and viewing public, it is not a situation where the police are going to arrest this person and throw them in jail, and that is the end forever and then, amen. You have to go through a trial now to prove the breach of the Protection Order, which in and of itself is a harrowing experience.

So, it is not a hard and fast situation by any means or any stretch of the imagination, but, at least now, there is a significant addition of teeth and aggression that we can utilize to one, hopefully educate persons outside there, that
it is not okay to be violent; it is not okay to be financially abusive; it is not okay to be psychologically abusive; that you just need to behave, and nothing is wrong with that and nothing is wrong, in my humble opinion with an Opposition agreeing with the Government that this is in very huge measure, an opportunity for us to try to get that aspect of things right as well, and that is what we are doing here today. Like it or not, that is what we are doing here today.

So, I mean, having seriously gone through the Bill, again, as I said before, I think we are definitely on the right path. I mean, when I was going through the Bill, I told myself, I cannot believe we have reached so far with so many different amendments, and one of the things that I thought by now we would have seen in terms of amending a piece of legislation like this would have been Emergency Protection Orders and then, boom, we get it later down in the Bill itself. And I mean, I have discussed this with many other lawyers who sat—and, you know, something we can work with. It is something we can work with in a meaningful way. So, let us just get into it now.

I looked at clause 3 on page 6 and other Members of this House would have spoken about amendments to the “emotional or psychological abuse”, the widening of it, and I agree it is a positive step. The majority of what I saw here came directly from section 30 of the OAPA and I think it is good. One of the most utilized pieces of legislation, I use in terms of private practice when dealing with issues like this is, in fact, the harassment Act—well, I call it the harassment Act, it is not really an Act, but the harassment section of the Offences Against the Person Act. And why? Because it is quite broad. It captures a lot of misbehaviour by persons. I am now seeing it here being laid out with respect to “emotional or psychological abuse” as it is written in the harassment section of the OAPA. I think it is a good step.

I also went on to look at page 9 which deals with criminalizing, and I know
this is one where I think there may be some need for further discussion and, hopefully, either the mover of the Motion, the hon. Minister, or even the hon. Attorney General, when they speak, they can possibly give us some statistics related to this issue. But criminalizing abuse that occurs in front of children is something that was missing for quite some time, that many times children see abuse happening in front of them and there is no discussion with those kids who go through that, because that is a level of abuse as well. And what happens is that those kids grow up to be abusers. So why not criminalize parents or individuals who act in that manner in front of children? What is objectionable about that? What is so wrong about that? You have a responsibility as an adult to operate and behave in a particular way, especially in front of children and if you cannot do that, well now we have a fix in place. So I am comfortable with that. I am very comfortable with that, because what will happen is—and I remember discussing it with some friends in terms of the urgency of now, where tomorrow’s problems become today’s, where by misbehaving in front of children we are breeding individuals and moulding individuals in a negative way who will become our problems tomorrow. So it is time we fix that now. I also looked at section 6, clause 6 rather located on page 12—

**Madam President:** Sen. Sobers, you have five more minutes.

**Sen. S. Sobers:** Wow. Right. So I looked at clause 6 located on page 12, and this is also something very new. It contemplates creating which—so this is a situation that I would normally go to the harassment section for, but in the domestic violence it allows now for persons who may have been in a relationship with the respondent—the applicant is no longer in that relationship with the respondent, and is in a new relationship with someone else—and what has happened in many cases before, the respondent knows that he is before the court dealing with this particular matter
with the applicant, so he or she would start to harass and abuse the new individual in the relationship, and before there was really no offence for it. That new person will have to go to the court under the harassment section to treat with it. This section allows for some type of action to be taken.

Again, as I indicated at the beginning, I had some issues with respect to time with some of these matters and clause 9, which seeks to amend section 8 and further down clause 12 as well too which seeks to amend section 11, deals with the introduction of some time limits with respect to service of documents as well, and I always had a bit of an issue with respect to the documents actually being served when they are in the hands of the police service.

I understand from some research, this new Domestic Violence Unit will take those things a lot more seriously. I appreciate that it still has to go to the police station in terms of the locality of where the applicant resides, but I also appreciate now that there is a widening of that section, because before the only person who would have been allowed to serve those documents would have been the police and, rightly so, because you are talking about going to someone who may in fact be violent. But now that we are allowing for possibly maybe a marshal or another individual who could, in fact, go with the police officers or go on their own volition to serve these documents, these situations could be sped up a bit and they would be effected properly.

And I mentioned earlier as well too, the advent of the Emergency Protection Orders which is located at page 20, clause 19. It is something that was missing from the legislation for quite some time that if an incident occurred that you have a situation now within 24 hours, relief could be brought, and then we have the issues that come up now with mandatory reporting, we being our brother’s keeper, section 26A, which I think is also welcome.
But, Madam President, in closing, what I would also like from the hon. Attorney General and the mover of the Motion, the hon. Minister to consider, that although this piece of legislation is properly well intended, and I think it addresses a lot of the issues that currently plague the parent legislation, we have to also understand that one of biggest drawbacks in the Magistrates’ Court is the fact that sometimes when these matters go before a particular magistrate there would be an inordinate amount of adjournments to get the matter completed and wrapped up properly. Some magistrates are moved, so they have to wait until that particular magistrate—once the matter becomes part-heard—to come back to finish the matter and incidents like these should be dealt with as quickly as possible.

I also indicated that I think there should be a lot more done with respect to education on these issues and we have to utilize the systems that are there in a cohesive manner. So we have the Probation Officers who will assist with respect to risk assessments, we now have electronic monitoring and we have the use of the Domestic Violence Unit. It is just for us to find the will as a country, the will as a people who operate within these various systems to put them in place and have them working as best as possible. With those few words, Madam President, I thank you.

**Sen. Paul Richards:** [Desk thumping] Thank you very much, Madam President, for recognizing me to make a contribution on this Bill to amend the Domestic Violence Act, Chap. 45:56 to provide for emergency protection orders and for related matters. Before I start my substantial contribution, by your leave, Madam President, I would like to make a respectful suggestion that we consider moving back to the original time since the Government has moved the public service back to its original incarnation in terms of public servants going back out to work and full complement with public transport, et cetera. And I know it is a consideration
for the leaders of both the Government and Opposition Benches, but I respectfully submit that we give that serious consideration, especially in light of these kinds of debates where there is so much to say, and I know I would not get through one-tenth of what I want to say, because of what this Bill means to me.

And I will start by saying this Bill—let me compliment the Minister, first of all, for the amazing work done and, by extension, the Attorney General and the Government, because I am glad, I am extremely pleased and happy that this Bill has made it into this parliamentary session, because I think it is that important and I think that needs to be commended and congratulated. So congratulations to the Government on that.

These amendments and this Bill, they are very personal to me. I have a visceral aversion to domestic violence, an aversion to advantage, and that is because I am a survivor of domestic violence, and I am a survivor of domestic violence because my mother, Agnes Richards, is a survivor of domestic violence. Yes, my mother, my family, my siblings survived domestic violence. Now, when I was preparing for this debate, it caused me many sleepless nights contemplating if my mother will be comfortable with me making this kind of public disclosure because, let us face it, it is not something everyone wants to admit or talk about, much less in a very public manner. So you know what I did? I simply asked my mother: “Mom, I am preparing for this debate on the Domestic Violence (Amdt.) Bill, 2020, would you be comfortable with me telling your story?” And if you know my mother at 90 years, she is very sharp, very intellectually acute, and she said without hesitation: “Of course not, I have no problem with that on one condition, do not call me a victim.” She said: “While I recognize and honour the victims who lost their lives to domestic violence and there are many, I am not a victim. I am a survivor.” So, Agnes Richards is a survivor of domestic violence,
and there are thousands of women out there who are survivors of domestic violence. [Desk thumping] She also said: “If this disclosure protects one woman, one girl, one boy, saves one life then of course it is worth it.”

And my hesitation came partly because of the stigma and shame often poured by society on ironically the victims of domestic violence, when they did nothing wrong. They are not the perpetrators, but the shame and stigma exist and this stigmatization must end, and it could only end if people talk about it and they are honest about these experiences. There are many women who are honest about their experiences. We need to break this silence. We need to talk about this, because it is happening. I would not betray confidences, but I would tell you just last week talking to many of my colleagues on every Bench in this honourable House say their personal family experiences were very similar, but that is for them to decide to disclose.

And my late father, like many abusers, was complex and multi-dimensional. He was a loving father, great husband at times, but he was an alcoholic and he abused when he was inebriated—well, let us use the real word—when he was “drunk”, because inebriated sounds posh and palatable, and his is not a singular story. Now, let me state clearly and loudly, the alcoholism and the alcohol abuse is no excuse, no justification for his actions. His trigger was alcohol and there are many triggers: alcohol, drugs, money, jealousy, control. It does not diminish the atrocity, but I am trying to give a whole picture. Violence of any kind is learnt behaviour, it is socialized in us. It is what we see as children, what we hear, what we are taught overtly and covertly. Subconsciously, we model our parents and our elders’ behaviours. We see it and we say, you know what? We do not even process it. We just understand, unfortunately, that is how we are taught to behave.

So when a young man sees his father beat, abuse and violate his mother, he
learns well, that is how you treat your girlfriend; that is how you respond to your wife. In very few cases—in some cases I should say, you have an aversion like I did, so I cannot stand to see advantage of any kind. And when a young woman or a girl sees her father abuse her mother, she learns that is what is acceptable and that is wrong, and that is why this Bill and these amendments are so important. They are not the panacea, but they will certainly go a long way in dealing with this scourge of domestic violence.

12.45 p.m.

The American CDC indicates that in the CDC’s National Intimate Partner and Sexual Violence Survey, 2017, that 275 million children worldwide are exposed to violence in the home; 11.3 million globally in developing countries. One in four women and one in seven men have experienced severe physical violence at the hands of their intimate partners, and that is physical violence, and we all know that the scope and definition is much wider and much more profound in physical violence. It also impacts how girls and women learn to be treated, as I said before. In addition to my mother, there are two stories I want to tell, because I am going to propose quite a few amendments on the floor, and one is a story that I think I am compelled to tell because she has been an advocate because of her personal experience for many, many years, and she is one of the strongest, most resilient people I have ever met. And when you meet her you have to do a double take because of:

“…the absence of her left forearm, two missing fingers from her right hand, multiple scars about her shoulders cascading her neck, with a single three-inch imprint lining her left temple—these disfigurements…”—significant disfigurements—“sustained by chop wounds…”—by the cutlass-wielding angry ex.

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April 04, 2004 is a day her injuries will never allow her to forget with:

“The words ‘Is man yuh like’, left the lips of her ex-partner before he began chopping at…”—her

Tricia St. John is her name.

“…the women was estranged from him for…10 years.”

Tricia:

“…of south Trinidad almost met her death as she lay crouched on her neighbour’s front porch feeling the impact of the swinging blade.

Recounting the events of that horrifying day…”

I interviewed her and 15 other women for a series I did called “Survivors” who were all survivors of domestic violence

“She explained that the relationship ended due to non-stop domestic violence she experienced during their union. …she did not have access to her sons…”

—as he would behave in a deranged manner. The attack was so brutal that it severed her arm and she lay on the ground looking at the arm and wondering who else was in this attack. She did not even process that it was her arm, and he tried to kill her before neighbours intervened.

Shanti is a 33-year-old mother of two who also suffered at the hands of her partner, her husband. She endured years of domestic violence. She endured chops and while lying on the ground helpless she suffered the ultimate atrocity, she saw her husband chop her seven-year-old son to death. He in an act of cowardice then killed himself. This is what women go through on a daily basis in Trinidad and Tobago and that is why this is so important.

The organization called Equality Now which was launched in 1992 describes the issue of sexual violence as a global shame, a pandemic, much like the
one we are experiencing now with COVID-19; this one is also very visible. The Trinidad and Tobago Police Service at the recent launch of its Sexual Offences Unit on June 04, 2020, said in a statement by the unit head, Alana Wheeler:

The demand for sex workers in Trinidad and Tobago has been by local demand to the tune of 81 per cent.—which tells us about how we think about women in Trinidad and Tobago sadly. Now I know many of my colleagues who spoke earlier gave a snapshot, including the hon. Minister who piloted the Bill about domestic violence statistics from 2005, but I want to go back a bit further and give a snapshot from 2000 to 2019. In Trinidad and Tobago there were 743 murders of women recorded between 2000 and 2019. Of those 743 murders of women between 2002 and 2019, 36.3 per cent or 270 of them were attributed to domestic violence, and we know how under-reported domestic violence is. So it gives a scope and by far it was the significantly largest percentage of women who were murdered, the closest of that being in robberies which was 16.4 per cent.

So domestic violence is responsible or relations in domestic violence situations is responsible for over one-third of the murders between 2000 and 2019 in Trinidad and Tobago. That is how serious a problem we have. I was also quite interested to hear the Minister indicate in 2017 in terms of the domestic violence situations, there were 1,199; 2018, 1,244; 2019, 1,158, and as of April 2020, 134, and of the 2,644 breaches of protective orders, that represents under one-quarter of all the protective orders that were issued in Trinidad and Tobago, giving us a sense of how much under siege women feel they are in Trinidad and Tobago.

During a recent conservation about domestic violence someone asked an unfortunately frequent question, which is a question I have heard before, unfortunately. Why do these women stay in those relationships? Why do they
choose these men? And these questions have an underlying premise of almost, “It’s your fault.” Now, yes, people have choices; yes, we would like everyone to make proper choices about the persons they get involved with, but to me, at the stage, these are not the appropriate and/or productive questions.

The more productive questions are, but are not limited to, what are the root causes of domestic violence in terms of our societal practises, our norms, our socialization agents? How are we socializing our boys, our men, our girls and women—because violence is learnt—to deal with partnerships, relationships and conflict resolution? What are the institutional underpinnings that facilitate the prevalence of domestic violence?—because very often family structure, cultural practices, continued domestic violence practices—how can we start to deal effectively with domestic violence in terms of prevention, identification, prosecution, remediation and rehabilitation of survivors, and in some cases perpetrators? Because one of the concerns, as admirable that I think this Bill is, and I think it is extremely admirable and commendable, I think it is absent of the issue of preventative measures in terms of dealing with the possible—those who have a tendency based on their family histories, their socialization, et cetera, and I think that is something we have to look at in Trinidad and Tobago.

Children who witness domestic violence may develop serious emotional, behavioural or developmental and academic problems, and that is why I am so happy so much emphasis has been placed in clause 26, I do believe it is, in terms of the criminalizing exposure of children to domestic violence, which, as Sen. Sobers said earlier was absent in the previous iteration of the legislation. I think that is extremely visionary, because at the end of the day if we think about the intentions of our Children Act of 2014, it is to protect children, and children who are exposed to domestic violence situations are also being abused, and this clause included in
this Bill seeks to deal with that and protect those children, because those children and teens who grow up with domestic violence in households are more likely to use violence at school or in communities in response to perceived threats. They are more likely to attempt suicide in their teens. They are also more likely to use drugs. They are more likely to become involved in gangs, commit crimes, especially sexual assault. They are more likely to use violence to enhance their reputation and self-esteem because they learn about these power dynamics involved from their experiences at home. They are more likely to become abusers later in life, and that is why it is important that we have included these.

I would also like to thank the intervention of the Law Association of Trinidad and Tobago, the Equal Opportunity Commission and Lynette Seebaran Suite, the Alliance for State Action to End Gender-Based Violence, Colin Robinson—

**Madam President:** Sen. Richards, you have five more minutes.

**Sen. P. Richards:** Thank you, Madam President—who also provided some very, very insightful interventions and amendments which I will propose on the floor later on at committee stage, and I know they have also had interactions with the hon. Attorney General in terms of making a more holistic interpretation of who this Bill protects in domestic relationships, which I understand has been dealt with before. My colleague Sen. Thompson-Ahye spoke about the issue of whether or not it should be specified related to same-sex partnerships in Trinidad and Tobago and relationships in domiciles which have now been extremely expanded to include significant different iterations based on our sociology in Trinidad and Tobago where our family situation and our domiciles span such a wide gamut of membership into that group, including what I am hoping in terms of my interpretation is persons who are in the employ of that home who may have been a
domestic helper as we see in Trinidad and Tobago in many situation, whom very often also find themselves violated by their employers in those domestic situations, and also the Bill in terms of what constitutes a domestic relationship.

The risk assessment aspect of the Bill is extremely commendable because it gives the officers of the court data from professionals to work with in terms of doing the risk assessment, and I think that needs to go a bit further in terms of applying if an individual is deemed to be a risk, that person may have some sort of intervention from psychologists or counsellors to deal with that situation. I also will propose on the floor an amendment, and I know it is also covered in part in the parent Act, situations related to the firearm user’s licence holders who are supposed to surrender these firearms once they are deemed to be a threat to the complainant, and I want to include in that situation specifically mentioning members of the protective services, because it does not specify members of the protective services, including the Trinidad and Tobago Police Service, the Trinidad and Tobago Defence Force, the coast guard and firearm user’s licence holders who are part of the protective services. Because, my understanding is that sometimes when these complaints are made those members of the protective services do not have to or are not asked to surrender these firearms, and we have seen police officers in domestic squabble situations—I am not using that term lightly—basically kill each other.

I have known of situations where the spouses or partners of police officers have come home and the officer puts a gun on the table in a threatening manner, and I think that needs to be included and specified in the Act to state, “including members of the TT protective services”. Also, in terms of the issues related to the application, and I know the Trinidad and Tobago Police Service has come a long way under Commissioner Griffith in terms of dealing with several units related to
domestic violence, giving the police more resources because of how widespread this scourge is in Trinidad and Tobago. And I know it is one step at a time, but given what we have outlined as the pervasiveness of this, we really need to give the police the kind of resources that they need to expand the training and the reach of their intervention mechanisms.

So, Madam President, as I close, once again I commend the Minister and the Government, by extension. I think very often we feel that the issues in Trinidad and Tobago are insurmountable. But I think when we come together and can find consensus on issues like this, in changing and strengthening law, because law really relates to people, you know, and how people live, and how we protect the most vulnerable in society, and how we can come together and deal with situations like this in a sober manner, it augurs well for the people of Trinidad and Tobago, and particularly vulnerable groups like those survivors and victims of domestic violence. Madam President, thank you very much. [Desk thumping].

Madam President: Hon. Senators, at this juncture the sitting will be suspended, we will return at 1.30 p.m., and when we return the Minister of Communications will begin her contribution. So the sitting is suspended until 1.30 p.m.

12.58 p.m.: Sitting suspended.
1.30 p.m.: Sitting resumed.

[MR. VICE-PRESIDENT in the Chair]

Mr. Vice-President: The Minister of Communications. [Desk thumping]

The Minister of Communications (Sen. The Hon. Donna Cox): Thank you very much, Mr. Vice-President, for the opportunity to join today’s debate on the Domestic Violence (Amdt.) Bill, 2020, the timing of which could not be more appropriate as yet again the country awakens to another murder of another mother, sister, aunt, friend, grandmother, whose life was tragically cut short by someone
who they knew. I just want to say congratulations to the Attorney General. I know a lot of hard work went into preparing and bringing this Bill here today. I also want to congratulate the Minister of gender and child affairs. I want to say thank you to all those who have inputted into this Bill, including the Trinidad and Tobago Police Service. From the onset, Mr. Vice-President, I wish to recall for this Senate a statement uttered in exasperation by one of my mentors, and that is simple, “You cannot legislate brought upcy”. And what my mentor was saying to us was simple as it is true, that there are some things that the existence of laws can neither prevent nor eradicate, because what it requires is a change of attitude, a change of mindset, a radical conversion of thought and behaviour, and even for some, some might even need a spiritual conversion.

Under the current circumstances we must admit that none of us have the right to use violence against our domestic partners, and I just want to refer to some statistics by the Trinidad and Tobago Police Service concerning just March alone actually; March 2020 there were 203 police reports of domestic violence compared to March 2019, 42 reports. And according to Ms. Pollard, who is the manager of the Gender-Based Violence Unit of the Trinidad and Tobago Police Service, this was attributed to the social impact of COVID-19, and this has caused a drastic increase not only in Trinidad and Tobago but globally. Mr. Vice-President, if we accept that children learn what they live then each one of us present in this Chamber has an obligation, a duty to teach our sons, our grandchildren, our nephews and godsons that it is wrong to raise their hands against their spouses and partners. We have an equal obligation and duty to teach our daughters, our grand-daughters, our nieces and god-daughters that it is wrong to equate love with licks or to accept blame for the emotional inadequacies of our spouses and partners.
Our women are not meant to be rehabilitation centres for badly raised men, and neither are our men intended to be rehabilitation houses for poorly raised women. But, Mr. Vice-President, it is sad, but true to say that it is precisely because we have not done so well in raising our boys and girls there is need for us to be here today amending an Act that insofar as the specific amendments are concerned has outlived its usefulness. In the same way that COVID-19 pandemic has forced upon us a new normal, the proposed amendments articulated by the Minister of gender and child affairs in the Office of the Prime Minister in her contribution introduced definitions and changed meanings previously accepted under the existing legislation. The amendments introduced us to a new normal in the manner in which the issue of domestic violence is to be treated.

The proposed amendments in the interpretation section, for example, takes us beyond the traditional boundaries of what is a dating relationship or domestic relationship, and in the current Act there are no definitions of this type as the Act only contemplates situations of marriage, familial relationships, or those in a visiting relationship that has exceeded a period of one year. As it currently stands it is only those categories of persons who can apply for a Protection Order. Of equal significance is the widening of the definition of “residential institution” to include homes which care for elderly. By expanding the definitions of “emotional or psychological abuse”, “applicant” and “member of household”, the proposed amendments allow both for a greater number of persons to be able to apply for Protection Orders, as well as the number of reasons why one can apply, and this in itself is commendable. And these wider definitions ensure that we no longer pigeonhole abuse to physical violence.

Mr. Vice-President, we are ensuring through these amendments that all victims know that your abuser does not have to hit you, choke you or slam your...
head into a wall for it to be called domestic violence. They can degrade you, humiliate you, blame you, scream at you, lie to you, withhold finances from you and that will be classified as domestic violence, and that is dependent on the individual’s behaviour.

The World Health Organization describes elder abuse as:

“a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.”

And as recently as June the 15th, Mr. Vice-President, the WHO commemorated World Elder Abuse Awareness Day, and it is always heartrending on these occasions to read the stories of abuse of our elderly. Mr. Vice-President, the growth of a society is determined by how well one treats its widows, its elders, its children; in short, those who may be unable to take care of themselves. And, you know, I want to quote the Bible here because this is biblical. Ephesians 6:23 speaks about honouring your parents that your days would be long and that you may live long and that things will go well with you, and therefore it is so important that we take care of our elderly and honour them, Mr. Vice-President. And I am certain that every single one of us in this Chamber can recall stories of elder abuse, of the elderly being scammed out of meagre savings, of them being discarded into homes that provide less than optimum health care, of real neglect and abandonment, and I am certain we know of stories of these homes that allegedly cater for the total well-being of the elderly but in which our mothers and fathers are subjected daily to abuse; that fits perfectly into the definition articulated by the WHO.

These amendments as proposed, Mr. Vice-President, take us one step closer to affording our elderly the possibility of protection from abuse in the winter of their years, and through this amendment an adult who lives in a residential
institution can now apply for a Protection Order on his or her own behalf as can a dependant of the resident. While it is true that we cannot legislate “broughtupcy”, we can now, through these amendments, hold the hands of abusers closer to the fire of the law. I was once told the story of a young man who would always be the last person to leave the school compound on afternoons and because he depended on public transport would often reach home well into the evening. With his grades and his behaviour declining his mother went to the school to find out, well, what was happening?—only to find out—because she thought that he was staying in the school late to have, you know, extra lessons. So she was trying to figure out, well, why he was reaching home after dark every day?—and when she spoke to the principal then she found out that was not the case. So when she asked him, well, you know, “Why it is you are reaching home late every day? Why is your grades so bad?” And he said, simply, “If I am not home I cannot see him hit you, and if he hits me again when I try to stop him, I will kill him.” So, Mr. Vice-President, unfortunately there are many children in our communities who every day witness acts of abuse in their home.

I just want to commend Sen. Paul Richards for, you know, being so personal, and, you know, telling us about his own situation, and that, I am sure, would be a learning experience for all, and hope that those who may be suffering from any form of abuse will know that there is an opportunity to them; there is much more opportunity now that they can seek help. And there are many children who witness these acts. Unfortunately, most of them are unable to defend themselves against the range of abusive parents and guardians, and unfortunately there are many who believe no one in authority is willing to listen or to help them. The end result is what our teachers and guidance officers deal with in our schools on a daily basis, sometimes unruly and disruptive children, those who engage in
self-harm, like cutting themselves; those who engage in bullying others, those who solve their disputes with their fists and other weapons, and many times the behaviour of our children at school reflects what is happening in the home.

1.45 p.m.

And I just want to, you know, comment on the fact that I am very disturbed when I see videos circulating of fights in school where you see young boys beating girls like men, physically fighting and beating and you are seeing the persons cheering them on and videotaping, including girls too, encouraging these boys to be beating those girls. And I just want to say that we too have to wake up, we have to speak to our children, women are supposed to realize that this is not how it is supposed to be. From young, you need to tell your boy children, you know, that girls are to be treated in a particular way, and I just want to say that, this is a very, very disturbing situation.

And we are reaping the whirlwind cost by the absence of role models for our young men, caused by those who perpetrate the belief that a woman is a thing to be owned, caused by those who so objectify women that they are viewed as mere vessels for reproduction rather than the hands that rock the cradle. Today, Mr. Vice-President, through these amendments to the Domestic Violence Act we have the opportunity to bring about much needed change in the way our youth are treated and protected from us.

Under section 4 of the existing legislation there are established categories of persons who can apply for a protection order and these include a spouse, a member of the household, a child, a dependant, a parent and a person who is in a visiting relationship. The proposed amendments abolish the categories of persons who could have applied for the order and simplifies it to include any person who is in a domestic relationship and experiences domestic abuse. This is, in fact, one of the
most significant amendments to this legislation. For the first time, a child over the age of 16 years can now apply for a protection order on his or her own behalf.

Under the current legislation, the child is heavily dependent upon either an adult who resides in the same household or a parent or guardian to make an application on their behalf. The reality is that quite often, such persons are not always inclined to be party to those applications to the courts for several reasons, sometimes it is out of fear of reprisal, loss of income, violence to themselves and the cost of the litigation and other socioeconomic factors.

Today, the 16-year-old boy of whom I spoke earlier can breathe easier as this proposed amendment gives a much greater measure of empowerment to the child, especially those over 16 to approach the court where there are instances of abuse occurring under this amendment as well. The Children’s Authority is now being granted the power to apply for a Protection Order on behalf of children who are either over 16 or under 16.

I am certain that many of the more experienced Senators in this Chamber would recall the story of the wife of a then very flamboyant politician, who in her own way justified her domestic abuse, with the now famous statement, “It was only one slap in 14 years”. Mr. Vice-President, whether it is one slap in 14 years or 14 slaps in one year, abuse is abuse. Clause 5—

Mr. Vice-President: Senator, you have five minutes.

Sen. The Hon. Donna Cox: Section 5 of the current legislation places the onus on the applicant to first establish for the court’s benefit, a pattern of abusive behaviour exhibited by the respondent in the past, and one that is likely to continue should the protection order not be granted. But thankfully, the proposed amendment to section 5 allows the court to grant an order, based on a single instance of abuse.

And we know only too well that persons are likely to repeat acts for which
they paid no consequences, and many of the stories of women who after reporting the first instance of abuse, were advised by well-meaning persons to go and try to work it out with the man because it is only once he hit “yuh”.

Via this new amendment to section 5, the victim does not have to wait on more “licks” to demonstrate a pattern of behaviour, which invariably could lead to more serious harm or even potentially fatal consequences to obtain a Protection Order.

Now, if we can agree, Mr. Vice-President, to accept these proposed amendments, then we too would have done our part, we would have fulfilled our duty to the citizens who have reposed their trust in us.

And in conclusion, as I began my contribution, so shall I end, and I do so by recalling the words of my mentor, “You cannot legislate broughtupcy”. The scourge of domestic violence will only abate with a change in mindset, a change in the underlying philosophy of patriarchal dominance where women are seen as objects to be owned and used.

Mr. Vice-President, any house in Trinidad and Tobago where a woman or child is unsafe, is not a home. And by our actions today, by our acceptance of these proposed amendments, we have the opportunity to give a voice to the victims, a voice to the voiceless, and I pray that we unanimously embrace this opportunity. I thank you. [Desk thumping]

Mr. Vice-President: Sen. Amar. [Desk thumping]

Sen. Robert Amar: Mr. Vice-President, thank you very much for the opportunity to contribute in this debate, one that I think is extremely important as we look back on the history of the particular Domestic Violence Act. Let me at this time also thank the Opposition Leader for giving me the opportunity to be a temporary Senator in this House. I hope that my contribution today will empower those who
already know the facts to start to take possibly a different course of action.

Yesterday, as you know, was Father’s Day, today happens to be the day immediately after Father’s Day, a day when we paid special attention or we are supposed to pay special attention to fathers. We all know very well that fathers are always looked upon as the scourge because fathers never get the type of respect like mothers do, because we always get the boxers and the socks. But I think, when we take into consideration that particular day and we look at this Bill coming today for discussion, it augurs well, and it means that it could have been cosmic intervention. I like Sen. Cox’s discussion about the changing of attitude and it is at that point I want to start my contribution.

Law without measurable and consistent data remains just law. And for this country we have had law, we have had data, but we have failed to marry data and law and therefore, we continue as a recurring decimal doing the same thing over and over expecting a different result.

Today, our problem in this country is not law, it is enforcement of the law. It is making sure that the laws that are ascribed to and documented in the law books, that the prescriptions for those laws are enforced with efficiency. How are these laws going to be implemented, and how is this Parliament going to be held accountable would mean to say that we must have some key performance indicators that must establish criteria for success or failure. Because coming to the Parliament and making a contribution and just amending a law without having the factualization to support it, which in my sense of understanding and reading, that is where we are—we have some modifications to the law, but we do not have no data to support the modifications.

So, for instance, in ’91 and ’99 when these laws came, there was a prescription in the document as to who were the persons that had been asked to
present information. I wait to hear from the Minister who those people were. In the layout for those types of people, it talks about survivors and complainants, are we talking to them? It talks about non-government organizations, which I know we are speaking to. It talks about government departments including national machinery for the advancement of women. It talks about national human rights institutions, police and other law enforcement, prosecutors, judges. Do we speak to them when we make these laws? Are we speaking to the judges? Are the judges giving us their feedback as to what is taking place or the magistrates? I know we talked to the Law Association. Are we talking to the health care professionals? Are we talking to the people that end up in these battered positions when the health care professionals have to speak with them and find out what has happened? Are we speaking to the forensic people, asking them how did the person die and what caused their death? Was it strangulation? Was it stabbing? Was it a beating? What happened? Are we talking to the social workers and counsellors? Are we speaking to teachers and education system personnel? Are we talking to the national statistical office?

I heard today something about spotlight and I wait to hear more details about that, and I heard about the domestic violence shelters, but I do not know where they are. I do not know many. I do not know how many people occupy them. I do not know how many people pass through them. I do not know what kind of data comes out from them. I do not know where that data goes. I do not know how that data is used. I do not know what we do with that data when we have it. I do not know how we use that data for informing the betterment of law. And then, again, I see nothing about penalties because we now have modification in the law, but I do not understand whether we have taken any action on the penalty side.

And finally, prison officials, media personnel, and religious and community
leaders, are we speaking to them? And just let me digress a little bit to quote from the Hansard during the 1995 discussion because I think it would be instructive. And this was made by our Prime Minister today. Page 505 of September 1st.

“When our reform social service operates along that kind of line, so we can identify the drug abusers in the home before he becomes a drug a disaster and we can identify the children who are victims of domestic violence and we can identify the households where domestic violence is a problem before it makes headline news as a murder case, then we can sit back and say, as a Government, as a people, as a Parliament, we had a problem and we have taken steps to rectify it. That is what Government is all about—solutions and evolution.”

This was in 1999. If we take that on a reflective position and we ask ourselves, knowingly, that the person who is now in charge understands this since 1999, it begs the question: Why are we still having murders and domestic violence at the levels that we are having it?

It was quoted also that in 2020, the Commissioner talked about 558 persons that experienced some level of domestic violence, but no details. How do we know if the police is effective under the old law? So changing the law now really is not going to help in bringing any sort of satisfaction to the population of Trinidad and Tobago.

I want to quote, again, from the Prime Minister in the same 1999 discussion, and this one caught me by surprise because I myself did not even know. He said:

“Yes, recently in terms of years, that was a matter of a few months ago. I was sitting with some adults, and among them were five women. During the conversation we got to talking about domestic violence, and the five women started talking about their experiences. Four of the five women had some
horrendous stories to tell. I was a bit shocked because statistically what are the chances of meeting 80 per cent of the people complaining that they were either— and some of the stories, Mr. Speaker, were horrible, and I did not think I knew anybody who experienced that kind of thing. So it is a problem for which no single direction would take you from cause to faction to solution.”

I am worried because good law— okay, let us say we have it now, where do we go from here? And here is what I want to suggest to this honourable House. First, I want to make a clarion call to suggest that we change the name of the Bill. There has been a lot of discussion; domestic violence, domestic violence, but we now want to talk about rights of same sex, and then we want to talk about children, we want to talk about adults, and we want to talk about senior citizens. Why do we not think about calling the Bill the gender-based human rights violation Bill? I think it covers every single thing, it does not talk about domestic violence only, it talks about everything— gender-based human rights violation Bill.

And I also want to say that the Government needs to take cognizance of the fact that they are aware of what is going on, so we need at least a three-year campaign on stopping gender-based violence. I think Sen. Cox was very clear in changing of the attitude, and I hope that her colleagues on that side listened to her because that is where transition of this pandemic of destruction of human life needs to start. Without that sort of interjection, we could tell ourselves that all we came here to do today was to pass this Bill, sign off on it, pat ourselves on the chest, and go home and tell everybody that we upgraded the law. So now, if you are 16, you could take action and if this is so, you could do that. I believe that is short of what is required.

Let me share with you what the Expert Group from the United Nations had
said. They highlighted the importance of drawing on reliable evidence in preparation of legislation. This includes data and research on the scope, prevalence and incidences of all forms of violence against women on the causes and consequences of such violence, and on lessons learned and good practices from other countries in preventing and addressing violence against women. Such an evidence-based approach ensures that the development and design of legislation is well-informed and can enhance the quality and potential future effectiveness of legislation.

That is not me, that is the United Nations. It is a body that we are akin to and somehow or the other, we seem in the things we do to believe that reflection is not an important issue; that is just my view.

I looked at the law and when I looked at the law, I came across section 11. And in section 11(2) it says:

“Where the Court makes an order for substituted service under section 12(1C), the Clerk shall fix a date for the hearing of the application which shall be no more than twenty-one days after the date on which the application is filed.”

Twenty-one days? What will happen between the day the person was abused and the 21st day if the court takes that long? I really believe this requires a reassessment. I think we need to have these times as short as possible, create the efficiency if we really say we care about the lives of the women. Delayed justice cannot be right. Delayed time in getting justice cannot be fair and having these people live in the threat of fear for 21 more days, in my humble view, really is a disservice to the women of our country.

I went on and I looked at section 21 which dealt with the National Domestic Violence Registry, but then I became a little concerned because in section 21 it
indicated that:

“(1) The Commissioner of Police shall establish and maintain, in electronic form, a National Domestic Violence Register.”

And then it says:

“(2A) The Commissioner shall ensure that all domestic violence reports are entered…”

And then finally it says:

“(4) The Register shall be accessible to police officers in each police station but shall not be accessible to the public.”

And I am wondering, why should every police officer— and this was a point made by a former Senator who spoke before me—why should all police offers have accessibility to this registry? It will defeat the purpose in this society that we live in, that we know for sure that a friend of a friend of a friend knows a friend that tells a friend, and we automatically end up with the situation of having no sort of privacy in this particular situation.

And then I hope that we will hear from, the winding up of the Bill, how is this going to be populated, who will take the responsibility, and something that I think we are afraid of in this country, is setting a timeline for having that completed.

You see, I have a concern because when the Me Too movement was launched in the United States of America, and the Jeffrey Epstein and Harvey Weinstein situations came about, being involved as a media professional, I also launched the Me Too TT movement. It did not have the sort of— what should I call it?—drive that the Me Too movement of America had, and that is simple because, the women of Trinidad and Tobago are very shell-shocked. They do not know who to trust, they do not know what to say, they do not know who to say it
to, they do not know where they can go, they have no feelings about their safety, they feel if they tell it to the police, it is going to become known to everyone, and that puts them in a very awkward position.

So this particular situation led me to want to ask—we had 800-SAVE, and we had the domestic violence unit quoted on page 396 of the same debate, and we had issues about the Legal Aid and Advisory Authority. How many people have been able to get the legal advice authority, how many people have drawn on it? How many people have been able to use it? How many people have been able to get funding from it? How many people have we taken care of, or how people are still calling the 800-SAVE line, or is it still operational, and what has happened with the domestic violence unit? Has it been rolled into something new?

**Mr. Vice-President:** Senator, you have five more minutes.

**Sen. R. Amar:** In a sense, I am of the view that this particular piece of legislation requires to have, what should I call it?—renewal of consideration on a two-year period. Because to leave it like we have left it from 1999 to 2020, and we have one modification in 2006, in my personal view, it is too long especially when we are aware of the problem.

Violence against women undermines women core fundamental rights such as dignity, access to justice and gender equality. We know very well that one in three women have experienced physical or sexual violence since the age of 15. One in five women has experienced stalking. Every second woman has been confronted with one or more forms of sexual harassment. What emerges is a picture of extensive abuse that affects many women’s lives, but is systematically underreported in the authorities.

And let me end with this. Policies and national action plans to combat violence against women must be developed on the basis of evidence that draws
directly from women’s experience of violence. Data on women’s experience of violence should be collected, in addition to administrative and criminal justice data which do not capture the majority of unreported cases.

As such, the Government should ensure that funding mechanisms and programmes which contribute to the protection of children, young people and women against all forms of violence be used to further support research and work by civil society organizations addressing violence against women. A victim-centred and right-centred approach to women as victims of violence needs to be reinforced. The Government of Trinidad and Tobago must recognize domestic or intimate partner violence as a state intervention rather than a private matter or legislative.

I want to say thanks to the Senate for giving me the time and end with asking a question. When this Bill was first passed, I do not know if you know, 27 people voted, it was considered to be a two-thirds majority requirement based on the Constitution. I see in the document that both Mr. Valley and Mr. Hinds quoted very significantly about the Constitution when that Bill was passed. And I ask: Is this Bill required a two-thirds majority based on its change? I am supporting the Bill, I like the changes that have happened to it, but I am concerned significantly about the data, the research, and the use of same to make the issues, as presented by Sen. Cox, meaningful. I thank you. [Desk thumping]

**Mr. Vice-President:** Sen. Seepersad. [Desk thumping]

**Sen. Charrise Seepersad:** Mr. Vice-President, thank you for the opportunity to contribute to the debate on an Act to amend the Domestic Violence Act, Chap. 45:56 to provide for emergency protection orders and for related matters.

I am unreservedly in favour of all legal measures which seek to reduce the incidences of societal domestic violence. The prevalence of this malaise in our
society is astounding and historically, it has been with us since the evolution of mankind.

As is the practice, the big stick of the law will seek to punish offenders who are found guilty after the sordid deed is done, but it is well known that this is only the tip of the iceberg. The mores, cultural practices and customs to positively make a dent in prevention will evolve painfully and slowly. Shouting obscene and abusive language, imprisonment, physical and mental torment is the exercise of power and the installation of fear in the abused, the entire households suffers, an external intervention is seldom brought to bear until it is too late. The damage has been done, the scars are indelible, and there is little or no satisfaction in the justice that may follow.

Mr. Vice-President, the Bill before us seeks to provide additional protection for the multitude of domestic abuse victims in Trinidad and Tobago. As I have already stated, domestic violence is prevalent in Trinidad and Tobago, the list of victims of domestic violence is painfully long. For example, women such as Tricia Ramsaran-Ramdass, Rachel Logan, Nicole Hackshaw, Lena Deyal and Joanna Hood, to name a few, are all subjects of appalling acts of murder and violence by their domestic partner.

In a 2017 IADB study some of following findings were, that women— 30 per cent of women experience physical and or sexual partner violence, with half of the victims experiencing violence many times; 35 per cent of women experienced emotional violence, for example, limiting access to friends and family, belittling, threatening and intimidating behaviours; and 11 per cent of women experience economic violence, that is withholding money and assets. This violence also impacts children.

In 2018, the Children’s Authority received 4,451 reports of child abuse, 23.1
per cent of these reports were of sexual abuse, of which 78.4 per cent of the victims were girls. Reports of physical abuse were equally prevalent among girls, 50.9 per cent and boys, 49.1 per cent. While some men experience domestic violence, the largest number of victims are women and girls.

Family violence is an expression of gender inequality. The 2018 United Nations women qualitative survey, gender-based violence in Trinidad and Tobago found that men used violence against women as a way of asserting control. The use of violence is more likely where gender rules are rigidly defined and where masculinity is linked to ownership of women, dominance and notions of male honour.

In the first 10 days of 2020, three women were murdered in domestic violence cases. In 2019, there were 232 cases of domestic violence. Up to April 09, 2020, there were 558 cases. Mr. Vice-President, these statistics are very unpleasant and frightening.

The current domestic violence law: annually, there have been approximately 9,050 applications for protection orders between 2013 and 2020. For the period 2013 to 2018, domestic violence applications made up 14 per cent of all magistrate court matters. However, according to the Annual Report of the Judiciary for 2017 to 2018, 29 per cent of the applications resulted in the issuing of a Protection Order. The administration of justice is overburdened, resulting in delays.

For the 2017 to 2018 period, 72 per cent of the reasons for adjournments recorded were related to the unavailability of the magistrate. There has been no study of the implementation of the current Domestic Violence Act, so it is not possible to know all the factors that explain the low level of Protection Orders. However, based on some research, it seems that many women give up on the justice system because of delays in proceedings and insensitivity within the
Magistracy and the police service.

Men seeking protection under the current law have reported being turned away by magistrates based on the sex of the reported perpetrator, and have experienced discrimination and disbelief by police officers and even the court. Therefore, Mr. Vice-President, how can the system ensure access to all victims of domestic violence without discrimination or ridicule?

2.15 p.m.

The current domestic violence law is deficient in addressing several areas such as:

1. Exclusion of a number of persons from eligibility to apply for Protection Orders.
2. Inadequate protection for persons whose age and/or disability are dependent on others to secure their protection.
3. Delays in the administration of justice.

I am pleased to note however that the proposed Bill includes improved access to justice and enhanced protection for victims of domestic violence and their families. Some of the key amendments in my view are:

- Improved definition of what constitutes domestic violence; clause 3.
- Extended range of persons who can seek Protection Orders in the context of the definition of domestic relationships. This now includes some persons in visiting and dating relationships; clause 3(b).
- Expanded definition of children on whose behalf Protection Orders can be sought. For example, children who are the subject of fit person orders, are in foster care, et cetera; clause 3(d).
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- Extended protection for children, victims and witnesses of domestic violence incidence; clause 6.
- Availability of Protection Orders against persons who have been convicted of serious criminal offences; clause 20.
- Expansion of the definition of defenders; clause 3(h).
- Increased police powers to seek Emergency Protection Orders electronically through judicial officers; clause 19.
- Judicial guidance on the issuance of interim order after the second hearing where adjournments are being sought by the court and/or the respondent; clause 9.
- Removal of the time limit for interim orders; clause 9 again.
- Mandatory reporting where there is reasonable cause to believe that domestic violence is being perpetrated against a range of vulnerable persons including the elderly; clause 26.
- Provisions for undertaking risk assessments as an input into the determination of the scope of protection orders and in bail hearings where a Protection Order has been breached; clause 27.

Mr. Vice-President, however, I wish to make a few recommendations to address other matters: One, eligibility to apply for a Protection Order. The amendments do not provide equal protection for all persons who experience domestic violence in the familial or household setting. In Trinidad and Tobago many households are comprised of persons who do not share relationship based on ancestral relationships or affinity. Many share households outside of intimate relationships. For example, households may provide support to adults who are in difficult circumstances, or persons are connected through god-parenting...
relationships. These persons are not connected in a direct familial relation.

The amendments also discriminate against those who can access protection by family status and gender. This exclusion from protection is inconsistent with criminal law and with the commitment to non-discriminatory policing expressed by the Commissioner of Police in the establishment of the gender-based violence unit within the Trinidad and Tobago Police Service. I recommend that the Act should make equal protection and make provisions for everyone in familial or household relationships to apply for Protection Orders. The definition in clause 3(1) should also include “member of the same household”.

Two, agencies to receive mandatory reporting. There is a need to increase the number agencies who can receive reports in cases of suspected abuse against vulnerable persons. The proposed amendment limits mandatory reporting to the police alone. This should be expanded to include reporting to the Children’s Authority and the Division of Family Services. Persons are more likely to report if given a wider range of options other than the police. People may be reluctant to report matters to the police for many reasons, such as trust issues, fear, insensitivity. Therefore, section 26A should state:

…shall report the grounds for his belief to police officer, Division of Family Services or Children’s Authority as soon as reasonably practicable.

Three, police duties when a domestic violence report has been received, section 21A(2) states:

“A police officer shall respond to every complaint or report alleging domestic violence.”

My suggestion is as follows. Given the under-policing of domestic violence reports, despite the Police Standing Orders the scope of the police duty should be restated as follows—
Where a police officer has reasonable cause to believe that a person has engaged in or attempted, or threatened physically physical violence the police must investigate and decide whether to arrest, charge and/or refer to social services for intervention.

In investigating reports of domestic violence a police officer should also undertake a risk assessment.

The role of the police: The police play a crucial and key role in the implementation and enforcement of the domestic violence law. Woman are not comfortable reporting incidence of domestic violence to the police for reasons which I mentioned previously. My recommendations are as follows: Gender sensitive police responses including thorough non-judgmental and non-biased receipts of reports. Due diligence in investigating and assessing the risks victims are exposed to. Attention should be given to how victims are received at the police station, including privacy for reporting, an increase in the number of women police officers to take reports. Rigorous impartiality on the part of the police, especially where the alleged perpetrator is a colleague, friend, or has a familial connection to police officers. A system of accountability to monitor compliance with police obligations such as the issuance of receipt of the report: Continuous training to reinforce police duties to arrest, charge and prosecute domestic violence as a serious criminal offence.

The National Domestic Violence Register, clause 22. Mr. Vice-President, I have some concerns with the National Domestic Violence Register. These are as follows: One, security of data. It is common knowledge that the Internet is by and large unsecure and confidential personal information can be deliberately or inadvertently accessed and misused. Two, integrity and accuracy of data. Data captured must be both accurate and complete. It cannot be one or the other. Three,
confidentiality of the details in the care of the TTPS. No system is secured enough that unauthorized and authorized insiders and/or hackers cannot comprise.

In closing, undoubtedly the Bill will strengthen the battle against domestic violence. However, the war in this endeavour is crafted in every fabric of society. Only incessant parenting and socialization that engenders mutual respect and understanding between the genders will produce lasting results to bring change in violent behaviour. Thank you, Mr. Vice-President. [Desk thumping]

**Mr. Vice-President:** Sen. Trancoso.

**Sen. Nigel Trancoso:** Thank you, Mr. Vice-President, for the opportunity to contribute on this very important piece of legislation that seeks to protect our nationals, both men and women, against gender-based violence, and our children against parental violence.

In Trinidad and Tobago I would have discovered that we have a particular way that we speak to each other and that seems to be quite acceptable. There is an aggressive tone, there is a condescending tone, and that has found its way in the homes of individuals. Children grow up in homes hearing their mother and father having these sorts of conversations with these condescending tones, and that in itself is a very important part of the Domestic Violence Act and even these amendments. Because even though the Act speaks about domestic violence, and the first thing that comes to mind is physical violence, there is the part of the emotional, psychological, and financial abuse that very often escalates to be physical abuse.

So now we as parliamentarians must find a solution, a working solution, for situations and instances to correct this wrong in society that appears to be quite acceptable. So it is my recommendation, and having read the proposed amendments, I think that there ought to be a structure, a system, that deals with
domestic violence. First off, I think that in schools there ought to be a welfare officer where children can, or the teacher who would have observed certain behaviours, would have observed markings and would be able to identify that there is possible domestic violence being taken in a home, to report these to the welfare officer. You see, quite often domestic violence is occurring in a home, and let us just for the sake of argument say it is the father who is the aggressor, the mother may not want to make a report because she has children to take care of, she may be unemployed and he might be the one that is financing the home, and there are many other reasons, and at that point is where a trained eye, a teacher, a welfare officer, could observe that there seems to be something not right with young John.

Another thing or another part of society that I think is very important that actually is involved in the Domestic Violence Act and the treating of domestic violence in a materially different way from which it is operating right now would be the court system. You see, a magistrate usually, and I am not speaking about Port of Spain Magistrates’ Court. I have been to the Port of Spain Magistrates’ Court where they have a magistrate who is dealing with domestic violence applications only. But then all the other courts that I have been to, Siparia, Arima, Tunapuna, Chaguanas, Rio Claro, they have one magistrate dealing with so many different applications before them, and then they have to treat with this domestic violence application, and it is often lost in the system because we already know that the Magistracy is already heavily burdened. So, if we were to have a court, or if we were to have particular magistrates in the local courts to deal with applications of domestic violence, which we have heard are in the thousands, then we can get somewhere, because that magistrate can focus on dealing with applications of domestic violence, and therefore can get that application expedited.

You see, we speak about the emergency application and so forth, but when it
comes to practicality, I would like to see if that would in fact adhere to what the Act or what the amendments are saying. I also would like to see that police officers are properly well trained and understand the importance of domestic violence. You see, it is a twofold thing. I myself was a police officer, and I, fortunately, was trained in 1999, the latter part of 1999, so the Domestic Violence Act was just passed, and we were trained in it. But when I came out to the police station, and no aspersions on our officers who are really there protecting and serving, but many occasions sometimes they do not understand, or I could say it in my term, we did not understand. So when a woman comes to the police station and reports domestic violence, and now we are speaking about physical domestic violence, I have seen that police officers have immediately dispatched that person to the nearest court and not dealt with the domestic violence or the actual criminal act, whether it be assault, or wounding, or whatever the case may be; and then on the other hand, the abusive language type reports. I spent 12 years in the police service, I was also—in seven police stations—the word is escaping me here, but I worked in the control room of the Arima Police Station, and that is where all the wireless transitions and those things go on, and up to this day I have never seen or heard any report of any domestic violence being entered into any domestic violence register.

Now, if we were to now, based on the amendments, have some sort of strict adherence to that, I would have just stated that many persons come to the police station to make reports of domestic violence and are dispatched immediately, so therefore some data is lost there. Data is also lost in that many women in particular, instead of going to the police station to make a report, they end up going straight to the courts, so therefore again, data is lost. I think that there ought to be some sort of corresponding between the courts and the police to ensure that the correct data is entered into this domestic violence register. As it relates to the court system as
well, I am also concerned about 16-year-olds bringing applications on their own behalf. Again, I would like to reiterate the importance of a welfare officer to this regard, and not only 16—and we know, not only 16 and over persons are susceptible and vulnerable to acts of domestic violence in the home, but also younger ones, and therefore other Acts that deal—the Children Act, assault and battery, Offences Against the Person Act, that deals with these types of applications, but I felt that there was some shortcoming and that more attention should be paid there.

Another thing that happened, or I would have observed is that, and I have heard many other Senators alluded to this and even speak about it, rather, that many cases are under-reported, and not only cases brought by women are under-reported, but instances of men being abused are unreported. I myself was privy to a very unfortunate situation, where I was in court one day, and the gentleman was explaining to the magistrate the way that the woman speaks to him, and she said, “Well, you are a man, you need to ignore.” So, again, our society is one which accepts this sort of behaviour, that women’s strength is in their mouth while men strengths is physical. Rubbish! That needs to be changed and this is something of national interest, and I think that we need to have some sort of, yes, information/dissemination and “stimulization” for our nationals. I also think that if it is we were supposed to have a court that deals with domestic violence particularly, I believe that more men will make the application before the court; one, because the courts are now trained to deal with it, and it does not put the pressure, the embarrassment, of standing in the hallway that I have seen in Arima, and you are hearing your name being echoed across, and when they find out what you are being in court there for, you are in court because your woman would have abused you. It is a very embarrassing thing in our society.
I was pleased, however, to see that the interim order now can last up until the end of the matter. Because prior I would have observed that on occasions magistrates would not attend court for whatever reason, personal reasons many times, and/or personal reasons I would expect. And when the Justice of the Peace sits in the court and the interim order application has expired as set by the magistrate prior, the JP is powerless into extending the application until the next hearing. So, I was very pleased to see that. Another area I would have found that needs to be addressed is the matter of an inclusion order. Several times the victim may not want to flee the home for her safety because she knows that if she leaves the home she may not be entitled to return to the home. The Act at present it only deals with exclusion. So if there is a situation between man and woman in a house, then the court can act and remove the man. But what about a situation where the woman has fled the home and now wants to return to the home, and for financial reasons or whatever reasons cannot do so? I think close attention should be paid to that. I also want to speak about the issues of intimate photography. When this Act was passed in 1999 we lived in a much different world. There was no smart phone, there was no camera phone, there was not sexting, and there was no Facebook.

[Madam President in the Chair]
Thank you, Madam President. And there was no Facebook. Now we live in a world—

Madam President: Sen. Trancoso, you have five more minutes.

Sen. N. Trancoso: Thank you. Now we live in a world where persons’ lives have been devastated by intimate photographs that they would have shared with someone who they had real, or have, perhaps, real feelings for. So, to see that this has been incorporated albeit in a very long, overdue time, I am grateful to see that intimate photographs have been added to the amendments.
So to sum up what I have contributed, I would like to see police officers, in particular, being trained again, as I was trained in 1999, in the Domestic Violence Act. I am reiterating my point, that because as a society we accept bad behaviour. We now have to look on the outside of the home, as well as the home does have its responsibility but that has failed us, so we now have to include in that, looking outside of the home to have the police officers enforce the law and follow the law, including keeping that register, including getting the data from the courts as may be necessary so that our men, and women, and children are safe from domestic violence. Thank you, Madam President, for having me contributed today.

Madam President: Hon. Senators, permit me to congratulate Sen. Trancoso on his maiden presentation. [Desk thumping] Sen. Dillon-Remy. [Desk thumping]

Sen. Dr. Maria Dillon-Remy: Madam President, I thank you for allowing me to have a brief contribution on this Bill, an Act to amend the Domestic Violence Act, Chap. 45:56 and to provide for emergency protection Orders and for related matters.

Madam President, a lot of what I would have wanted to say has already been said, and I would not be accused today of tedious repetition, but I think I need to just make a couple comments. I do appreciate the extensive work that has been done by the Attorney General's department and by the department of the Ministry of children and gender affairs, and many of the previous persons who would have contributed have said quite a lot. I note though that the efforts to prevent this scourge in our society of domestic violence, I think, has to be addressed. And I am saying that because the expansion right now of the law in terms of the wide increase in definitions as noted in clause 3. The increase in clause 4 where they have expanded the areas in terms of the issuing of orders, et cetera, a lot of the work now would fall on the Trinidad and Tobago Police Service in terms of
making sure that these things are policed appropriately, even the keeping of the register, the register of the offenders, the domestic violence register. And I am happy that these things are included, but, Madam President, the people who are being asked to do these things are the people who are being chosen from the same society in which all the crimes are being committed, and therefore I would just like to commend the Minister when she made in her presentation, she talked about putting prevention measures in place, but we did not hear much about what that would mean, and not having those prevention measures equally addressed will just mean that we will have a lot of laws that would not necessarily curb the spread of domestic violence.

2.45 p.m.

And I am saying that because the culture, we have to deal with the culture that we have in our society that makes the domestic violence as extensive as it is right now. And unless we address the root causes that give rise to the social values and the norms that allow domestic violence to be so prevalent, we are going to be going around in circles.

And therefore, Madam President, I would just like to encourage us as a society to ensure that within our environment there must be programmes that educate our children in respect to zero violence against individuals, human beings, that intrinsic in every human being is value and worth, both male and female, and our children should be nurtured in such a way that they understand that violence against human beings is unacceptable. And I am saying that because we are dealing with domestic violence now and that includes violence against the partners in the home, violence against children, violence against the aged, but then we go outside and we have the increase in crime that is committed, homicides, et cetera. It is violence in every part of the society and this is one aspect of it. And I am
suggesting that we have to deal with the root cause and get to the respect for human beings and for human lives, zero tolerance against all forms of violence and abuse, both male and female, female and male, adult and children.

Also included is the education of our young people to make good choices. Because— I am saying this because many of the choices that our children have made, they are not guided appropriately and as a result, the choices that they make are not—I am not saying that any choice anybody should make should cause someone to abuse them. But they must be very careful in terms of the choices they are making, in terms of who they choose to be partner, people of character. These choices ideally— character traits should be taught by their parents but where it is the parents are not doing it, it has to be accepted that the schools should take up the mantle of teaching these values to the children about the choices that they make and about character development.

We also must deal with the issue related to parenting because as the children are nurtured, that is how they come out. I note the contributions of Independent Senators, Sen. Thompson-Ahye and Sen. Paul Richards where they talked in detail about what is happening in terms of parents and the impact that they have on children. If we do not introduce robust programmes in our societies in terms of educating the parents, Madam President, the violence will continue, because the children are nurtured within the homes and in the school environment in terms of what they are learning in violence and they grow up to be violent also, and this domestic violence is perpetuated.

Madam President, as a society, we should have a special concern for the helpless, especially for children who are vulnerable and also the persons, like the adults in our society, the elderly in our society, who are also vulnerable. And I must say that in terms of protective services there are figures that show that our
protective services, there is a high amount of abuse in that group also in our society. So the education also has to go not just among the people or the subjects of domestic violence, but even the persons who are there to protect and serve, that we should have programmes that will be training for them also.

Madam President, as a person of faith, I must say that this is a matter that concerns every aspect of our society and we must include our faith-based organizations in the fight against this scourge of domestic violence. So, yes, we will do our duty as legislators but at the same time, we have to include as a whole, society approach to ensure that within the next five, 10, 15, 20 years that a significant decline in domestic violence occurs. With those few words, I thank you.

[Desk thumping]

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): [Desk thumping] Thank you very much, Madam President. I am very pleased to be able to contribute to this Domestic Violence (Amdt.) Bill, 2020, which amends the Domestic Violence Bill of 1999. And firstly, I really want to support and thank the mover of the Bill, Minister Webster-Roy who really has done tremendous work on women’s affairs, gender affairs, the welfare of children as Minister in the Office of the Prime Minister.

And Sen. Ameen, I want to say to you that we may have removed this Ministry, being one of the many 33 which you had when you were in office, and I cannot spend the time to say why those Ministries were in fact set up, but to say that this Government is being run with substantially less Ministries, something like 10 Ministries less. But what we did is that we put the matter of gender affairs in the right place, and that is under the watchful eye of the hon. Prime Minister, Dr. Keith Rowley.

As Sen. Thompson-Ahye had proclaimed, the work done by this Minister,
under the watchful eyes of the Prime Minister, has been remarkable. And again, we also wish to congratulate all of the public servants and the other contributors to this good work. And I want to say to Sen. Ameen, again, the very nature of this Bill—let me express my disappointment at your politicization of the Bill from time to time in your contribution.

So a number of things would have been said already, Madam President, and I will certainly not want to run afoul of the rules, so I would appreciate your guidance. So let me hit on a couple of things. The domestic violence really still remains a big white elephant because it is one of those topics that people tend to shy away from despite its relevance, and under this Bill, it includes physical, it includes sexual, financial, emotional and psychological abuse.

I am particularly always heartened to see financial included because that is not something that we speak about often. Most of the times we tend to speak about the physical abuse and the sexual abuse and emotional abuse, but not the financial. I say so because there are very many women who, as a result of such crimes and abuse, that their careers are impacted or even so or their attention to—and this is at all levels, so let me not use the word “careers”, but this is also for any woman who is so impacted that she misses time off from work or cannot focus on studying to advance herself in the organization and so on.

So, very often women in particular who are affected by this type of abuse are in fact impacted financially, particularly, I think of those women who are single mothers and therefore, who many times would be at the lower rung in terms of income earnings. So I think about them in Bills like these. But the physical, the sexual and the psychological abuse inflicted by domestic violence upon women and girls, as well as men and boys— and Sen. Thompson-Ahye had said it, it cuts across class, it cuts across income, age and cultural divides, impinging on and
compromising the fundamental rights and freedoms of those persons that are affected.

However, literature and statistics would suggest that victims of domestic abuse are usually women and children. And that is rooted in, historically, unequal power relations between men and women and notions about superiority and inferiority, and of course also, gender stereotyping. So at the end of the day, it comes down mostly to women and children being affected.

I looked in my research at Trinidad and Tobago’s situation in terms of the reality and the numbers and so on, and I came upon this IDB report which was done in collaboration with QURE who are local market researchers, also UN Women, and Global Women’s Institute. They conducted a National Women Health Survey of Trinidad and Tobago. And I want to give you a little bit of the realities of the data which was collected. And the survey was the first of its type which was done in 2017, survey among 1,079 women, ages 15 to 64. And the results were such that:

“…30 percent”—remembering, of course, that the sample, the 1,079 women—“…30 percent of ever-partnered women”—and by ever-partnered I mean women having had sex, having been married, having been in a romantic relationship—“…30 per cent of ever-partnered women experienced physical and/or sexual violence by an intimate partner in their lifetime...”

And if I am to translate that to our population of 1.3, almost 1.4 million people— you are talking about the sample, if I apply the sample, you are talking about something like 210,000 women that have been affected, possibly. This survey also revealed that:

“Seven percent of all...”—participants—“reported having been forced into sexual intercourse by a non-partner in their lifetime...”

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And again, if I apply the statistics to our population, you are talking about close to 50,000 women. And these figures, these results are indeed startling and almost heart wrenching, but they are the facts. And within the survey it was—several risk factors were associated with what is called “intimate partner violence”. And these were identified by using what is called “Chi-square tests”, which is a statistical formulation method between variables. And the risk factors identified were:

“…lower education…cohabitation without marriage, rural residency, younger age, non-consensual marriage, having been pregnant”—before—“having experienced or witnessed violence in childhood, substance abuse by the partner…the partner being unemployed and”—also—“having been in prior relationships.”

So we acknowledge all of the:

“…consequences of…”—inter-partner violence—“for women and their children…”

And it turns out that there are very:

“…common responses and coping mechanisms”—which were identified.

And they are that:

“One in three women who experienced…”—this intimate partner violence—“remained quiet about their experience and most survivors did not seek or receive assistance for their situation.”

And if they did, those women:

“…sought help from their personal contacts (mostly their mothers) rather than police”—or the—“social services or other entities”—that are—“adequately resourced to…”—assist in these circumstances.

And:
“Several…”—of the—“factors precluded women from accessing help…”—and those factors would have—“included fear, shame, and the ‘normalcy’”—and so on that are—“associated with violence.”

The synopsis therefore paints a very accurate picture of the current climate of domestic violence against women in Trinidad and Tobago. And someone earlier spoke about statistics and I am not sure whether or not they capture these very same statistics which were, that in 2020, there was a spike in domestic violence cases and that at the end of March, there were 558 domestic reports compared—this is March 2020—compared to the same period last year in which only 232 reports were recorded. And these statistics are from the police. And that for the month of February, there were 73 cases of assault by beatings recorded and 96 assaults by beatings in March compared to 39 and 42 in February and March 2019, respectively. And then of course, more recently, the COVID-19 stay at home would have also seen an increase in incidents of domestic violence, both nationally and that is so internationally as well.

So the point is we are seeing an increase in the number of women and children having been killed by the hands of their relatives or their loved ones or someone else. And again, I make the point that these matters cannot be politicized and there is always more that can be done and that will be done. But what is in fact being bought before the Senate today, it is necessary and it is needed, and it is this Government that has acted upon these very, very, serious matters and this is why we are here today.

I wanted—and I do not know if anyone would have spoken to this whole question of international obligations, because when I speak about the situation in Trinidad and Tobago I expand here to say that victims worldwide are scared to come forward and make these reports and so on. And we—again, there is a culture
of silence, we remain mute in it. No one sees, no one hears, no one reports and so on. So again, the Bill gives us an opportunity to help each other and protect each other from these very dastardly acts.

So I was moving to the international obligations in the context of domestic violence. And I want to say that Trinidad and Tobago has signed on and ratified both the Convention on the Elimination of All Forms of Discrimination against Women, commonly called the women’s convention or CEDAW, that was signed in June 1985 and ratified in 1990. And of course, the Convention on the Rights of the Child which will cover some of the matters that we are discussing here today, was signed in September 1990 and ratified in December 1991.

CEDAW adopted in 1989, General Recommendation 12. And this general recommendation formed the basis for the elaboration of the declaration on the elimination of violence against women. So it was even more specific. And under the terms of this declaration 12, each contracting party has the following obligations which are: to ensure that women who are victims of violence access the mechanisms of justice into just and effective remedies. Also, to consider the possibility of developing national plans of actions, which we have done, to promote the protection of women against any form of violence. Also, to develop preventative approaches and all those measures of a legal, of a political, of an administrative and cultural nature that promote the protection of women against any form of violence and ensure that re-victimization of women does not occur, because of laws insensitive to gender considerations, enforcement practices and other interventions. And also, to ensure that women subjected to violence, and where appropriate, their children have specialized assistance such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services facilities and programmes, and so on.
And also, to take measures to ensure that law enforcement officers—and we have talked about this today, several people have talked about it—to ensure that law enforcement officers and public officials responsible for implementing policies to prevent and to investigate and to punish violence against women, receive training to sensitize them to the needs of women. And I will demonstrate that under this Government action has been taken and is being taken through this Bill about all of these five responsibilities.

We are also signatory to one other significant convention, which is the Inter-American Convention on the Prevention, Punishment and the Eradication of Violence against Women, which was signed in November 1955 and ratified in January 1996. And among those obligations—again, very specific to the Bill at hand:

“b. apply due diligence to prevent, investigate and impose penalties for violence against women;”

To also:

“c. include in their domestic legislation penal, civil, administrative and...other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;”

Also:

“d. adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any”—other—“method that harms or endangers her life or integrity, or damages her property;”

Also, it is to:

“f. establish fair and effective legal procedures for women who have been
subjected to violence…”

And in the last one again speaking about the responses to include shelters, and counselling services and so on, and ensure that there is care and custody of the affected children. So that, Madam—

Madam President: Minister, you have five more minutes.

Sen. The Hon. P. Gopee-Scoon: Thank you. So that the time is really very short to speak on such an important matter but, Madam President, all of the obligations contained in both instruments give a clear indication that the state obligations encompass legislative, administrative, social services and public education components. And I am happy and I am proud to say that in the last five years of this Government’s tenure, we have sought to oblige and put the necessary policy and legislation into place to ensure the protection of our women. We have laid in the Parliament, I am not sure if it was mentioned, March 09, 2018, a national policy on gender and development. Again, note that several aspects of the policy would have been given prior approval and therefore are currently being implemented.

So I just wanted to pick out in the last few minutes the special things that jump out to me. Again, in the definition section, concerning the definition of the “domestic relationship”. Again it was spoken to, but it expands now to include the dating relationship and this is good because this is where it starts. “Boom”, that is a bad sign, leave, and therefore, this Bill captures this and it takes on a very modern construct, including these dating relationships and a visiting relationship within that definition of domestic relationship. And again, I am going to have to move ahead. Again, clause 4 expands the category of persons who can make an application for a protection order on behalf of a child and dependant and that also empowers children and dependants to apply on their own behalf, and it further
empowers persons who suspect a child has been or may be a victim of domestic violence to apply for this Protection Order on behalf of the child right away.

Again, the inclusion of clause 5(b), very important, because no longer can the court favour the respondent because he does not have a track record or it appears as a simple threat. This increases—including this “one strike clause” I would call it, yeah? It increases the chance of victims coming forward, again, knowing that their applications would not be dismissed or so.

Again, I am very pleased with the whole question of the—I think it was in clause 8, which amends section 7 of the Act by removing this need to preserve the institution of marriage. It was archaic and I am happy for that inclusion. I am also pleased about the new subsection being inserted which allows a court to request a risk assessment as may be prescribed by regulations. And that risk assessment is important because it would state how dangerous, how extreme the perpetrator may be, how violent, how lethal. Again, it would include the offender’s criminal history, the employment, the poverty status, the risk of recidivism, as well, all of the medical records.

Again, it would also speak to the protection of the children, in particular, as evidence of abuse or neglect a child would be there; the dependant’s experience acting as a parent or child; information that may be necessary about the child, such as, the medical records, the school records, any other information necessary to meet the child’s needs so that the right order may be given in support of the child, whether the parenting time would be suspended or recommended that it be supervised or so.

Again, as I sum up because of time, I thank the police for all the work that they have done. Also, I am pleased about the Trinidad and Tobago Central Registry on Domestic Violence. This is going to give us the kind of statistics that
are necessary for the proper analysis, again, obtaining the profile of the victims, identifying the groups at risk, developing intervention programmes and monitoring the effectiveness of violence prevention and intervention activities and so on.

Madam President, I think my time is up. I want to conclude to say that this Bill, the amendments put forward have been designed with victims in mind. It is victim-centric. I commend 100 per cent and hope that we would have all of the support of this House. Again, I congratulate the police as well, the civil society, and all of those involved for their contributions and their intervention in saving the lives of women and children and others affected by this scourge. Thank you very much.

**[Desk thumping]**

**Sen. Anita Haynes:** [Desk thumping] Thank you, thank you very much, Madam President, for recognizing me to join in this very, very, important debate: A Bill to amend the Domestic Violence Act.

Madam President, I appreciate the difficulty of the Minister of Trade and Industry to try to put all the comments in the 20 minutes. Because like most of the Senators who spoke before me, we understand the significance of the debate, the importance to condemn all forms of violence, but the particular scourge that faces our nation where—of domestic violence. And I stand here today happy to acknowledge the work that has been done, aware of the fact that there is more work to be done, and that I housed my comments on this piece of legislation today fully aware and appreciative of all of the work that has been done to get us here. And it is my hope that as we continue an important conversation that we understand that there is more work to be done and that we can do so together, Madam President.

And in 2010 I graduated from my undergraduate programme in university where I studied political science with a focus on political philosophy. And I went...
out shortly thereafter to do internship and to do work. And my work was primarily focused at that time on increasing women’s political participation. At that time I had no real interest in joining politics myself but I saw the importance of the work in increasing equity in women’s political participation. Because the understanding then, 10 years ago as it were now, was that the more women you have involved at the Legislative arm, the Executive arm, the operational arm, the more focus and push you have for the kinds of conversations and things that may disproportionately affect women— not suggesting by any means that it is only a problem faced by women, but the disproportionate that women are disproportionately affected.

And I sat here today, it is only in the last five minutes when the Minister of Trade and Industry was speaking that it occurred to me, perhaps not by design or maybe, the Benches in the Senate today, Government Bench, in particular, was able—the Independent Bench fielded a number of female speakers in quick succession. Now we are very fortunate in Trinidad and Tobago to have a significant number of women in political participation and we are getting better and our numbers are improving. But it was on a day like today, being a young women participating in politics myself now, not knowing that 10 years ago I would have been here at this point and understanding that we all now have a space to contribute to forward-thinking legislation, to contribute to a conversation that will only benefit the people of Trinidad and Tobago, and that we are doing the work that we understood years ago need to be done and we were putting things in place and you see things happening. And I am very appreciative to be able to stand here today and participate in that kind of thing, Madam President. [Desk thumping]

3.15 p.m.

We are, as I said before, taking a very important step on our road to getting
better, and in doing so, earlier this year—as I looked at the legislation, and Sen. Dr. Dillon-Remy raised the point that inherent in passing this legislation we are now putting a lot of work, a lot more work into the hands of the Trinidad and Tobago Police Service, and very early on I would like to commend, Madam President, as others have done before, the Commissioner of Police for the formation of the Gender-Based Violence Unit because you see, it makes some of the work that we are doing here a little bit easier when we talk about how we intend to operationalize this particular piece of legislation. And I wish to, like I said before, applaud the work of the Commissioner of Police, but then I want to think about and discuss the practical issues that may be facing them in terms of implementation and financial resources, money, Madam President, and I wish—A couple of weeks ago, I sought to ask an urgent question in this House. The question started to be answered and we ran out of time, but my supplementary question at that time would have been to the Attorney General and to whether or not we were going to ensure that the Gender-Based Violence Unit of the TTPS will be properly and adequately resourced to fuel the kind of very important work that they are now going to have to do and that they would have been doing before.

So I wish to take some of my time here to—well, first of all, we applaud the legislation, the work that was done to get us here—that we ensure as lawmakers, as persons who are leaders in society, that this is not the extent of the good work, but the good work that the people, the people who need it the most, feel a sense of relief and that they see material improvement in their daily lives. So in terms of the Gender-Based Violence Unit, I do not know if it is possible—but if it is so and I am aware of the challenges that may be faced—but if it is possible that there be a section or some sort of this version of this unit in every police station rather than—I mean, we have to start somewhere, I am aware of that, but if we can work
towards the unit being in every police station I think that will go a long way, Madam President, to bringing relief to persons who face this kind of violence.

I want to ask, Madam President, that while it does not fall to us here as lawmakers, that the TTPS focus and emphasize training because these are sensitive matters. You are dealing with human beings who would have experienced trauma, the likes of which I cannot imagine, because when you think about it, we condemn all forms of violence and we talk about issues of violence in Trinidad and Tobago, but I cannot imagine a life where my home was not safe. I cannot imagine a life that when you think about it you go home to protect yourself from the perils that occur outside, but to the people that we are trying to help here today when they go home that is when the fear starts. And so, whatever we can do, the laws, the financial resources, the time, the effort, the education, whatever we can do as leaders in society, we absolutely must do it because I cannot imagine what that life would be like, Madam President.

So training for officers becomes very important in this regard because by the time you would have mustered up the courage to be able to make a report—because making a report is also facing the offender in some regard. It is saying there is a problem and that you are going to make this report, and that you know that there are more steps to deal with it. So to muster up the courage to make the report, when you are doing that we want to make sure that the environment is as comforting, comfortable, and safe for the people that we are trying to protect, Madam President. And this brings me to my next point of ensuring that everything is treated with as swiftly as possible, again, very aware of the challenges. I am not suggesting that we live in any perfect world where things could just be done, but when you think about the issue that we are facing, the timeliness of our response, how quickly a matter goes from a report to a conclusion becomes very important.
here, Madam President, and it is important that we have systems in place that these things can be dealt with very, very quickly.

Madam President, in preparation for the debate, I looked at a report that was done by the Division for the Advancement of Women from the Economic and Social Affairs Unit of the UN. It is called a *Handbook for Legislation on Violence against Women*. I am happy to say that our legislation, by way of expanding the definition, has met some of what they have asked for, but I hope to read into the record some of the other things that have been asked for and, again, hoping that it helps us carry this further in terms of helping. The recommendation, Madam President, speaks to:

“...legislation contain provisions for its effective implementation, evaluation, and monitoring.”

Most times when I speak, monitoring and evaluation is a pet of mine because it allows us to have some measuring mechanism to ensure that whatever we are doing is in some way beneficial or productive so that we are not doing things for doing it sake, and the implementation as I said before because of the gravity of the situation before us.

But the recommendation calls, Madam President, that the:

“Legislation should provide an organic link to a comprehensive national action plan or strategy”

There should also be a:

“...mandate”—for—“a budget for its implementation”

—of the legislation; and:

“...provide for the elaboration of rules, regulations, protocols necessary for the law’s full and effective implementation…”

—and it also calls for:
“...the training of all relevant officials...”

It also calls for:

“...mandate the creation of specialized institutions and officials to implement the legislation on violence against women...”

Again because these recommendations—that recommendation, 3.2, they have 13 recommendations. I would not go through all, but I will just do a couple that I considered to be particularly significant and were not raised by others before.

The Minister of Trade and Industry began to talk about the overall work that was done and referenced the gender policy—I cannot remember the term specifically that the Minister used, but I know it is a reference—and I think that ensuring that the legislation links into the gender policy, links into the policy laid by the Minister of Labour and Small Enterprise Development in terms of sexual harassment in the workplace and ensuring that when we are covering the spectrum of things that are sensitive and affect women and look at violence and that sort of thing, that we are doing so in a holistic manner and moving towards a more progressive society, I think that is very important. It is not sufficient for us to list the things that we are doing, but it is very important for us to show the link, the connectivity, and then again carefully monitor and evaluate whether or not we are being effective so that we do not have to redo things in the next couple of years, but we can build on it and we can again see the changes that we hope to implement.

One of the recommendations here—and I do believe Sen. Dr. Dillon-Remy raised some of it—talks about the role for prevention and they speak about a law prioritizing spaces for prevention.. I do not think that is a legislative measure. I speak all the time here, we deal with legislation, but we are also leaders in society so we must deal with implementation and whether or not we are being effective. So
I do not think it is a requirement. Well, I know it is not a requirement for the law, but it is something that we need to be thinking about. Unfortunately, I was not in the Chamber when the Minister of Communications spoke and if the Minister addressed it, my apologies, but it will just be to add to it and to offer any assistance that we can, but that there must be a range of measures undertaken to raise awareness, public awareness campaigns.

I do not even know if that outside—the TTPS, they had a press conference and they spoke about the Gender-Based Violence Unit, but I do not know that people are acutely aware of what is in place to assist you. Because I exist in a communication space I understand the difficulty in getting your message to your targeted audience best as possible, but—[Interruption]

Madam President: Sen. Haynes, you have five more minutes.

Sen. A. Haynes: Thank you, Madam President—that the sensitization of communications within the media, the inclusion of material on violence against women and on human rights, and putting it into the education curriculum, all of these things help us make our way, Madam President, to the kind of society that we hope to see. It also speaks about legislation. Again, I do not think that is a legislative approach, but it is a policy approach that speaks to the empowerment, support, and protection of the victim or the survivor. While we deal with the perpetrator on one end, it allows for victims and survivors to find the way to lead productive and full lives despite the trauma that they would have faced in the past, Madam President.

As I conclude, I am very happy again to have been in the Senate today where you saw a number of women in politics advocate for women who are outside of politics, and I thought that was significant and important and something that ought to be applauded. I am happy that we are at this point in the discussion.
and I look forward to taking it further and doing the work necessary to bring relief to a group, a very vulnerable group in our society. I look forward to the day, Madam President, where we no longer read the headlines in horror, and we no longer say “Had we known, somebody could have done something about it”. And so, this is an important step in a critical way forward and I am grateful to have been able to participate today, and I thank you, Madam President. [Desk thumping]

**Sen. Dr. Varma Deyalsingh:** Thank you, Madam President, for allowing me to partake in this discussion, and when I listened to the various Senators I see really a collective effort to try and see if we could make our society a bit safer. Not just women, eh, but men because you remember it is now an issue where one in seven men also have the issue where they are abused by females. So we are seeing a trend, a changing world, where women now are being abusers, and it is strange that there was a report from the National Coalition Against Domestic Violence in the United States where they said one in four men say they are physically abused, slapped, pushed and shoved by their partners, and one in seven severely abused where they are hit by a fist and a hard object. And I have seen a trend where a lot of young persons, high school students—in the States they had given a figure 13.4 per cent of male high school students were physical or sexually abused by their dating partner. Even some reports from the universities have now shown that women are now pushing persons, hitting out, lashing out and you know dealing. So we may probably have a more violent society, and this is why you find that it is now permeating in the likes of how women now deal with situations.

So besides having a changing world, we have to realize that even—it is difficult. A lot of females are now heads of the households, plus they are working, they have to go outside. Males are being left behind in the sense that they are not even getting the educational ways. If you look at the university entrants, it is more
females. So we may have a world where the woman is out there working but she still has that level to mind her children, her home, her parents, and it is difficult sometimes when you come home and you may have to be dealing with all these parameters where you have to deal with, and sometimes you find that the society has now changed where you have something called the house husbands in a home. So women are now saying they are on the receiving end. I mean, women have a great deal to play, they are a superwomen, but now when they come home men are saying they are getting the emotional abuse, the verbal abuse.

So we have to look at it on both sides, and men also need to come forward and say if they are victims themselves. But, Madam President, I heard Sen. Richards gave an open confession of his childhood history and I think that is something that—I commend because even when I am dealing with victims of domestic violence and children who are witnessing, I say that I can now use Sen. Richards as an example, because you see children who are in the home which has domestic violence, the females accept the violence more and the males then to be easier to be actually abusers themselves. So we have a success here. And even those children there in that home, they tend to be left behind, they are not performing well in schools and what not, but obviously this is an exception I can show my clients that here you have a Senator here who is in that position, so if he can make it, you can make it. So I thank you, Sen. Richards, for giving this confession there. That would certainly help us.

Madam President, I must say, 30 years ago I was almost charged for kidnapping and it was a scary situation, where I was in clinic in Chaguanas and this gentleman came in and he was walking up and down in the clinic, his fists were clenched, he was cursing, he wanted to find his wife. His wife was one of our clients who came in four times before, who had cuts and bruises, and burns and
whatnot, and we knew that she was being abused, but when he came into the clinic he said, “I am going to kill her” and he was cursing. “I am going to kill her. She is coming here, she talking our business.” Usually, this woman would come to clinic with her husband and he would always sit by her side so she could not talk, but one day she came and he was not there—he had to step outside—and she told us she was being abused and we tried everything in our power to say, “Look, you should leave this gentleman”. And I tried—she has kids, and I said, “Listen, you are getting abuse, but there is—the statistic shows that even if you are getting abused sometimes 20 to 60 per cent of the kids have a chance of getting abused. So if you like your children get out of this.” She never listened to us, but he was going home to actually damage that woman. He was smelling of alcohol, he was an abuser.

I jumped in my little car—I had a nurse—we realized he had to take two taxis before he would reach the home. We reached in that home and we actually dragged her out and said, “You have to leave that home. You have to come with us. Leh meh drop yuh by your sister.” So she came out willingly with her children and I felt good. I said, well listen, I have averted a situation. I had that feeling of helping a fellow being and I was trying my best to tell her look, leave that gentleman.

Madam President, two weeks after police came to the clinic and said he wanted to charge the nurse and myself for kidnapping this lady. He said we took her against her advice and we carried her away from her home, and he has to now investigate this. So obviously, she had moved in back with her husband at this time and they are now coming with this charge. On that I felt so disappointed that here am I trying to save this woman, I was on an up on a high that we did well, we saved her, and then the next two weeks now we could have been charged.

So all the persuasion we had to do, we had to speak to the sergeant in
charge, we had to say yes we did take her against her advice, but we saved her. So eventually that tapered out, but that showed me, Madam, that not all women who are abused are able to leave their homes and this is something I do not know if the current legislation will really address. Because if we remember about—more than 40 years ago, I think it was in Stockholm, when there was a bank robbery, you find the robbers actually held these hostages after the situation had been resolved. Not one of the hostages would have come out and tried and give evidence against the criminals. Not one! And it had the psychological world wondering, what is this? What is this phenomena? They called it the Stockholm Syndrome. So the point I want to make today, Madam President, is we have legislation here, which is good, but we also need to know that not all women would be able to rescue themselves, and this is why we may need legislation where we may have to rescue the women from themselves because you see, the thing is, it is like psychological chains are binding them to their relationships and they cannot get break loose be it for whatever reason.

So the Stockholm Syndrome was way we looked at it. Then there is another theory where you call traumatic bonding theory, Ma’am, where if you grow up in a home where you see your mother getting abused and licks you think that is normal, and if you think that is normal you equate love with licks. So therefore, these women now will think that if I do not get beat the man do not love me, and the idea that you call that is the traumatic bonding theory. Then there is something called the psychological entrapment theory that a women may say I invest so much with this guy, I had a big wedding plan, wedding cake, pictures, I “ain’t” going to leave because really speaking let me just stay and take this. So there are different reasons why women do not come. But you see if they do not leave these relationships they may continue—all this legislation we will still be seeing women being killed, and
my idea is some women they may have to save them from themselves.

Now I made a recommendation a few years ago when I actually had some discussion with the Judiciary when we were looking at domestic violence, and I said, “Listen, just as how we have the law whereby if there is somebody who is mentally ill and acting out and cannot on their own see their need to come in for treatment, we have two doctors, or two mental health officers, or their relatives could sign a form giving us the permission to take that person and carry them into therapy.” And I am saying we may have to look at legislation where if the relatives could come out and say “This lady is at risk but she has these psychological chains binding her”, we may be able to now go into that home, take that woman out, carry her, start to get her in a safe environment, and see if we can now put red flags against the guy and start to treating with that guy. Because you see the legislation I am thinking it is excellent but we may have that little gap that we may be missing.

So therefore, this is something I am hoping probably in another piece of legislation the Attorney General may want to factor that in if we are not getting a dent in this. Because the trauma that we have been seeing, the effects on the children, the effects on the news, it is too much for us to bear so we definitely need something to work, be it this legislation, be it the unit that the Commissioner of Police has. All those are factors that we have, and I am thinking if it is not working we may have to go a stage further. You see the thing is, Madam, there is something called a cycle of violence where women, they actually may leave the home but the guy may beg them and say, “Well, you know I love you, please come back to me. I will die without you. I need you. I can’t live without you.” And you call that the honeymoon phase whereby this woman will go back into that relationship. So that cycle of violence comes back again. So he begs the woman to come back in, she comes back in and it starts to aggravate again, then it escalates again, it is violence
again, it continues. So that is a cycle we need somehow to pull out some of these women from there.

There was a patient I remember, she actually went back home when her partner came with a box of chicken and chips and said, “Listen, come back home, love. I love you. Come for the chicken and chips.” And she ended up dying, eh. That was in the newspapers, Madam President. She died after. So a box of chicken and chips some women will go back for. They are in that honeymoon phase thinking well you know he cannot live without “meh”, I really need to help him, and the kindness in your heart would lead to your death. Madam President, I would like to look at the fact that the unit that was established recently by the Commissioner of Police, it is excellent, but really we may have the legislation, we may have the unit, but we have to factor how it is going to work. I heard Sen. Sobers mention the fact that children are important and children are suffering, and I am thinking you know we may have problems where people may not want to come forward and say that our neighbour is beating their wife because you know that could lead to a dangerous time.

But really speaking, children are the ones who could—from school we could educate the children. Just as you have well that number, 800-SAVE, what I am saying is if you have that number where a child could see their parents are being beaten, that child should be able to learn that number and be able to call because children may see that—they are traumatized. And that 800-SAVE is a number that could be really—children as they learn the A, B, C, they learn that number so they can reach out. Because if we do not have persons being able to report the abuse, it will continue behind the hidden doors. So my suggestion also is educating those children; educating the women about the fact that 30 to 60 per cent of the abusers will turn on the children; educating the women that 30 per cent of women are first
beaten in pregnancy when you should be loving this woman.

So therefore, Madam, we had a programme with the midwives whereby we would be able to take the ladies when they are going to the toilet to pass their urine and whisper to them and give them a little card, “Listen, if you are having any problems with your husband please tell us”. So it has to be a way because most of the time the abusive husbands are with them in clinics and do not want them to be alone. So we have to have these little openings, these little ways, where we could get these women to come in. The midwives had started that in Mount Hope and I was there with them when they had a unit called “PRAMS” where they were trying to see if we could get it. So those are the factors where social service, Ministry of Health would also have to reach out to these women at their clinics. So maternity clinics, children, those are the things that we need to look at. Actually the Crime Stoppers need to have the unit to say listen—you know most of the Crime Stoppers is when you actually get a conviction then you are able to get some money. I say no. You can call the police, they can come and see an abusive relationship occurring, and see the fights, and see the scramble. They should be able to give that neighbour some sort of money—the Crime Stoppers—because at least you are adverting something that would cause great social distress.

So I am saying that the challenge really is the legislation needs to have some way to work, the number 800-SAVE needs to be out in your face. You see what we are not looking at is a lot of cases— We see if we do not tackle teenage pregnancy, this legislation may not reach its full potential because there were instances where you had teenagers like—there were some reports some time ago where by the time a girl reaches 19 years, a thousand of them would have had four pregnancies. This was some figures that we had. So therefore, if we do not get these young girls to get some sort of contraception, to get themselves in order—because some of these
pregnancies were not kept. They were aborted. So what I am saying if we do not look at other issues we would continue this cycle of violence where these young girls would be trapped in it.

Madam President, something we have to appreciate is that alcohol. Again, alcohol plays a part in this. If alcohol is so easily available, then you find that people would be getting drunk, they will come back and they will end up abusing their wives. So we have to look at the society as a whole to see how we are going to tackle this. I have to commend the Police Commissioner—

Madam President: Sen. Deyalsingh, you have five more minutes.

Sen. Dr. V. Deyalsingh: So we have to realize, Madam President, that there is a danger assessment tool that we use to look at the men who are beating their women to see who will be a potential killer, and this is something I am thinking the Police Commissioner would be able to hold these gentlemen. So one slap, one push—the first time I am thinking you have an instance, those men should be in counselling because it has been shown that 33 times a woman may be abused before she reports if for the first time. So therefore, if 33 times and then she reports it, that first report we should not really use that first report as a number one factor. We should use that report as a series of events that has now reached our attention.

So therefore, any violation also of a restraining order or any area where you strike a women and you hit a woman, or a male according to the relationship, those individuals should be brought in for our assessment where we could look at the risk of that person being a potential killer. It is easy to spot those individuals because we could track back into their time; we could track back into their past; we could track back into those who have borderline personality disorders, their pattern of behaviour, breaches in the law. And you see the Ministry of Education needs to look at children who are disturbed children who are acting out, children who have

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conduct disorders, because those children could be adults who may eventually be the ones that are suffering from borderline personality disorder and be the potential killers. And I am saying the idea of monitoring children, monitoring their behaviour, letting the—remember there is the children’s support unit in the schools, monitor kids from small if they are acting out. You would be able to somehow get those children to be into some sort of therapy, behaviour therapy, where you are preventing them from being adults who will now be potential abusers. So Ministry of Education also plays a very important part of it.

3.45 p.m.

I also made the comment that, you know, if you have someone who strikes their wife and you keep them in jail and you are going to do the psychological assessment, some attorneys did not like this because they said it is a kinda preventative detention. So I am trying to predict this man will be a future killer. But I am saying with the level of domestic violence that we have, with the fact that there are in fact men killing their wives, we have to get a way that we will be able to track these individuals. We would be able to have the community policing which should come back on board to go and visit these homes, be able to let these women get out of these homes if we think that man is dangerous according to our dangerous assessment tool.

And you see, Madam President, I also think that we have to look at the fact that COVID has changed the whole landscape we have and whenever there is any sort of lockdown and people are in close proximity, there is an increase in domestic violence and it has shown worldwide, domestic violence has increased. But another factor we have to look at, chronic job loss also increases domestic violence. So therefore, we have two things we have to be very careful of. The COVID which has that new dynamic in the home, the unemployment, the job loss which will also
now increase domestic violence. So I am fearful that the level of domestic violence will be increased because of the economy and the new norm that we have.

But what I am saying is that we have this legislation at this time, we have the Commissioner of Police having his team at this time. We just have to make sure that it is working good, we have to make sure that we have the GPS legislation that we passed recently. So therefore, we have things in place but it is just to say that we are not passing legislation and we are leaving gaps that this could still continue. So we cannot be perfect, we have to look at the fact that as we try to make pieces of legislation, there would always be other areas that we need to fill. We have to look at domestic abuse in terms of the elderly because more elderly persons are there and this is something that we have to look at, our elderly population. I thank you, Madam President. [Desk thumping]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam President, for the opportunity to join the debate in this Domestic Violence (Amdt.) Bill, 2020. As we come towards the end of the Fifth Session, this Bill fits into work that we have done already and in particular, it fits into the work done in 2016 on child marriage, the amendments to the Marriage Act; it fits into work that we have done very recently on the sexual offences legislation, in particular, the introduction of the sex offenders register; work we have done in relation to the amendments to the Supreme Court of Judicature Act and the Children Act in relation to the changes to be effected within the Judiciary; work we have done, Madam President, in the firearms legislation because if you do not see a link between firearms and domestic violence, I see the link; and then finally, this work on the Domestic Violence (Amdt.) Bill. They all work together in tandem.

Madam President, this work is nothing short of what I would call an
overhaul. It is not “ah me amendment”. In 1991, we had by virtue of Act No. 10 of 1991, the legislation which gave protection to persons in domestic relationships and I would talk a little bit about the 1991. Eight years after, that Act was repealed and replaced by the legislation that we seek to amend now. And it is an overhaul because that 1999 Act has 30 sections and in our Bill today, we are amending and in some cases, substantially amending, 18 of the 30 sections of the 1999 Act. So that to me is a significant overhaul. And you really have to get into the comparison of 1999, 1991 and 2020 to understand from a practical point of view, the significance of the amendments that are before us today. So this is a significant overhaul.

I would say it is long overdue. When you look, for example, at 1991 and the changes which were made in 1999, these changes we are making today have been long in coming. Could they have saved lives, Madam President? Well, I will tell you this, no piece of legislation on its own is capable of having any impact. We have said that and we have discussed that many times. Our work goes out there to be implemented largely by the Trinidad and Tobago Police Service in relation to criminal law and also, by a bureaucracy, in many cases, public service bureaucracy, but also, several statutory agencies, in this case, for example, the Children’s Authority may be one; the Judiciary, very important in giving life to what we do.

So this Bill would not work on its own and in crafting the amendments, those persons and the AG, when he speaks, would detail it but I can tell you from having met with, alongside the AG and members of the Legislative Review Committee, having met with the stakeholders, the broad cross section of persons who made contributions and the way in which those contributions are reflected in the amendments. So it is long overdue. Would it have saved lives if it had come
before? Quite possibly. Would it save lives going forward? It will but only if the various elements work together, in particular, the Judiciary and the Trinidad and Tobago Police Service.

I must say, Madam President, it is of great significance—and we saw it during the consultation—that the Commissioner of Police has established a Gender-Based Violence Unit. I had the opportunity to interact with Shireen Pollard who heads that Unit. Her contributions to the discussions were very significant, alongside the contributions of Lynette Seebaran Suite who you all know very well, Roberta Clarke and a number of young practitioners in particular with whom we interacted.

Madam President, we thought we had substantially completed our work when we had a significant draft on June 27, 2019, and we made the decision to submit that draft for one further round of consultation and that one further round took us about 10 months. And thankfully, during the COVID period, we were able to have the final set of consultations, make significant changes to what we had put forward in June 2019 and to lay in this House what we have before us as a Bill.

Madam President, I have heard most of the speakers talk about the broad framework of the legislation in terms of expansion, in terms of the protection orders and in terms of the police powers. But you would be surprised to know that that language was not the first time used in relation to a Bill in the Parliament because it is almost exactly the language used in 1999; 1999 was almost what the drafters of the 1999 legislation sought to achieve. In fact, the Bill itself in 1999 talks about increasing power and jurisdiction of the court. That is exactly what we seek to do today, to further increase the power and the jurisdiction of the court. The Bill talks about the enlargement of the scope and ambit of Protection Orders and today, we seek to do exactly that, further expansion and further enlargement. That
Bill spoke to providing harsher penalties. It is not something that forms a substantial part of what we are doing today and it also spoke to giving the police greater powers in respect of the ability to intervene in domestic violence matters, and we are going even further in dealing with that.

So, Madam President, what that tells you is that in the 21 years that have passed between the 1991 Bill and this one, the core issues remain the same in respect of dealing with domestic violence in relation to the State’s response to domestic violence. Sen. Deyalsingh and other speakers have set out the other responses to domestic violence, and I do not want to innumerate them here but we know a lot of it deals with family life, family relationships, community life and the role of the community in raising children and protecting families; education and the schools and the need for schools and the curriculum to be tailored in a particular way to create certain types of discipline, certain types of attitude, and certain types of responses to things like stress and conflict. But the core issues have remained the same as they were in 1999 and as this Bill seeks to address them.

Madam President, I would say that the Bill deals with five key areas. One is the limited application of the current piece of legislation, the 1999 legislation, the limited application of it. After 21 years, we have had to grapple with that. The limited ambit and considerations. You would see, for example, in the 1991 legislation, it was so prescriptive. The 1991 legislation was very prescriptive in introducing this concept of conduct of an offensive or harassing nature and the 1991 legislation sets out the five or six areas to be considered in relation to a particular conduct. We have expanded it in this Bill to a point where it reaches a wide range of behaviours and it does not have some of the limitations as the 1991 legislation.

The third area I would say is that it deals with inadequate enforcement.
Madam President, if you follow the cases which are reported in the media—and I am sure the cases reported in the media form a small percentage of the cases that are actually dealt with by the courts. The one that we see in the media and read about in the media tend to be the ones that end in death but they all have a similar pattern. One is an application made but not yet considered, an application made for which no service has been effected. So you have difficulties in reaching the proposed respondent, you have difficulties in serving the documents, you have difficulties in serving the order. You always hear about documents being lodged with the police for service or the applicant or an agent of the applicant having to effect service on behalf. So service, if you go to many of the reports in the media in relation to domestic violence matters, those of which end in significant violence or death, you would see an issue with access to the Judiciary and effecting service either by the applicant, agents of the applicant or via the police.

And you would also see in the Bill, the fifth area I had pointed to is the issue of priority and the courts giving these matters priority. There is no legislative prescriptive requiring the court to give priority. But you would see in the Bill some timelines being set down and in the consultation—the sixth point I will make is on the consultation—this requirement of specific timelines was something that all the stakeholders put forward to us and were very strong on dealing with. And then the last area, this Bill deals with what I call the lack of specificity in the previous legislation, in setting out, in particular, in the definitions, in expanding the definitions, in broadening the definitions, so that they cover a range of issues and circumstances that would not have existed in 1999.

So, Madam President, in relation to the amendments themselves, the 18 amendments I have referred to, I would make six quick points. The first is that the bulk of the work has been in relation to the definition section. Sometimes we
overlook the definition section in a Bill. From time to time, I would say that the definition section is very simple and this one, in this case, I would say that the definition section of this Bill contains the substantial work that had been done in relation to this Bill. The definition section covers in relation to definitions like “relative”, definition of “spouse”, those things, it covers what I call the expansion or the enlargement.

But I would point to one particular area of definition and that deals with the nature of the relationships. And as we move from 1991 to 1999 to 2020, you see how the law treats this thing called relationships. We have moved from the typical relationship of a male-female in a marriage or in a common law relationship, we have moved from that and we have evolved to 1999, a broader concept of relationship and in 2020, we now deal with “dating relationship”, “domestic relationship”, “visiting relationship”. Because if you do not fall into the strict category set out in the 1999 legislation, then you will not be able to make an application or seek a protection and the only way we can cover the wide range of persons affected by domestic violence and the wide range of relationships that give rise to domestic violence, then we would be leaving a crack in which a number of persons who are the victims of violence would fall through, and the definition section and in particular, the treatment of relationships, is, to me, one of the most critical parts of the Bill.

The other thing about the Bill is that you would see in the definition section, consequential amendments but those are significant because they reflect the significant amount of work—

**Madam President:** Minister, you have five more minutes.

**Sen. The Hon. C. Rambhart:** Thank you, Madam President. The significant amount of work undertaken by the hon. AG and his team in relation to the updating
of the laws. So many of them are consequential in relation to the definition of “Children Court”, for example, “Children’s Home”. In this House, we have done work on that. We have done work on the regulations in respect of that. So you would see many of them are consequential but important.

The second area I would point to is the role of the police and you would see very, very prescriptive language used in relation to the role of the police and what they are supposed to do. I remember in a previous debate pointing to that whole issue of a report being made and the obligation of a police officer to take the report, and the question of whether anybody has ever been held to account. Because we do in fact, in almost every reported case where there are serious consequences, either death or serious injury due to violence, you see something about reports being made to the police, and the Bill is very prescriptive in the role of the police.

You would see, as I said before, the issue of service, amendments to the current sections 12 and 16 of the Act. You would see clauses 13 and 15 addressing this issue of service, personal service, saying specifically that the court should not compel an applicant or agent of the applicant to effect service, that it is personal service but you also have prescribed, as we have in other civil proceedings, we have the alternatives for substituted service in relation to matters set out in clause 13 and clause 15.

You have “Emergency Protection Orders” being introduced in Part IVA, that is a new part of the Bill and finally, the national register. I did not hear any comments about the national register, negative comments in the sense of—I have heard in other pieces of legislation about creating yet another database. But again, it is meant to do several things including supporting the work of the police and in supporting the work of prosecutors by having reports lodged, having registers
created, having orders registered. You would see in the Bill, in relation to service of orders and service of decisions of the court, you would see the wide range of police officers and police stations, and so on that have to be served with decisions of the court for the purposes of enforcement.

So, Madam President, I would say in relation very quickly to the consultation, speaking on behalf of the various stakeholders, Roberta Clarke made the point that this work should deal with the legislative gap between criminal law and the domestic violence regime. Some of that is reflected in this Bill that Protection Orders should be accessible to all persons in various forms of relationships, that the police should be given the tools and the courts should use risk assessments in making its decision, and there is provision in this Bill for risk assessments and decisions to be made on the risk assessments, including a decision on bail. The stakeholders pointed to the need to reduce the endemic delays to put a timeline on the hearing of the cases, I mentioned that, and to create stronger direction to the magistrates on the granting of Protection Orders and the Bill contains some of that. And finally, the duties of police officers need to be clearly set out and we need to give active guidance to the police officers. And I listened to Sen. Haynes, I believe, on the issue of training and I am sure the AG, when he speaks, will address the issue of changes to the regulations and changes to the orders that will assist us in setting out very clearly how police officers are supposed to treat with these reports and are supposed to act with these reports and post-service, how police officers are to support those persons who have made complaints in relation to living in circumstances where there is domestic violence.

I thank you very much, Madam President. [Desk thumping]

Sen. Wade Mark: Thank you, Madam President. There is absolutely no doubt that women, in particular, in this country and many other countries of the world have
been experiencing a literal epidemic of violence. This Bill that is before us is obviously seeking to provide some further protection for our women, children and a host of other categories that have been incorporated in this current piece of legislation. One of the main avenues or channels that would be made available to access that kind of protection is through what is called Emergency Protection Orders.

But, Madam President, no amount of law would prevent domestic violence. We need a framework to prevent domestic violence. Madam President, domestic violence is one of the greatest human rights violations. For example, in the past 12 months, some 243 million women and girls, between the ages of 15 and 49 across the globe have been subjected to sexual and physical violence by an intimate partner. So this subject of domestic violence is impacting on women’s well-being, their sexual reproductive health, their mental health and of course, their ability to participate and lead in the recovery of our society and our economy.

What we have discerned from the research is a certain degree of under-reporting of domestic and other forms of violence. The literature is revealing that less than 40 per cent of our women who experience violence seek help or report the crime, less than 10 per cent go to the police. We have discerned a disturbing trend as it relates to applications by women to the courts of our country. What we have discovered is that in 2011/2012, there were about 12,000 to 13,000 applications, but by 2019 into 2020, that would have reduced to about 8,000 applications. So we need to understand and discern what may be causing this decline.

The global cost of violence against women had been previously estimated at some US $1.5 trillion, Madam President, and therefore, the task that lies ahead of us is to work towards prevention and redress of violence against women in our country. This is where I would like the Attorney General, when he is winding up,
to indicate to this honourable Senate, the number of shelters and safety facilities that have been constructed over the past four years so that women who are victims of this kind of violence can gain access to shelter, to safety.

Madam President, I think it was in 1999 when the Bill was being debated that there was a controversy over a provision that was then being proposed by the United National Congress through the then Attorney General Ramesh Lawrence Maharaj which was rejected by the then Opposition and that particular provision would have provided the police with the power to enter premises without a warrant. That was shut down in that debate. And, Madam President, would you believe that that provision was extracted from the Barbados Domestic Violence Act under section 14(1)?

4.15 p.m.

And we had lifted that measure out of that Act in order to give our women a greater chance of safety, security and protection. And it is something, Madam President, whilst we have a difficulty and we will always have an opposition to police invading persons' privacy or premises without a warrant, when it comes, Madam President, to the life and limb of our women, we were prepared then, in 1999, as we are prepared now, to allow that access by the police when these kinds of violent occurrences take place within the household, Madam President.

Madam President, I would like to indicate that there are some definitions that we would like to tidy up in this piece of legislation, how it is structured, how it is written. We would like the Attorney General to deal with some more elegance when coming to the definitions. For example, “member of household”, we have crafted a definition that we would put at the committee stage for the hon. Attorney General's consideration, which is not too far from what it is now, but as I said it is just attempting to deal with it in a more elegant manner, Madam President.
Madam President, I would like to ask the Attorney General, when he is winding up, because I want to make it very clear that we must do everything in our power, through legislation, to protect our womenfolk. But we must do anything in our power as well, Madam President, to provide the necessary resources, rehabilitation and retraining, to ensure that there is some prevention. And I will tell you before I close my limited contribution today because of time—and, Madam President, may I let you know that the public service has now been reopened, so I am asking that we reopen our full speaking time, just as the public service. So I serve notice on the Government that that is an area that we will have to pursue and not allow me to just speak for 20 minutes when I need at least an hour.

Madam President, I would like to ask the Attorney General, through your good self, whether given the expansion that is contained in the law, or the Bill that we are dealing with, and as was indicated this is almost the fourth iteration of a suite of legislation starting from ’86 and going right into 1999, Madam President, aimed at dealing with the protection of our women. Madam President, every piece of legislation that we have brought here required a special constitutional majority and the reasons for it were very clear, Madam President. The changes contained were so wide in the 1999 legislation that we had to repeal the 1991 Act.

And, Madam President, the Bill that we are considering today is equally wide-ranging and therefore, Madam President, when its content expands the range of persons who may now access Protection Orders and the circumstances therein. Protection Orders necessarily involve interfering with property rights and the rights to free movement which are entrenched under sections 4 and 5 of our Constitution. Madam President, with an enhanced range of classes of protected persons, along with an enhanced range of circumstances in which these Protection Orders may be granted, there will be a larger group of persons who may be caught by them.
And, Madam President, I would ask the Attorney General, since more citizens’ rights are likely to be affected by these proposals in the Bill before us, than they were under the parent legislation, I am asking the Attorney General to look at inserting into this legislation a three-fifths constitutional majority. And, Madam President, we are on board with ensuring that this Bill gets the requisite passage. So I do not want the Attorney General to get cold feet when it comes to the three-fifths. I think we need to protect our women and not to allow any undue challenges to the legislation, Madam President, when it becomes law.

Madam President, there is a very interesting definition and provision in the legislation that deals with children now having the right to sue their parents for school and for education. Now, this comes under the definition of “dependant”, Madam President, and it is looked at in the context of financial abuse.

Madam President: Sen. Mark, you have five more minutes.

Sen. W. Mark: Yeah. Financial abuse, Madam President, and it would cover children who are 25 years of age. Well I would say a dependent, that is, they can seek an order under a protection order in order to compel a potentially recalcitrant parent to continue paying for their studies. So that is an area, Madam President, that we need to pay some attention to, although, as I have said, we have no objection to the legislation but there are conceptual points if you leave them loose they can be subject to abuse and I think it is important that we do what is necessary to ensure that the legislation is not abused.

Madam President, there is a UN women’s Caribbean office, which developed some years ago a batterer intervention approach dealing with a partnership for peace and it is entitled "A Domestic Violence Intervention". And it is based on two principles, perpetrator accountability and victim safety, and they have constructed a programme with 10 goals, Madam President, and several
important topics. Between 2007 and 2011 the programme was in existence.

It was run by the Family Court and was viewed as a flagship programme of the Port of Spain Court. However, the programme was suspended because of lack of funding. I ask the Attorney General to look at this matter in the future, particularly as it deals with rehabilitation of men in particular and this programme, as I said was entitled Partnership for Peace, a Domestic Violence Intervention.

Madam President, there are several improvement to the current legislation. We have no difficulty with several of the provisions that are contained in the legislation. We have put together some amendments for strengthening the legislation. Madam President, there is need for accountability. We are establishing a national violence register which would be manned and supervised by the Commissioner of Police. We are proposing, Madam President, that the Parliament must have sight of an annual report coming from the Commissioner of Police to the relevant Minister, and that report must be tabled in the Parliament so we can have an understanding of how the legislation is working and whether it is requiring some review or some revision, and there are some other minor, but very important amendments we have put forward. It is in my—Madam President, as you have always advised me, put my things in writing. They are in writing. They will be circulated, Madam President, and we hope that when we come to the committee stage, those amendments will find favour with the Attorney General as we seek to strengthen domestic legislation, not only with the aim of seeking to prevent, but to protect our womenfolk in this country, Madam President. So I am hopeful that we are going to get the necessary support.

Madam President, in closing, I just want to say that the Law Association, the Equal Opportunity Commission, and the Alliance for State Action to End Gender Based Violence have in fact submitted and discussed with us several amendments,
which we are going to be proposing on their behalf and we will hope that the Attorney General will find favour with those recommendations as we all seek to strengthen the Domestic Violence Act through this amended version.

Madam President, I wish to thank you for the opportunity of allowing me to make my limited intervention on this very far-reaching and critical piece of legislation in defence of our women. Thank you very much.

**Sen. Sophia Chote SC:** Madam President, thank you for the opportunity to speak on this proposed legislation which wishes to amend the Domestic Violence Act. Before I begin on my brief comments, I would simply like to take this opportunity to recognize the efforts of one of my colleagues on the Independent Bench, Sen. Thompson-Ahye—*[Desk thumping]*—who I think was a pioneer in changing the law and in the creation of the first Domestic Violence Act in 1990 or 1991. We were the first country in the Anglophone Caribbean to have such legislation. So our citizens are involved, they have been educated and they have continued to educate themselves about this social crisis which we have.

Regrettably, whilst we have umpteen articles having been written and thousands of applications made before the courts, this is a phenomenon in which we are not seeing the kind of significant decrease which we would like to be able to see. So, I fully support this proposed amendment. I understand there are persons who are proposing other amendments, but I have not yet seen those, so I cannot comment on them. But I support this proposed amendment, because if we can make the laws more user-friendly for applicants or for potential applicants, then in my view, that is a good thing.

Now, I agree with the hon. Minister of Trade and the coordinator of the Independent Bench because so much has been written and so much has been said. There are many people who are looking on at this debate and listening to it because
they are interested to find out about what their legislators are saying and why we are saying it. And I think it would have been so important for us to have reverted to our regular speaking time so that these matters could have been adequately ventilated. As it is, Senators simply have to do with, I think it is the 20 minutes that we have.

Now, perhaps I should start by referring to something I saw in the office of a child psychologist once, and it is a big sign which says, because the psychologist is trying to bring this message home to the children who come into her practice, that hands are not for hitting, and the important thing is that we need to appreciate that children need to know from the time that they are very young, that they are not to strike others or to use violence. Unfortunately, the message sent out to children is being diluted and muted by the actions and activities of the adults around them.

Now, while we have spoken in the language of domestic violence being primarily a woman issue, I think we need to change our language a bit, and I agree with temporary Sen. Amar on that, that we need to change our language to appreciate that this is not a woman issue or a women's issue. This is a human rights issue. It is an economic issue. It is a public health issue. And these are matters which cut across all classes and perceived separations in our society.

I think when we talk about it using the lingo of this being a women's issue, we fall into the error or we may fall into one of two errors. One, we may fall into the misconception about feminists, that is to say we are male bashers and this is just another way to get at men or we may fall into the error of painting all women as victims, and we are neither. We are simply human beings who wish to have the equal protection of the law. And this is what the Domestic Violence Act seeks to provide us, together with men and other affected persons. So I think that message needs to be sent very strongly and understood by those who are listening.
We also need to place on the record, I respectfully say, that legislation of this kind takes us along the road of achieving our sustainable development goals. Why do I think that is important? It is because we have just come out of the crisis of a pandemic when, from day to day, people agitatedly looked at the health bulletins to see if more people were going to fall ill, if more people were going to die, were people going to lose their jobs. It was a time of great uncertainty. So legislation like this gives us some confidence that, to some extent, our tiny island, we are getting back on track and we are seeking to right the wrongs and regulate ourselves as we continue our lives having learnt the messages which COVID taught us.

Now, when I said that domestic violence has a cost to us, I think you have to appreciate that someone who is a victim of domestic violence has to use the health system, has to use the police service, may not be able to work, may lose his or her job, has to seek medical care and has to get legal assistance. So, this is where the cost to our nation comes in. And there have actually been reports which are all on the Internet and which can be found about how much domestic violence costs us as a nation.

Now, there is one thing that I do not see in the Act, and I wish that it could have been included, and that is to say domestic violence against domestic staff. Because I have come across during my practice many instances of persons who are doing domestic work, housekeepers and so on, who have been locked into homes while the lady of the house left and went about her errands. There are domestic workers who are verbally abused, emotionally abused, economically abused. And I was wondering whether it was at all possible for us to have them included in the Act, unless I have missed something in the reading of the legislation. But I do not think that it is something which is so outside the scope of the legislation that we
cannot do it, and it certainly would solve the problems of a very vulnerable group.

I just have a few suggestions with respect to the Act, and I will go through them very quickly. On page 8, where we are talking about deleting the definition of "emotional or psychological abuse" and then defining it, what I was respectfully going to suggest, is to say we should say:

For the purposes of this Act, abuse means...

— and then we go down to the things which have been identified. If we go to page 9, (ix):

“disseminating intimate images of the applicant, or a child of the applicant electronically or by any other means;”

Well, I have to apologize to say that I have actually been the victim of a situation where I was representing a victim of domestic violence and, not only did the defendant, I have to say “defendant”, because he had breached the domestic violence order, he had disseminated intimate images of a young woman, but then he took on a campaign against me, not, of course by disseminating intimate images, but by disseminating libelous material against me. So legal representatives and persons who assist those who are seeking the protection of the law in cases such as these, perhaps, could be considered for protection under this legislation.

Now, if I can go to page 11, (xii), where we talk about:

“...any other controlling, threatening or coercive behaviour towards a person or his child or dependant;”

Now you see this is a kind of catch-all description and I wanted to know whether it would be possible to include “language” in that. Because one of the—domestic violence unfortunately is something which morphs as time goes on. And what we now see, especially with the rise of the religious rights in different religious groups or religious bodies, we see that religion is often used to threaten or control or
coerce women and children. So I wanted to know if the word "language" could possibly have been included so that religious coercion, and that is to say your place as a woman depends on what I interpret the *Bible*, or any other holy book to be, may be abusive or having regard to the particular circumstances in which the language is used.

Now, I had a question. I was not sure about this one. It is at page 17. It is clause 6 which purports to amend section 6 of the Act, and this is subsection (5)(c), where it basically says that the court has the power to direct that the applicant immediately occupy any place or residence whether or not the residence is jointly owned or leased by the respondent and the applicant, or solely owned or leased by the respondent or the applicant. Now I get what the problem is here. Essentially what the Act is trying to say is that the court can say that the matrimonial home is to be occupied by the person who has suffered the domestic violence and perhaps with or without the children.

Now, all well and good, but how does that operate on the legal title of owners who are not parties to the proceedings? So, for example, if people were living in premises and there was an agreement for sale which had to be concluded by a particular time, and so on, how is this going to work if a magistrate or some other court determines that nonetheless I am going to make such an order? I am not quite clear.

I know the word "may" is used, but I do not know if we need to have, perhaps, a little more clarification about that. Madam President, perhaps, if the AG in his winding up could perhaps say—

**Madam President**: Sen. Chote, you have five more minutes.

**Sen. S. Chote SC**: Thank you. Could say, what it is intended to mean, so that when people in the future look back at the *Hansard* they could be clear in their
minds as to what is intended.

Hon. Attorney General, I have five minutes, so I would like to say that a lot of the domestic violence now hitting the younger age group, that is to say like between 16 to 25, it may constitute or it may be made up of a lot of electronic material. And what we do not have, and I see courts having the difficulty with this, is a clear guide as to how such material should be admitted and what test they should apply.

Now, in a criminal case, for example, the Evidence Act stipulates that there are certain things which you must satisfy. That is a very high burden for someone in domestic violence proceedings and I was wondering whether we could consider lowering the bar to say that, just as the court would be coming to a conclusion on the balance of probabilities in the final decision, perhaps the court could also use that test for admission of electronic material.

4.45 p.m.

So, since it seems as though I am running out of time here, I will just try to make one last point. “Electronic service”, could we possibly consider that, because the order does not take effect until the other party receives it, and I find that the timeline that we have for the application for substituted service and so on is quite long, it is five days, somebody can be dead within that time. So, I was wondering whether we could put some speedier timelines or tidy up the timelines for service of the order, and/or for the application of substituted service. Madam President, thank you for the opportunity to speak.

Madam President: Attorney General. [Desk thumping]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. Madam President, may I ask, just remind me the wrap up time.

Madam President: You have 30 minutes.
Hon. F. Al-Rawi: Thirty minutes?

Madam President: Three-zero, yes.

Hon. F. Al-Rawi: Much obliged, thank you. Madam President, I wish to thank all hon. Senators for their contributions this afternoon and I would like to start in this reply on behalf of my colleague, the Hon. Ayanna Webster-Roy, to first of all say that this law has not come to this Parliament without a very clear strategy. You see, as some hon. Senators will know, there is a routine by which the office of the Attorney General practises, and that is to say, you can have laws on the books all you want, unless they are capable of being operationalized, we are going to be in significant problems. And therefore, we took the approach of plant and machinery, people, processes, and then law.

This law has come to us on the back of significant consultation and permit me, Madam President, to acknowledge here today, for the benefit of the record, the sterling contributions coming from civil society, from the public service, and in particular, from my ministerial colleague, the Hon. Ayanna Webster-Roy in leading the Ministry of gender aspects from the Office of the Prime Minister.

You see, we at the Attorney General’s Office have spent almost two and a half years drafting this law, but we did it in conjunction with the other amendments that we made. In terms of stakeholder engagement, it is a matter of record that there have been a number of persons on the march to driving the reform of law. I start off by recognizing my distinguished colleague, Sen. Hazel Thompson-Ahye, who has spent the large part of her life engaged in the public service on this issue in particular, and I join Sen. Chote for acknowledging her sterling contribution to Trinidad and Tobago. I wish for the record to note the Alliance for State Action to End Gender-Based Violence, the Children’s Authority of Trinidad and Tobago, the Equal Opportunity Commission, the Judiciary of Trinidad and Tobago, of course,
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the Law Association of Trinidad and Tobago, the Mental Health Unit of the Ministry of Health, the National Parent-Teacher Association of Trinidad and Tobago, the police Gender-Based Violence Unit, the Ministry of National Security, the stakeholders at the Attorney General’s Office.

Permit me to say that this was one piece of law where there was not a counter-attack in development of the principles and policies of law. I want to thank, through you, Madam President, Roberta Clarke, Lynette Seebaran Suite, Christie-Anne Morris-Alleyne, Gaietry Pargass, Carla Ali, Solange De Souza, from the office of the Attorney General, people who have taken their passion and poured it into reform. There was not, of course, full agreement on every issue because needless to say when one contemplates, that we are 21 years after the last significant amendments to domestic violence in this country, 21 years later, needless to say we wanted to do it all. But law has to have a method of approach and, Madam President, one of the significant factors to bear in mind today is that in getting this law up and running, we have the benefit of the Family and Children Division Act which we did in 2016. What does that give to us, Madam President? That gives us the ability to have the merger of jurisdictions.

You see, it is absolutely true, Sen. Thompson-Ahye put it, there was a lot of forum shopping. We were confined in the 1999 Domestic Violence Act, to take before the 2016 Family and Children Division, to go to the Magistrates’ Court to get a Protection Order, when in fact you had the High Court operating in a silo otherwise. And it was with the merger of jurisdictions in the Family and Children Division, taking the High Court and the magistracy such that the High Court could also hear domestic violence matters. For the first time, this Government blended the situation into a solution. And therefore, when you take on board the fact that a children’s matter and a family matter, both defined in the interpretation section of

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the Family and Children Act, now capture domestic violence and protection order issues, that is where we make a difference.

So today, when we look at this particular law, we are looking at it in the context that there are thousands of domestic violence matters, thousands of deaths on the back of domestic violence matters. And we know that the law needed surgery and needed amendment, but it needed to be operationalized. What is a law if you do not have the Trinidad and Tobago Police Service operating by way of a specialist unit? A gender—and a unit designed to counteract violence against both genders. Gender is an issue not to be confused with masculinity or femininity, because as Sen. Chote so correctly said, this is an issue of human rights. Children, boys, girls, men and women are caught in this.

But without the Trinidad and Tobago Police Service—and here is where I say, thank you to Commissioner Griffith and thank you to the Prime Minister, for having the foresight to do a manpower audit to ensure that units were created. That is where you get the operational structures. What good is a law if you do not have children’s attorneys operating under the Solicitor General, who operates under the Attorney General and making sure that that unit can come to life? What is the law if you did not underwrite the structure and performance of the Children’s Authority? If you did not in the miscellaneous provisions amendments that we as a Government did in 2018, birth social workers, probation officers; if you do not computerize registries and have them available to all of solution bodies, Children’s Authority, Judiciary, Trinidad and Tobago Police Service, civil claims that may arise; if you do not have a database, what is the purpose?

And therefore, Madam President, we looked at the laws of Antigua and Barbuda, Jamaica, Barbados, in its several iterations of laws that came there up to their most recent amendments. We looked at Tasmania, we looked at the
Australian Capital Territory, we looked at the New South Wales laws, we looked at the Queensland laws. And in the two and a half years that the Attorney General’s Office that we spent, and permit me for this moment to also acknowledge my colleague the Hon. Clarence Rambharat, who is the Chair of the Law Revision Committee, who sits alongside with me. I wish to thank Sen. Rambharat for sitting together with the Office of the Attorney General, for sitting with me for umpteen hours to work this law through. And therefore, this is a combined effort of interministerial committee work and multi-stakeholder approach work that I wish to say to Trinidad and Tobago, is overlong due.

So what are the large parts? If I ask what time I end in full time, Madam President?

**Madam President:** You end at 16 minutes past 5.00.

**Hon. F. Al-Rawi:** Much obliged. Madam President, the Bill in its 31 clauses. And I wish to signal that we too have amendments to propose, having heard what hon. Senators have suggested in their contributions. We have taken on board some of the reflections, and the Attorney General’s Office also wishes to put some amendments on to the record. I think that Sen. Chote’s amendments we should speak about in the committee stage. It was the first time that I regret that I did not have the opportunity to prepare in advance of having heard you, but I took note of the suggestions made by Sen. Chote and I would like to hear a little bit more at committee stage as we get there.

But, Madam President, the definition section that we bring forward is critically important. And when we look to what the problems in the domestic violence law are, put quite simply, number one, it was not wide enough. We did not capture enough protection for the number of vulnerable entities, persons in domestic violence. Domestic violence in the fluidity of the Trinidadian family is

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much more than your official child, your blood child, or your child by affinity. It includes the vertical arrangement, those dependents who are older in age, it includes persons who are under tertiary education, as our family law recognizes that children who are still receiving tertiary education and are over 18 years of age are still children for the purposes of the law.

We had to amend in the breadth of purpose the definition of “domestic violence”, and we have done that by way of a skilful tack on to what is considered a “domestic relationship”. And in coming up with the concept of a “domestic relationship”, we have of course incorporated “dating relationship”, “visiting relationship”, and how we manage the structure of domestic violence, whether it is by way of persons who are senior, persons who are operating under disability, infirmity or otherwise, children who are children of the family, or otherwise known to be there as associated with families in the Trinidad and Tobago context.

We, of course, had to manage the issue of the child being represented. And that is where we had to consider the under-16s, and over-16s, and to capture the ability to have a child over 16 bring forward his own point of view, but still be subject to the guardian ad litem rule where a court could consider it in the best interest of the child to have the child represented, whether by way of the Solicitor General’s Department for the children’s attorneys, as we have under the Children Act, or by way of the Children’s Authority.

Madam President, this law as we propose it to be amended, captures all of the amendments that we have done. In the Family and Children Division, we amended 19 laws in 2016. In the miscellaneous provisions amendments, to treat with guardianship and family and other issues, we amended another 13 laws. We operationalized the children’s homes, the community residences, we operationalized the Children’s Authority in its purport and width, and this
amendment before us here in the Bill before us, captures all of those structures.

Madam President, obviously, one of the main shortcomings that we have sought to address here involves the inefficiencies of the judicial system for simple but yet powerful things like service. And if you cannot serve the proceedings, then the person is not made aware, has no actual notice of an order being produced and therefore, you cannot subject someone to criminal liability. But what happens if someone is, a) too afraid to serve, i.e. or asking the victim to serve the person against whom the order is to be made? Or b) the person is ducking service? We have gone into the realm of substituted service.

Importantly, we no longer ask the police officers to be on an exercise without reporting to the court, and so we have brought them back into the process. I accept what Sen. Chote says, that five days may be a long time but we had to put a chain or a time frame, two days and then a further three days to ensure there was an acknowledgement of service or lack of service. So that you can springboard then to the substituted service regime to bring actual notice to the person against whom the order is made, so that we could apply criminality to the process.

Madam President, the fact is that we have also sought in section 5 as we seek to amend it in the clauses of the Bill, it is very important to note that we are now saying that there is a power to make a Protection Order not where the court determines, i.e. concludes a process, but where the court is now satisfied. But listen to this, we are adding now not only that an act of violence has occurred, we are no longer saying that you must be beaten first to get the relief. We are saying that you broaden this protection where there is a likelihood of the violence happening, because you have to be preventative in your approach. And, Madam President, therefore. when we look to the amendments to section 6 and we see the factor of having persons in the wider sense approach, we are trying to capture now the
modernity of what domestic violence looks like.

And, Madam President, we then propose in the amendments to section 8 to treat with this mischief of what service looks like. Because when you look to the statistics that come from the Magistracy, in particular, you see that the vast majority of cases are put off either through magisterial unavailability, or largely because of a failure to effect service in the realm of domestic violence.

Madam President, when we look at the amendments to section 10 and we focus in particular upon the fact of where our children fit into this, we say that we no longer require the child to actually reside at or temporarily reside at, because children of the family, children who are under care and supervision in the fluidity of the Trinidadian context require broader connection, and therefore, this concept of being tied to the household is something that we had to move away from.

Madam President, when we get down to section 16 of the Bill, as is amended by the clauses, and we remove the effect of the lis pendens on the property, which is something that I believe Sen. Chote was touching on, we propose to move the fact that a property may be affected by way of a Protection Order because there is an alternate remedy and that caused significant difficulty in the proceedings as they were unfolding into the courts, Madam President.

Madam President, the real heart and soul of emergency protection is the critical aspect. When we look to the introduction of a new section 19A and we really get to the power of that clause, a new Part IVA of the Act, and we allow for the concept of serious physical injury, imminent danger, emergency applications—note that we are saying that this can be done in any court—that could not happen, obviously, unless you had the Family and Children Division Act and that allows for the concurrent jurisdiction of the High Court and also, the magisterial courts.

Madam President, it is important to note that when we seek further
adjustment inside of here we look to the enforcement of orders. We get to the issuance of a new section 20A, as in apple, and we look at to the fact that you can now have a domestic violence order extending beyond the time frame originally permitted, beyond the three years permitted under section 6(9). This is a very important reality check because very often, a person may have been sentenced, gone off into incarceration, the domestic violence order lapses, and we have had right here in our country, someone come out of prison, convicted for a serious offence, and then go on to murder his wife, in this case, common law wife. Had the Protection Order been effective by way of a continuation, as we propose in section 20A, we would have had a better chance.

More particularly, because we have caused amendments to the (Electronic Monitoring) Act and we are now introducing, as we proclaim in a week or so as we have now intended the proclamation to come effective, we are now allowing for corresponding devices to come into effect, so that persons can be alerted of the breach of proximity. And that is why the service of orders, as we amend it in the law is so critical, because we are no longer serving the issued order to one police station, you are serving the order to every police station that has relevance. The police station close to the victim, the police station close to the alleged person against whom the order is made, close to the person’s place of employment, et cetera. And that is why the database is so critical, the register is so critical.

Sen. Ameen made a rather curious statement. I was not quite sure what the hon Senator was saying when she alluded to the fact that the register was not properly maintained before. I would just like to alert the hon. Senator to the fact that there was no register before. This is now being put into law for the first time and therefore, the need to have a private register is critical so that we can have a harmonization of records across Trinidad and Tobago, particularly as the
Commissioner of Police has birthed to his credit under Ms. Shireen Pollard, a vibrant unit of gender protection and violence. That runs right alongside the unit created to deal with sexual offences, it runs right alongside the law which we pass to treat with a sex offenders registry.

And therefore, Madam President, it is critical that we maintain this register, the domestic violence register, so that there is an incorporation of all information across police stations. Now, that touches some of the concerns that several other Senators have raised. In echoing the joint statement of the Law Association and equal opportunities association, I have seen it recommended that we should have multiple reporting points. The suggestion is not the police alone, but go to the Family Services Division or go to the Children’s Authority. We addressed this for hours at end in the Zoom meetings that I chaired with the Law Association and other positions, that the risk was that people would not be harmonizing the information. And because the Trinidad and Tobago Police Service has lead on this issue, and the emergency powers exist at the police station, as we have in the new section 19A, we wanted to have the first port of call, the port of call for action.

If we are were to take it to the Family Services Division, take it to the Children’s Authority we are asking for secondary action to arrive. And if you look to the experience of mandatory reporting that exists under the Sexual Offences Act, you will realize that that formula did not work because the left hand was not in touch with the right hand. And most respectfully, the first step really has to be getting to the door of a police station, have a specialist unit available for receiving complaints; have a database which is shared by all of the entities, then have the ability to have emergency power orders issued directly over the phone, by video link, et cetera; and then have the other agencies informed. The Children’s Authority is brought in, the children’s attorneys at the Solicitor General’s office,
they are brought in so that we can apply for the reliefs available at law.

Madam President, we look to the aspect of mandatory reporting under Part VII, the miscellaneous provisions. And it is important to note that we have taken the mandatory reporting in respect of adults who are in difficult circumstances, and children in difficult circumstances. And I would like to remind that other laws coordinate with this. The minute a child turns up at a police station the children’s attorney must be present. The children’s attorney under the protocols that we have developed have to have the Children’s Authority alerted, and that therefore reinforces the submission that I make in answer to some of the recommendations, that the correct port of call really and properly is best harmonized at the Trinidad and Tobago Police Service.

Madam President, we propose that the Schedules be amended somewhat. We believe, for instance, that the First Schedule requires an amendment to include the trafficking in person’s legislation, particularly where there are sexual offences against children or other persons as we have under the Trafficking in Persons Act. I remind that the Trafficking in Persons Act takes care of economic exploitation. Sen. Chote hit a very important point about economic abuse, domestic workers, et cetera. That is taken care of in another piece of law which we have drafted in the Attorney General’s Office and that is the harassment position, because we have taken a broader definition of harassment. We are seeking to plug that in to two areas, the Ministry of Labour and Small Enterprise Development, the Industrial Court, and the equal opportunities court. We have sat in a discussion with the equal opportunities court to cause those amendments. So we had proposed to treat with that economic exploitation in a different piece of law to work in tandem with this particular position.

Madam President, albeit that we have amended this to allow for the Second
Schedule to be amended by the Judiciary and to allow for rules to be made and regulations to be made, and for the Rules Committee under the Supreme Court of Judicature Act to—five minutes?

**Madam President:** Attorney General, you have five minutes.

**Hon. F. Al-Rawi:** Much obliged—to engage in positions. What we humbly suggest is that the framework law should stand as framework law and that we should manage the prescriptive aspects of the law by subsidiary legislation.

Madam President, we believe it is appropriate to have the Third Schedule—and we propose this by way of amendments—amended instead by way of an order. We believe that the Schedule ought to really continue to evolve in the easiest way possible and we therefore think that it is appropriate to cause an amendment to that.

Madam President, it is a rare opportunity in a Parliament that we can have a unanimity of view. In fact, it is an enjoyable occasion when we can all agree that good law is good law. These amendments have been long in the making. One can only wonder why for 21 years this Act has not been amended. But I can confirm that the commitment of this Government has been to protect the most vulnerable with an anxious, deliberate, intense, sort of scrutiny. It is for that reason that we engaged in the reform of the laws to treat with our families and children. We created divisions of court. We took the issue of domestic violence with children very deliberately. And if you look to the domestic violence provisions contained in the Family and Children Division Act, you look to the definition of children’s matters, you look to the definition of family matters in the Family and Children Division Act of 2016, you will note that we birthed two courts, the Family Court and the Children Court for a specific reason.

It was important to merge the jurisdictions between the magistracy and the
High Court to allow a High Court judge to do what a Magistrates’ Court could do under the Domestic Violence Act. And now we take that further amendment inside of this legislation by giving the court, as defined under this Bill, High Court and Magistrates’ Court and Master exercising concurrent jurisdiction.

We believe that the Trinidad and Tobago Police Service has to be a part of the situation. They are part of the situation by incorporation into the law, by giving them the power from the doors of the police station itself, to ask for emergency applications, emergency orders to be issued. Madam President, that is no small amendment, and therefore, it gives me great pride today as the Attorney General of the Republic of Trinidad and Tobago and the Minister of Legal Affairs to join my colleague, Ayanna Webster-Roy, in bringing good law, long overdue in defence of our citizens who are the most vulnerable in society.

5.15 p.m.

Madam President, I look forward to the committee stage. I understand that there are significant amendments to be considered by my hon. colleagues in their circulated amendments, and I beg to move. [Desk thumping]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Madam Chairman: Hon. Senators, before we begin, there are several sets of amendments. There is the list of amendments by the Attorney General; there is a list of amendments by Sen. Vieira; there is a list of amendments by Sen. Richards and there is a list of amendments of Sen. Mark. So there are five sets—four sets of amendments. Is everyone in possession of same?

Sen. Richards: We do not have Sen. Mark’s amendments.
Madam Chairman: Sure. So the—several Independent Senators do not have the other amendment. Sen. Vieira, Sen. Richards, correct?

Sen. Richards: No, if I could just, Madam Chair, we have Sen. Vieira’s and mine, we do not have Sen. Mark’s.

Madam Chairman: Oh, you are missing out Sen. Mark’s?

Sen. Richards: Yes.

Madam Chairman: And then on the Government Bench, you only have Sen. Mark’s? Sen. Mark, you have all? So, here is what hon. Senators, I will suspend the proceedings for five minutes, just five, so that everyone can have everything, all the different lists. So this sitting is suspended for five minutes.

5.20 p.m.: Committee suspended.

5.25 p.m.: Committee resumed.

Madam Chairman: Hon. Senators, may I enquire each Senator should have five sets of amendments. We have the amendments, Sen. Mark, Sen. Richards, Sen. Thompson-Ahye, Sen. Vieira and the Attorney General. May I enquire if everyone has those sets of amendments? So apparently, Sen. Mark is in the unique position of circulating two sets of amendments. So now we should have two on behalf of Sen. Mark, Sen. Richards, Sen. Vieira, Sen. Thompson-Ahye and the Attorney General. It is being circulated as we speak. So, hon. Senators, as we begin the deliberations there are quite a number of amendments being proposed. I therefore ask for everyone's undivided attention as we go through the Bill, so that there will be no requests to go back to anything. All right?

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

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

Madam Chairman: So the shortest amendment circulated with respect to clause 3 is that on behalf of Sen. Mark. Sen. Mark, therefore, can we hear—
Sen. Mark: What I am seeing here is that I think Sen. Anthony Vieira and I seem to have the same amendments. If I am not mistaken. No, no—yes, I think—no, no, I think he has a little different—

Madam Chairman: Okay, Sen. Mark, you need to speak so that we can hear.

Sen. Mark: Yeah, yeah. I think that in clause 3 what I am trying to accomplish in clause 3, I think Sen. Vieira is going a little deeper.

Madam Chairman: So, would you withdraw yours then?

Sen. Mark: Yes, I would withdraw mine in favour of—

Madam Chairman: So, Sen. Mark—

Sen. Mark: My clause 3—

Madam Chairman: So, Senator—

Sen. Mark:—when I look at yours, I realize you are going deeper.

Madam Chairman: So, Sen. Mark, you have withdrawn yours?

Sen. Mark: Yes, yes.

Madam Chairman: Thank you very much. We now move on then to Sen. Richards.

Sen. Richards: Thank you, Madam Chair. The submission is I have on the suggestion of the Law Association, the Alliance, Roberta Clarke, et cetera, and it suggests that in paragraph (i) inserting the words, “a domestic relationship with the respondent”, the words where “…a person who was a member of the same household as the respondent”. It seeks to widen the eligibility criteria a bit for that clause.

Madam Chairman: So, for those other Senators, Sen. Richards is speaking about a proposed amendment at page 8 of the Bill. Correct?

Sen. Richards: Yes, Madam Chair.

Madam Chairman: Attorney General.
Mr. Al-Rawi: I am trying to locate the amendment, quite frankly. So it is in paragraph (i)?

Madam Chairman: Yes.

Mr. Al-Rawi: Which is on page 8?

Madam Chairman: Correct.

Mr. Al-Rawi: And it is in the definition of “domestic violence”. So you are saying after the words “…a domestic relationship with the respondent”—

Sen. Richards: “Um-hmm”.

Mr. Al-Rawi:—by deleting all the words after the words “committed by” and substituting the words, “a respondent against the person who is in a domestic relationship with the respondent, and insert the words “or a”—“or a person who is a member of the same household as the respondent”. Could you the hon. Senator just explain the rationale for this amendment?

Sen. Richards: Thank you. Through you, Madam Chair. It was upon the suggestion the Law Association and the group, the Alliance, and the intention was to widen the eligibility criteria because in some instances, the individual who may find himself even though the original draft is quite extensive, outside of the ability to proffer the complaint against the respondent.

Mr. Al-Rawi: Madam Chair, thank you. Thank you, hon. Senator, through you Madam Chair. My difficulty—why I asked the question, is that this says a member who is of the same household; “member of the same household” is defined as someone who:

“(a) is related to the applicant or respondent by consanguinity, affinity or adoption;

(b) is or has been the subject of—

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(i) an order under... the Family Law”—and—“(Guardianship of Minors, Domicile Maintenance Act)…”

— is a fit person—subject of a:

“(ii) Fit Person Order or a Foster Care Order under…the Children's Authority Act; or

(iii) …has been treated like a child of the family;”

So, respectfully, that is captured in the definition of “domestic violence”, because domestic violence goes to domestic relationship. Domestic relationship captures, dating relationships, visiting relationships and members of the same household. So the way I read it was that it is caught already. So I did not understand the amendment as broadening the definition in any way.

5.35 p.m.

Sen. Richards: Will those—through you, Madam Chair—also include—and I know you mentioned it in your wrapping up, Attorney General—persons who may be in the employ or would that come under the proposed legislation that you mentioned in your wrapping up?

Mr. Al-Rawi: So the persons in employ was a category that we had not proposed to include in the context of domestic violence per se, because we felt that employment was something that was better captured under a different area of law. Economic abuse is caught under the Trafficking in Persons Act for instance. It is a very specific category. So we did not want to conflate the two issues of what is pure domestic violence with what other laws could speak to, for instance, sexual harassment, harassment or economic exploitation in the context of trafficking in persons, which treats with that specifically.

Sen. Richards: Well, I would withdraw but, I mean, it was with that intent partly, because presently those persons are not protected by law because of the absence of
that kind of legislation. But I withdraw.

Mr. Al-Rawi: They are protected by law. They are protected by a different law. They are not protected by the Domestic Violence Act—threat, harassment, et cetera, in the context of domestic violence. In all of the literature that I have come across and the laws that we have looked at, the concept of domestic violence to be true to purpose, at least, from the policy that we drive these reforms is to really associate it with the context of family dependency and relationship.

Now I do of course respectfully understand that you are dealing with, for instance, a domestic live-in—


Mr. Al-Rawi: who may be under that sort of umbrella as well as. I do understand that. But because the parameters of that are caught with under “economic exploitation”—and, in fact, the Minister of labour has been pushing hard at several years now to try and get further reforms to the ILO Conventions that treat with those aspects. Respectfully, we have not gone so far as to include that aspect of economic exploitation. That is—the major category for me is economic exploitation which has a subset characteristic of those features. So you are sort of into two areas right now. My fear is in causing these amendments now, and in looking at how the courts are going to interpret this, we did not necessarily want to conflate the two issues into one point, especially because we have taken 21 years to come forward with amendments now.

Sen. Richards: Understood. With that said, Madam Chair, I withdraw.

Madam Chairman: You withdraw it?

Sen. Richards: Yes.


Madam Chairman: So, we now move on to amendments as circulated by Sen.
Vieira, clause 3.

Sen. Vieira: Thank you, Madam Chairman. Attorney General, through you, Madam Chairman, my amendment does not really add any words to the definition of “member of...household”. It simply calls for a reconfiguration. The way it is cast at present, you have two things that are required. You have to have you are ordinarily or periodically residing in the house and then you also have the relationship by blood, marriage, or adoption. With respect, that tends to be unnecessarily restrictive. So my recommendation is:

“member of the same household”, in relation to an applicant or a respondent, means a person who”—(a)—“ordinarily or periodically resides in the same dwelling house as the applicant or respondent…”

(b) ordinarily or periodically:

…is related to the applicant or respondent by consanguinity, affinity or adoption;”

And then (c) and (d) will continue as you have it. That would broaden the categories without doing harm to the intent.

Mr. Al-Rawi: May I, Madam Chair?

Madam Chairman: Yes.

Mr. Al-Rawi: Thank you, Sen. Vieira. So, we have had two and a half years of discussion on this particular issue, and in looking at the realities of the domestic violence law, we were really grappling with what Trinidad and Tobago looks like, and I am going to use the concept of what Jamaicans call “Yardies” or if you come to parts of my own constituency, for instance, where there is thick and dense household interaction, but they are not households but they can be households, and there is constant conflict and dispute between people, we were going to cross into very dangerous territory.
If you come to some of the very, very, very depressed communities that I represent, I fear that this would be Pandora’s box in some senses, because the domestic violence prescriptions offered here are emergency orders offence if it is not complied with, ex parte upon certain satisfactions, et cetera, and what I have concern with at this point—and I mean it from a policy point of view—where do we draw the line on somebody who is attempting to include him or herself in as a member of a household when they are in fact not a member of the household?

So the conjunction of consanguinity and household or affinity in the chapeau as we had it was purposeful. It was intended from our perspective to narrow the gap somewhat, because we intended that people who sought to rely on harassment or other areas of criminal law, really ought to be captured in that secondary category. If you get to later on in the Act itself, the criminal law Act applies and you have to charge someone when a policeman enters without warrant or a policeman meets a situation of violence, et cetera. The Domestic Violence Act says that you must charge that person under the respective law that you come on to. So from a policy perspective right now, having wrestled with this issue for nearly two and a half years, the debate that we had in the several committees that we sat on is how far to open that particular door in the context of Trinidad and Tobago’s society? And that is the position.

Now, I would like to say the recommendation that I got from the coalition together with the Law Association and the Equal Opportunity Commission, that was squarely rooted in the LGBT issue and the recommendation that they made for this was to capture that. And my submission to the several persons, because we sat for two Zoom meetings in a row for several, several hours. My submission into that was that because as Attorney General I have taken the Jason Jones case forward to the appellate court, ultimately to the Privy Council, so that the law can
be settled once and for all, and because that Jason Jones case affects 23 other laws in Trinidad on the same issue, that I was very cautious about the implied repeal aspect to the law, and that is the reason that I had volunteered to the several members who were advancing that issue, and when we come to Sen. Thompson-Ahye’s issue, we will see it again. But I told them that I had to be extremely careful because I wanted the direction of the Privy Council on that issue to assist me with the prospect of how to clarify the law.

**Sen. Vieira:** I will be short.

**Madam Chairman:** I think Sen. Chote wants to say something first. Sen. Chote?

**Sen. Chote SC:** Thank you, Madam Chairman. Thank you, Sen. Vieira, for allowing me to just put in my two cents before. Hon. Attorney General, I did not meet with the Law Association, but I see the good sense in the proposed amendment from Sen. Vieira for two reasons. One came from the very thing you said where you have communities where people live in yards, and what is a household can become quite a fluid thing. To me, the recasting of the definition in this case does not open the Pandora’s box because you have the court as the sieve. What it does, it embraces a wider group of people who may be in need of protection, especially within tightknit communities like that, especially the vulnerable who may be in need of such protection.

Secondly, I will use a real life example to say why I support the amendment, and that is the phenomenon we have of elderly persons, many of whom live alone, who have persons move into their homes and live there full time or part time—they are not related to them or anything like that—but, essentially, they reside in the same dwelling house.

There was one incident which has been mentioned in this Senate by different Senators on several occasions about a certain lady in Curepe, and it has been
reported in the news media and that kind of thing but the thing is, she is not the only person circumstanced like that, but she may be in need of protection. So if we are aware of live cases or possible cases that we can think about, then we ought to use the opportunity to make the legislation afford as much protection as it can. So that, respectfully, is my recommendation.


Sen. Vieira: Attorney General, let us look at the LGBT issue for a minute. This law is about protecting persons against domestic violence. As far as I am aware, everybody is equal under God’s sky. Lady Justice is blindfolded, so she does not discriminate. I am against anything that would unduly discriminate against people who are vulnerable and deserving of protection, whether they are too tall, they too fat, they too thin, they have blue eyes, is of no murmur to me. This is a necessary and important amendment.

Mr. Al-Rawi: So, I share. Sen. Vieira’s passion. I recall this very argument when we were dealing with Children Act back in 2012, when the Independent Bench did not support the amendments that came into law. It was the Opposition and Government that supported that on the same issue, joined in with the issue of child marriage. I have made very public statements that the law will ultimately be settled, and I want it urgently settled by the Privy Council, and I have said that I am extremely careful about the issue of implied repeal.

Because I have a first instance decision in Jason Jones, which I have publicly stated I want settled by the Privy Council, and I have a fair indication of where the Privy Council will go on that idea. Because it is saved law and it affects 23 other laws, I agree with you Sen. Vieira that as Attorney General of the Republic of Trinidad and Tobago, knowing that I have the case on appeal, and knowing that we will go to the Privy Council and knowing that I have 23 other
laws to manage at the same time, when I make this amendment now, if I am invited to make it as you are recommending and correctly so—I compliment you for your approach on it, I share the approach. My problem is that I would cascade into litigation that I cannot manage easily and, therefore, in the same way that I made the exhortation to the members of the Law Association and others and they agreed to actually step away from it until they wrote a letter subsequently, and they asked for it to just come to floor of the Senate as it has.

What they told me they would do is that they would write, and that they would write and share with the Independents and Opposition so that the issue can be articulated on the floor. I have no objection to that approach by them, but I repeat the same rationale that I did to them. I have to manage the issue in a holistic way, and in doing that I must be mindful of what I am going to get from the Privy Council which will cascade into 23 other laws. It was for that reason that we wrote the Trinidad and Tobago report—the Messick Report to the United Nations on Human Rights. Sen. Thompson-Ahye, in fact, read it out in terms of her contribution today. So, my difficulty in accepting the amendment at present is that I have other laws that I have got to balance in accordance with the Jones decision, which I expect to be coming sometime during the course of next year.

If I looked to the point raised, the example that Sen. Chote raised of elder abuse, we have captured that in the law as it is, because we deal with persons who are dependent upon someone else looking after them—adult members of the household. That is caught in sections 4, 6, 10, 19, et cetera. So that example has been amplified into the law right now. The only thing that is left outstanding here right now is whether one separates, in the manner that you have suggested, the chapeau. Because that is what you are ultimately suggesting—delink the consanguinity or affinity from being a member of the household. We have done
that for the elderly. We have done that in the dating relationship. The only one that we have not done that for is the visiting relationship, and the visiting relationship has not been amended because I am awaiting the Jones decision, because the visiting relationship is where you define husband and wife, and that is where that mischief is. So I need the Jones decision. This is one of the 23 laws I am talking about.

**Madam Chairman:** Sen. Mark and then Sen. Chote.

**Sen. Mark:** Madam Chair, may I suggest that this is a very important matter that we are debating at the committee stage. Could I respectfully suggest, through you, to the Attorney General, that we defer this matter for a little later on in the proceeding rather than attempting to get a decision?

**Madam Chairman:** The issue with that is that we still have to deal with Sen. Thompson-Ahye’s proposed amendments to clause 3 and it is going to get very messy if we keep dealing with one set of proposed amendments and then having to come back. So we are trying to deal with this as cleanly as we can at this stage.

**Sen. Mark:** So Sen. Haynes’ is negotiable?

**Madam Chairman:** Yes.

**Sen. Mark:** Okay. When that comes, we could always come back to this.

**Madam Chairman:** Sen. Chote.

**Sen. Chote SC:** Thank you, Madam Chairman. Hon. Attorney General, with all due respect your response does not answer the concerns articulated either by Sen. Vieira or by me. When I spoke about the situation with the elderly woman, I am not talking about someone who is in, you know, who has a caretaker living at home and upon whom the elderly person is dependent. I am talking about the phenomenon which has arisen in our society of strangers purportedly coming into the household—it may be as a tenant, it may be as a licensee, it may be as a
visitor—who have no relationship at all with the elderly person, but knows that that elderly person is living there and living there alone. So they moved into the home with a view of taking the home over together with the contents of the home, and that elderly person does not fall into—well, it could be that I have missed it—any of the categories within the legislation. So this is why I am thinking that if it is reworded, as Sen. Vieira suggests, that such a person will now be protected.

The other thing which you did not address at all was the very thing which affects communities within your constituency and many communities in urban areas where you have yards, and because there are young people in there—remember domestic violence hits the demographic of 15 to 25 the hardest—who are subject to violence from gang leaders who may or may not be related to them or who may or may not be in their households, this gives them a measure of protection. A court order is not like going to the police and trying to get a conviction for such a person. So it allows them to benefit from some kind of protection or try to benefit from some kind of protection.

We have seen videos, hon. Attorney General, of young women being beaten by alleged gang leaders circulating, you know, on social media while mothers looked on because they cannot do anything. So these people may now be protected or they may die. So let us—while I take your point with respect to Jason Jones, I disagree with it, because if we are talking about human rights, let us talk about human rights, but I am also saying, let us not throw out the baby with the bathwater.

Mr. Al-Rawi: Sure. Well, we are talking about members of the same household. So, first of all, I wish to apologize if I did not answer the second part of your question. I answered the first part in the context of addressing the issue of the elder abuse. I catch the different examples you have given me and in respect to that I
would just like to remind that we passed the home invasion and occupation legislation in this Parliament to treat with that specifically for those circumstances, because we recognize as a Government that that was a serious issue and we treated with that in the amendments to the Trespass Act in this Parliament already, where we took trespass in the non-traditional trespass sense. It was not just a regular trespass. It was where somebody actually came and occupy. So we have dealt with that one already in terms of a different law that we have passed in this Senate.

With respect to the other persons who may be beneficiaries—and I think that is a very good example you gave, the gang activity and the girl being beaten, et cetera—Sen. Vieira’s recommendation which comes to us is that we are looking at the definition of “member of the same household” and in relation to that:

“…a person who ordinarily or periodically resides in the same dwelling house as the applicant or respondent…”

The debate that we had for the several years that we were looking at this was, the argument coming against the cleaving of the consanguinity or affinity away from that, because it did not give us the comfort that it would not be too wide a provision at present. Now, I accept that one may wish to have an easier approach to protection, but in the domestic violence situation, if we look to where we look on the categories of section 4 and section 6 and then section 10 and then 19, we are saying that the application for Protection Order—forgive me, clauses, right—that caused the amendments to these sections. Right? So section 4 of the parent Act:

“An application for a Protection Order may be made by”—a person in a domestic relationship.

And when we get to “domestic relationship”, that is where the definition begins to bite and the “domestic relationship” is defined as we now propose in this Bill in clause 3, relationship—and we have defined it here:
“(a) is, in relation to the respondent—

(i) a spouse or former spouse;

(ii) a cohabitant or former cohabitant;

(iii) a child;

(iv) a dependant;

(v) a relative;

(vi) a person who has agreed to marry…

(i) a person in a visiting relationship; or

(ii) a person in a dating relationship;”

We have introduced “dating relationship” to mean:

“...where the parties do not live together in the same household, but may be engaged in romantic, intimate or sexual relations;”

Visiting relationship was a previous amendment. It stands unamended as a non-cohabitation relationship, which is otherwise similar in relationship between husband and wife. That is the one that I told you I was waiting on judicial pronouncement on to assist me with. The difficulty that I have in accepting the recommendation coming right now is that the caution—and CPC leaned over to me again when the suggestion was made to say that the position from a policy perspective and the umpteen discussions we have had is that that door will be opened too widely.

When I look to the other jurisdictions, I am not seeing that relationship just yet, unless we treat with the simple Jones decision position, because that is in many senses what we are trying to achieve and which we want to achieve. What I am saying is that I am temporarily hamstrung by awaiting the decision of the courts on the issues mainly because of the caution that I am exercising in the saved law principle. And, as you know, that is now in two different directions. There is
the CCJ saved law principle which has happened in the sedition case versus the
Privy Council decision. So it is not that I do not want to treat with the issue, it is
that there are quite a few moving parts around that issue that need to be settled.

So, from the definition of members of the same household perspective and
the risk to child, adult, relative, person in—trespass has taken care of the persons
who come and occupy those positions—when I dust all of those things away, the
only thing left right now is to treat with the equality argument as Sen. Vieira very
passionately put it forward. And what I am saying is, it is not that I am afraid to
deal with the issue, it is that I want the issue to be settled because there are other
moving parts on the issue, and what I am suggesting by the settling is the Privy
Council’s decision on the matter.

**Sen. Thompson-Ahye:** Yes. Through you, Madam Chair, I would like to ask the
Attorney General what was his thinking behind the amendment to the Sexual
Offences Act? Because I am at a loss, because you were very clear in what you
said to the United Nations Human Rights Council. So I am really having a
difficulty in tying this up with what you are saying now, because there was no
doubt in your mind that this fits in squarely within the four corners of our
Constitution and you are talking about a gender neutral position and you were very
strong in your view that you needed to provide protection for victims of violence in
same sex relationship. These are your words, and that is the same thing that we are
doing here.

**Mr. Al-Rawi:** So, Madam Chair, most respectfully, this is a much larger
discussion about same-sex relationships. I have been on record, I have answered in
my tenure as Attorney General very carefully and clearly, the Government’s
position on this. We are awaiting the outcome of the Privy Council’s decision in
the Jason Jones matter. We are doing that for two reasons: one, the saved law
issue, because all saved laws fall into that, and that is no small issue and I am sure every lawyer in this room will understand what I mean. But the second issue is that there are 23 other laws that I have to factor in this equation.

Sen. Vieira: Attorney General, the courts do not make the law. The courts interpret the law. We make the law.

Mr. Al-Rawi: It is true.

Sen. Vieira: If we say this is what we want, it is our law.

Mr. Al-Rawi: And in answer to that, Madam Chair, when I make a law here, the issue of implied repeal becomes very relevant. So if I touch a law today on an issue in one piece of law, the learning in law by way of interpretation is that there is an argument of implied appeal, and I am intimately aware of that, that is why I took Senior Counsel’s opinion on the matter and why we said that we wanted the court to interpret the principle of law for us in clear terms.

Madam Chairman: Hon. Senators, I think that there has been enough discussion on this particular proposed amendment. So the question is that clause 3 be amended as circulated by Sen. Vieira.

Question, on amendment, [Sen. A. Vieira] put.

Madam Chairman: I beg your pardon?

Sen. Vieira: Division.

Madam Chairman: So, as you know, we allow for three minutes for all Senators to return to the Chamber. Sen. Vieira, as the Members are coming in, did you talk to (b) of your proposed amendment, because I have just put a vote on your proposed clause 3, but I am seeing there is a (b)? Sen. Vieira: Do you want me to speak to (b)?

Madam Chairman: Let me just—yes, you can go ahead. We will suspend the division until we just treat with it?
6.05 p.m.

Sen. Vieira: Yes, so:

“3 ‘sexual abuse’ includes sexual conduct of any kind that is coerced by force or threat of force and the commission of or an attempt to commit any of the offences listed....”

But I am aware of situations where people have had communicable diseases and they inflicted it on a spouse or a loved one because they never told the person that they had that disease and give them the option or taken a precautionary measure, and I certainly think that the definition of sexual abuse should be expanded to deal with that situation, and that is the rationale of my proposed definition.

Madam Chairman: Sen. Vieira, if I may, so we are treating with this at page 12 of the Bill? Is that correct, page 12 at (o)?

Sen. Vieira: So in B, which is the definition of sexual abuse—

Madam Chairman: Yeah.

Sen. Vieira:—would be—where is it? Is it in page 12?

Madam Chairman: Page 12—


Madam Chairman:—at sub (o).

Sen. Vieira: Well, I did not—yes, it would be at B.

Madam Chairman: But could we ask Sen. Vieira, what are the words that you want, because you have just simply said there would be—or you have not simply, you have said it “…should be expanded to include…”, but when you are proposing an amendment, it has to be specific to the Bill. Yes?

Sen. Vieira: Indeed, Chair, and I confess that I did not have a chance to actually frame the words, I just drew the attention to the desired outcome, but I will work on the words for you.
Madam Chairman: Well, you will need to work on the words now because we have just called in the entire Chamber to deal with a vote on clause 3, but we have not dealt with the latter part of your amendment. So can we try and treat with it now? With—

Sen. Vieira: I withdraw it. I withdraw it, and perhaps maybe—

Madam Chairman: So you are withdrawing the latter part, B?

Sen. Vieira: The latter part only.

Madam Chairman: Members, we are treating with the proposed amendment circulated by Sen. Vieira. Sen. Vieira has indicated that the second part of his amendment at B has been withdrawn. So the question is that clause 3 be amended at A as circulated by Sen. Vieira.

Question, on amendment, [Sen. A. Vieira] again put.

Madam Chairman: I think Sen. Vieira has called a division.

The Committee divided:

AYES
Richards, P.
Chote, SC, Ms. S.
Vieira, A.
Seepersad, Ms. C.

NOES
Khan, F.
Gopee-Scoon, Mrs. P.
Baptiste-Primus, Mrs. J.
Rambharat, C.
Sinanan, R.
Moses, D.
The following Senators abstained: Mr. W. Mark, Ms. A. Haynes, Ms. K. Ameen, Mr. S. Sobers, Mr. N. Trancoso, Mr. R. Amar, Dr. V. Deyalsingh, Ms. A. Deonarine, Mr. D. Teemal and Mrs. H. Thompson-Ahye.

[Madam Chairman confers with Clerk]

Madam Chairman: Hon. Senators, to ensure that the records are accurate, the division will be redone. [Crosstalk] We have to get the records.

The Committee divided: Ayes 4 Noes 16

AYES
Richards, P.
Chote, SC, Ms. S.
Vieira, A.
Seepersad, Ms. C.

NOES
Khan, F.
Gopee-Scoon, Mrs. P.
Baptiste-Primus, Mrs. J.
The following Senators abstained: Mr. W. Mark, Ms. A. Haynes, Ms. K. Ameen, Mr. S. Sobers, Mr. N. Trancoso, Mr. R. Amar, Dr. V. Deyalsingh, Ms. A. Deonarine, Mr. D. Teemal and Mrs. H. Thompson-Ahye.

Question negatived.

Madam Chairman: We now move on to the amendment as proposed by Sen. Thompson-Ahye. Sen. Thompson-Ahye, can we go through at A, B, C, D, E and F? I will go through A and then I will get the comments and we will do it like that. Okay?

Sen. Thompson-Ahye: Okay. At A, it should be “domestic relationship”, that is what I have. There is a little typo there.

“…by deleting subparagraph (b) and substituting the following subparagraph:

‘(b) is or was, in relation to the respondent -”
All I did really is add a person in a same-sex relationship, and as I said in my contribution, it is clear from the Attorney General’s own admission that it is part of our Constitution, that the Government has given a firm commitment that they want to protect the rights of everyone, including those in same-sex relationship. And they have said in support of their case that they have amended the Sexual Offences Act, 1986, to reflect a gender neutral position with regard to the complainant and the victim. It is a human rights issue and I do not see how this could be sustained. I do not understand the Attorney General’s argument with regard to his reluctance or, you know, to cause this amendment to be made.

**Madam Chairman:** Any other comments on Sen. Thompson-Ahye’s proposed amendment at A before I call on the Attorney General to respond? Attorney General.

**Mr. Al-Rawi:** I thank the hon. Senator for raising quite squarely what is properly a human rights issue. I have no reluctance and no fear to deal with this issue nor have I been lacking in clarity as to why I am not accepting the amendment at present. For the record, I wish to repeat as follows, I consider this a very important issue that we as a society have to deal with. The only reason that I have not accepted the proposed amendment is that the matter of Jason Jones, which squarely concerns the issue of equality of treatment for same-sex relationships went to the first instance decision at the High Court and succeeded, went to the Court of Appeal, and from the Court of Appeal, will go to the Privy Council.

That case concerns two aspects, one, whether the saved law prior to 1962 and prior to our ’76 Constitution can still prevail and secondly, whether it is just or reasonable in a society such as Trinidad and Tobago to not acknowledge same-sex relationships. Because there are 23 other laws that treat with the issue of same sex relationships, in everything from the Cinematograph Act, to the hotels Act, to the
Immigration Act, because there are 23 other laws that treat with that, I accept what Sen. Vieira said a little while earlier that the courts are there to interpret our law. But more particularly, the courts are there to determine what is constitutionally fair. It is not just interpretation of law, it is what is just and reasonable in a society such as Trinidad and Tobago within the ambit of section 13 of the Constitution, not that it is a section 13 issue, but it is a rights issue.

In those circumstances, my reluctance is not a reluctance. It is a position that I take that at present I cannot advise the Government of the Republic of Trinidad and Tobago, as the legal advisor to Trinidad and Tobago, to amend the law now because the issue of implied repeal will kick into the 23 other laws. Let me make it abundantly clear, I am not afraid to touch law or human rights issues, nor is our hon. Prime Minister when that report was approved by the Prime Minister, by the Cabinet. We believe in equality but we believe that our laws are not designed only by ourselves. There is a process of consultation and there is a process of feedback. That is why the “whether laws are just in a society such as Trinidad and Tobago” has to be factored because it is not Faris Al-Rawi’s law. And for those reasons I wish to make it clear, out of the greatest of respect for my hon. colleagues, it is not that there is any “afraid” issue inside of here, it is an issue of having to be consistent in the approach of law, and that is all that it is.

I have set out a very clear path that the Privy Council, which is the highest court of Trinidad and Tobago, will no doubt have to consider this issue and then a government will be guided by this issue. I want to remind that when we were debating the abolition of child marriage, I raised the very issue of a court striking down child marriage. In this case, it was the court of Tanzania, and in opposition to what was being promoted by the UNC Bench at that point in not wanting to support the law, I reminded that a court could strike down a law, it is the same
thing that applies in this instance here. So out of the greatest of respect, it is not fear, it is a matter of consistency so that we are guided in a whole of Government position.

**Sen. Thompson-Ahye:** It is a matter of consistency with what you have said here. Are you going to go back and tell the United Nations Human Rights Council that you made a mistake and all that you said is no longer relevant?

**Madam Chairman:** Sen. Thompson-Ahye, can you now move on to paragraph B, please?

**Mr. Al-Rawi:** Madam Chair, I must answer what was just put on the record.

**Madam Chairman:** No, in fact, I actually was not going to treat with that comment at all. I think that you were given an opportunity to respond and I am now asking Sen. Thompson-Ahye to move on B.

B. At subparagraph (j), in the definition of ‘emotional or psychological abuse’, by deleting subparagraph (xii) and substituting the following subparagraph:

‘(xii) any other controlling, threatening, intimidating or coercive behaviour towards the person or his child or dependant;’

**Sen. Thompson-Ahye:** Thank you, Madam Chair. What I am proposing at B is to include the word “intimidating” as a factor in the “emotional or psychological abuse”, and I use as the example of the client who smashed the things that he owned in the house to instil fear within the heart of his wife. I thought it would be useful to include that word so that if it happens again, that same situation, that hopefully I would be representing the other side maybe, but it means that the case would not be lost because certainly it would be a domestic violence offence; it would be clear.

**Mr. Al-Rawi:** Madam Chair, I agree with Sen. Thompson-Ahye, that the inclusion
of the word “intimidating”—because that is essentially the addition would take us into a better position.

**Madam Chairman:** Sen. Chote.

**Sen. Chote SC:** Madam—

**Sen. Thompson-Ahye:** Should I go on to C?

**Sen. Chote SC:**—sorry.

**Madam Chairman:** Sen. Chote.

**Sen. Chote SC:** Madam Chair, could I just be guided, please, because I had also wanted to raise an issue with this particular subsection, should I do it now or wait until after the vote because it deals with the same, it is just the inclusion of the word “language” to deal with religious coercion and intimidation, and so on?

**Madam Chairman:** Are you on B?

**Sen. Chote SC:** Yes.

**Madam Chairman:** Well that is what we are treating with, so, yes.

**Sen. Chote SC:** Yes.

**Madam Chairman:** Yeah.

**Sen. Chote SC:** So, through you, Madam Chair, hon. Attorney General, I was wondering whether we could possibly include the word “language” in this subsection, language or words, or something like that in this subsection to deal with the issue of the use of religious belief for the purpose of controlling threatening, intimidating, and so on. I do not know if that is captured elsewhere in the amended version of the Act, but if it is not, I would respectfully ask you to give consideration to it.

**Sen. Thompson-Ahye:** May I assist?

**Mr. Al-Rawi:** May I? Sorry, I thought you were waiting for other contributions. Okay. So, Madam Chair, if I look at the—this is all the definition of “emotional or
psychological abuse” and we are deleting that rather limited expression as we had before contained in the Act and we have gone for a rather expansive definition. What jumps out at me is (x) on page 10:

“making unwelcome or intimidatory contact with or acting in any manner described in subparagraphs (i) to (v)…”

And (i) to (v) includes:

“(i) intimidation...abusive...threatening language;
(ii) ...offensive material..
(iii) following the person…
(iv) depriving that person of the use of his property;
(v) ...watching or besetting of the place where the person resides, works, carries on…”

And then we get down to towards:

“(x) (A) ..child…
(B) ...spouse…
(C) ...cohabitant…
(D) ...relative…
(E) a person who is in a visiting or dating relationship…
(F) a person who is in a close relationship with the person…”—that is actually quite interesting—“a person who is in a close relationship with the person, by any means, including in person, verbally or by gesture, letter, telephone or electronic means;”

So I thought that we could capture that use of religious belief although not completely coming towards it by that broad-based adoption of what in fact is intimidatory or otherwise. My general red flag that runs up in my mind legislatively where I introduced the concept of religious belief being used as a tool
is that I do not know where to draw that line, particularly insofar as this affects children and adults, and insofar as the freedom of religion is a concept that we have to be conscious of. Even though I think that the Suratt principle applies and that this will not necessarily require a three-fifths concern— because it is ultimately for the court to decide if that behaviour was something which was offensive and therefore, due process solves the need for a three-fifths majority.

I am sort of concerned about the concept of how to encapsulate the religious doctrine as a technique of abuse. So I had not seen it in any other law that jumped out at me and that sort of tells me, “Be careful”.

Madam Chairman: Sen. Chote.

Sen. Chote SC: Just to briefly clarify, it is tied in with the whole idea of how domestic violence takes place in certain circumstances where you have a man who feels threatened in his masculinity for one reason or another, whether his wife is earning more money than he is, or that kind of thing. And I have had the experience as an attorney where women have been the victims of domestic violence because the man guilt trips her and says, “Well, I am the head of the household so you are supposed to be, you know, doing certain things or you are supposed to be accepting of certain things”, which may be abusive. So it is not confined to one religion, it is, I mean, funny enough, it is spread across religions. And it is not really religion we are talking about, but it is doctrine.

So perhaps I misspoke when I used religion. I only used that because it happened to be in the context in which I experienced it.

Mr. Al-Rawi: Understood. Yeah.

Sen. Chote SC: So, doctrinal abuse. So I was wondering whether the insertion of the word “language” would afford a measure of protection to such persons.

Mr. Al-Rawi: May I? Thank you, hon. Senator, for clarifying, I understand it now
in the context of an example and it certainly is a good one. I thought that we had captured it in the context of verbally, particularly if we take on board Sen. Thompson-Ahye’s recommendation:

“(xii) any other controlling, threatening, intimidating or coercive behaviour towards the person or his child or dependant;”

If we were to put that amendment proposed by Sen. Thompson-Ahye, I think that combination between (x) and (xii) helps us into that zone.

**Madam Chairman:** So, Attorney General, you are therefore willing to accept B of Sen. Thompson-Ahye’s proposed amendments? Yes?

**Mr. Al-Rawi:** Yes, Madam Chair. May I just word check it?

**Madam Chairman:** Sure.

**Mr. Al-Rawi:** And “…other controlling, threatening”—

**Madam Chairman:** “any other…”

**Mr. Al-Rawi:** Yes, sorry, sorry. I am just reading left and right-hand:

**Madam Chairman:** Sure.

**Mr. Al-Rawi:** “any other controlling, threatening”—so now we are adding the word:

“…intimidating or coercive behaviour towards the person or his child or dependant;”

Yes, so that effectively is to insert after the word “threatening” the word “intimidating”. I do not know how you propose, Madam Chair, because we have C, D, E and F to go through.

**Madam Chairman:** Yes, we have just been trying to work it out and what I think I will have to do is each of these we will put to the vote and then put it overall. Yeah? So we will put each—*[Interruption]*—but I want to go through, because Sen. Thompson-Ahye may choose to withdraw some parts of her amendments, so
we are just trying to—

Mr. Al-Rawi: I was just going to assist by saying that if we got to the end where there was a hodgepodge of yeses and noes, then I could indicate what was agreeable, and perhaps the hon. Senator could make a decision at that point, whether I absorb the amendment or not.

Madam Chairman: Yes, correct. So, so far you seem to be absorbing B.

Mr. Al-Rawi: Yes, Ma’am.

Madam Chairman: Sen. Thompson-Ahye at C.

Sen. Thompson-Ahye: Adding “unauthorized” it is really bringing the law into the 21st Century here:

“(xiii) unauthorized surveillance of a person including the reading a person’s SMS messages, monitoring a person’s email account or internet browser history, monitoring a person’s account with a social networking internet site, using a GPS device to track a person’s movements and checking the recoded history in a person’s GPS device…”

I think this came from Queensland, Australia.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Yes, Ma’am, it is taking us into the modern world but it is technologically specific; it is my fear, because whereas an 8-track tape, an 8½ inch floppy, a four inch drive and a CD-ROM and DVD used to be all current technology, they are no longer in use. All of this really gets down to behaviour and I really wanted to not accept—we did look at New South Wales, Queensland and Australia in general, and we did not want to go for the technological specificity of language and instead to look at the issue of behaviour. So may I respectfully not accept the recommendation only because it is too technologically specific and can be caught under behaviour.
Sen. Thompson-Ahye: Which one will this fit into?
Mr. Al-Rawi: It would fit into (xii), (xiii)—
Sen. Thompson-Ahye: I do not see—
Mr. Al-Rawi:—(x), (vi).
Mr. Al-Rawi:—(v), (iii) and (viii).
Sen. Thompson-Ahye: There is no contact though.
Mr. Al-Rawi: (viii) for example—
Sen. Thompson-Ahye: So it is just—it is surveillance.
Mr. Al-Rawi: “making unwelcome or intimidatory contact with the person by any means, including in person, verbally or by gesture, letter, telephone or electronic means;”
Sen. Thompson-Ahye: Surveillance is not contact. You are away from the person.
Mr. Al-Rawi: Let us see if we can find surveillance to park anywhere inside of here.
Sen. Thompson-Ahye: It is not parliamentary language but it is really “macoing”.
Mr. Al-Rawi: Yeah, but that is a physical limitation from place to place. You see, Madam Chair, my difficulty with “electronic surveillance” is evidence and more particularly, how can it be abused. Let us suppose somebody—we had this huge problem in the cybercrime committee entering or remaining in without authorization to a system, cloning of phones, all of these aspects. We ran into the technological difficulties which the Budapest Convention—Sen. Mark has had a lot of concern over that particular convention, and then when you look to the UN aspects. So my problem is what about an innocent infringer, how do I catch that? My alarm bells are ringing on technological specificity and I prefer to go for the court to interpret the behaviour, the intimidatory behaviour, the pattern of conduct,
et cetera, which can be tantamount to domestic violence.

6.35 p.m.


Sen. Richards: Thank you, Madam Chair, through you. With regard to (viii), hon. AG, would the words “uninvited and unauthorized” instead of “unwelcome” be offensive to you?—because “unwelcome” is so subjective as opposed to “uninvited” or “unauthorized”.

Mr. Al-Rawi: I think it is the intent to have a degree of colour, if I could put it that way.

Sen. Richards: What does that mean?

Mr. Al-Rawi: “Unwelcome” means more than uninvited, because something may be uninvited and welcomed as opposed to something being both.

Sen. Richards: I have not gotten your trend of thought, apologies.

Mr. Al-Rawi: So, for instance, if an attractive young lady comes up to me and says certain sweet things to me, as my wife did many years ago, it may have been uninvited, but it may have been welcomed.

Madam Chairman: I think I am lost at this stage.

Mr. Al-Rawi: We are looking at (viii), Madam Chair.

Madam Chairman: I know. I know. I think someone else needs to give a distinction between “uninvited” and “unwelcomed”.

Sen. Richards: I appreciate that because, to me, I have a different interpretation of “unwelcomed”. “Uninvited” is more decisive to me.

Madam Chairman: So someone—if, Sen. Richards, you are having a party and somebody who is uninvited turns up, and you look at them and you say, “Oh lord, you know, I really meant to invite you and I did not, but come in”.

Sen. Ameen: You are still welcomed.
Madam Chairman: Welcomed. So he is uninvited, but he is not unwelcomed, you know what I mean? Is that not what you are trying to say, Attorney General? Take out the ladies and leave this?

Mr. Al-Rawi: Madam Chair, let me—

Madam Chairman: Let us go with the part.

Mr. Al-Rawi: Let me be specific. Madam Chair, if I could just qualify. The reason why I make reference to ladies is that I am a twin, I have a twin sister. So forgive me, I have a prospective of both of us, it is always us and not I. So if I put it this way. The reason that we went for “unwelcome” when we are discussing the sexual harassment law which we have been in discussion with, the question of a Trinidadian whistling at an attractive person because it goes both ways, became a position; that was an uninvited issue. The question is whether somebody had really crossed the line to the point of it being unwelcomed. So, I do see a distinction between “uninvited” and “unwelcomed” in our society.

Sen. Richards: But if that is the appropriate legal term, I am fine with it.

Sen. Ameen: Madam Chairman—

Madam Chairman: Yes, Sen. Ameen.

Sen. Ameen: I just want us to be mindful that this Bill does not only deal—

Madam Chairman: Could you just speak up. Sen. Ameen, I am not hearing you.

Sen. Ameen: I just want us to be mindful that this Bill does not only deal with domestic violence between two persons who are in a relationship. We also have children and elderly persons coming into the mix. If I as a parent from time to time check my children or spouse, my children’s whereabouts via the GPS on their device whether it is a cell phone or iPad and so on, there are many parents who track their children using apps on their devices. Any child, a rebellious teenager, could then, is now empowered by this law to go and report that parent, and they
will be committing an offence according to this Act. So I think it is very important that we clearly define this idea of surveillance, unwanted surveillance, because it is an issue because it can be used for intimidation, as opposed to be used for protection and safety.

So even if it means coming back to this and getting a proper phrase to define it, I think it is important that we properly address it without allowing the space for abuse by, for example, a rebellious teenager who is trapped by their parents using GPS on a device.

Madam Chairman: Any other comments on—

Sen. Thompson-Ahye: I quite understand what Sen. Ameen said, and although there is a right to privacy in the child, there is also a right, you know, of the parent to safeguard the child, and there is a lot of case law on that. So I do not think that is an issue that would arise in the circumstances where there is justification, you know; we could have this discussion outside, but I do not think you have anything to fear.

Madam Chairman: Sen. Chote.

Sen. Chote SC: I do not know if I, you know, you put lawyers in a room and each one would have a different point of view, but I understood Sen. Ameen to be supporting the proposal by saying, when you specify and say it is unauthorized it means that a parent is authorized, so the parent is protected from any complaint made by or on behalf of the child, in addition to which, hon. Attorney General, again we have to return to the demographic that we are dealing with, which is at highest risk, and unfortunately, there have been so many instances of one party tracking the other by, not only checking their phones to see who they are talking to or messaging and that kind of thing, but also finding their whereabouts which is pretty dangerous because it means that if you could find the person’s whereabouts
electronically, you could also find yourself there with a weapon. So I think there is some merit or there is a great deal of merit to having this set out in this way. And certainly if it is an issue that the courts will have to grapple with, the courts will grapple with it, as they have grappled with many other descriptions of electronic evidence.

Mr. Al-Rawi: May I, Madam Chair?

Madam Chairman: Yes.

Mr. Al-Rawi: Thank you, hon. Senators. First of all, may I just genuinely say, I really do appreciate the perspectives being volunteered. I know we are all trying to get to a better law. Please do not take anything as sharp disagreement with any personality. I welcome the perspectives.

How about, well first of all, I will remind that the definition of “emotional or psychological abuse” includes. So the chapeau is:

“(a) any act or omission or pattern of behaviour of any kind, the purpose of which is to undermine the emotional or mental well-being of a person who is in a domestic relationship with the respondent…”

—and then it says, “including…” So we do not say the word “means”, to put it limited, but catching nonetheless Sen. Thompson-Ahye’s modernity and also the last submission coming from Sen. Chote perhaps at (v) if we were to look at an amendment which looked like this—and I am just going to say it aloud, Madam Chair. Just after the word “the” and before “watching”, the “surveilling, watching or besetting of the place where the person resides, works, carries on business or happens to be”—by including electronic means?—“by electronic or any other means”. That could probably capture that context of well, Parliament in its wisdom did not intend that electronic surveillance was out or in.

Sen. Chote SC: Why do we not simply say then, “by any means whatsoever”?
Mr. Al-Rawi: We could. I was trying to capture Sen. Thompson-Ahye’s position of the electronic.

Sen. Chote SC: Yeah. But by any means would be—

Mr. Al-Rawi: But by any means whatsoever—

Sen. Chote SC: Any means would be electronic—

Mr. Al-Rawi:—take us out of the technological specificity.


Mr. Al-Rawi: Yeah? So, Madam Chair, then it would be and God knows whose amendment this would be, but it would be in (v) after the word “the” inserting the word “surveilling,” it will continue down to the end just before the “;” “by any means whatsoever”—or do I really need the “whatsoever”? By any means; just “by any means”. Thank you, Ma’am.

Madam Chairman: At page 9 sub (v) including the word—

Mr. Al-Rawi: Surveilling.

Madam Chairman:—“surveilling”, after “the”. So “the surveilling” and including the words after “happens to be by any means”.

Sen. Thompson-Ahye: Could we put “by any means”? “Where it happens to be by any means” does not fit as I want; “besetting by any means”, before, “of the place”. It would fit better there rather than coming and qualifying “happens to be by any means”. It is a different, different meaning altogether.

Madam Chairman: Attorney General.

Mr. Al-Rawi: The CPC’s views that we put “by any means” at the end to capture the widest import, as opposed to the ejusdem generis, the words qualifying towards the end. You think?

Sen. Thompson-Ahye: Sorry. You want it at the end?

Mr. Al-Rawi: No, CPC is saying an alternative could be after the word “besetting”
we could put “by any means”.

**Madam Chairman:** That is what Sen. Thompson-Ahye was suggesting.

**Mr. Al-Rawi:** Oh. I am sorry. I just did not know where the hon. Senator was locating it. I apologize.

**Madam Chairman:** No. That is all right.

**Sen. Thompson-Ahye:** Apology accepted.

**Madam Chairman:** So, Sen. Thompson-Ahye, having said that, will you therefore withdraw your proposed C in your amendment?

**Sen. Thompson-Ahye:** I am just checking on the word that he used there.

**Madam Chairman:** Sen. Vieira.

**Sen. Vieira:** I am just thinking, if you are going to use the word “surveilling”, you do not need “watching”, it becomes redundant.

**Sen. Thompson-Ahye:** I am looking at that word actually, Sen. Vieira. It is not within my vocabulary.

**Mr. Al-Rawi:** I kinda got the idea that “watching” was slightly different from “surveilling” because it included an “I am there, I am watching you” as opposed to “surveilling” which could capture the electronic watching and tagging.

**Madam Chairman:** So, Sen. Thompson-Ahye, will you withdraw your proposed (xii) from your amendments to clause 3?

**Sen. Thompson-Ahye:** And adopt the Attorney General’s recommendation?

**Madam Chairman:** Yes.

**Sen. Thompson-Ahye:** For now until I check to see that is a proper word, yes, I will. I reserve the right to come back if I do not find it in the dictionary.

**Madam Chairman:** And can we move onto your E?

**Sen. Thompson-Ahye:** Oh. This was captured, I think we discussed this when we were discussing Sen. Vieira’s first proposal, the relationship where the applicant
and respondent share or shared the same residence, or are co-tenant. I think the same arguments would apply? What did we do with that? Did we accept that?

**Madam Chairman:** So, in light of that, are you withdrawing it?

**Sen. Thompson-Ahye:** “The applicant share or shared the same residence”. I will take my chances. I would not withdraw it at this stage. I will hear what the others have to say.

**Madam Chairman:** Sorry. I am not hearing you.

**Sen. Thompson-Ahye:** I will not withdraw it yet. I will hear what the others have to—if there is anything—

**Madam Chairman:** Well, could you therefore, indicate the basis of the amendment proposed at E, please?

**Sen. Thompson-Ahye:** The basis of the amendment is that—what we had was not capturing the reality of life, where people I say, they exist, they coexist in relationships which do not involve a blood relationship or one by marriage, but they live in the same household.

**Madam Chairman:** Any other? Anyone else wishes to speak on this before I ask the Attorney General to respond? Attorney General.

**Mr. Al-Rawi:** Thank you, Madam Chair. I do understand—

**Madam Chairman:** Sen. Ameen.

**Mr. Al-Rawi:** Sorry.

**Sen. Ameen:** Yeah. Madam Chair, one of the things that I mentioned in the debate, I do not know if it will—

**Mr. Al-Rawi:** I am sorry. I am not hearing you.

**Sen. Ameen:** One of the things I mentioned in my contribution and I am not sure if you want to take it on board at this point is what I referred to as Caribbean relationships. I am aware that there are situations where, for instance—
Mr. Al-Rawi: Sorry, what relationships?

Sen. Ameen: Caribbean relationships.

Mr. Al-Rawi: Caribbean?

Sen. Ameen: Yeah. I am aware that, for instance, I have had encounters where a woman, who I will call the abuser, lives in a house with her partner, a man, but next door lives her brothers or other male relatives. And when they have an argument, the brothers would intervene and beat the man. He is a victim of abuse, and it is it domestic because it comes from her directive, she as his spouse, but she is not physically doing the abusing, but the relationship of a person living next door or in another—that is not in the same home, is not captured. That is one instance I wanted to raise.

And the other one is where you have a child that is not a child of the relationship, as they say here, is not adopted, it might just be a child who is living with you because that is your “macomeh” child and you are taking care of the child, it is your godchild or it is some aunty friend child living with you, so there are children who are not related, not adopted legally, but are living in a home and may experience abuse.

Madam Chairman: Yes. Sen. Mark.

Sen. Mark: I just want—I would like to support what Sen. Ameen is saying. And through you, Madam Chair, I can raise with the Attorney General this category of persons who are living in the same house, but they are not related by blood or affinity. They could be boarders, people coming to, you know, board as the case may be, but they are living friends, dependants, but they can become subject to domestic abuse. So, I just wanted to ask the Attorney General, how do we treat with those individuals who are not blood related or there is no affinity?

Madam Chairman: So, Sen. Mark, we are treating with Sen. Thompson-Ahye’s
proposed amendment at—

**Sen. Mark:** Same household.

**Madam Chairman:** So—right. Okay. Attorney General.

**Mr. Al-Rawi:** Thank you, Madam Chair. So, Madam Chair, the person who lived as the abuser and who had her brothers come across and beat the man, is caught under domestic violence. That person has caused someone else to carry out their intimidatory or physical or other positions, and the law clearly captures that.

Secondly, those people will also be responsible under law, under several other laws, the Criminal Law Act, the common law, Offences Against the Person, et cetera, harassment, et cetera.

With respect to the child, we have taken the most expansive definition of “child” now to include a child being someone caught under the person who has responsibility for the child. So what we did is, we borrowed the terms from the Children Act No. 12 of 2012, a person with responsibility for the child, i.e., a god child or any other child or looking after the child, all of those people are caught under this law because we have captured the concept of having care and custody in any form or fashion with responsibility for the child. So that child is caught and protected in those circumstances.

With respect to Sen. Mark's enquiry as to people who are not in the same household with the degree of affinity, we will have to go back to the definition of “domestic violence”. Domestic violence is then triggered to the definition of domestic relationship. Domestic relationship has multiple avenues to it, “visiting relationship”, “dating relationship”, vertical arrangements to people who are reliant upon elder situations. Downward relationships, vertically downward relationships to children, horizontal relationships in degree of consanguinity or affinity, and adults who then find themselves in the category of the dependant bracket. So it is a
fairly wide bracket.

In section 6 of the Act as we cause it to be amended, just to underscore the point to Sen. Ameen. Section 6(1) we amend to include causing or encouraging another person to engage in conduct referred to in (i) to (vii), and that is, of course, all of the grounds of beating someone or coercing them, et cetera, so we have caught all of the aspects to this.

**Madam Chairman:** Attorney General, and in response to Sen. Thompson-Ahye.

**Mr. Al-Rawi:** Sen. Thompson-Ahye, I responded to previously. Is there something further that I missed, Madam Chair?

**Madam Chairman:** Okay. So you have responded to her proposed amendment at E.

**Mr. Al-Rawi:** So, Madam Chair, what I would like to do is to go a little bit further than I had suggested in the (v), because if we look to that amendment and if you would just permit me, this is page 9 of the Bill in (v), I had suggested trying to capture Sen. Thompson-Ahye’s recommendation that we insert the word “surveilling,” after the word “the” “watching or besetting by any means”, and I would like to include now, “of the person or of the place” so that we capture both the surveilling of the person and the place which will capture that whole GPS and tracking and other positions recommended in Sen. Thompson-Ahye’s C. So if I could repeat it? It is after the word “besetting by any means of the person or”. After the word “the”, first line.

**Madam Chairman:** And you have dealt with E?

**Mr. Al-Rawi:** Well, yes, Madam Chair, E is a recitation of the previous discussion that we had in relation to both Sen. Vieira and Sen. Mark’s earlier concerns.

**Madam Chairman:** Sure. So, Sen. Thompson Ahye—

**Sen. Thompson-Ahye:** I did not hear the exact wording, Madam Chair.
Madam Chairman: Well before—
Sen. Thompson-Ahye: I got “by any means”.
Madam Chairman: “by any means of the person or”.
Sen. Thompson-Ahye: Surveilling, watching or besetting.
Madam Chairman: So it will read, “the surveilling, watching or besetting by any means of the person or of the place where the person resides”.
Sen. Thompson-Ahye: And down to the end?
Madam Chairman: Yes.
Sen. Thompson-Ahye: That is fine. Surveilling is sounding good. Thank you.
Madam Chairman: So, Sen. Thompson-Ahye, let us just now, we have dealt with all aspects of your proposed amendment. The question to you is, the Attorney General has indicated that the amendment proposed by you at B, he will, to use his word, “absorb”. Do you still wish to pursue A, C, D, E and F?
Sen. Thompson-Ahye: A, C— So he accepted D. So we just have the C, E.
Mr. Al-Rawi: I have accepted C insofar as I have proposed an amendment to (v) at page 9. So effectively, Madam Chair, if I may, I agree with amendments proposed in paragraph B—
Madam Chairman: And you have just said—
Mr. Al-Rawi:—and I have adjusted the amendment proposed in paragraph C by absorbing in (v).
Madam Chairman: Correct.
Sen. Thompson-Ahye: That is fine. Yes. I accept what he is saying with the amendment as proposed.
Madam Chairman: Do you wish—
Sen. Thompson-Ahye: So I would, yes, I would withdraw and go with his.
Madam Chairman: So you are withdrawing?
Sen. Thompson-Ahye: Yes, I will.

Madam Chairman: A?


Madam Chairman: So therefore, what I will have to do is to treat with Sen. Thompson-Ahye’s amendment in two parts. Okay? So we will deal with A first and then we will deal with B. You have withdrawn C, E, and F, because the Attorney General will subsequently amend (v).

Sen. Thompson-Ahye: All right.

Madam Chairman: Are you withdrawing C, D, E and F, Sen. Thompson-Ahye?

Sen. Thompson-Ahye: E and F?

Mr. Al-Rawi: E and F are the renumbering.

Sen. Thompson-Ahye: Yeah. That is fine then.

Madam Chairman: So it is really C and F.

Sen. Thompson-Ahye: I feel confident, Madam Chair, that E will come in miscellaneous provision before very long.

Madam Chairman: So you are withdrawing all of it, but A and B?

Sen. Thompson-Ahye: Yes, please.

Madam Chairman: Correct?

Sen. Thompson-Ahye: Yes, please.


Sen. Thompson-Ahye: Could I really have a division? I would like to know who are saying no.

Madam Chairman: Sure. On A, 3A, Sen. Thompson-Ahye’s which deals with the same sex relationship. Just A. Yes. So I think we are in a position to begin the division. Yes. If anyone comes in while the vote is being conducted, their votes will be recorded. I want to remind Senators the division is on clause 3, A as
proposed by Sen. Thompson-Ahye and circulated. That is what we are treating with right now.

**Sen. Thompson-Ahye:** I think there is a little confusion because all I am doing is adding 3, the other two are already there. The way this is worded, you know—

**Madam Chairman:** It does not have to go on what you have worded in the amendment here. So it is 3, A. You have just explained that the only difference will be at B (iii) in A. Correct?

**Sen. Thompson-Ahye:** That is right.

**Madam Chairman:** Yes. Thank you.

*The Committee divided: Ayes 4 Noes 15*

**AYES**

Chote SC, Ms. S.
Deonarine, Ms. A.
Seepersad, Ms. C.
Thompson-Ahye, Mrs. H.

**NOES**

Khan, F.
Gopee-Scoon, Mrs. P.
Baptiste-Primus, Mrs. J.
Rambharat, C.
Sinanan, R.
Moses, D.
Hosein, K.
West, Ms. A.
Cox, Ms. D.
De Freitas, N.
The following Senators abstained: Mr. W. Mark, Ms. A. Haynes, Ms. K. Ameen, Mr. S. Sobers, Mr. N. Trancoso, Mr. R. Amar, Mr. P. Richards, Mr. A. Vieira, Dr. V. Deyalsingh and Mr. D. Teemal.

Question negatived.

Madam Chairman: We move on to B as circulated. The Attorney General has indicated that he is accepting the amendment as proposed at B. Correct?

Mr. Al-Rawi: Yes, Ma’am.

Madam Chairman: Hon. Senators, the question is that clause 3B be amended as circulated by Sen. Thompson-Ahye in respect of B, paragraph B.


Madam Chairman: We now move on to the amendment as proposed by the Attorney General to clause 3.

3(d) In the definition of “child”, in paragraph (f), by deleting the words “(iii)” and substituting the words “(iv)”.

Mr. Al-Rawi: Madam Chair, in the definition of “child” at 3(d) as it appears in the Bill, we are simply correcting an inadvertent cross reference and therefore, the amendments are as circulated, replacing (iii) with (iv) instead. Madam Chair, I also propose insofar as Sen. Thompson-Ahye’s amendment was withdrawn and I agree to accept it, that we further amend at page 10—

Madam Chairman: Nine.

Mr. Al-Rawi: Nine, forgive me. Page 9, (v), that we amend (v) by inserting after
the word, “the surveilling,” and then after the word “besetting”, the following words, “by any means of the person or”. And the rationale for that is pursuant to the discussion we had on Sen. Thompson-Ahye’s recommendations.

Madam Chairman: So, hon. Senators, the question is that clause 3 be amended as circulated by the Attorney General and further amended at page 9 sub (v), by including the word “surveilling,” after “the” and including the words after the word “besetting”, “by any means of the person or”.

Question, on amendment, [Hon. F. Al-Rawi] put and agreed to.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clauses 4 and 5 ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.


Sen. Richards: Thank you, Madam Chair, through you, to the hon. Attorney General, this—and I apologize if I am clumsy in my explanation because I am not a legal draftsperson, I depended heavily on the Parliament resources to craft this. The insertion is after section 5 of the parent Act which provides for the surrendering of weapons upon a complainant issuing a complaint, and it is absent of specifying members of the protective services, including members of the TT Police Service, Trinidad and Tobago Defence Force, Trinidad and Tobago Coast Guard and private security personnel who hold firearm licenses.

It follows legislation in South Africa where it is very specific about this because they also provided for surrendering of firearms at the insistence of the court or the assessment of the court and in their case, and sometimes in our case, to
my knowledge, police officers or members of the protectives services were not necessarily captured by the understanding of the parent Act as it stands. So my suggestion is the insertion of the words “either personally or in its capacity as a member of the protective services, including members of the Trinidad and Tobago Police Service, Trinidad and Tobago Defence Force, Trinidad and Tobago Coast Guard and private security personnel who hold a firearm licence…”— to protect complainants in these circumstances.

Madam Chairman: Any other paragraphs to clause 6?

Sen. Richards: I think the others are consequential to this.


Madam Chairman: Just on a point of clarity, Madam Chair, through you, to Sen. Richards, are you then asking that these individuals that you have named here, the FUL that they would have— because what happens with these types of persons, they would have their FUL, some of them may have FULs for personal carry, but then they may also be issued firearms to carry based upon the job that they do. So, what are we asking them to give up?

Sen. Richards: The suggestion is for them to surrender the firearms as it is placed, it is either personally or in their professional capacities. So whatever weapons, that is the intention, it may not encapture it in the wording but that is the intention.

Madam Chairman: Sen. Chote.

Sen. Chote SC: I do not like disagreeing with Sen. Richards but I do have a certain amount of caution in my mind about this simply because in the situation described by Sen. Sobers, it would mean that an officer who is precepted for his job and thereby allowed to carry a firearm would now have to surrender it and that will take away his capacity to earn and perhaps maintain his children and have a lot
of serious other consequences. And this is before he is convicted or before the magistrate has come to an adjudication on the matter. If it is after the magistrate has adjudicated, then it is another thing, but this is before the magistrate has adjudicated or the court— I beg your pardon, the court has adjudicated. The second thing about it is some of the TTPS officers have personal Firearm User’s Licences, and that is because they are witnesses in cases where threats have been made to their lives by— I mean, very real threats have been made to their lives. So, in balancing this off, as much as I would like to support this proposed amendment, I think perhaps it may not be the best thing to do.

**Sen. Richards:** May I, Madam Chairman? While I understand Sen. Chote’s intervention, by my understanding of the parent Act, “the court may”, is the intro to this, so to speak, if I am not mistaken, Attorney General? It will be on the assessment of the judicial officer if the complaint is assessed by the judicial officer as serious enough to put that the complainant is assessed to be in danger from that officer. So there is some judicial intervention in that, in making that decision. And just to complete, and I fully understand the situations, and I support Sen. Chote’s intervention that officers are in dangerous positions and we should not in any way put them in more dangerous positions by flippantly removing the ability to protect themselves. But it is also in the interest of this, the context of this Domestic Violence Act, where we have seen situations where officers have threatened and in some instances, shot at each other and have killed their ex-spouses or their companions.

**Madam Chairman:** Sen. Sobers.

**Sen. Sobers:** Sen. Richards, through you, Madam Chairman, the thing is, what I do not—just from listening to the committee stage thus far, what I think hon. Senators have to also understand, you remember there can be interim orders that are made,
where the respondent can also be ejected from the home from a particular period of time, and even if it is we were to go as far as indicating that, okay, let us say take away the firearm, the individual could still commit a heinous act with a knife or a cutlass which would be readily available. So that surrendering possibly be— and that is the thing, Sen. Chote is correct, there are many officers who may be precepted and would carry a weapon whilst on duty. But because of— apart from maybe having a threat made to their life because of the particular unit that they may be involved in, the specialized unit within any of these arms of the defence services, to remove that ability for them to protect themselves apart from the going home, or just driving about, or natural daily activities— I mean, when we balance it out, and it is based upon an allegation at that juncture, there could be other things the court could utilise as I indicated, the ejection order to eject the person from the premises pending the outcome of the matter is 30 days but you could get it extended, I think there is sufficient protection in place, especially with these individuals to ensure then that the applicant is properly protected during the period of time when the court matter is being dealt with.

Sen. Richards: If I could hear the Attorney General? I am on the borderline.

Mr. Al-Rawi: Thank you, Madam Chair. So the mischief that we are trying to catch here is somebody who has a dangerous weapon, lawfully, either in personal possession under a Firearm User’s Licence— a Firearm User’s (Employee’s) Certificate Licence, FUECL, sorry, or as a member of the defence force, et cetera, protective services, being in possession, being put out of possession because of the circumstances of domestic violence. So, whilst the amendment proposed by Sen. Richards is not contained in the Bill itself, it is actually an addition that the hon. Senator is asking us to do, to amend, in fact (v) of section 6. Section 6 says:

“(1) A Protection Order may—
(c) direct that the respondent—

(v) relinquish to the police any firearm licence, firearm or other weapon which he may have in his possession or control and which may or may not have been used;”

That is the existing law. So the existing law provides the remedy to that which is sought here. What is being sought here is a step further to say, “Well look, this should apply to you if you are a policeman or a member of the defence force, et cetera.” But respectfully, that is where any person is involved, because a respondent is not disaggregated by his job.

In other words then, a respondent may be a policeman, a member of the defence force, et cetera, and therefore, the power of the court to direct that he relinquish to the police such licensed firearm, or et cetera, is still inherently in existence here. The reason that I think we ought to exercise care and caution has been very capably put by Sen. Chote and by Sen. Sobers, in terms of the balance that we have to have on these things. And I think Sen. Sobers really hit the nail on the head a lil while ago when he raised the position that we may in fact be ex parte, one party alone, order granted, et cetera. But I think we need to exercise care and caution, because we do know that in the balancing act that there are also false allegations that happen.

I will just remind that the Commissioner of Police, in the issuance of licences, also has a general control over the whole use of licences, and a licence is not an absolute right, it can be withdrawn at any point. TTDF has a regime where they consider risk assessments. The TTPS has the same aspect as well. And if we go later on into the amendments proposed in respect of bail at section 27 of the Act, insofar as a protection order might lead to a consideration of bail, not in every circumstance, obviously, the fact that we are now adding in the new (1A) the
power of the court to ask for a risk assessment, we are then getting much much closer to where we have never been before, that risk assessment feeds, do you keep your licensed firearm or not? Are you a risk in the police service or defence force or not? And then the other laws which articulate with this will then come to save us. So I respectfully believe that the existing law captures it well enough.

**Sen. Richards:** That is the wonderful thing about dialogue. Madam Chair, under those circumstances, I am comforted and I withdraw.

**Madam Chairman:** Thank you very much. Sen. Thompson-Ahye, can we deal with your proposed amendment to clause 6?

**Sen. Thompson-Ahye:** Thank you, Madam Chair. What I seeking to do here is to add to the orders that the court can make by proposing—it is always confusing when you do it like this because I have not interfered with one. My proposals are in respect of subsections (2) and (3), that the child attend specified counselling at the respondent’s expense. In the original legislation, we had the applicant also attending counselling. I think now we are having the respondent attending counselling, and I am suggesting that because of circumstances I mentioned earlier in my contribution that the child may need this special care, this special counselling, and that respondent who has caused the child to be in this bad place, that he should pay for it.

And the other one is that a police officer or other court officer within a specified period of time accompany the applicant responding to a specified person to the applicant’s residence and supervise the removal of that person to another named belonging. Many times if the applicant is leaving the premises, we would normally as lawyers write a letter to the police officer in the district and ask that the officer—well, of course it is almost like a favour, assist the applicant to remove belongings from the premises. And if it is written into the legislation it
would certainly give more force and leverage to the applicant who would need this, and would assist the police in moving faster to get to assist the applicant. It is in that scenario that I have proposed these amendments.

Madam Chairman: Anyone wishes to say anything before I ask the Attorney General to respond? Attorney General.

Mr. Al-Rawi: So, Madam Chair, I think Sen. Thompson-Ahye has hit a very important issue. In the amendments that we propose to clause 6. Clause 6 proposes an amendment to section 6 of the Act and section 6 of the Act is where we deal with the terms of Protection Orders. In our amendments, we have made the recommendation coming from the committees in (b), section 6(b)(viii), that the respondent receive professional counselling or therapy from any person, agency or programme which is approved by the Minister in writing. And Sen. Thompson-Ahye, if I, please—and I ask the hon. Senator to correct me if I have got this wrong, is now saying, “Well, what about the applicant and child, essentially, because they too may be in need of counselling”. Insofar as the Protection Orders directed at the respondent in the manner that we have phrased it, both in respect of 6(1)(a), 6(1)(b), then we get into (c):

“direct that the…”—applicant

“(iv) immediately…”— occupy— “any place or residence, whether or not the residence is jointly owned…”

And then we say in (1A):

“The Court may—

(a) refuse the respondent contact…

(b) order structured contact between the respondent and child.”

So the question is where one ought to treat with the counselling aspect to child and to applicant, and I think the hon. Senator is right that we need to provide for that.
Madam Chair, I think Sen. Chote wants to help me out.

**Madam Chairman:** Sen. Chote.

**Sen. Chote SC:** I was wondering—does not the original section provide for both parties receiving professional counselling or therapy, and ensuring that reasonable care is provided in respect of a child?

**Mr. Al-Rawi:** Yes, the—

**Sen. Chote SC:** Subsections (7) and (8)?

**Mr. Al-Rawi:** Yes, the original section 6 was structured such that the:

“(1) …Protection Order may—

(a) prohibit…respondent from—”

— a category of things. And then:

“(b) direct…”— an— “Order be applied for the benefit of”— the—

“child or dependent…”

And:

“(c) direct that the respondent—

(i) Return…”

And then:

“(viii) or applicant or both, receive”

So it was oddly drafted insofar as 6(1)(c) said:

“direct that the respondent—

(viii) or applicant or both…”

So they merged it in from the chapeau to the body, and I do think that we need to keep that concept of applicant and add child if necessary into that. So I am just leaning over to the CPC to find an appropriate structure for that.

[Confers with CPC]

**Sen. Thompson-Ahye:**—[Inaudible]—removal of that. If I may?
Mr. Al-Rawi: Madam Chair, permit to just put this on the record. The stakeholders, in their very large numbers, indicated that they did not want the applicant to necessarily be the subject of counselling, and I will tell you why. The data that comes out of it in the experience of the Act over the last 21 years has been that applicants, according to the stakeholders, were pushed into the zone of not wanting to pursue their applications because they were directed towards counselling. I myself have a little bit of difficulty with that, just to let you know, but the experience coming from the practice was that. The argument can be put—and here is where we need to exercise caution—that the court has an inherent jurisdiction, particularly when you are dealing with the Family and Children Division, and we deal with the Children Court. And because in section 3 of the Family and Children Division Act, we define that child matter as specifically including a Protection Order, or domestic violence application, et cetera, et cetera, and that the court has powers under that to act in and of its own accord, the argument is that the court has the power under the Children Act to do that, under the Children Court to deal with that.

The Protection Order itself directing that the applicant and the child and the respondent, all three be the subject, is where the stakeholders came forward to say, “Look, let you have this matter determined.” If you notice later on when we look to the amendments in the Act, we are really saying no more extension of interim orders, for instance. We have taken that out to say determine the matter once and for all, so it is not lingering, which has been the experience in domestic violence matters. So, we accepted the point of view that the court had the ability in other circumstances to order the counselling, particularly in the children’s regime and under its inherent jurisdiction to order someone for counselling, if they so choose. The question is: How does the Senate feels about that, because ultimately it is the
Senate on this occasion here, this House that makes the law? I can see merit in keeping the applicant and child with reference to counselling. It furthers the overriding objectives of the Family Proceedings Rules, the children proceeding rules, and the Civil Proceedings Rules, one can even say the Criminal Procedure Rules as well. The question is the stakeholders being adamant that there was a discouraging factor to the applicant, in the applicant being sent for counselling.

Madam Chairman: Sen. Vieira, you wanted to say something?

Sen. Vieira: Just on that point, I was going to deal with it in one of my later amendments, but just for the record, I have seen many situations where you are trying to deal—a family is trying to deal with a child who is wayward, or they have a family member who is bipolar, or who has a psychological illness, or has a substance abuse problem, and that person then goes and makes an application for domestic violence against the people who are trying to care for him or her. In such a situation, I think the court should not be pre-empted from having the opportunity to say, “You know what? On rare demonstrative evidence, I think I would also like to have the applicant assessed.”

Madam Chairman: Sen. Chote.

Sen. Chote SC: Thank you, Madam Chair. Thank you for the opportunity. I agree that there have been similar instances which I have encountered in practice where there may have been need for some sort of counselling or assistance to the applicant.

7.35 p.m.

I think perhaps what the stakeholders are thinking about are the situations where the counsellors instead of trying to address the harm done to the applicant by the domestic violence, the counsellors then try to do marriage counselling to say, well you should get back together, you know, that kind of thing. But perhaps
that difficulty could be alleviated if the court makes it clear in identifying the counsellors because now there are lists of counsellors who are acceptable to the court. In identifying the appropriate person the court may be able to alleviate that danger.

**Mr. Al-Rawi:** Madam Chair, I would like to accept what my colleague says. It seems that it is by far a better option to preserve the opportunity and train the court up and the auxiliary services to the court. So that would mean that section 6—clause 6(a)(iii) which proposed:

> “…renumbering paragraph (c) as...(b).  
> (iv) In paragraph (b), as renumbered—”

In (vi), in (vii), in (viii). So:

> “(C) in subparagraph (viii)— 
> a. by deleting before the word “receive”, the words, “or applicant or both”.”

We should abandon that. What we really should be doing is to adding the word “child” in a different form. So it should be “or applicant”, “child”—or applicant or child or all. Just let me get that language correct.

**Sen. Thompson-Ahye:** Madam Chair, may I remind the Attorney General that this clause is directing the respondent. That is the chapeau as you call it.

**Mr. Al-Rawi:** Sorry. Madam Chair, I missed what Sen. Thompson-Ahye was saying.

**Sen. Thompson-Ahye:** Pardon me?

**Mr. Al-Rawi:** I missed what you were saying, sorry. May you remind the Attorney General and then I did not catch the rest.

**Sen. Thompson-Ahye:** Coming down, the heading, what it is saying, the Protection Order may direct that the respondent and everything here going on to
where we are now, is directing the respondent. It does not say direct, it says “direct that the respondent”. I think there may be a question of agency. Because sometime what comes across to the applicant who has reached a place where she can now approach the court, so you better go for counselling. So she feels she is damaged goods, when she really thinks that she has been doing all right and it is he who has the problem and he should go and get the counselling. There is always, the court can always direct or give advice.

And the other amendment that I have, the police could advise her where she could get support services. But I do not think that we need to put back in the applicant here. I was not at the meeting but I do not think we need to put back the applicant here.

Mr. Al-Rawi: Madam Chair, I thank Sen. Thompson-Ahye for her observation. I had raised it in my observation on the architecture used in the original Act in section 6(c)(viii), saying that they had found a way to go beyond respondent and included applicant. But if I can do surgery to the Bill itself now to capture the concern raised by Sen. Thompson-Ahye, because it is effectively that the applicant and child “and” meaning “or” could be referred to counselling. At page 17 of the Bill, Madam Chair, at paragraph (C), in the middle, in subparagraph (viii), it would be, instead of the words that you see there, it would be by deleting, if you strike the word “before”, let us make sure that we capture this—

Madam Chairman: Are you at page 17?

Mr. Al-Rawi: Page 17 of the Bill.

Madam Chairman: Yes.

Mr. Al-Rawi: So it would read as it is. “By deleting before the word ‘receive’, the word ‘both’”. So it would not be “or applicant or”, strike the word “or”, “applicant or”. So it would be “by deleting the word in ‘both’ and inserting the word”—
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sorry—“and substituting the word ‘child’”. It should be “or child”? “Or” stays. Right okay, child. So it will be (C) as written there:

“in subparagraph (viii)—

by deleting before the word “receive”, the word “both” and
substituting the word “child”.”

Sen. Thompson-Ahye: [Inaudible] It has not gone?

Mr. Al-Rawi: I am sorry. I was capturing the issue “child”.

Madam Chairman: Attorney General—

Mr. Al-Rawi: Yes, Madam Chair.

Madam Chairman: Sen. Thompson-Ahye, there is a procedural matter to be treated with.

Mr. Al-Rawi: Sure.

Madam Chairman: So that the Senate will now resume. The committee is suspended and the Senate will now resume.

Senate resumed.

PROCEDURAL MOTION

Madam President: Acting Leader of Government Business.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, in accordance with Standing Order 14(5), I beg to move that the Senate continue to sit until the completion of the business at hand, inclusive of matters concerning the Bill and the Motion for the Adjournment. Thank you.

Question put and agreed to.

Madam President: Hon. Senators, the committee proceedings, we shall now resume the committee proceedings.

DOMESTIC VIOLENCE (AMDT.) BILL, 2020

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Committee resumed.

**Madam Chairman:*** Attorney General, Sen. Thompson-Ahye. Attorney General, you are proposing a new form of amendment in respect to what Sen. Thompson-Ahye has proposed. Am I right?

**Mr. Al-Rawi:** Yes, Madam Chair, and this comes out of Sen. Thompson-Ahye’s observations to clause 6.

**Madam Chairman:** Sure.

**Mr. Al-Rawi:** But I had only gone to part. May I be permitted to respond to Sen. Thompson-Ahye?

**Madam Chairman:** Sure. I just want to say one thing. It is now quarter to eight. We started the committee proceedings at 5.25 p.m. We are on clause 6 of a Bill that has 31 clauses and we have several sets of amendments. So I am really, I am going to plead with everyone to be as alert as possible as we go through this and to also be as succinct as possible in presenting your comments and your observations.

**Sen. Thompson-Ahye**

**Sen. Thompson-Ahye:** I am not sure what is required of me. I have spoken to my amendment. I am trying to get to the Attorney General.

**Madam Chairman:** Just a second, Sen. Thompson-Ahye. Attorney General, you wanted to ask Sen. Thompson-Ahye something?

**Mr. Al-Rawi:** No, I wanted to respond to her submissions. I thought that she had completed them. Am I wrong?

**Madam Chairman:** Sen. Thompson-Ahye, have you completed your submissions in respect of your proposed clause 6—the amendment to clause 6?

**Sen. Thompson-Ahye:** Yes, I have. I am still trying to understand the formulation from the Attorney General. Because what I was saying is that, if it is a Protection Order may direct that the respondent and there is a list of things that the respondent
can do, then to suddenly come in and say “the child”. You cannot have direct respondent that the child do so and so.


Mr. Al-Rawi: Thank you, Madam Chair. Madam Chair, Sen. Thompson-Ahye’s amendments effectively go to the manner in which and the elegance by which we capture treating with the applicant and the child. The original Act as set out at section 6(c) that the court could:

“direct that the respondent—”

And then it went to (viii):

“or applicant or both, receive professional counselling…”

So we went with the existing structure of the existing law which has been there for many years. We had proposed that only the respondent get counselling. Having heard what Sen. Thompson-Ahye said I think we were wrong. I think we ought to agree that the applicant, and more than the applicant, that the child be subject of potential counselling.

Sen. Thompson-Ahye has also proposed—so you would see that in (i) that is effectively what is there already. It is (ii) that Sen. Thompson-Ahye in her circulated amendments captures the child. So I agree with that. (iii) is:

“that a police officer, or other court officer…accompany…”

And what I would like to say is that section 6(6) of the existing law already captures that. So what Sen. Thompson-Ahye puts in 6(iii) that is part of the existing law in section 6(6). What Sen. Thompson-Ahye proposes in (ii) I agree to accept in a formulation of words which I will offer and (i) is effectively the same as what is inside of the Bill.

To answer what Sen. Thompson-Ahye is now asking me about what
formulation I was proposing, I was proposing keeping with the existing law and looking at the Bill as we propose the amendments to the existing law to happen to capture adding the child. I propose that page 17 of the Bill, at paragraph (C) in subparagraph a. that the wording instead be adjusted as follows. The correct text should be as follows:

“by deleting before the word “receive”, the word “both” and substituting the word “child”.”

And that would capture what (ii) of what Sen. Thompson-Ahye has proposed.

**Sen. Thompson-Ahye:** Are you maintaining my recommendation and respondent expense?

**Mr. Al-Rawi:** No.

**Sen. Thompson-Ahye:** Or are you just going with it as it is.

**Mr. Al-Rawi:** If I could say why? Because then that would mandate the court in circumstances where the court or the State could actually offer the counselling. So I would think it unduly restrictive to just say at the expense when the State may very well provide it gratis.

**Sen. Thompson-Ahye:** I bow to that. That is fine.

**Madam Chairman:** Sen. Thompson-Ahye, will you withdraw your proposed amendments to clause 6?

**Sen. Thompson-Ahye:** As soon as I have heard the Attorney General’s amendment.

**Madam Chairman:** You just heard it, in respect of—I have not put it as yet, but the Attorney General has put on record what it will be. And so therefore at the appropriate time I will introduce it.

**Sen. Thompson-Ahye:** Very well.

**Madam Chairman:** Yeah, so you will withdraw your proposed amendment to
clause 6.


Madam Chairman: Sen. Vieira, you also circulated amendments to clause 6.

Sen. Vieira: Thank you, Chair. So I am on page 17 of the Bill. And I am looking at what would have been, what we were just talking about, where you are directing the respondent. I was going to suggest that we insert at 6B, a new 10, that the respondent—I did not put the words—

Madam Chairman: Right. Now Sen. Vieira, I am going to allow you for this particular clause to read it, but not after that. You will have a little time because the way you have proposed your amendments are much too wide and it will not fit into the text of the Bill. So we need you to be a little more specific.


Madam Chairman: And as you can see, we are taking a lot of amendments from the floor and it will become very difficult to manage. Okay.


Madam Chairman: Thank you.

Sen. Vieira: I was just going to suggest that the respondent wear an electronic monitoring device.

Madam Chairman: [Inaudible]—words inserted?

Sen. Vieira: I will insert a new 10, and it would read, “that the respondent wear an electronic monitoring device”. This comes in the wake of people stalking and hunting down the—

Mr. Al-Rawi: I understand, but may I respond before we go there please? So I think it is novel, I think it is brilliant; a couple of concerns jump out. Number one, we proposed right now in the Electronic Monitoring Act and we did those amendments that an electronic monitoring bracelet can be put in the course of a
domestic violence order. That is amended already. So that is part of the existing law. So that would apply as part of it. Unfortunately, I think the version of the Acts that most people are reading from do not have the consolidated amendments that we captured most recently when we amended the Electronic Monitoring Act. So that is there already. So in that circumstance I am inviting Sen. Vieira to consider that we do not really need to do that position for electronic monitoring because it is already captured on that point.

**Sen. Vieira:** Understood. I will withdraw that. On the other point I was going to include mediation, but in light of what the Chair has said and also I am getting mixed reviews. Now I always believe that in a domestic violence situation there is an opportunity for an intervention by a third party to heal a family in crisis. So I know that there is a situation where women are being hurt, they are being killed, but most times, what you have is a situation where there is an opportunity to bring order. So I am very much in favour of the professional counselling, and I was also going to suggest within the counselling the possibility of mediation. But I will leave it at that.

**Mr. Al-Rawi:** So, Madam Chair, if I could just quickly say, we are proposing the addition in the Bill of the rules of the Supreme Court to make rules for the first time and also for regulations. And it is specifically in the RSC approach that the Chief Justice’s approach as we know, the whole concept of mediation and the overriding objective across the several rules, criminal, civil, family, children, has taken that approach. So we intend for that to come alive in the subsidiary route which is the Rules of the Supreme Court additions.

**Madam Chairman:** So you withdraw.

**Sen. Vieira:** I withdraw.

Madam Chairman: Thank you very much. Hon. Senators, the question is that clause 6 be amended as follows: At page 17, clause (C) a. to read as follows:

“by deleting before the word “receive”, the word “both” and substituting the word “child”.”

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

Sen. Vieira: Chair, my concern was taken care of by the just amended clause 6 which provides for the applicant to also get assessed and counselling. So I withdraw my proposed amendment.

Madam Chairman: So you withdraw.


Amendment withdrawn.

Question put and agreed to.

Clauses 8 and 9 ordered to stand part of the Bill.

Clause 10.

Question proposed: That clause 10 stand part of the Bill.

Sen. Vieira: Madam Chair, I have run afoul of your injunction by not putting the words, but basically what I was asking for here is, the undertakings are a very important part of the domestic violent process. There are things, for example, where you have a bipolar person or someone who is not taking their medication but you cannot order them to take the medication. The court cannot do that because the person has the right to refuse and to make an informed decision. But if the person were to make an undertaking that he would do that or participate in getting medical...
attention or counselling that is certainly something I think a court should be mindful of in whether or not to grant a Protection Order.

**Mr. Al-Rawi:** Madam Chair, this was the subject of great concern by the stakeholders. And the rational for the removal of the undertaking was far too many cases fell apart by an undertaking which just simply took the wicket out of the case. So the rationale taken from a policy perspective here was—and I just got some stakeholders submissions, for instance, Mrs. Seebaran Suite is cautioning about battered women being compelled to reconcile or the submissions that I have recognition of where the undertaking is used to frustrate the process of the domestic violence process itself. So it was for that reason that we removed the undertaking and more particularly we then moved towards making sure that the matter had to be dealt with. In other words then, come to a decision, use risk assessment, use mandatory reporting, have a database, et cetera. So it was in that reasoning that we caused the amendments that we did.

**Sen. Vieira:** But that is an undertaking not to. I am suggesting an undertaking to do.

**Mr. Al-Rawi:** The question was the compellability of the undertaking. So the undertaking came about as good as an order, an enforceable as good as an order. So we had to treat with the mischief that the undertaking had caused over the last 21 years. There is nothing to stop you from giving an undertaking to the court. So I do not know that we are excluding ourselves out of that at all.

**Sen. Vieira:** You see I come back, I know that for a lot of the activists, the real concern is about the murders, the woundings and so. But there are many, many situations where that is not the issue. It is an opportunity for healing, it is an opportunity for counselling, it is an opportunity for intervention, and this is where I think, an undertaking is a reasonable thing. It can go towards making the family
adjustments that are needed.

Sen. Sobers: Hon. Attorney General, through you, Madam Chair, the thing is, the concept of the undertaking is something that both sides would have to agree on. So even if the respondent indicates through his attorney or on his own volition that he wants to give an undertaking and the applicant is not minded to entertain such a move by the respondent, the matter would proceed as per normal. So I am—I am not quite convinced then that there is need to remove it entirely as an opportunity. Just like Sen. Vieira said, some matters can end in an amicable way based upon the undertaking being given and a familiar situation could be preserved because persons have an opportunity to speak, to cool down. And as the Attorney General indicated, it has found its way in a kind of crazy position where it is also enforceable.

Sen. Amar: Madam Chair, I believe that we have to be guided by the evidential facts. I think the Attorney General’s guidance by the professionals who understand this, because while we are happy to talk about getting people involved in trying to fix the problem, it is easier said than done. So I err on the side of making sure we follow the advice of the people who have been in this for 20 years, otherwise we could end up with more deaths in our hand, although we could have some solutions. But unless we do not have imperial data to support the change it would make better sense to take the advice of the people who are involved in the day-to-day handing of these situations.

Sen. Richards: Thank you. I would be quick, Madam Chair, and to follow what the Attorney General had said through you, there is nothing that prohibits the party from seeking some sort of counselling for a reconciliation after the matter has been stabilized and the person protected.

Mr. Al-Rawi: Madam Chair, thank you. The critical amendment that we made
here is stopping an undertaking before the completion of the matter. So the data was, and I thank Sen. Amar for putting it quite clearly, the data that came forward is look, this practice of an undertaking before the ventilation of the issue did not give the people with responsibility and protection powers the ability to see the four corners of the mischief. Because the minute you got into court attorneys advise their client, “Look, boy give an undertaking here, let us get out of here”. And that undertaking issued a Protection Order. That Protection Order did not allow for the gravity of the situation to be known. So we changed before to after. So if you want to give an undertaking, which is as good as a Protection Order, it must be after evidence has been taken. That is where the risk assessment comes in, do you get bail, et cetera. So I am quite certain that we are making the right move on this one.

Sen. Vieira: I am quite happy with the undertaking after, but what I am saying is that there should still be the possibility after you heard all the evidence or the undertakings to be made, and undertakings to do certain, not just that I would not do this, but I will do X, Y, Z in a way that would keep the harmonious relationship.

Sen. Sobers: Very small point, Madam Chair. Hon. Attorney General, what I am trying to avoid, if we remove the ability to give the undertaking before what I am almost as you say, virtually saying it is going to happen, you will have people withdrawing the matters from the court. So you are not allowed to give the undertaking now but you want to make back up. “You want to go through this trial?” “No, I do not want to go through the trial”. Well then all right, so we do not have an undertaking again, withdraw your matter. And then what you will have happening is that you will have applicants who really may be in dire straits coming to the court again to take out another Protection Order and then the JPs or the Clerks of the Court may not be minded to treat with them because they may consider them to be vexatious in nature.
Mr. Al-Rawi: That is true, Madam Chair, in the old system. This Government is not operating with that structure. Number one, we no have longer Clerks of the Peace, we are Registrars of the Court at the magisterial, legally trained personnel. Number two, we have a Gender Violence Protection Unit; we have early intervention of the police; we have risk assessment going on. So we have changed the architecture that goes around this position in a much more significant way. When we are dealing with children—prior to this Government, we did not have children’s advocates, we did not have the Children’s Authority attendance at court, we did not have the Children Court which mandates that the Children Court treat with child issues and has an anonymization of records and positions, et cetera. So the eco-system was dramatically different in those days. We have enough articulating pieces here to mitigate against the well put risk—I accept Sen. Sobers that what you say is genuinely intended, but we have a lot more architecture in place right now.

Sen. Vieira: I am just saying, I am coming back to the bipolar type situation. A court cannot order a person to take medication. But if after the evidence is heard he says, I undertake to do this and that, it will go a long way.

Madam Chairman: So Sen. Vieira, what is your position with respect to your amendment?

Sen. Vieira: It would be—

Madam Chairman: May I remind we have no words for the amendment.

Sen. Vieira: “Accept an undertaking from the respondent that the respondent shall not engage in conduct”—

Mr. Al-Rawi: Madam Chair, can I just caution? You see, we are dealing with the Domestic Violence Act. On the criminal side of the equation the undertaking relates to the offence. The offence is described as domestic violence which is
prescriptive as to not doing something which constitutes domestic violence. The positive undertaking that, “Look, I will help myself, I will take my medication”, et cetera. Those are not the elements of an offense. So my problem is that I cannot legislate in that direction.

8.05 p.m.

Sen. Vieira: I withdraw. I take the point.

Madam Chairman: So you withdraw your proposed amendment to clause 10.

Amendment withdrawn.

Question put and agreed to.

Clause 10 ordered to stand part of the Bill.

Clause 11.

Question proposed: That clause 11 stand part of the Bill.

A. Delete paragraph (b) and substitute the following paragraphs:

“(b) by inserting after subsection (1), the following subsections:

“(1A) An application referred to in subsection (1), may be accompanied by evidence given on affidavit in the form set out as ‘Form 1A’ in Second Schedule.

(1B) It is not necessary to call a person who made an affidavit pursuant to subsection (1A), to give evidence unless a party to the proceedings or the Court so requires.”; and

(c) in subsection (2), by inserting after the word “proceedings”, the words “in a Court of Summary Jurisdiction”; and”.

B. Renumber the exiting paragraph (c) as paragraph (d).

Sen. Amar: Madam Chair, I just wanted a little clarification from the Attorney General about subsection (2) which deals with this issue of 21 days after the date on which the application is filed.
Madam Chairman: Sen. Amar, are we on clause 11?

Sen. Amar: Yeah. Yes, we are.

Madam Chairman: Sure. What is it that you asked?

Sen. Amar: There was a time period put in here for 21 days. I am looking at this as a serious issue and I am just trying to come to terms with how he came up with 21 days.

“(2) Where the Court makes an order for substituted service under section 12(1C), the Clerk shall fix a date for the hearing of the application which shall be no more than twenty-one days after the date on which the application is filed.’’

Madam Chairman: [Inaudible]

Sen. Amar: Oh, maybe I am on the wrong one. I apologize, it is on page 22, Attorney General.

Mr. Al-Rawi: I think that he was looking at section 11 of the Act.


Madam Chairman: So we are on clause 11. Attorney General, you have an amendment circulated?

Mr. Al-Rawi: Yes, Madam Chair. So, Madam Chair, we proposed at clause 11 that we amend at—well we are going to delete and substitute just to make it easier. So we propose the deletion of (b) on page 20 and we insert instead, we substitute that:

“(A) An application referred to at (1) may be accompanied by evidence given on affidavit in the ‘Form 1A’ in the Second Schedule.

(B) It is not necessary to call a person who made an affidavit pursuant to (1A) to give evidence unless a party to the proceedings or court so requires; and

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(c) in subsection (2) we are tidying up “proceedings”, “in a Court of Summary Jurisdiction”, and then we renumber.

If I could explain what this is all about? Because the application comes forward and may be dismissed if you do not appear, we are insisting that the application may be supported by evidence. The usual form of evidence in a court is either by witness statement or by way of affidavit. What we are proposing is the form of affidavit here. This allows simply for the proceedings not to automatically struck out for lack of evidence. It is not that there is an obviation of the need to examine the evidence or to have a proper due process or fair trial position. It is simply to make sure that the application is not struck out for lack of evidence when there may be a bona fide reason for it not having.

**Madam Chairman:** Hon. Senators, the question is that clause 11 be amended as circulated by the Attorney General.

- **Question put and agreed to.**

  - **Clause 11, as amended, ordered to stand part of the Bill.**

**Clauses 12 to 20.**

- **Question proposed:** That clauses 12 to 20 stand part of the Bill.

**Sen. Amar:** Attorney General, I was just trying to get clarification on the methodology for the 21 days. I find it is kind of long. I did not understand it.

**Madam Chairman:** Which clause, Sen. Amar?

**Sen. Amar:** On page 22.

**Madam Chairman:** Sure, it is clause 12. No problem.

**Sen. Amar:** Yes, clause 12.

**Madam Chairman:** Yes, clause 12(2).

**Mr. Al-Rawi:** May I? Yes, Ma’am. So, I thank the hon. Senator for his question. The amendment that you are referring to must be read in the context of subsection
(1). So 11(1) says, subject to (2):

“The Clerk shall fix a date for hearing of the application which shall be no more than seven days after the date on which the application is filed.”

So step number one, you can have an emergency application under section 19A. So you can get that immediately from the court, sorry, from the police station; (b), you go to court, they must fix it, and the application to be heard within seven days; (c), where you cannot serve the application the court has the opportunity to make substituted service. In other words then, you cannot physically serve the person. We are providing for substituted service because substituted service may be by registered mail or by way of advertisement in the press. The time frame is longer because it is the understanding that it may not come to the attention of the person in that time frame particularly because in the substituted service regime—let us say you advertised this application in the papers and the person never turns up, the fact of the advertising in the papers becomes notice to the person, and that notice to the person means you can enforce a protection order that it is granted in the absence of the person. So it is the methodology by which we preserve the ability of the court to enforce its orders within the reasonableness a time frame for service which is other than personnel service.

Sen. Amar: So in a sense what we are hearing is that you file this action, the person does not get it, you put it in the newspaper, 21 days after the newspaper?

Mr. Al-Rawi: Yes. So:

“Where the Court makes an order for substituted service under 12(1C), the Clerk shall fix a day for hearing of the application which shall be no more than twenty-one days after the date on which the application is filed.”

So you file an application, you cannot serve it because there is a process by which we say how you must do service. You jump to section 12, section 12 tells you how
you do notice of proceedings. You go through the steps where the officer must try to serve. If he cannot serve within two days, within three days, there is a whole regime. You get to the point where you hit a wall. You cannot find the person, you make an application for substituted service, the court grants that. So the clock is running from the date of the application, not the date of the publication necessarily.

**Sen. Mark:** Are we on clause 21?

**Madam Chairman:** No, we are on clauses 12 to 20.

*Question put and agreed to.*

**Clauses 12 to 20 ordered to stand part of the Bill.**

**Clause 21.**

*Question proposed:* That clause 21 stand part of the Bill.

Insert after subsection (4), the following subsections:

“(5) The Commissioner of Police shall make reasonable security arrangements to protect the information contained in the Register against unauthorised access, collection, misuse, alteration, disclosure or disposal.

(6) Any person who intentionally and without lawful excuse or justification reproduces, shares or uses any information contained in the Register, commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and to imprisonment for three years.”

**Madam Chairman:** Attorney General, there is an amendment circulated by you?

**Mr. Al-Rawi:** Yes, Madam Chair. Madam Chair, we are proposing the insertion of the following subsections:

Clause 21 amends section 21 of the Act. Section 21 of the Act is the National Domestic Register. The old section 21 used to be police powers of entry
and arrest, we have cleaved it into two. We have created the register in section 21, and then we have created a section 21A to deal with police powers. In this section 21, we are proposing to add to what are four subclauses. We are proposing to add the following, that:

The Commissioner of Police shall make reasonable security arrangements to protect the information contained in the register—remember it is a private register—against unauthorized access, collection, misuse, alteration, disclosure or disposal; and

(c) Any person who intentionally and without lawful excuse or justification reproduces, shares or uses any information contained in the Register, commits an offence—et cetera.

These are replications of the sex offenders registry as to the private part that we did to give some data security and privacy to make sure that there was no—in fact, I believe Sen. Ameen also raised it in her contribution of the need to protect the confidentiality of data.

**Sen. Mark:** Madam Chair, may I ask the Attorney General who are going to be placed in the register and how long those persons who are going to be placed in the register be placed there; and what criteria be will be used, I should say, to put these people in or on the register as well as to remove them from the register? Are these things going to be contained in the regulations, Attorney General?

**Madam Chairman:** Okay. You asked a series of questions. So I will let the Attorney General answer, and then Sen. Chote wishes to raise some.

**Mr. Al-Rawi:** So, Madam Chair, just like fingerprints, just like photographs of the police are kept indefinitely under our laws, the domestic violence register is kept indefinitely. The criterion for entry are set out in the Act itself. In section 21, you shall establish the register, it is the duty of a police officer responding to a
domestic violence complaint to record a domestic violence report. You are making a report. All reports at the Trinidad and Tobago Police Service are kept indefinitely unless they are expunged by way of an application under section 50 of the Police Service Act for the expunging of records or for certain positions. So we are keeping these things ad infinitum just like we do photographs or reports at a police station, et cetera, and we will, of course, have some further assistance by way of regulations which can be produced under the amendments that we cause later on in the Bill.

Sen. Chote SC: Thank you, Madam Chairman.

Mr. Al-Rawi: Oh, Madam Chair, forgive me. I was reading out section 21, which is actually clause 22, and I went perfectly in that error of referring to what is really clause 22. So forgive me. I have no amendments to clause 21 per se. I am looking at section 21. So my first column that says “clause 21” that really ought to be clause 22.

Madam Chairman: You have a 22 underneath—

Mr. Al-Rawi: And they both relate to 22.

Madam Chairman: Okay.

Mr. Al-Rawi: I apologize sincerely, and my discussion was properly as I referred to section 21.

Madam Chairman: Sen. Mark, you raised something about clause 21?

Sen. Mark: Yes.

Madam Chairman: The Attorney General—Sen. Chote, you wanted to raise something about clause 21?


Mr. Al-Rawi: So this is inserting the part heading, Domestic Violence Register. That is all that 21 does. I think we are all on section 21 which is clause 22.
Sen. Chote SC: I see. Okay. So the subsections (5) and (6) has to do with 22?

Mr. Al-Rawi: Yes, it was my mistake. I apologize.

Sen. Chote SC: Okay. Madam Chairman, that—

Madam Chairman: Okay, the question that I have put is in respect of clause 21. Okay? So Sen. Mark, do you have a question on clause 21?

Sen. Mark: Yes, I just wanted the clarification through you. Attorney General, there is only going to be one National Domestic Violence Register for both men and women. You are not going to separate the register in terms of a register for women who have—

Mr. Al-Rawi: Madam Chair, I apologize. That is on clause 22. Clause 21 is insert a heading, “Part VI, National Domestic Violence Register”. So all of these questions are really in relation to clause 22. So if I could answer that under clause 22?

Sen. Mark: Okay, Ma’am.

Madam Chairman: Sen. Vieira, you are going to ask a question please on clause 21?

Sen. Vieira: 21A.

Madam Chairman: There is no 21A. No, no, no.

Mr. Al-Rawi: Of 22.

Madam Chairman: 21, page 30 of the Bill. Am I right? Am I—

Mr. Al-Rawi: Yes, insert the heading. Insert the heading, Madam Chair. So the question is that clause 21 stand part of the Bill.

Madam Chairman: Hon. Senators, I beg you, the question is that clause 21 now stand part of the Bill.

Question put and agreed to.

Clause 21 ordered to stand part of the Bill.

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Clause 22.

Question proposed: That clause 22 stand part of the Bill.

In paragraph (d), insert after the word “all”, the words “Orders and”.

Madam Chairman: Attorney General, you have amendments?

Mr. Al-Rawi: Yes, Ma’am, and I apologize to hon. Members. On the first page of my circulated amendments when you see the number 21 on the left side, just change that to 22. You will see a number 22 just under that, just incorporate that into the same 22. So there are two sets of amendments there. So we can do it as A and B. What is 22 on the bottom will really be 22A. If you could do that, Madam Chair, because it comes sequentially first; and what you have as the new 21 going into 22, just put a B next to that because it is sequentially after.

So with respect to 22A in paragraph (d), insert after the word “all” the words “Orders and”. So that is the subparagraph (d), and I think that that is really straightforward. So it should be:

“The Commissioner of Police shall ensure that all Orders and domestic violence reports are entered into the register.”

So we wanted to capture all things that come to the Commissioner of Police.

The next thing that we do in 22B, which is the bigger box above, inserting after subsection (4) the following subsections (5) and (6), that the Commissioner of Police make reasonable security arrangements to preserve the confidentiality and then we create an offence for people who intentionally disclose these things in circumstances that they ought not to. The rationale is to protect the security of the data from the law enforcement side, and to criminalize any intentional breach without lawful excuse. Those are the reasons for the amendments, Madam Chair.

Sen. Chote SC: Thank you, Madam Chair. Hon. Attorney General, I was wondering whether in 22(5) instead of saying “shall make reasonable security
arrangements” perhaps we could make the bar a bit higher and say “shall make all necessary security arrangements”. I suggest this because there is no penalty if the Commissioner of Police really does not treat this as serious a matter as he should, and I am not talking about any particular Commissioner of Police. It may be a Commissioner of Police 20 years from now, who knows. And with respect to 22(6), we are not covering everything because we are talking about reproducing, sharing or using, but the person who extracts or collects the data is not penalized. So I am respectfully suggesting that we should include words to cover that, the extraction or collection of data from the register.

Sen. Mark: Madam Chair, I would like to ask the Attorney General: Is there a period before records are expunged, or they are going to be there permanently?

Mr. Al-Rawi: So in answer to the latter question records are kept indefinitely, and the reason is, number one, there is no statutory period of limitation for crimes. You may in fact have a cold case so that is the reason why you keep things there. If the question is whether they go historically beyond your death, yes they do. Is there a mechanism to remove your records? Yes there is. Under the Police Service Act you can apply to have things expunged or removed from the records. So that is treated with in the usual context of law. If I looked to the structure of subsections (5) and (6)—and I just pulled up the DNA legislation and I am looking to the steps that we have put for the Commissioner of Police to manage that piece of law. And then if I go to the sexual offences amendments that we did recently—if I could just pull that up. So we use the same formula for the maintenance of the sexual offences registry there as we have done here. I am just trying to pull up the law for you to assure you that the wording is exactly the same. Sexual Offences (Amdt.) Bill, 2019, section 47:

“(1) There shall be a Register to be known as ‘the National Sex Offenders
Subsection (5):

“The Commissioner of Police shall have control and custody of the Register and shall be responsible for—

(a) maintaining…

(b) ensuring”—

Here we go (6):

“The Commissioner of Police shall make reasonable security arrangements to protect the information contained in the Register against unauthorized access, collection, misuse, alteration, disclosure or disposal”—which is the same wording we have at subsection (5).

And then we have taken a subsection (6). And then we borrowed from 48(4) in the sex offenders law, if I can call it that, the amendments to the Sexual Offences Act:

“Any person who intentionally and without lawful excuse or justification reproduces, shares or uses any information contained on the website referred to in subsection (1) commits an offence and is liable on summary conviction”—et cetera.

And just to let you know I had borrowed that from the Privy Council’s website in their unauthorized utilization of positions. So that is where the precedent of law came from.

Sen. Chote SC: Thank you, Attorney General, but still does not allay my fears because it appears as though the subsection (5) which we are dealing with in the current legislation, which marries subsection (5) in the legislation which deals with
the registry for sex offenders, that is preceded by another section which talks about the collection, and storage, and so on, and I think if my memory serves me right in built into that section is the kind of protection that we would want to have for the data in this legislation.

**Mr. Al-Rawi:** I think you are right. Just give me one moment, okay?

[Confers with CPC]

**Sen. Chote SC:** Sure. And with respect to the reproduction—sorry.

**Madam Chairman:** Just one second. Attorney General, you have the wording?

**Mr. Al-Rawi:** May I hear the balance so that I could perhaps adopt the rest in one group?

**Madam Chairman:** Well, I am the one recording it. I just want to get—is it that you are accepting what Sen. Chote initially said, because I think she is moving on to another point.

**Mr. Al-Rawi:** Well I thought they were tied in, Madam Chair, so I wanted to see if we could capture the two together.

**Madam Chairman:** Sen. Chote, is it “shall take all necessary”, it that what you were saying?

**Sen. Chote SC:** We cannot take “all necessary” although I think perhaps the hon. Attorney General is maybe considering another option for it—I do not know—inclusion of a similar predecessor clause. I do not know. But I think we have a little gap here in subsection (6) because if we have a hacker taking this information we are not making that person criminally liable under this law. We are simply saying that if he reproduces, or shares it, or uses it, then he is liable, but we also want to make sure that can whoever extracts or collects the information such a person is also liable, criminally liable.

**Mr. Al-Rawi:** Understood. So, Madam Chair, I accept Sen. Chote’s very wise
submission that we ought to go a little bit further to ensure safety in this law, and if I may propose that we insert into the amendment as circulated, a new subsection (5). We will renumber (5) and (6) as (6) and (7). So if you would permit me to dictate the suggestion for the new subsection (5), and I am taking directly from the Sexual Offences Act as we amended it:

“The Commissioner of Police shall have control and custody of the Register and shall be responsible for—

(a) maintaining the Register;
(b) ensuring that information is entered into the Register in accordance with this Act and any other written law; and
(c) ensuring that the information entered in the Register is accurate.”

We will then renumber what appears on the circulated amendments as (5) as (6), and (6) as (7).

With respect to Sen. Chote’s observation that we have not caught the person who actually gets it in the first place but we are only getting the person who reproduces it, the difficulty we had there was the same difficulty we had in the cybercrime law penalizing the person who gets it and my red flag is the media. We did not want to criminalize the media in particular for actually getting something which may have come to them, but instead we wanted to capture the reproduction of it.

**Sen. Chote SC:** No, but I think a police officer who extracts it, or let us say an IT person on contract who extracts information from the register and who would be doing so unlawfully would go “unpenalized”. Is that not the bigger problem getting the information out of the register for some unlawful purpose?

**Mr. Al-Rawi:** But the real drama is the mischief in disseminating the information as opposed to acquiring the information only. I accept that acquiring the
information is an event which ought to be captured. The problem that we have had in all our laws is the journalistic pushback in, I got it, somebody sent it to me, but I did not reproduce it. Do I want to criminalize the media person who accepted that? Somebody dropped a flash drive and had the information there but they did not use it.

**Sen. Chote SC:** Well then, perhaps what you could say is extraction because that would mean that somebody on a computer somewhere who is hacking into the Commissioner of Police’s database and getting this information, and surely that must be wrong.

**Mr. Al-Rawi:** Let me borrow the copyright law now. A reproduction is any copy. So technically the minute I copy or extract it, I am guilty of reproduction.

**Sen. Chote SC:** Are we sure that that is the interpretation that is going to be put on the word “reproduce” in the context of this legislation?

**Mr. Al-Rawi:** To answer that, no, because I think it will be open to the court to deal with it. The mischief that we wanted to capture, bearing in mind the arguments that we had with cybercrime, et cetera, was the whole media issue.

**Sen. Chote SC:** So what is the— I still cannot understand this, through you, Madam Chairman, the difficulty with penalizing the extractor, that is to say the hacker or the police officer who wants to get this information for some unlawful purpose, I think that is a clearly identifiable person who might be breaking the law.

8.35 p.m.

**Mr. Al-Rawi:** So reproduces, shares or using any information is fairly broad.

**Sen. Chote SC:** Well, those are—

**Mr. Al-Rawi:** Secondary?

**Sen. Chote SC:**—third party, second party, and so on. We want to get the man who is actually taking the information from the Commissioner’s database without
the Commissioner’s permission.

Mr. Al-Rawi: So you are thinking the word “obtains” before “reproduces”?

Sen. Chote SC: Well, I think “extraction” would be a better word, simply because I understand your concerns about the media, so let us avoid that difficulty. And if we use the word “obtains”, we make it wider, but if we use the word “extracts”, then it is clear that we are talking about the person who is removing the data.

Mr. Al-Rawi: Madam Chair, the CPC’s department is suggesting that before the word “reproduces”, we could—and I am asking for thought on this please—consider “extracts, alters, removes,”. The question is if we are going too wide. So without lawful excuse or justification, I think we should—well, and altering is actually quite—how about if we were to say “intentionally”? Yeah, so we have intention there. Right, so we got intentionally. So, yes, Madam Chair. So if we could say in subsection (7) as renumbered, if we were to say after the word “justification” and just before the word “reproduces”, insert the following words: “extracts, alters, removes,” and it has a sufficient justification attached to it to modify the animus. So I think that that may capture it. Sen. Chote, through you, Madam Chair?


Mr. Al-Rawi: Much obliged, Ma’am. Thank you for your indulgence.

Sen. Amar: Madam Chair, just on a point of clarification, is this a greenfield database?

Mr. Al-Rawi: As opposed to a brownfield database? Meaning?

Sen. Amar: No, meaning a brand new start-up from scratch?

Mr. Al-Rawi: Yes, yes, yes. There has never been a database.

Sen. Amar: So all the historical information goes to waste?

Mr. Al-Rawi: No, the CAPA, the crime and statistical division of the police, they
would have. There is an exercise of digitization of all data across whole of Government right now, so there is nothing to stop us from treating with that and then we backfill data. All records are historically intact. What has not been done, prior to us now, was the digitization of data. So we are doing that at the Registrar General, all over the place. So that historical data will not be on a register per se, it will only be go forward the Act that the register is populated. Because we cannot introduce into the register, for utilization under this Act, things which are in arrears.

**Sen. Amar:** So are you saying that the historical information will be installed in this database?

**Mr. Al-Rawi:** No, I am saying the opposite. I am saying that there may very well be two databases, one which would have prior to Act be proclaimed information and then another which is called “the Register” which is prospective.

**Sen. Amar:** And the police will use which one in their determination?

**Mr. Al-Rawi:** They would use all. One, under the purview of the Domestic Violence Act, which would be categorized under the pot “the Register” and in terms of their tracing of people, all other information would come up.

**Sen. Amar:** And finally, would it be your intention to bring them together sometime in the future?

**Mr. Al-Rawi:** I would love to, yes.

**Madam Chairman:** Hon. Senators, the question is that clause 22 be amended as circulated by the Attorney General and further amended to read as follows:

The new subsection (5):

The Commissioner of Police shall have control and custody of the Register and shall be responsible for -

(a) maintaining the Register;

**UNREvised**
(b) ensuring that information is entered into the Register in accordance with this Act and any other written law; and

(c) ensuring that the information entered into the Register is accurate.

At renumbered (7), by introducing after the word “justification”, the words “extracts, alters, removes,”.

Mr. Al-Rawi: Yes, Madam Chair.

Question put and agreed to.

Clause 22, as amended, ordered to stand part of the Bill.

Clause 23.

Question proposed: That clause 23 stand part of the Bill.


Sen. Dr. Dillion-Remy: Madam Chair, excuse me, the Attorney General had the other part, clause 22, (2A), paragraph (d). Was that included? Clause 22, (2A):

In paragraph (d), insert after the word “all”, “Orders and”.

Madam Chairman: Yes.


Madam Chairman: Yes.

Sen. Dr. Dillion-Remy: It was included?

Madam Chairman: Well, yes it was clause 22 plus the amendments as circulated and further amended as I read out.

Sen. Dr. Dillion-Remy: Okay.


Sen. Mark: Yes, Madam Chair, I have discerned two weaknesses. One, I have advanced in the context of a specific amendment and that has been reflected in the
amendment that has been circulated to ensure that a police officer is aware of his
duties at the material time when this situation occurs or he receives a report on
domestic violence. So we want to have it clearly outlined in the legislation what
the police officer will have to do.

In addition, Madam Chair, I do not have it as an amendment but for
consideration, and it has to do with the consequences of failure on the part of the
officer to respond. Is there going to be a consequence? I think that is the concern I
would like the Attorney General to address but I would like the Attorney General
firstly to consider—

**Madam Chairman:** Sure, Sen. Mark. Attorney General.

**Mr. Al-Rawi:** Thank you, Madam Chair. So, Madam Chair, we have in 21A, we
have extracted out of the old 21 what is 21A, specifically so we could create the
register and then create the mandatory obligation for the police officer to respond
to every complaint and report alleging domestic violence. And we used the
mandatory word “shall”.

**Sen. Mark:** Right.

**Mr. Al-Rawi:** The recommendation coming to us—so that is:

“21A (1) …every complaint or report alleging domestic violence…”

Sen. Mark’s recommendation is:

“21A (1) A police officer shall respond to every complaint or report
alleging domestic violence…”

So we are ad idem on that. The proposal is that:

“(2) Where a police officer has reasonable cause to believe that a person
has engaged in or threatened physical violence, the police must investigate
and decide whether to arrest, charge…or refer to social services…”

This came up in our discussions with the Law Association. It has been echoed in
this Chamber in several pages of amendments offered and I will say now what I explained then, which was accepted but it now come back again.

My fear is the Judicial Review Act and the abuse of the Judicial Review Act. There is a large body of JR applications in this country where you state that you should do x and y and then you go into whether it was reasonable for the officer not to do x or not to do y and then the State gets opened up into a massive amount of damages and costs and then withdrawn applications, and I made that point to the Law Association and they agreed. They said that they recognized that our JR legislation probably needs to be addressed like they did in England. In England, they addressed the JR Act. When you add that to the section 14 of Constitution rights, you get an even wider amplification of risk.

So first of all, if a police officer has reasonable cause, he must do as is suggested in subsection (2) because we are putting a mandatory obligation that he must respond to every complaint or report. An officer would be acting in breach of the Police Service Regulations and the Police Service Act if he did not take a step. So the language in subsection (2), albeit helpful, opens the JR door and I am very conscious about that. Before we get this law working right, I really do not want to have a runaway set of judicial reviews hitting us and as the Attorney General now, I can testify to you that those are very expensive and time consuming. So what we had intended to do was to take the prescriptive approach via the regulations and the rules of the Supreme Court.

Now there are regulations under the Domestic Violence Act which we proposed, are added in, you will see it at the end of the Bill and secondly, under the Police Service Regulations route, under the Police Service Act, there are regulations there. The Commissioner of Police is now building that out with the creation of the unit, with the creation of protocols, et cetera. So I am genuinely
requesting that we take care not to open this door too wide because I have to look at the abuse of what can happen to the State as well.

Now, the issue of risk assessment, that is absolutely germane and real. My submission to the Law Association—and this was echoed by Shireen Pollard who attended the meeting for the TTPS and the Judiciary representatives, et cetera—is that we would treat with the risk assessments by way of the subsidiary route because we want an opportunity to develop it and to get it right. That is why we have introduced Rules of the Supreme Court and regulations.

So whilst I think that the recommendations are genuinely well intended, in the experience of managing the State’s litigation, I am very cautious about opening that door immediately. Not that it would not happen as we get a little bit further. Look, we are now at the point where we are legislating the Judges’ Rules in evidence. In our special select committee on evidence, we are now incorporating Judges’ Rules and police rules effectively into law, because we have got it right at this point. So I am asking for the opportunity to develop that in further form and fashion.

Madam Chairman: Sen. Chote.

Sen. Chote SC: Thank you, Madam Chairman. Hon. Attorney General, I am looking at clause 23 and your proposed 21A. Now—sorry?

Madam Chairman: You are not dealing with Sen. Mark’s amendment, you are dealing with the clause—

Sen. Chote SC: With the Attorney General’s?

Mr. Al-Rawi: The Bill.

Sen. Chote SC: Yes.

Madam Chairman: The Bill itself?

Sen. Chote SC: Yes. Is that okay?
Madam Chairman: Well, I have four sets of amendments to clause 23. So let us just deal with Sen. Mark’s and then, Sen. Chote, I will invite you to make your observations.


Madam Chairman: Sen. Mark.

Sen. Mark: Simply put, Madam Chair, the provision in clause 23 is very limited and we do not get any sense from the legislation that there are consequences to be followed if a police officer who should respond and did not do so and person is killed or a person is seriously harmed, what are the consequences in the legislation to address that situation? And that is why we proposed, and I support the Law Association and his team, to specify in the law what the police officer has to do, must do, because there are consequences here.


Sen. Richards: Thank you, Madam Chair. Just for efficiency, I know you have not proposed my amendment as yet but it is basically along the same lines that Sen. Mark has proposed. So I am willing to withdraw that, at the right time, and comment on Sen. Mark’s proposal because it is basically the same thing.

Madam Chairman: Sure. You can comment on Sen. Mark’s proposal now.

Sen. Richards: Yeah and I have the same concern as Sen. Mark in this because we are here after decades of needing to amend this law to protect lives and hold certain institutions responsible, and I really think I agree with Sen. Mark that there has to be some duty and responsibility afforded the officer. And I also have concerns about the way it is stated in the Bill itself that there is no obligation of a timeline involved and no consequence if this is not carried out effectively.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, I get where everybody is going, you know, but I
have a different perspective. After five years of sitting as the Attorney General in this country, I can tell you the abuse to law is very real. So we are at the infancy stage, 21 years after the 1999 Act, in causing significant amendments. We have just birth the new domestic violence units, we now have ancillary divisions working. Imagine jumping right now to say you must do something within x time frame and these are the factors which you want to go, and you must conduct a risk assessment, and we have not defined what a risk assessment is in the law and what is reasonable in those circumstances, now enter the realm of judicial review. Case coming from John Brown saying, “Look, the TTPS, it was not reasonable for them to this,” and now we enter into the realm of judicial review on conduct of criminal matters. That is Pandora’s box, honestly. And what I am asking, at least for consideration is, I catch where the hon. Members want to go which is why I want to refer hon. Members to the fact that in clause 28, we are asking for regulations to be made, rules committee to have positions.

Now to answer Sen. Mark’s concern as to what is the consequence for a policeman failing to do this, that is where the Police Service Act and the Police Service Regulations come in, but we have to be cautious about opening this door immediately to the concept of strict timelines and positions. We have already considered risk assessment a little bit later down when we get to bail applications, et cetera and the police asked for the opportunity in our consultations to develop their risk assessment profile. So I accept that it is a very laudable objective but I want to please ask hon. Members to be careful about pushing at the door when we have not quite figured out whether the cement outside the door is dry yet or not.

**Madam Chairman:** Sen. Chote.

**Sen. Chote SC:** Thank you, Madam Chairman. I appreciate the intent of the various proposed amendments dealing with this particular subsection because I see
that Senators want to try to do two things. They want to try to ensure that the
police act and that the perpetrator is caught and he faces the system of justice, and
that the victim receives the kind of treatment from the system that she ought to.
Now I think, hon. Attorney General, with all due respect, when you refer to
judicial review as being the big problem, what lodges in people’s head is the idea
that money is more important than life and I am sure that that is not what you
intend to say. I think perhaps we need to be reminded of a few things.

One, a police officer investigating or taking a report in this case— and this is
why I had respectfully asked to speak on it, because I think we could just tough up
a little bit what you have here with respect to recording and so on, remind Senators
that there are consequences to be faced by a police officer who fails to do his duty,
not only within the TTPS but also, at the Police Complaints Authority, which is an
independent authority and has acted independently. In addition to which—so there
is recourse for the person who is not getting the service from the police that he or
she thinks that they might be entitled to. Now, we are not aware of the protocols
which the police are going to be putting into place for the support of victims but
there is something in the legislation which says that such protocols will be put into
place, so that in my view, should allay some of our fears.

I agree with you, I do not think we should legislate without knowing what
risk assessment means. We might not agree with what the police decide as risk
assessment, for example. So I think that I accept your point of view that this is a
little premature. Sen. Mark’s suggestion perhaps is a little premature at this time
but I do respectfully ask for the opportunity to speak a little further on about the
strengthening of 21A.

**Madam Chairman:** Sen. Vieira.

**Sen. Vieira:** Thank you, Chair. Well, echoing the other Senators, I think 21A as
you have here is a step in the right direction. Like the other Senators, I have been approached by the Law Association and I think the concern is that, notwithstanding the standing police orders, the fact is there is under-policing and it leaves victims in a state of feeling unserved and unsafe. So I think the proposal is really to guard against ineffective policing, to ensure responsive policing. What the amendment is, police are expected to investigate and to consider making a decision on whether or not to charge or arrest the alleged perpetrator.

Now, you know in JR—and I mean I think it is an important point—the court does not tell the person how to decide. So if the policeman makes a decision, “I am not going to arrest or charge for these reasons”, and he files the report, I think that would take care of the judicial review aspect. But I think the concern is you just do not show up, which 21A here says, “I had responded and that is the end of that”, you must go further.


Sen. Richards: Just quickly, Madam Chairman, just following what Sen. Vieira has said and I fully understand the issue of the judicial review and the backlog in that Pandora’s box but the other Pandora’s box is the one that we are here to remedy and that is this absent response or ineffective response could mean someone’s life.

Mr. Al-Rawi: So, Madam Chairman—

Madam Chairman: Attorney General, I want to wrap up on this and I think Sen. Mark wanted to say something and then you will respond and I will put Sen Mark’s amendments.

Mr. Al-Rawi: I confess it is very hard to respond to so many views all at once.

Madam Chairman: No, it actually is not, I am keeping track of everything so I will remind you if anything. Sen. Mark.
Mr. Al-Rawi: I am so grateful, Madam Chair. [Laughter]

Sen. Mark: Madam Chair, I understand what is being said by all but I am not convinced at this time. I really believe that we have to batten down and ensure that justice is served and I do not want to leave this provision open ended and I am seeing a repetition taking place in the future. It is like a white elephant and two years from now or a couple months from now, we have a repetition of the same thing in the country, and that is why I am insisting on behalf of the Bench—that is the Opposition—and the Law Association, I support our amendment to have this thing established.

Madam Chairman: Attorney General.

Mr. Al-Rawi: You need to help me, Madam Chair.

Madam Chairman: So Sen. Mark is pursuing his amendment to clause 23. Sen. Chote seems to have accepted what you have put forward and when the amendments are dealt, she may make some suggestions with respect to clause 23. Sen. Vieira would like to see a strengthening of clause 23 and Sen. Richards as well, while they are all accepting and understanding what you are saying about judicial review.

Mr. Al-Rawi: Wow. [Laughter] You are efficient, Madam Chair.

Sen. Mark: Yeah, yeah. [Laughter]

Mr. Al-Rawi: Excellent. Thank you so much, Madam Chair. So I think Sen. Vieira caught one aspect of JR, that is, to make a decision. The other aspect of JR is that your decision was so unreasonable, that is unlawful and it ought to be set aside. So respectfully, you have caught one aspect of it but the other aspect of it is equally difficult. Now, I would like the opportunity to confirm that it is not an issue of money in this position. Surely lives are by far more important than money. It was not intended in cautioning of the risk of judicial review and section 14
claims under the Constitution that it is a matter of money, it is not that. It is the complication and killing the baby before it is born.

And in that regard, I really do believe that Sen. Chote caught it very, very well that this is premature. The risk of legislating that you must investigate and take a step, et cetera, does not end with a decision. The decision is now subject to review because it is a decision of a public authority. The state liability and proceedings then kicks in and then we end up in no end of position on this position.

The fact is that an investigation may take longer than one expects. One could allege if we put in this formula that it was unreasonable to not make a decision in a particular time frame because now we have a statutory obligation that you must make a decision and therefore, inherent in that is that you must make a decision within a reasonable time. So are we going to create more complication out of that form of prescription right now?

Perhaps I can address it this way. There are alternative remedies to action or inaction: Police Complaints Authority, Police Service Regulations, the interdiction of the Commissioner of Police himself, in terms of his management, but bear in mind that the Commissioner of Police is now birthing and has birthed a unit for the first time. And more importantly, for the first time in the history of Trinidad and Tobago, there is one electronic index of every report, by time, by who made it, who the investigating officer is. Do you know that that is the one thing that has missed Trinidad and Tobago? If one were to ask the question: How many reports are converted to charges, charges converted to matters in the court that are ended in a particular time frame? We are only on charges and court, we did not even catch the real issue which is what happens to the report. And the classic tool of management is you cannot perform something that you cannot measure, and this law, for the first time, creates something that no other law has done which is to
have an index and register of every single report. Understand the magnitude of that particular introduction.

Now, respectfully, how do I, in the exuberance to get the law right, add on JR risk to that now? I am asking hon. Senators to accept that it may be premature to accept the recommendations at this point for those reasons, Madam Chair.

**Madam Chairman:** So hon. Senators, the question is that clause 23 be amended as circulated by Sen. Mark.

*Question, on amendment [Sen. W. Mark] put and negatived.*

**Madam Chairman:** Now, there are similar amendments circulated by Sen. Thompson-Ahye and Sen. Richards. You withdrew yours, Sen. Richards?

**Sen. Richards:** Yes. In light of the fact that it is practically the same something, I withdraw.

*Amendment [Sen. P. Richards] withdrawn.*

**Madam Chairman:** Sure. Sen. Thompson-Ahye and Sen. Vieira, are you pursuing your amendments having heard what just transpired?

**Sen. Thompson-Ahye:** I certainly want to speak to my amendment because I think it is right that the police officer should inform the victim of—

*9.05 p.m.*

**Madam Chairman:** Just one second Sen. Thompson-Ahye. We would not deal with your amendment just yet.

**Sen. Thompson-Ahye:** All right.

**Madam Chairman:** Sen. Vieira? I just want a yes or no. Are you all pursuing the amendment? And we will deal with them in the normal course.

**Sen. Vieira:** I will not pursue the amendment.

**Madam Chairman:** You are pursing it?

**Sen. Vieira:** I will not pursue the amendment.

Sen. Thompson-Ahye: My amendment is that—my proposal is that the police officer should be aware of what the rights are, and give information. But that is not to say that he would not proceed and arrest, and so on. This is an additional to the police doing his duty, after he has completed his report, that giving a copy of that report to the applicant, to the victim, or the survivor, whichever we wish to call that person. But it is important because there have been too many instances where the police have said they have acted on a report of domestic violence and the secondary victims have said nothing has been done. So that would obviate the situation. The person will have a report. So that when whatever happens happens, that you can actually say this is what the police did or this is what the police did not do.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you Madam Chair. The issue of the police acting or not acting is now going to be locked in by the fact that there is a record for everybody to see, for the first time ever. My desire as Attorney General, certainly in the next Parliament just after the election when we reform, will be to include an electronic register for every offence, so that they can be tracked and measured and put in. So I accept Sen. Thompson-Ahye's observation that prior to this law, that really there is a "he say she say". The police say they did something and the victim says not and we have all seen that dance. And certainly, most respectfully, Sen. Thompson-Ahye, in her many years of practice will know this much better than most people will.

With respect to the recommendation at subparagraph (2) of 21A.

“A police officer at the scene of an incident of domestic violence, or when
the incident of domestic violence is reported shall inform the victim of his or her rights and give information on available support services.”

We had considered that these things would be part of the protocol of the officers assigned to domestic violence. Because every station in Trinidad and Tobago has an arm of this gender protection and domestic violence and sexual offences unit. They are now at every station.

“Any matter connected with domestic violence where a child is the perpetrator shall be referred to the Children Court.”

That is the law right now. Under the Children's Act, you must spring to the children's attorney, the Solicitor General's Department. All child charge and child allegation matters under the Family and Children Division as defined under that law, must go to the Children's Court. And more particularly, there is a protocol of anonymizing those records as well.

Sen. Thompson-Ahye: You notice I did not speak to that at all, precisely for that reason.

Mr. Al-Rawi: Sorry, I am just dealing with what is circulated.


Mr. Al-Rawi: So I am dealing with your amendments as circulated. I did not know that you abandoned that or had a different view.

Sen. Thompson-Ahye: I should have been more explicit.

Mr. Al-Rawi: Madam Chair, subclause (3):

“A police officer responding to a complaint or report alleging domestic violence shall, as soon as practicable, after completing the report, provide the person making the complaint with a copy of the report.”

Madam Chair, these are matters that we propose go into regulations and procedures. So, I am not quite sure if I have addressed all of the issues raised by
the hon. Senator. Forgive me if I have read just from the circulated amendments. I am not sure if there is something further to address.

**Sen. Thompson-Ahye:** So are you accepting it? Is that what you are saying?

**Mr. Al-Rawi:** No, Madam Chair. I respectfully ask that we not take this step just yet. I think we may be slightly premature on it. I think—because we have not yet come to clause 21 as it stands—maybe Sen. Chote may have some observations there that could assist us. But I am not sure what she is going to say yet.


**Madam Chairman:** Sen. Chote, you wanted to say something on the substantive clause 23?

**Sen. Chote SC:** Yes, thank you, Madam Chairman. May I respectfully suggest that we reword 21A, clause 23, which would be the new 21A.

A police officer shall—and we can do a subsection (1)—take a detailed report of every domestic violence complaint whether made by any person or by telephone.

Now, I am not a drafter and I am sure there is a much nicer way to say that. But essentially we want to make sure that they take the reports, whether the report comes in by telephone, whether it comes in through a neighbour, or whether the victim goes to the station.

b. The police officer shall provide the complainant with a copy of the report made.

That allows the victim to see or to have confirmation that what she told the police has been accurately report. And it also gives her the opportunity to return and correct any error or omission made by the police officer. Not every domestic violence case ends in murder. So we have to consider that as well.

It also empowers the victim in these circumstances, who wants to pursue a
case before the court to be able to produce that report to say that I had gone to the station on so and so night and this is my report from that night. So, evidentially it helps her case.

Then, I think that what we also need to say is the police officer shall investigate each such report made. Now, the police officer might decide that, you know, I investigate and there is nothing there. The police officer might decide: “No, I think this woman needs to go to the hospital right away”. The police officer might decide: “I am going to arrest this man right away for attempted murder or for murder.” So you have certain mandates inbuilt into the section now which, I think would cover the victim, would cover the duties of the police officer and I intended to say this at the beginning.

Now, this is absolutely crucial because there was a domestic violence killing a few months ago, and the family, and so on, came forward and said no, you know, she went to the police station on so many occasions and, you know, reports were made and that kind of thing. And the response from the TTPS was: "All we found were receipts saying information received". Well, because a police officer was lazy to write down the details of a domestic violence report, one, it may have been that because of that, it was never investigated. the woman did not receive the protection she ought to have received, and it ended in a death. So, I think we need to, sort of strengthen this section to ensure that that kind of excuse can never be used again. So, I think the creation of the paper trail will serve us well.

**Mr. Al-Rawi:** Yeah. Madam Chair, I want to thank Sen. Chote for what I think are excellent suggestions. I think that it is—we cannot allow the police to do the normal of come back tomorrow and I will give you the report. I think in the case of domestic violence, that the instantaneous production of the report is an essential aspect.
So, if it is okay, we took notes; a little bit of surgery I think that we can do to the language just to capture the allegation of offence, et cetera. With your permission, Madam Chair, is it possible that I could ask CPC to draft that into some tighter form of language? Maybe we can press on with the other clauses and come back to this? Is that okay?

**Madam Chairman:** Clause 23 is?

**Sen. Trancoso:** Madam Chair, I want to address the hon. Minister on a very similar issue. Many times victims or persons may report incidents of serious domestic violence occurring by a next door neighbour, for example, and when the police arrive, even though there is evidence that something is happening, the virtual complainant or the victim actually does not do or say anything. As a matter of fact, she protects the aggressor if it is the case of a male being the aggressor. And that is something that the Evidence Act, the Domestic Violence Act falls short of and the police officers hands are tied.

**Sen. Chote SC:** Hon. Attorney General, Madam Chairman, could I just say something quickly? Okay, remember the Act says that a police officer can bring a domestic violence case on behalf of anybody. I think unfortunately police officers have been leery of doing so. In fact, when one of their number had been murdered in a domestic violence offence, a couple of years ago, a young police woman, no one had brought a complaint on her behalf.

Police officers do go and get that kind of response from the terrified victim who has the beater standing right there. But I think the new training that hopefully they will get, is to understand that evidence can come from the neighbour who saw. The evidence can come from the wounds on the victim's body, when they take her for medical attention. It does not have to come from the mouth of the victim. So, I think perhaps that should allay the fears of Sen. Trancoso.
Madam Chairman: So, we are going to stand down clause 23.

_Clauses 24 and 25 ordered to stand part of the Bill._

Clause 26.

*Question proposed:* That clause 26 stand part of the Bill.


Sen. Mark: Yes. Madam Chairman, this is a very simple amendment that is being proposed to ensure that in the event the person who wishes to make a report, because of domestic violence, they can have some options available to them. So rather than only going, or rather than going only to the police, it is being suggested that these reports can also be channelled to the division of the Family Services, as well as the Children's Authority.

And you know Madam Chairman, it reminds me of the time in the past when you live in a particular district and an incident takes place outside of that district, and they tell you, police, that is, years ago, you have to go to your district to report. You could not report your situation to any other police station. That has changed, however, and I am saying that we do not have to wait until something happens to a person, as outlined in this section or clause of the Bill for action to be taken. So if the police is not available, they can go to the two areas or organizations that have been outlined.

So it is a very simple amendment to give those victims options in the event of domestic violence and their inability to get to a police officer to report same. So, this is the amendment that is being proposed for the hon. Attorney General's consideration.

Madam Chairman: May I point out that the amendment that is proposed by Sen. Mark is very similar to that proposed by Sen. Richards and Sen. Vieira. So
Attorney General, I suspect when you answer, you will be answering to all. Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. These come from the Law Association, Equal Opportunity Commission, and the coalition. They are what I call the Roberta Clarke amendments. She is the author of these amendments. We have discussed them on many an occasion. I have just received a text message from her asking me what my view is on it, as she pays attention from abroad. [ Interruption] Yes, Sir. Anyway these are the pioneers and I congratulate them for paying attention to an area like this and I am genuinely warmed that we have such people who are committed to the service of Trinidad and Tobago. So I salute all these honourable people.

It is not that I did not consider it. We discussed this at two zoom meetings in particular, at great length. And if I could explain why we had left this issue the way the Bill has it now. Madam Chair, putting a trident approach, police, Division of Family Services and Children's Authority, is what is on deck here right now; alternate methods of recommendation. The difficulty that I have, the Children's Authority is easy. They are actually caught up right now. First port of call, TTPS. TTPS must alert duty council, children's attorney. Children's Authority is called immediately.

Secondly, reports to the Children's Authority, under the Children's Act, are reported back to the TTPS in any event. So that route is easy and that is part of the existing law as it is.

The Family Services Division however, is where I get into difficulty. Right now there is not an organized structure at that division. And the minute we start referring people to three different locations, the congruity of approach and records falls into difficulty. What we are try to do is to harmonize an approach right now.

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We have already passed, in relation to children; no police car can turn up to investigate a child. They must be the subject of plain clothes officers; gender management, female to female, et cetera; and there are strict protocols in that. We have adopted the UN protocols in that regard.

My fear, and I had asked the Law Association to consider this carefully, is that stepping too broad now, when the mischief we have—look at the Children's Authority report. The Children Authority has an annual report every year that tells us of thousands of cases of abuse. Where has that gone? They report it, it is part of the structure, they tell the Parliament about it, but they do not get the buy-in from the TTPS, because there is a distribution outside of the TTPS. So I had asked the stakeholders to allow us to harmonize the approach in the first instance. When we get that protocol right, we build the protocol at the other areas. Because we need to have consistency of approach in this issue. If you have a consistency of approach, you are going to get a result out of it.

And that is the simple reason as to why we did not take on board that amendment at this time. I think it is laudable. But the system is not organized well enough from a protocol and resourcing perspective. Remember this Parliament, this Eleventh Republican Parliament, has taught me how many laws have been passed that were excellent laws that went nowhere. Plea bargaining, zero; sex offenders registry, zero; DNA, zero; electronic monitoring, zero; Data Protection Act, zero; Land Title Act, zero. Hundreds of laws passed that went nowhere, because they lacked plant and machinery, people, processes in tandem with law.

So I respectfully ask for the opportunity to get this law funnelled and organized and then to take a step again when we need to. And I have kept my word as Attorney General. Time and time again, I have come back to the Parliament; amendment No. 1, amendment No. 2, amendment No. 3, as we get it right. So I
respectfully do not agree that the amendments are necessary at this point for the reasons volunteered, Madam Chair.

**Sen. Thompson-Ahye:** May I ask please, Madam Chair? Did you ask the stakeholders why they wanted to be different from what is done under the Sexual Offences Act, where reports are made to the police? Why did they want to change from that? Did they give you a reason?

**Mr. Al-Rawi:** May I? The answer that I got was that people may be less intimidated in an alternative forum.

**Sen. Thompson-Ahye:** Or is it that the professionals find they do not want to go to court?

**Mr. Al-Rawi:** Well, you see the problem is that you may be less intimidated in an alternative forum. But that data shows, if you look at the Children's Authority alone, it shows that we are not going as far as we ought to. We have tried that. The Children's Authority report is here. Every year we see it; thousands of allegations coming at us and we are not funneling and managing by system processes. I believe it you want results you have to measure it and perform it.

**Sen. Thompson-Ahye:** I spoke to that with my view on that this morning. I think it should remain with the police.

**Madam Chairman:** Sen. Vieira.

**Sen. Vieira:** Thank you, Chair. Hon. AG, I understand what you are saying, and I think we are moving forward. In the old days you had to report the situation at the neighbourhood police station. We have moved from that. Now you could report it to any police officer, any station, anywhere. Great.

In the same vein, people who are victims should have as many options as possible, it seems to me. There are many reasons why a person might not want to go to the police. It might be inconvenient. They may have had bad run-ins with the
police before; they may be an illegal immigrant; they may speak a different language; they maybe, as you have said, intimidated by the police and mistrust the police. So, even if it is just the Children's Authority or some other authority, I think it behooves us to consider the wider options.

**Mr. Al-Rawi:** But look at this, protecting lives. Who is going to get the emergency application done at the Children's Authority? Who is going to get the emergency application done at the Family Services Division? You got there late at night, they have to go to the police. The law says that the emergency application, under section 19(e) is to be done this way. Why create two steps when you could go directly to source? You see my problem is that the more we nuance this thing without getting to the heart of relief, and the heart take some steps. Right? I am not saying this is the perfect law and we are the architect of the perfect piece of legislation. Far be that from the position I am advocating now. What I am saying is we need to harmonize this approach. We do not have the resources of emergency application and police powers. Police powers are what save lives. And that respectfully, does not exist in the Children's Authority and the Family Services Division; not at present. Focus.

**Madam Chairman:** Sen. Richards.

**Speaker 4:** Thank you, Madam Chair. Through you, Attorney General, while I hear what you are saying, there is another way to look at this, such that while you say your suggestion, if I understand it correctly is that the Children's Authority is already overburdened and stretched to its limit and has received so many reports, which are tabled in Parliament, et cetera. The multiple reporting opportunity here may just be able to serve as a cross-reference for the Children's Authority and the police, in terms of different sources of information coming into them to see which cases to prioritize. So it may actually work to the advantage of the Children's
Authority.

**Mr. Al-Rawi:** Look at what we are suggesting. The Law Association's suggestion, which several Senators have echoed here today is, “Do not go to the police alone. Go to the Family Services Division and go to the Children's Authority”. What I am saying is that dilutes the potency of the law that we are dealing with right now, at this point in time.

**Sen. Richards:** I do not think that—that is not—my interpretation of it is that not, do not go to; there are options available in addition to.

**Mr. Al-Rawi:** I know, but if you go to the Children's Authority, as a point to report domestic violence, then you are not going to the police. If you go to the Family Services Division, you are not going to the police. If there is a police matter to happen, they need to go to the police. So what you are asking me to do is to facilitate alternative routes which are one step behind the primary route. And if I want to save lives, I need to go to the police; especially when we are saying that the police has created a specialty unit and there is a harmonization database on the spot.

Sen Chote's recommendation, which we will get to in a second, tell us take the report, give the person a report, investigate the steps. I genuinely think that we need to take a phased approach to this, harmonize it and then replicate resources after.

**Sen. Vieira:** And as you are speaking AG, there is nothing stopping a person going to the Family Division.

**Mr. Al-Rawi:** No.

**Sen. Vieira:** Or to the Children's Authority in any event.

**Mr. Al-Rawi:** Correct.

**Sen. Vieira:** And they can refer to the police, so, yes.
Mr. Al-Rawi: Yes.

Question put, on amendment [Sen. W. Mark] put and negatived.

Madam Chairman: Senators Richards and Vieira, do you still wish to pursue yours?


Madam Chairman: Thank you very much.

Question put and agreed to.

Clause 26 ordered to stand part of the Bill.

Clause 27.

Question proposed: That clause 27 stand part of the Bill.

Madam Chairman: Attorney General, there is an amendment circulated on your behalf?

Mr. Al-Rawi: Yes, Ma'am. Madam Chairman, I beg to move that clause 27 be amended as follows:

In paragraph (b), by inserting after the word "police", the word "officer".

Oh, Madam Chair, we just proposed in 27 to just tidy up paragraph (b), just inserting after the word "police" the word "officer", just to make sense of the law.

Question, put and agreed to.

Clause 27, as amended, ordered to stand part of the Bill.

Mr. Al-Rawi: Madam Chair, if I could just remind, it seems that we skipped over my clause amendment to 26. We took everyone else's except mine. I sincerely apologize, Madam Chair.

Madam Chairman: All right, let us just finish off clause 27.

Question, again put and agreed to.

Clause 27, as amended, ordered to stand part of the Bill.
Clause 26 recommitted.

Question again proposed: That clause 26 stand part of the Bill.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chairman, I beg to move that clause 26 be amended as follows:

In subsection (1)(a)(iv), insert after the words “and has”, the words “and has”, the words “attended to or”.

Madam Chairman, we wanted to capture the fact that you would have a medical practitioner who attended to or examined. So we want to add in the words "attended to", because it is wider than just examined. And for those reasons we ask that clause 26 be amended as circulated.

Question on amendment, [Mr. F. Al-Rawi] put and agreed to.

Clause 26, as amended, ordered to stand part of the Bill.

9.35 p.m.

Clause 28.

Question proposed: That clause 28 stand part of the Bill.

Madam Chairman: Sen. Mark, you have an amendment?

Sen. Mark: Yes, of course, Madam Chairman. Madam Chair, I will like to suggest or propose that wherever you find in clause 28, the word “negative”, I would like you to substitute for the word “affirmative”. And I did not include it as an amendment, but I would like to propose the following amendment to 33. I want to delete the “Chief Justice”, I do not think the Chief Justice has any business in our lawmaking process. I would like to put the Attorney General— the “Minister may, by order, subject to a negative resolution of the Parliament, amend Forms 1 to 6 in the Second Schedule.” I have been in the Parliament for several years—

Madam Chairman:—“subject to negative resolution”?
Sen. Mark: Yes, yes. I have been in the Parliament for several years and I have never seen a Chief Justice, I know that he makes rules—the Rules Committee, he is under—he can take charge of his court, but he cannot take charge of the Parliament, which I think is a dangerous development.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. Madam Chair, affirmative resolution is a very cumbersome process for matters that can be dealt with by way of parliamentary scrutiny or subsidiary legislation in general. For those reasons and for the many times that I have resisted Sen. Mark’s observations as to the need for affirmative resolution, I beg to differ and disagree with my learned colleague.

With respect to the allegation that the Chief Justice cannot cause an amendment, Madam Chair, that is just not the case. The rules of the Supreme Court are subsidiary legislation in effect, because the rule-making power under the Supreme Court of Judicature Act, which allows the rules of the Supreme Court to be promulgated, are done under the hand of the Chief Justice. But more than that, Madam Chair, when you look to the Second Schedule, the Forms: the application for domestic violence, Form 1; the Affidavit in Support of the Application, Form 1A; the Notice of Failure to Effect Service of Process, Form 1B, et cetera, these are quite properly matters that the Chief Justice really ought to have scrutiny over, because it gives us the flexibility of moving the law along as practice develops. So I respectfully wish to put on to the record that there is nothing odious about the Chief Justice causing an amendment to forms, particularly when those forms are court process forms, Madam Chair.

Madam Chairman: Sen. Mark.

Sen. Mark: Madam Chair, these forms must be subject to our review, not the Chief Justice’s review, and I am insisting that my amendment be put to this House
that the Minister—

**Madam Chairman:** Well, Sen. Mark, no need to insist, I am going to put the amendments now. So, hon. Senators the question is that clause 28 be amended as circulated by Sen. Mark, and further amended as follows:

At 33(1) to delete “Chief Justice” and substitute “Minister” and then after the word “Order”, include the words “subject to negative resolution”.

*Question, on amendment, [Sen. W. Mark] put and negatived.*

**Madam Speaker:** Attorney General, there is an amendment proposed by you?

Insert after the new section 33, the following section:

Amendment of First and Third Schedules

34. The Minister may, by Order subject to negative resolution of Parliament, amend the First Schedule and the Third Schedule.

**Hon. Al-Rawi:** Yes, Madam Chair. Madam Chair, we propose that clause 28 be amended, to allow for the ability to amend the First and Third Schedules by way of “Order subject to negative resolution of the Parliament.” This would allow the law to continue to evolve in a flexible but yet careful process of parliamentary scrutiny as the negative resolution will allow for, the negativings of any positions come.

The First Schedule deals with the offences pursuant to section 3 which are included into the legislation, you will see they are the Summary Offences Act, the Malicious Damage Act, the Offences Against the Person Act. The Third Schedule, Madam Chair, treats with the inclusion of Offences Against the Person, Sexual Offences, Children Act and we propose Trafficking in Persons which you would see a little bit later on. That springs off of section 20A(3). The reason why we propose this is that if we do not allow for the ability to amend these, we are going to have to move an Act of Parliament each time we want to amend the Schedule when, in particular, we amend laws with such rapidity, particularly under this

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Government’s tenure as you will notice, where in one miscellaneous provisions Bill we may amend 60 laws. It is just to allow us the flexibility to move. We keep the caution of having the ability to negative, by way of negative resolution.

*Question put and agreed to.*

Clause 28, as amended, ordered to stand part of the Bill.
Clauses 29 and 30 ordered to stand part of the Bill.

Clause 31.

*Question proposed:* That clause 31 stand part of the Bill.

Insert after the words “Section 25B”, the following:

“TRAFFICKING IN PERSONS ACT, CHAP. 12:10

Trafficking in persons, where a sexual assault was committed against the trafficked person, Section 16

Inciting, organising or directing another person to traffic in persons, where a sexual assault was committed against the trafficked person,

Section 17

Trafficking in children, where a sexual assault was committed against the trafficked child, Section 18

Inciting, organising or directing another person to traffic in children, where a sexual assault was committed against the trafficked child,

Section 19

Transporting a person for the purpose of exploiting that person’s prostitution,

Section 23.”

Madam Chairman: Attorney General, there is an amendment circulated by you?

Mr. Al-Rawi: Yes, Madam Chair. Madam Chair, clause 31 we propose ought to be amended to allow for an amplification of the Third Schedule. The Third
Schedule is important. These are the offences where we spring, Madam Chair, if you look at the Third Schedule, we are spring boarding off of section 20A(3). Section 20A(3) of the parent Act— 20A(3), is where we define a “serious criminal offence”. So, in the new 20A which we are inserting, we say notwithstanding the fact that a Protection Order expires after a particular period of time, where there is a serious criminal offence, that Protection Order should continue to prevail. If we tie it to the existing Third Schedule, respectfully, we have not gone far enough, particularly because when we looked at our amendments to the Sexual Offences Act and we caused the population of a Sex Offenders Registry, we agreed in a special select committee that it would be prudent to include the Trafficking in Persons Act sections, where we were dealing with trafficking involving sexual matters and in particular, trafficking in children. Those very odious offences, in our respectful view, ought to be considered as serious offences within the construct of 20A(3). Those are the reasons for the proposed amendments to clause 31.

Question put and agreed to.

Clause 31, as amended, ordered to stand part of the Bill.

Clause 23 reintroduced.

Madam Chairman: Attorney General, do you have the wording of the amendment?

Mr. Al-Rawi: Yes, Madam Chair, may I read it quickly and then for the purposes of recording? So people can catch it in its cadence? It is proposed that we amend it as follows, so it will be “21A” in as in “Alpha”, subsection (1):

(1) A police officer shall—

(a) respond to every complaint or report alleging domestic violence;

(b) make a detailed record of every complaint or report alleging
domestic violence made in person or by electronic means; and
(c) provide the person making the complaint or the report with a
copy of the record.

(2) a police officer shall investigate every complaint or report alleging
domestic violence.

I hope I have captured what Sen. Chote had suggested. Yes? May I then dictate it
slowly?

Madam Chairman: Yes.

Mr. Al-Rawi: So, Madam Chair, 21A, “A” as in “Alpha”:

(1) A police officer shall—
   (a) respond to every complaint or report alleging domestic
       violence;
   (b) make a detailed record of every complaint or report alleging
domestic violence made in person or by electronic means; and
   (c) provide the person making the complaint or report with a copy
       of the record.

(2) A police officer shall investigate every complaint or report alleging
domestic violence.

Madam President: That is it?

Mr. Al-Rawi: Yes, Madam Chair. So effectively our amendment is—yeah, as
done, yes Ma’am. [Crosstalk]

Madam Chairman: So, hon. Senators, the question is that clause 23 be amended
as follows, that 21(1) be deleted and the following be substituted:

21A (1) A police officer shall—
   (a) respond to every complaint or report alleging domestic
       violence;

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(b) make a detailed record of every complaint or report alleging domestic violence made in person or by electronic means; and

(c) provide the person making the complaint or report with a copy of the record.

(2) A police officer shall investigate every complaint or report alleging domestic violence.

Mr. Al-Rawi: Yes, Madam Chair.

*Question put and agreed to.*

*Clause 23, as amended, ordered to stand part of the Bill.*

*New clause 19A.*

Insert after clause 19, the following clause:

Section 20 19A. The Act is amended in section 20—

amended (a) In subsection (1)(b)-

(i) In subparagraph (i), by deleting all the words after the word “fine” and substituting the words “of fifty thousand dollars and to imprisonment for one year”;

(ii) In subparagraph (ii), by deleting all the words after the word “fine” and substituting the words “of one hundred and fifty thousand dollars and to imprisonment for three years”;

and

(iii) In subparagraph (iii), by deleting all the words after the words “to a” and substituting the words “fine of two hundred and fifty thousand dollars and to imprisonment for five years”;

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and

(b) In subsection (2)—

(i) By deleting the words “subsection (1)(c)(viii)” and substituting the words “section 6(1)(c)(viii)”;

(ii) By deleting the words “not exceeding three” and substituting the words “of six.”

New clause 19A read the first time.

Question proposed: That new clause 19A be read a second time.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, in scrubbing the parent Act, we came across section 20. Section 20 is “Breach of Orders”. And section 20 is archaic. Effectively, if you contravene—an order or fail to comply with any direction of the court, you commit an offence and you are liable, the existing law says:

“(i) on a first conviction to a fine not exceeding”—a whole—“nine thousand dollars or imprisonment for a period not exceeding three months;

(ii) on a second conviction to a fine not exceeding fifteen thousand dollars or imprisonment for a period not exceeding twenty-four months or both;

(iii) on any subsequent conviction to a period of imprisonment not exceeding five years.”

So the first fact is that that phrase “not exceeding” is now in odium in the courts and we ought not to have that. The court has its discretion to consider.

What we propose in the amendments to section 20 are that we raise the fines and penalties on first conviction, we go to “fifty thousand dollars and imprisonment for
one year”. In the second instance you go to “one hundred and fifty thousand dollars and imprisonment for three years”, and on third conviction we go to a fine of “two hundred and fifty thousand dollars and imprisonment for five years”. And of course the rest of it is just that we delete the “not exceeding” as words. They are offensive in modern drafting terms. We believe that this would bring the penalties in line with where we are in the modern context of laws and those are the reasons for the proposed amendments.

Question put and agreed to.

Question proposed: That the new clause 19A be added to the Bill.

Question put and agreed to.

New clause 19A added to the Bill.

Madam Chairman: Attorney General, just pointing out that there may be a consequential amendment to 19A because in the Bill you already have a 19A.

Mr. Al-Rawi: Aha.

Madam Chairman: So, but that is just—[Crosstalk]

Mr. Al-Rawi: So we have a 19A? So Madam Chair, in my Bill as printed I see a “19” and a “20” as a clause. Now there is a new section 19A that we are inserting— no sorry, that is 20A. Yeah, we have a— clause 19 puts in a section 19A. So this is new clause 19A. So I think we are in order.

New clause 23A.

The Act is amended in section 22 by deleting the word “Magistrate and substituting the word “Court”, wherever it occurs.

New clause 23A read the first time.

Question proposed: That the new clause 23A be read a second time.

Madam Chair: Attorney General.

Mr. Al-Rawi: Madam Chair, we propose the issuance of a warrant as it is casted in
the current law says just a magistrate shall issue a warrant. With the Family and Children Division and the merger of jurisdictions and the fact that you may be in the High Court or before a master, were preferred instead to have the word “Court” so that you would capture all of the species of judicial officers that can issue a warrant. That is the rationale for this to make sure that we have flexibility across jurisdictions.

*Question put and agreed to.*

*Question proposed:* That the new clause 23A be added to the Bill.

*New clause 23A added to the Bill.*

**New clause 28A.**

By inserting after clause 28, the following new clause:

Annual 28A. (1) The Commissioner shall within three months of the end of each calendar year, submit to the Minister a report on the operations of the Register; and (2) The Minister shall cause a report referred to in subsection (1) to be laid in Parliament within one month of the receipt of the report of as soon as practicable thereafter, but not later than four (4) months after receipt.

*New clause 28A read the first time.*

*Question proposed:* That the new clause 28A be read a second time.

**Madam Chairman:** Sen. Mark, this is your amendment?

**Sen. Mark:** Madam Chair, I honestly believe it was a genuine oversight on the part of the Attorney General because I know he is a person who is a stickler for accountability and with the kind of powers and the major reforms being attached to this effort, the Parliament will need to get some kind of reporting mechanism. So
that we can have sight and access on an annual basis to what is taking place with this very important piece of legislation that we are dealing with. So I have to admit that the Attorney General—this one might have slipped him. So I have sought to help him address a very important lacuna in the legislation and in those circumstances, I am asking the hon. Attorney General to give this amendment his undivided attention and consideration. I do not think I need to elaborate on it just to say, Madam President, that a report ought to visit this Parliament on an annual basis so that we could have sight of what is taking place with domestic violence in T&T. We do not want names of individuals, eh, Madam, it cannot be names. It is a report dealing with statistics, the region, wherever it is taking place. So we will know what is taking place on that front.

**Madam Chairman:** Attorney General.

**Mr. Al-Rawi:** Madam Chair, I thank Sen. Mark for raising an important issue of accountability and oversight which obviously any Parliament would want to enjoy for the benefit of its citizens. We did it in is the sexual offences amendment that we did, but we said that, “the Minister shall report on the operations of the Act.” The difficulty that I have here is that we are talking about “the Register” and “the Register” is a register of allegations, not necessarily convictions.

So whilst I catch and I thank Sen. Mark for the recommendation, I think that to carve it out on the operations of the Register may be a little bit difficult. Perhaps when we get a little more experience, we can come back and find a way to capture the overall intent of oversight.

**Sen. Mark:** In other words—I take our point. So in other words, let us deal with the Act, so that we will get a report on the operations of the Act. I think that will be a little better. We could carve it in that way.

**Mr. Al-Rawi:** Madam Chair, I think that that is a commendable suggestion. If I
borrowed from what we did in the Sexual Offences (Amdt.) Act, we had— and I do not know if Sen. Mark will take this on— we had put in the following language: the Minister shall cause to be laid in both Houses of Parliament, annually a report on the administration of this Act. I think that one of our subcommittees would do very, very well, to have this Act before them so that Parliament would not have another 21 years before an Attorney General like me turned around to have a little serious stab at the law. I mean that in the best way possible. I do not mean it in any egotistical way.

**Sen. Mark:** Yeah, yeah, yeah, no problem, no problem.

**Madam Chairman:** Attorney General, could you recall it please?

**Mr. Al-Rawi:** Sure, Madam Chair. So if it could perhaps read: “The Minister shall cause to be laid in both Houses of Parliament, annually, a report on the administration of this Act.” I thank Sen. Mark for raising the issue.

**Madam Chairman:** Hon. Senators, the question is that new clause 28A be amended to read as follows: The question is that new clause 28A as circulated by Sen. Mark be further amended as follows to delete “28A(1) and (2)” and substitute the following words:

> “The Minister shall cause to be laid in both Houses of Parliament, annually, a report on the administration of this Act.”

Attorney General, what should the marginal note read?

**Mr. Al-Rawi:** It will say, “Annual Report”. Yes, Ma’am.

**Madam Chairman:** Anything further?

**Mr. Al-Rawi:** No, Ma’am.

**Madam President:** So shall I repeat it? The question is that new clause 28A, as circulated by Sen. Mark, be amended as follows, by deleting paragraphs (1) and (2) and substituting the following:
“The Minister shall cause to be laid in both Houses of Parliament, annually, a report on the administration of this Act.”

Question put and agreed to.

Question proposed: That the new clause 28A, as amended, be added to the Bill.

New clause 28A added to the Bill.

Question put and agreed to: That the Bill, as amended, be reported to the Senate.

Senate resumed.

Madam President: Attorney General.

Hon. Al-Rawi: Madam President, I wish to report that the Domestic Violence (Amdt.) Bill, 2020, was considered in committee of the whole and approved with amendments. I now beg to move that the Senate agree with the committee’s report.

Bill reported, with amendment.

10.05 p.m.

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

The Senate voted: Ayes 29

AYES

Khan, Hon. F.
Gopee-Scoon, Hon. P.
Baptiste-Primus, Hon. J.
Rambharat, Hon. C.
Sinanan, Hon. R.
Moses, Hon. D.
Hosein, Hon. K.
West, Hon. A.
Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

Madam President: Leader of Government Business.
The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Madam President. Madam President, I beg to move that this Senate do now adjourn to Tuesday June 23rd—that is tomorrow—2020 at 1.30 p.m., Private Members’ Day. I have been advised by the Leader of the Opposition Bench that we will be doing Motion No. 4 with regard to the Marilissa Farms.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised.

COVID-19 Hamper Distribution

Sen. Wade Mark: Thank you very much, Madam President. Madam President, the first matter I would like to raise at this moment deals with the need for the Government to explain the system used to identify deserving individuals and families for receipt of state sponsored hampers during this COVID-19 period.

Now, Madam President, based on research conducted thus far, we have discovered a very unusual situation as it relates to the distribution of hampers in particular. Madam President, the classic definition of corruption is simply using one’s public office for public gain. And there is also a term which is known as “the abuse of office”. And what the material information has revealed thus far is that the Government has been distributing hampers, in particular, throughout the country at taxpayers’ expense. But, Madam President, what is very clear from an editorial in the Guardian newspaper of last week, Thursday I believe or Friday, was an article entitled “Answers on Use of State Resources”. And this particular Guardian editorial pointed out the unusual and unequal delivery of hampers to the various parts of the country.

Madam President, what is very, very clear from the material that we have before us, is that the People’s National Movement, based on two lists, one dated May 15th and one dated June the 5th, revealed severe inequalities in the distribution
of state sponsored COVID-19 relief hampers between the United National Congress and the People’s National Movement’s operatives.

[MR. VICE-PRESIDENT in the Chair]

Mr. Vice-President, would you believe that PNM, in their inequitable distribution of hampers at the expense of taxpayers’ dollars, have engaged in the following: in the constituency of Siparia they have distributed 50 hampers and as you go on to places like Pointe-a-Pierre, Princes Town, Cumuto/Manzanilla 50 hampers; and this goes on.

Mr. Vice-President, this is occurring at a time when taxpayers’ dollars are involved. It is not PNM moneys, it is taxpayers’ moneys. So, you know what they are doing, Mr. Vice-President? They are going into UNC constituencies, distributing and giving out 50 hampers to the respective Members of Parliament. But hear what is taking place in the constituencies of the PNM. San Fernando West 100 hampers. And, Mr. Vice-President, I want to tell you this evening we have the evidence here in writing. We have the evidence of what is taking place. They have distributed 100 hampers to San Fernando West. They have, at the same time, given 50 hampers to Naparima. But you know when it came to Diego Martin West and all the Diego Martin seats is 150 hampers for the Diego Martin West, 150 hampers for Diego Martin East, 150 hampers for Diego Martin Central.

But, Mr. Vice-President, what is going on is that when it comes to operatives of the PNM, in our constituency like Naparima, they give our MPs 50 and they give their operators who are called “shadow Members of Parliament”, also 50 hampers to distribute. But when they come to the UNC constituency nothing for the UNC whilst 150 hampers are given to the PNM Diego Martin West constituency.
Mr. Vice-President, this is a complete abuse of office by the PNM and we cannot sit idly by and allow the PNM to distribute the taxpayers’ dollars at this rate. It is too blatant. Mr. Vice-President, we serve notice on the People’s National Movement and the Government of Trinidad and Tobago that we intend to take legal action. We intend to write all the relevant organizations like the police and the Fraud Squad that are dealing with this matter. Mr. Vice-President, the PNM must account for this blatant misuse and abuse of office. [Desk thumping] The PNM must be able to tell this country why are they using taxpayers’ money in such an inequitable way.

Mr. Vice-President, who can be against poor people being given hampers? We want poor people to have access to food. But, Mr. Vice-President, you cannot go in Diego Martin West, you cannot go in San Fernando West, you cannot go in San Fernando East and in all the other areas under the PNM control, and give out 100 to 150 hampers, but when you come to the UNC controlled constituencies, you are given only 50 hampers. Mr. Vice-President, that is wrong. And this is why today, we have taken the opportunity to raise this matter about the inequity, the inequitable distribution of resources under the cover of COVID-19 hamper distribution, and we saw it, Mr. Vice-President, in a list that we have a copy of dated May the 5th, and we have another list dated June the 5th. And that is what they have been doing.

So, I call on the Minister of agriculture, in particular, to give an account to this Parliament as to what is the policy in place for the distribution of hampers. And can the Minister tell this honourable Senate this evening, Mr. Vice-President, whether the Government has been engaging in the distribution of hampers in this inequitable way?—because we have all the evidence before us this evening and I await the Minister’s response to this matter because the people are very, very angry
at what this Government is doing with our taxpayers’ dollars. Mr. Vice-President, I pause, and I await a response from the PNM Government on the blatant abuse of office and the corruption of our public resources in the way that they have engaged in it so far. Thank you, Mr. Vice President.

10.20 p.m.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Mr. Vice-President, thank you, and I want to make it very clear from the outset that in my capacity as Minister of Agriculture, Land and Fisheries, I could say that that Ministry has distributed no hampers to anybody, anywhere in this country. But, Mr. Vice-President, Sen. Mark wants to give the impression that the Government’s response to COVID-19 has been in the form of 600 hampers. Based on my quick calculations, we have provided figures, repeating some figures provided by MP Roodal Moonilal in the other place, which adds up to 600 hampers; a few constituencies allegedly receiving 50, a few receiving a 100.

But, Mr. Vice-President, I would not allow Sen. Mark to mislead this country. That has not been the extent of the Government’s work on COVID-19. Towards the end, I will talk about the work being done through the faith-based organizations, for example, 30 million, simply because in response to a question in the Parliament in this House, I set out the details of the organizations that were to benefit from the first tranche of that.

Mr. Vice-President, in response to a question asked one week ago by Sen. Mark, Question No. 137 to the Minister of Social Development and Family Services, I provided details on the rental assistance grant, the salary relief grant and the food support to an estimated 100,000 applicants. So this is not about hampers and pampers, Glenn Ramadharsingh style. The Government has provided a comprehensive world class, world leading, [Desk thumping] much admired
response to COVID that extends from the outstanding leadership of the hon. Prime Minister; [Desk thumping] the work of the Minister of Health and Member of Parliament for St. Joseph and soon to return for another five years, Member; [Desk thumping] the public servants led by the Chief Medical Officer, Dr. Parasram; [Desk thumping] the regional and international experts supporting and the citizens of this country that I have emphasized so much about. So it is not just 600 hampers based on an allegation made by MP Moonilal, unsubstantiated with lots of threats of substantiation yet to appear and parroted—P-A-R-O-T-E-D in this House, at this ungodly hour, for which I still have some energy.

So, Sen. Mark, may I remind you, in relation to—outside of all the medical support, last week we had to deal with the supplementary allocation and we went through and I, in my contribution, went further into the details: Tobago House of Assembly, 24 million in personal protective equipment. Training: THA, Ministry of Health and all the Ministries. Lord, have mercy.

Mr. Vice-President, as at last week Monday, June 15, 2020, there were 25,000 beneficiaries under the Food Support Programme; 25,000 not 600 made up of 50 hampers here and 50 hampers there; 50,000 individuals—we have no way of knowing who is PNM and UNC, these people applied—50,000 individuals who had their incomes reduced, benefited under the Food Support Programme; [Desk thumping] 20,000 households, whether they are UNC— we “doh” know. We “doh” have a scanner to figure—how “yuh” know? [Crosstalk] So bring the evidence. Mr. Vice-President, 20,000 households have become beneficiaries under the Food Support Programme; 42, 000—you are telling me it is only UNC people or PNM people—40,000 current beneficiaries of Public Assistance and Disability Assistance Grant have had their income support increased, 42,000; 47,000 who have had their salaries reduced or cut will receive support under the Income
Support Grant. And the Minister of Finance said on the weekend, he dealt with, I think, either 37,000 or 40,000 applicants already. Mr. Vice-President, 3,000 citizens who have not yet received their Senior Citizens Pension are receiving $1,500 in support; 500 individuals who have not yet received their Disability Assistance Grants are getting 1,000 in food support; 1,400 in direct—1,400 have been provided with hampers during the stay at home period; 30,000 are receiving food vouchers; up to 10,000 are receiving or will receive rental assistance, and the criteria is based on a long established criteria and database established at the Ministry of Social Development and Family Services, and the Ministry of Education via the School Feeding Programme.

Why did you not you talk about that? That it is the MPs who were asked to use their local knowledge of their area to identify families of children who had been receiving school feeding and were now cut off from that, and it is the Members of Parliament who were asked to put forward the names to receive the support from the Ministry of Social Development and Family Services to compensate for the absence of the school feeding. It is the Members of Parliament, all 41, and that was through the Ministry of Education database, and the Government did not—are you accusing the churches, the Maha Sabha, the Baptist faith, of colluding with the PNM? It is the faith-based organizations who have been allocated $30 million, and I give the details as at May 22, 2020, 67 religious organizations were paid $9.675 million. A total of 34 religious groups have already submitted reports indicating—Sen. Mark, write down this number and play it tomorrow in the Play Whe—41,314 hampers. [Desk thumping]

You, MP Moonilal and the Guardian last week add up to 600. We—listen, listen, they were distributed to households where the ratio—the average ratio in the households with three females to one male-headed household. So, principally, the
religious groups reported, the 34, that these—write it down—41,314 hampers—
[Crosstalk]—and this is just one month, you know.

Sen. Ameen: So how much the PNM candidates get?

Sen. The Hon. C. Rambharat: This is just one month. Well, go and ask. Ask me a question, file a question, I will give you the list of the 34. Go and ask them—34 and that is just for one month, 41,314. And then, through the Ministry of Rural Development and Local Government—the Minister is there—an additional 30 million in food support was made available through, who? The regional corporations, the 14 regional corporations—half the PNM is in majority and half the UNC is in majority. So you are telling me in the UNC corporations, “all yuh giving the support only to the PNM. All yuh eh so chupid” [Crosstalk]

So, Mr. Vice-President, this is a nuisance Motion honestly. This is a nuisance Motion. [Crosstalk] This is based on a statement unsupported, untested made by MP Moonilal as he is entitled to make in the other place in the course—

Mr. Vice-President: Minister, your time is up.

Sen. The Hon. C. Rambharat: Thank you very much, Mr. Vice-President. [Desk thumping]

Erosion of Freedoms and Liberties

(Government’s Commitment to)

Sen. Wade Mark: Thank you, Mr. Vice-President. Mr. Vice-President, the other matter I would like to address this evening is the need for the Government to remain committed to the rights enshrined under section 4(k) of the Constitution in respect of freedom of the press and to discourage attacks on the fourth estate. Mr. Vice-President, you would be aware that it was on May 29, 2020, that a vicious and unprecedented assault and attack was made on the national media by the outgoing Prime Minister when, Mr. Vice-President, the outgoing Prime Minister
accused the media companies of not being independent, merely because they dare to question that infamous meeting between the Government and the Vice-President of Venezuela. And they provided this country with a “nancy” story and a fairy tale about COVID-19, and everybody knew after that meeting, 150,000 barrels of gasoline ended up in Venezuela that was supposed to be sent to a place called Aruba. So who was the Government fooling about COVID-19 discussion, when the real objective was the provision of gasoline to Venezuela?

Mr. Vice-President, I want to tell you this evening that our democracy is under threat in this country by this Rowley-led regime. Mr. Vice-President, anyone who speaks out against this Government is accused of being guilty of treason, is accused of being an enemy of the State, is accused of being unpatriotic and is accused of being put to the sword. Mr. Vice-President, we need under our Constitution to protect a free press. A free press is one of the cornerstones of our democracy and, Mr. Vice-President, every citizen has the right to free expression and speaking the truth does not make you a traitor, does not make you an enemy and does not make you unpatriotic. In fact, we are the true patriots of this nation. [Desk thumping]

Mr. Vice-President, I want to tell you this evening that warning signs have appeared on the Trinidad and Tobago radar. The guard rails of our democracy are being eroded and subverted and undermined incrementally, Mr. Vice-President. Mr. Vice-President, democracy is being eroded almost imperceptibly in our country and when fear, opportunism or miscalculation, Mr. Vice-President, where a Government seeks to establish itself on a platform of untruths and falsehoods and fake news, Mr. Vice-President, then we know we are in danger. Would the authoritarian, Mr. Vice-President, seek to subvert our democratic institutions? And, Mr. Vice-President, we have to defend our institutions, we have to defend our
Constitution and we must not allow the Government to use our institutions as political weapons against the citizens of this country, and this is what has been happening, Mr. Vice-President.

Mr. Vice-President, there is a pattern that has emerged under this outgoing PNM regime where they seek, Mr. Vice-President, to delegitimize independent voices, whether their attack is on Gabriel Faria, the CEO of the Chamber, because he dare express a different view; whether it was against the Law Association, Mr. Vice-President; whether it had to do with persons in their private capacity, Mr. Vice-President, it is the same taking place all around us, Mr. Vice-President.

Mr. Vice-President, we have noticed that this outgoing Government, over the last four and a half years, have used their power in this very Parliament in order to push through amendments to curb people’s freedom of access to information. We have just witnessed the Government’s attempt—and they have passed a law to deal with the interception of communication. Anyone, Mr. Vice-President, who is a critic or who decides to criticize the Government is branded in negative terms. Mr. Vice-President, I am saying this evening on behalf of the incoming administration of the United National Congress that this kind of conduct and behaviour is more suitable for certain parts of the world, not for Trinidad and Tobago, but we are seeing signs of the times and we must defend our country and defend our Constitution.

So, Mr. Vice-President, I raise this matter today because I recall a famous pastor called Pastor Niemöller who was jailed and placed in a concentration camp by Adolf Hitler during the Second World War. And, Mr. Vice-President, in closing, I want to tell you he left a famous poem that I would like to recite for this honourable Senate this evening:

When they first came—that was the name of the poem, he left it for us. He
said, when they first came—Mr. Vice-President:

“...I did not speak out
Because I was not a Communist”

—Hitler massacred all the communists—

“And I did not speak out
Because”—Hitler came for the socialists—

“I was not a Socialist
...I did not speak out
Then they came for the trade unionist”

I was not a trade unionist.

“...I did not speak out”

—then he came for the Catholics. I was not a Catholic.

“...I did not speak out”

And, Mr. Vice-President, then they came for the Jews.

“...I was not a Jew
...I did not speak out.”

He wiped out four million Jews and:

“Then they came for me
And there was no one left
To speak out”

Mr. Vice-President, we are seeing an erosion of our freedoms, our liberties and we are seeing an attack on our institutions, whether it is the media, whether it is the public service, whether it is the police service, wherever you go, Mr. Vice-President, the Government of this country is engaging in an all-out assault on democracy on our freedoms, on our liberties, because they want to transform this country into a full-fledged authoritarian dictatorship. That is the objective of this
PNM Government.

But, Mr. Vice-President, I give you the assurance and I give Trinidad and Tobago the assurance, it is only a matter of time before we go to the polls and we deal with this bunch that are about to leave the corridors of power. They cannot continue to try to erode on our rights and our freedoms, Mr. Vice-President. And I stand here this evening in defence of the media, in defence of our Constitution, in defence of democracy, I stand in defence of sections 4 and 5 of our Constitution, which is daily being eroded by legislation brought by this Government to undermine our freedoms and our liberties and our fundamental rights.

So, Mr. Vice-President, I serve notice on this Government, they can run, they cannot hide. They must call elections. Either they call it very shortly or they must call it by the 23rd of December. My view is that they will call it shortly and when they call it, the people will speak. It will be “licks” like peas for the PNM. That will be the end of them. Thank you very much, Mr. Vice-President.

The Attorney General (Hon. Faris Al-Rawi): Mr. Vice-President, the cemetery of political rhetoric is now completely full. The rantings and ravings of conspiracy theorists are certainly well known to historians around this earth. Indeed, we got a perfect lecture of a perfect sample of exactly what rhetoric looks like. Sen. Mark has perfected the art [Desk thumping] in a way that one can hardly, hardly challenge, Mr. Vice-President. Rhetoric begins with wild fantasy. Wild fantasy usually involves the kind of content brought by my learned friend.

Our Constitution guarantees the right of expression and freedom of thought, but in our Parliament we enjoy a parliamentary privilege where we are protected from our expression as parliamentarians in these hallowed halls. Mr. Vice-President, most regrettably, that privilege does not allow one the benefit and joy of claims in defamation or of having one arrested for libellous intent of a particular
type of criminality that is recognized under our laws. In those circumstances, I wonder why Sen. Mark finds solace in the Parliament as opposed to the platform. These things could be said in the public domain where one has the right to take house and land in settlement of damages for defamation of character.

I reject the scurrilous allegations of wild fantasy born and grown in a cemetery of political rhetoric, Mr. Vice-President. There is no truth, there is no merit and there is no substance. Fantasy, fantasy, fantasy. Thank you, Mr. Vice-President. [*Desk thumping*]

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 10.43 p.m.*