

SENATE*Tuesday, February 05, 2019*

The Senate met at 1.30 p.m.

PRAYERS[MADAM PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Madam President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Dennis Moses who is out of the country and to Sen. Amrita Deonarine who is ill.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from Her Excellency the President, Paula-Mae Weekes, O.R.T.T.

“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: MR. NDALE YOUNG

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

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a)

UNREVISED

Senators' Appointment (cont'd)

2019.02.05

of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NDALE YOUNG, to be temporarily a member of the Senate, with effect from 5th February, 2019 and continuing during the absence from Trinidad and Tobago of the said Senator Dennis Moses.

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 5th day of February, 2019.”

“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: MS. ZOLA L. PHILLIPS

WHEREAS Senator Amrita Deonarine is incapable of performing her 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)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ZOLA L. PHILLIPS to be temporarily a member of the Senate, with effect from 5th February, 2019 and continuing during the absence of Senator Amrita Deonarine by reason of illness.

UNREVISED

Senators' Appointment (cont'd)

2019.02.05

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 4th day of February, 2019."

OATH OF ALLEGIANCE

Senator Zola L. Phillips took and subscribed the Oath of Allegiance as required by law.

AFFIRMATION OF ALLEGIANCE

Senator Ndale Young took and subscribed the Affirmation of Allegiance as required by law.

JOINT SELECT COMMITTEE

(APPOINTMENT OF)

Madam President: Hon. Senators, I have received the following correspondence dated the 4th of February, 2019, from the Speaker of the House of Representatives:

"Dear President of the Senate,

Establishment of Joint Select Committee

At a sitting held on Friday February 01, 2019 the House of Representatives agreed to the following resolutions:

1) 'Resolved:

That in accordance with Standing Order 68(1), the National Statistical Institute of Trinidad and Tobago Bill, 2018 be referred to a Joint Select Committee to be established for its consideration and report by March 31, 2019.'

2) 'Resolved:

That, subject to the concurrence of the Senate on the establishment of the Joint Select Committee on the National

Statistical Institute of Trinidad and Tobago Bill, 2018, the following six (6) Members be appointed to serve with an equal number from the Senate on the Joint Select Committee to consider and report on the National Statistical Institute of Trinidad and Tobago Bill, 2018:

Mrs. Camille Robinson-Regis, MP

Mr. Terrence Deyalsingh, MP

Mr. Randall Mitchell, MP

Mrs. Cherrie-Ann Crichlow-Cockburn, MP

Dr. Bhoendradatt Tewarie, MP

Dr. Tim Gopeesingh, MP

I respectfully request that the Senate be informed of these decisions at the earliest convenience please.

Respectfully,

Bridgid Mary Annisette-George

Speaker

PAPERS LAID

1. Annual Audited Financial Statements of National Information and Communication Technology Company Limited (iGovTT) for the financial year ended September 30, 2018. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Public Transport Service Corporation for the year ended September 30, 2011. [*Sen. The Hon. A. West*]

3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Public Transport Service Corporation for the year ended September 30, 2012. [*Sen. The Hon. A. West*]
4. Ministerial Response of the Ministry of Health to the Sixth Report of the Joint Select Committee on Social Services and Public Administration, Fourth Session (2018/2019), Eleventh Parliament on an Inquiry into mental health and wellness services and facilities in Trinidad and Tobago. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
5. Ministerial Response of the Ministry of National Security to the Sixth Report of the Joint Select Committee on Social Services and Public Administration, Fourth Session (2018/2019), Eleventh Parliament on an Inquiry into mental health and wellness services and facilities in Trinidad and Tobago. [*Sen. The Hon. F. Khan*]
6. Response of the Office of the Chief Personnel Officer to the Fifteenth Report of the Public Accounts (Enterprises) Committee, Third Session (2017/2018), Eleventh Parliament on the Examination of the Audited Accounts, Balance Sheets and other Financial Statements of the Youth Training and Employment Partnership Programme (YTEPP) for the financial years 2008 to 2014. [*Sen. The Hon. F. Khan*]

1.40 p.m.

URGENT QUESTIONS

H1N1 Virus

(Public Awareness of)

Sen. Wade Mark: To the Minister of Health: In light of reports that there have been at least five (5) confirmed deaths from swine flu, can the Minister indicate what steps are being taken to immediately increase public awareness on how to

avoid contracting the H1N1 Virus?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam President. I must thank Sen. Mark for this question; it is timely and important.

Madam President, we launched the flu vaccine season on November 23, 2018. During the month of December the following urgent actions were taken: flu prevention tips. We also engaged social media, Facebook and Twitter. TV6, every night—and I must congratulate TV6—during the news, TV6 on their banner carries an advisory about the importance of getting vaccinated against the flu. That was urgent action.

We gave out flu vaccine facts. We were on Power 102. We had 10 media ads for the month of December. In January we did digital flyers, urgent action. I myself went on Power 102, Morning Edition, Morning Brew. The Chief Medical Officer also went on radio and TV. The Director of Women's Health, the Nurse Manager of the EPI was also on radio. We ran press ads again in January. We stepped up internal communications for both staff and our pregnant population. We did serious communications at our hospitals and health centres. For the month of February we were also now on Hot 93 FM; media releases.

Madam President, these are all urgent actions encouraging the at-risk groups to get vaccinated. Our major problem now is not vaccines or getting vaccinated. Our major problem now is persons who ought to know better, having access to the media, spreading rumour and propaganda about the safety of vaccines; and I encourage the public to ignore them. The vaccines are safe, they are available and that is the action we now have to take. Thank you very much.

Sen. Mark: Can the hon. Minister indicate to this House why in the face of all of these efforts by him and the Government and other private citizens, so many

citizens, meaning five thus far, have succumbed to this deadly H1N1 Virus?

Hon. T. Deyalsingh: Thank you, and that is an excellent question. It has to do with the reluctance of the public to heed all warnings and advice to get vaccinated, especially two main groups, the pregnant population, who have an aversion to getting vaccinated, and healthcare workers.

Madam President, last year in the United States 80,000 people died. Madam President, 80,000 people died. This year in the United States 200 children have died, because, one of the reasons is the rise of the anti-vaxxers who are spreading propaganda about the non-safety of vaccines. The TTMA had to put out a public release after an academic from UWI chastised me publicly for getting vaccinated in the Tunapuna market and launching last year's vaccination campaign. He came back again this year telling the population that I am misleading them.

TV6 again gave two slots on prime time TV to an anti-vaxxer. We had to get PAHO and UWI, Dr. Boisson who is an epidemiologist and Dr. Oura from UWI who is a virologist to dispel all the claims being made by anti-vaxxers. And this morning I called on the TTMA and the Medical Board that they should no longer be silent on this issue, because the anti-vaxxers are discouraging people from getting the vaccines. That is the problem we now face because the propaganda about the non-safety of vaccines is getting root worldwide.

There was talk about MMR vaccines causing autism. In the United States measles was eradicated 20 years ago. Measles is now making a comeback in the United States because of the propaganda being put out by anti-vaxxers, and that propaganda unfortunately has now reached Trinidad and Tobago, and it is to be deplored. Thank you very much.

Sen. Mark: Madam President, can the Minister identify for the information of this Senate who are these agents or persons who are spreading this false propaganda or

information as it relates to the negative effect of this H1N1 vaccine?

Madam President: No, Sen. Mark, I will not allow that question.

Sen. Mark: But he did indicate—

Madam President: Sen. Mark, next question please.

Forensic Science Centre

(Re-opening of)

Sen. Wade Mark: To the hon. of National Security: Given the recent closure of the Forensic Science Centre because of a malfunctioning air conditioning system, can the Minister indicate when will the Centre be reopened?

The Minister of National Security, the Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. The Forensic Science Centre was reopened on Friday, February 1st, that is last week Friday, and I would like to put on the record that there was only one day, and it is not that the centre was closed, but rather that the pathologist took a decision that he did not want to work that day and that was on the 31st of January, because the air-condition in the interview room was not working. So the Forensic Science Centre was never completely shut down. It was fully functional on the 1st of February, last week Friday, and by the afternoon period of the 31st of January the air-condition was back up and running.

Sen. Mark: Madam President, can the Minister indicate whether his Government is satisfied with the conditions that impact on the operations of the Forensic Science Centre? Is he satisfied?

Madam President: Sen. Mark I will not allow that question. Next question, Sen. Mark.

Sen. Mark: Can I ask the hon. Minister whether there are any further challenges faced by that particular centre that can result in its shut down in the future?

Madam President: Sen. Mark, I will not allow that question either.

ANSWERS TO QUESTIONS

The Minister of Energy and Energy Affairs (Sen. The Hon. Franklin Khan):

Thank you very much, Madam President. The Government is pleased to announce that we will be answering all questions on the Order Paper save and except question No. 44.

ORAL ANSWERS TO QUESTIONS

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

Greenvale Housing Development (Refusal of Planning Permission)

44. Could the hon. Minister of Planning and Development indicate whether the Town and Country Planning Division had, at any time in the past, refused planning permission for the development of a housing community in the area now known as the Greenvale Housing Development, and if so, when and why?

Question, by leave, deferred.

Police Body Cameras (Details of)

41. **Sen. Wade Mark** asked the Minister of National Security:

Can the Minister inform the Senate of the following:

- i. the reason(s) for the non-implementation of police body cameras; and
- ii. when and how will this technology be rolled out in the TTPS?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very

much, Madam President. It is wrong to say that there has been a non-implementation of police body cameras. The facts are that the use of police body-worn cameras has already been implemented in the Trinidad and Tobago Police Service. At present there are body-worn cameras being used in two specialized units at 20 police stations across Trinidad and Tobago. Police officers are also being trained in the use of the technology. Furthermore, the Trinidad and Tobago Police Service will be phasing in an additional 180 body worn cameras by the end of this month.

The answer to Part II of the question: The technology will be rolled out throughout the Trinidad and Tobago Police Service by March 2019, given that the TTPS is currently testing and upgrading the required specifications of the body-worn cameras and accompanying technology. To this end, some of the cameras were taken out of circulation to undergo technological upgrading as new products and innovations are constantly entering the international market, and we shall be utilizing the best in class technology in the TTPS.

Sen. Mark: Could the hon. Minister indicate how many of these body cameras were taken out of service?

Hon. S. Young: I do not have those specifics.

Sen. Mark: Can the hon. Minister indicate when he would have those specifics?

Hon. S. Young: When I ask the question.

Sen. Mark: This is what I have asked.

Hon. S. Young: When I have asked the question. I have to ask the question to get the answer.

Sen. Wade Mark: This arrogance and so on that you have—

Madam President: Sen. Mark, please.

Sen. Mark: Anyway, Madam President, I will be guided by you. Can the hon.

Minister indicate how many of these body cameras would be required to properly outfit the police service?

Hon. S. Young: Madam President, that is a question to be determined by the Commissioner of Police in deciding which units in the Trinidad and Tobago Police Service will be outfitted with the body worn cameras, how they will be phasing it over time and whether they will be moving to having all Trinidad and Tobago police officers out in operational fields wearing the body cams.

Sen. Mark: Can the hon. Minister indicate how effective these body cameras have been, particularly given the fact that it has been applied to two specialized units within the police service?

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

Sen. S. Hosein: Madam President, through you, I will like to ask the Minister, how many body-worn cameras are currently being used or utilized by the members of the TTPS?

Hon. S. Young: Madam President, I do not have those specifics.

Sen. Mark: I “doh” know why you come here.

Hon. S. Young: And you bring me?

Sen. Wade Mark: Why you come here?. You are “dotish”.

Madam President: Sen. Mark!

Sen. Mark: I am not taking that kind of nonsense from this Young. You will have to protect me from this gentleman.

Madam President: Next question, Sen. Mark.

Sen. Wade Mark: I am “dotish”? You are more “dotish”.

Madam President: Sen. Mark, please! Next question.

Sen. Mark: “Dotish man!” I am not taking that from him.

Madam President: All right, Sen. Mark. I have cautioned you repeatedly, please

do not let me have to again. Next question, Sen. Mark.

Sen. Mark: I apologise to you, Madam President. Thank you very much, Madam President. Madam President, which question am I on?

Madam President: 45.

Sen. Mark: Thank you, Madam President.

Greenvale Estate

(Details of Original Developer)

45. Sen. Wade Mark asked the Minister of Housing and Urban Development: Can the Minister provide the Senate with the names of the original developer of the Greenvale Estate and the cost paid by the Government to acquire the estate from that developer?

The Minister of Housing and Urban Development (Hon. Maj. Gen. Edmund Dillon): Thank you much, Madam President. The following is a breakdown of the names of the original developers and the sums paid by the Government. Trinity Housing, \$163,299,201.55; Motilal Ramhit & Sons, \$217,204,700.80.

Madam President: Sen. Mark?

Sen. Mark: No, I am good.

Sen. S. Hosein: Thank you very much, Madam President. To the hon. Minister: Can the Minister indicate, who are the directors of the Trinity Housing Company Limited please?

Hon. Maj. Gen. E. Dillon: Madam President, I do not have that information. I am sure Sen. Hosein can find that very easily; it is in the public. It is online, public registry. I am sure he is aware of that.

NGC Gas Agreement with BPTT/EOG

(Details of)

63. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:

Having regard to the NGC gas supply agreement with BPTT and EOG, can the Minister indicate the following:

- i. What is the status of the agreement as at September, 2015?
- ii. What is the effective date for the new gas supply agreement?

With regard to (ii) what is the volume of natural gas that has been contracted by the NGC with BPTT and EOG Resources?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. I want to say this one slowly. Negotiations for the renewal of the BP and EOG gas sales contracts, the GSCs had not yet commenced by September 2015. As such, the Part I of the question is extraneous.

Two, the effective date of the new gas supply agreement is 1st of January, 2019.

And in response to Part III, as the hon. Senator would know, NGC is bound by confidentiality provisions in its gas sales contract with BP and EOG that precludes the disclosure of the commercial terms of these contracts. These confidentiality provisions are standard in the natural gas supply industry, and have been observed and respected by all previous governments of Trinidad and Tobago.

Sen. Mark: Could the hon. Minister, Madam President, through you, indicate whether this new agreement between BP and EOG would result in the NGC having to pay significantly more for natural gas?

Sen. The Hon. F. Khan: We have gone on the public record to state that the new gas prices are in fact higher to the NGC than it previously was. As to the exact quantum, we cannot disclose.

Sen. Mark: Could I ask the hon. Minister if he can share with us what, if any, is the likely impact on NGC customers on the new prices?

Sen. The Hon. F. Khan: Madam President, the NGC has been successfully concluding gas sales agreements with several downstream companies, including CNC, PLNL and MHTL, and I think that is a step in the right direction. There are just about three more outstanding contracts to be concluded as we readjust the entire value chain in gas.

Niko Resources

(Land Exploration)

64. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:

Can the Minister indicate whether the land acreage currently or previously held by Niko Resources is or was being explored?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Madam President. Niko Resources Limited was not granted a licence or a production sharing contract for any land acreage. Niko Resources Limited purchased Voyager Energy Limited which had interest in Trinidad onshore blocks in 2010. Niko Resources Limited assigned its interest in the Guayaguayare shallow and deep blocks to Range Resources Limited. Range Resources Limited did not comply and did not complete the minimum work obligation. As such, the acreage is not currently being explored, and at present the Ministry of Energy and Energy Industries is in the process of terminating the PSCs with Range.

Sen. Mark: Could the hon. Minister indicate why did Niko outsource this particular arrangement to Range? Could you share with us what was the rationale for that arrangement?

Sen. The Hon. F. Khan: Madam President, the exploration and production licences allow for reassignment among third parties. That is a purely commercial arrangement with the companies, once they honour the minimum work obligation

as per under the contract. Range as not so done and we are in the process of terminating.

Sen. Mark: Can the hon. Minister indicate what time frame that the Government is contemplating to bring this particular arrangement to an end, having regard to the fact that Range has not satisfied the minimum arrangement?

Sen. The Hon. F. Khan: Madam President, these are legal procedures now, but my indication is that it would not take very much longer.

Niko Resources Contracts

(Details of)

65. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:

- i. Can the Minister state whether Niko Resources has met all contractual obligations to the Government of Trinidad and Tobago relative to Production Sharing Contracts?

If the answer to (i) is no, what steps are being taken to ensure compliance?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, Niko Resources did not meet all their contractual obligations to the Government of Trinidad and Tobago relative to their production sharing contracts. As such, their production sharing contracts have since been terminated.

Sen. Mark: Madam President, can the Minister indicate whether Niko owes the Government of Trinidad and Tobago any moneys, in respect of their inability to complete their contractual arrangement with the Government?

Sen. The Hon. F. Khan: Madam President, Niko did in fact have performance bonds, and the recovery of those bonds are now in the office of the Attorney General.

Sen. Mark: Madam President, could the hon. Minister indicate whether any fines have been imposed on this particular company for its failure to deliver its minimum work obligation?

Sen. The Hon. F. Khan: Madam President, the production sharing contract does not cater for fines. What it caters for is the bonds that were placed and the bonds will be recovered if they do not comply with the minimum work obligation.

Sen. The Hon. F. Khan: Madam President, can I ask the hon. Minister what is the value of the bonds that were placed by this company in the custody of the Ministry of Energy and Energy Industries? What was the value of the bonds?

Sen. The Hon. F. Khan: Madam President, I do not have that figure with me at this point in time.

Joint Select Committee

(Appointment to)

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, 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 March 31st, 2019 on the National Statistical Institute of Trinidad and Tobago Bill, 2018, I beg to move that the Senate concur with the House of Representatives in the establishment of the Committee, and that the following six Senators be appointed to serve: Mr. Clarence Rambharat, Mrs. Gopee-Scoon; Dr. Lester Henry, Mr. Taharqa Obika, Ms. Amrita Deonarine and Ms. Charrise Seepersad.

Question put and agreed to.

SEXUAL OFFENCES (AMDT.) BILL, 2019

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. I beg to move that:

A Bill—[*Interruption*]

Forgive me, I do not have the procedure here.

I beg to move that a Bill to amend the Sexual Offences Act, Chap. 11:28, be now read a second time.

Madam Speaker—[*Interruption*]

Hon. Senator: Madam President.

Hon. F. Al-Rawi: Madam President. Having the pleasure of sitting in both Houses of Parliament is sometimes a little confusing. So forgive me for the slip.

Madam President, I have stood here a second ago gathering papers, reviewing notes, considering why we are here today, and I did so with a little hesitation for a number of reasons.

As we stand in Trinidad and Tobago today, on the 5th of February, 2019, we as a country find ourselves grappling with some of the most serious issues in our country. One, the situation of our economy; two, the situation as it relates to crime and justice and, three, 3, the general morality of our society, the *bonos mores* of our people. The Bill before us is one which I think captures every aspect of those three columns of consideration, columns of strength that ought to exist in our country.

Madam President, 45 minutes cannot do justice to the presentation of the material, for the kind of work that is done in a Bill like this. So I want to start off by saying that in the course of debating the Children Act in 2012, two things in particular resonated with me as I sat in Opposition as an Opposition Senator contributing to that very important piece of law. The first one was treating with the aspect of child marriage as it appeared in that Bill to have an inconsistency with the law, and the second one was treating with the improvements to children in

general, but specifically as it relates to sexual offences against children.

Having the privilege to act as the Attorney General and Minister of Legal Affairs of the Republic of Trinidad and Tobago, I have dedicated the Government's purpose, shared by all of my colleagues, all of them at Cabinet level, and the Ministry, in ensuring that we attach ourselves to treating with the issues that plague our society as it relates to gender issues in particular, but importantly in that, the issue of children and how that portrays in our society.

I have focused on children even though the purport of this Bill is much wider than that. So let us dive directly into the Bill. Let us get to some statistics. Let us say who and what we are in Trinidad and Tobago, and let us look to the legitimate aim, the connection and rationality to the prescriptions which we now give in law, and the proportionality of that law to see whether we have gone further than we ought to, or whether we are in the safe zone of section 13(2) of the Constitution, as a society having regard for democracy in the context of Trinidad and Tobago as we do. Where are we?

Madam President, in 1886, Trinidad and Tobago found itself treating with offences against the person—1886. Forgive me, 1861, if I remember the date correctly. 1861 by our received law we were treating with offences against the person. In a very important consolidation of the law, in 1986 then Attorney General, Russell Martineau, approached the Parliament and asked for a consolidation of the laws to treat with, in large part, certain amendments to the Offences Against the Persons Act, to carve them out as they related specifically to the issue of women as a central focus, and the issue of sex offenders as a second focus, and in treating what was then the understanding of Trinidad and Tobago.

In the year 2000, Attorney General Ramesh Lawrence Maharaj approached

the Parliament and made certain amendments to this law. But I want to start off by going to the *Hansard* of 1986 from Attorney General Russell Martineau. In describing the purpose of the Act this is what the hon. Attorney General had then to say. He said:

“...the purpose of this Bill is to help us with a comprehensive code dealing with sexual and, indeed, related offences—as the long title shows—primarily amending the Offences Against the Person Act and, indeed the second objective is to modernize our law, to bring it up to date with current thinking in the society—moral and social thinking; indeed, to take into account the procedures and practices which now obtain in the courts in dealing with these offences and try to see in what way they can be improved.

At the core of this Bill is the question as to what extent must the criminal law deal with sexual conduct—conduct involving questions of morality and indeed public standards of decency...

The approach which we have sought to engineer in this bill is first of all to try to preserve public order and decency; secondly to protect the citizens from is offensive or injurious; thirdly, to provide sufficient safeguards against sexual exploitation and sexual corruption of others—for example, the young, the weak in body and in mind, the inexperienced and indeed those who are in a state of physical and economic dependence.”

That is what Attorney General Russell Martineau had to say at the second reading of the 1986 Bill, Friday, 21, February 1986, Madam President.

2.10 p.m.

Madam President, what I found interesting, if we look to what the law in 1986 as brought forward included, were a few of the following theories finding

themselves anchored in the law. Section 5, now repealed:

- “(1) A husband commits the offence of sexual assault when he has sexual intercourse with his wife without her consent...or fear—”—only—
- “(a) where there is in existence in relation to them—
- (i) a decree nisi of divorce;
 - (ii) ...judicial separation;
 - (iii) ...separation agreement; or
 - (iv) ...order for the husband not to molest the wife...”
- (b) or—“where notice of proceedings have been served by one party”—against—“the other...
- (c) where the husband and wife”—have been—“living apart within the meaning of section 4(5) of the Matrimonial Proceedings and Property Act.”

Back then, in 1986, legislated into law in section 5, a rape by a husband only happened when the marriage fell apart and when there was an anchor that it had fallen apart by divorce proceedings, judicial separation, et cetera. We also saw sexual intercourse, male person with a female under 14; sexual intercourse in the age bracket 14 to 16, male with a female; female with a male under 16 years of age; an adult having sexual intercourse with a child, adopted, stepchild, et cetera, but listen to this, in section 10:

- “(3) An adult shall not be guilty of the offence under this section if the minor is the spouse of the adult.”

Section 11:

- “(1) An adult who has sexual intercourse with a minor who—
- (a) is in the adult's employ...”—you are not guilty if there was

consent, et cetera;

In 1986 what was then current law, current morality in Trinidad and Tobago, allowed for what we now in 2019 consider to be matrimonial rape, because no is no. And the issues of how we treat with children, children then, being the category only under 16 and in 2019, dare I say, we have come a long way from that.

Let us go to the year 2000, because this Bill seeks to amend the Sexual Offences Act, and in the year 2000, Ramesh Lawrence Maharaj, as Attorney General, by Act No. 31 of the year 2000, introduced a new concept for rape by repealing and replacing section 4 of the parent Act; introducing draconian penalties for natural life imprisonment, first offence, second offence, importantly, repealing what was then the marital rape clause in section 5 and inserting in Part III of the Bill, in the sections to treat with the creation of a sex offenders registry, at clause 20 of that Bill, introducing a new sections 34A go forward. And in that particular provision, the sex offenders registry was born in Trinidad and Tobago and in the Section 34A which this Bill seeks to treat with—Madam President, may I ask the exact time I must end in full time?

Madam President: You end at 2.48 p.m.

Hon. F. Al-Rawi: 2.48 p.m. much obliged. And in the new Part III “Notification Requirements for Sex Offenders”:

“34A. (1) A person shall be subject to the notification requirements of this Part where—

(a) he has been convicted of a sexual offence to which this Part applies and he has been sentenced...”

He may have had the sentence commuted or dealt with in another way and:

“(2) The Court before which a person is convicted of an offence shall,

upon passing a sentence,”—I stress—“or dealing with the matter in any other”—way—“specify the period of time during which the convicted person shall be subject to notification...”

They geared the table associated with section 34A, if you were guilty of an offence for over 10 years or life imprisonment, indefinite period; if you were with a jail term between five and 10 years, it was 10 years reporting; if it was under five years, seven years reporting or any other under five years. And very importantly, you had to turn up and this was the invitation that you had in Section 34B. You only had 14 days from the date of your sentence, which I find rather remarkable, because usually you are sentenced and then taken to jail to serve—but 14 days from your sentence, you had to turn up at the police station and you had to give three bits of information: your name or alias, your home address or your date of birth. And that was it.

They disregarded certain times spent. They said that when you turned up you could do it by way of oral information or you could send a written statement in, there was no need for any personal attendance. And they said any notification under this section, this is 34C, subsection (2):

“...shall be recorded in a register provided for that purpose and shall be acknowledged;”

Effectively, they sent you to the police station, they said the Commissioner of Police should have a register at the station and you should be recorded.

Importantly they said, in section 34E:

“(1) Where a person is convicted of an offence under the sections...

(2) ...any...communicable disease...”—should be ascertained.

And then if there is in fact a communicable disease ascertained, the virtual

complainant, meaning the victim, has the right to obtain compensation. Let me stress, upon conviction. You may be charged, you may be 10 years later convicted, if the person upon conviction is found to have a sexually transmittable disease, HIV or other communicable disease, only then does the right for compensation kick in.

Now, I have put that forward because our Bill now treats with the important aspects of this register. You see this Bill is 11 clauses long. In it we achieve a few purposes, which I will go through in detail as I go through the clauses themselves, but effectively, number one, we are ensuring that this Bill applies to children. Under this Government we cause children to be defined in every law including that with respect to marriages, as 18 years and under. That was one lacuna that was left out. So we apply the law in relation to children as defined now properly in harmony with our legislation, the Children Act and other laws which treat with children.

Secondly, what we do by another main purpose of this is we seek to take care of removing the inefficiencies as it relates to the sexual register, the National Sex Offender Register, those deficiencies are relative to the clauses that I have just read—the sections of the law that I have just read into the *Hansard* this afternoon. The lack of specificity and details with respect to the register information; the requirement as to who should have the information, who should have the obligation of reporting, when, how it is to be received, how it is to be acknowledged, et cetera, as the clauses will demonstrate. And importantly, we have amended by way of inclusion into Schedules—we have allowed for the law to continue to speak in certain circumstances which I will explain in a little while as we define what a registerable offence is.

And lastly, in terms of objectivities, we have sought to put in consequential amendments to certain laws, being the Criminal Injuries Compensation Act, Chap. 5:31; Administration of Justice (Deoxyribonucleic Acid) Act, Chap. 11:28 and the Immigration Act, Chap. 18:01; as well as the Police Service Act, Chap. 15:01; the Family and Children Division Act, 2016. We have done consequential amendments to laws to tie in a matrix of protection which we volunteer the honourable Senate to consider. And let us stick a pin.

Let us talk about Trinidad and Tobago and its statistics. I want to say that in my readings of the *Hansard* and in my own experience for nearly nine years in parliamentary life, I can say with certainty that our Government has taken pride in being an exception to the rule.

1. We provide statistics as to what Trinidad and Tobago looks like.
2. Hopefully hon. Members find it convenient that we also take the opportunity to circulate draft working copies, marked up amendments so that hon. Senators do not have the difficulty of trying to interpret the law left hand and right hand and then intersplicing. Why? Because we want to make sure that everyone understands the purposes of the law.

I am going to say that in arriving at this venture we started this journey in 2016 by way of consultations as we embarked upon the Family and Children Division Act as it eventually became, as we came to the FCD Bill in the year 2016. In particular, as we did the amendments to the miscellaneous provisions law we also had deeper consultation. I note in particular, September 05, 2017; July 13, 2017; August 29, 2017, with multi-stakeholder sit-down conferences, with a number of entities in Trinidad and Tobago, coming from the many divisions, but specifically in relation to this Bill I want to put on the record that we wrote to

several stakeholders as umbrella agencies with responsibility for other stakeholder agencies.

We wrote, Madam President, to the Minister of Foreign and Caricom Affairs, of course, all letters dated firstly, in March 2018 and then July 26, 2018, in particular, Sen. The Hon. Dennis Moses, relative to the Ministry of Foreign and Caricom Affairs; the hon. Mr. Justice Archie, Chief Justice of Trinidad and Tobago; the hon. Major Edmund Dillon, then Minister of National Security; the hon. Mr. Douglas Mendes, SC; the Law Association of Trinidad and Tobago; the DPP, Mr. Roger Gaspard, SC; the hon. Minister Ayanna Webster-Roy, Minister of Gender and Child Affairs; the Director of the Children's Authority, Ms. Safiya Noel; Mr. Stephen Williams then Commissioner of Police, et cetera. We then went further to Mr. Gerard Wilson, Commissioner of Prisons and we wrote insofar as the Law Association provided this Bill to all of its members since July last year. We received umpteen replies from many individuals in society as the Bill has been in circulation, July, August, September, October, November, December, January, now February, eight months into circulation. We received a number of requests and responses which we replied to.

I would like to say that today I received a very important phone call from a very good colleague of mine who indicated to me that several umbrella organizations, including: Coalition Against Domestic Violence, Rape Crisis Society, Caribbean Centre for Human Rights, Network, Child Welfare League, Break the Silence, WINAD, National Organization for Women, Caribbean Centre for Human Rights, WOMANTRA, Working Women, Institute of Gender and Development Studies, Fire Circle, Organization for Abused and Battered Individuals; wrote to us by way of a WhatsApp message which I got five minutes

to one, and indicated that they had views on this legislation that they thought deserved deeper stakeholder consultation, pointing out several issues which I think are genuine, but also which can be answered and they indicated their desire that this Bill go to a joint select committee.

The Government's position in relation to further consultation is of course to welcome the fact that we cherish the views of all hon. Members. We do hold the view that a Bill such as this must be factored in the context of the time frame to get here. We are now 19 years away from the 2000 amendments and we look forward, in particular, in treating with this Bill today, to have the views of hon. Senators put on the floor. Why? We have umpteen joint select committees afoot. Whilst we appreciate the value of joint select committees, I think before we make any decision to get there it helps if we narrow issues on the floor of the Parliament, facilitate discussion so that when we are moving we move with precision if that is the desire of the hon. Members of the Senate.

So let us get back to Trinidad and Tobago, stakeholder consultation, seating this in the context of the law. Where are we? The preliminary reports at the— now, let us start with the fact that sexual offences are at best never fully reported if you are being kind. The data suggests that perhaps one out of seven matters are actually reported. Of that one out of seven matters reported, here is what the Children's Authority has had to say, total number of cases and I am going to refer to children in particular. I am taking a subset of sexual offences.

Total number of children matters at the Children's Authority for the three-year period 2015—2018, this is under our watch; total number of cases, 14,581. The gender victims were 56.4 per cent female; 41.8 per cent male; 1.8 per cent unknown because they did not specify. Reported category of sexual abuse

cases was 26.8 per cent or 3,908 persons. The highest reported category of sexual abuse in care and protection over the three-year period, for one year was 24.1 per cent, in one year, 3,514 people; for year two, 24.7 per cent or 3,601; and for year three, 26.8 per cent.

When we look to the gender of sexual abuse over the past three years it is 84.9 per cent female in year one; 84.1 per cent female in year two; 81.8 per cent in year three, all above 11, 900. The age ranges of sexual abuse victims, zero to 11 months; that is a child; zero to 11 months. Children ages one to three, children ages four to six; children ages seven to nine, 10 to 13; 14 to 15; 15 to 16. Listen to the statistics for the abuse of one to three years old, 5.4 per cent, 787 children in the age group, one to three years old, reported to the Children's Authority for sexual abuse; children four to six years old, 1,604 of them; seven to nine, 1,837 children; children 10 to 13, 3,543 and I will just stop there, as I begin to paint the picture of what Trinidad and Tobago is, not what we think it is, this is maybe one-seventh of the reported amount, this is what Trinidad and Tobago is. And if you hear anger in my tone, I think you know why.

Let us look at this. Let us go from the Children's Authority, let us go to the court. At the magistracy, for period 2015—2018, again, in our tenure as Government alone, sexual offences—listen to this one, 470 matters pending at the Supreme Court for sexual offences; 149 of that 470 are pending for over 10 years, awaiting trial. At the magistracy for the same period, sexual offences, 2,915 matters; six of them over 11 years; three of them over 13 years; two of them over 14 years antiquity; 13 of them over nine years, antiquity. Sexual offences first hearings in the same three-year period, we managed in the three-year period to have 1,364 cases start. At the magistracy the number of cases, first hearings, there

were 243 started. The number of matters disposed of in the Supreme Court for the same period is only 230; those disposed of in the magistracy 3,218.

You get the drift, plenty in, hardly any dealt with. And why do we say that? We do not suppose that this Bill is a Bill which is the panacea to find a solution to everything. No, hon. Senators. In the mantra that this Government and I in particular recommend, we say, just start. You have to start somewhere and in starting I want to tell you what we did.

In looking at the whole picture we have implemented Judges' Rules for Children, 2016; Family and Children Division Act, 2016—stick a pin, we amended 19 laws in the Fifth Schedule there. Criminal Procedure (Amdt.) Rules, 2018; Family Proceedings (Amdt.) Rules, 2018; Children Court Rules, 2018; UN protocol signed; children court open; Child Rehabilitation Centre (Designation) Order, 2017; Child Rehabilitation Centre Regulations, 2017; Child Rehabilitation Centre (Designation) (No. 2) Order, 2017; similar Designation Order, 2018; Children's Community Residences, (Children's Homes) Regs, 2018; the Rehabilitation Centre Regs, 2018; Miscellaneous Provisions (Supreme Court of Judicature and Children) Act, 2018, stick a pin; 13 laws amended there. [*Desk thumping*] Electronic Payments into and out of Court Act, 2018. I have taken time to give what we have done to say this Bill is not done in isolation in the theory of "just start". And let us get deeper to home.

I want to tell the hon. Members, we have had law, I read the law, since the year 2000, we have had the law. Do you know how many matters have been ordered by the Court pursuant to the sections of the existing law to be put on the sex offenders registry which exists in the laws of Trinidad and Tobago? Take a guess. Zero! You know how many matters are on the sex offenders registry?

Take a guess. Zero! Nineteen years of law properly done, none of the background of laws that I have just dictated that this Government—this Government, has put into effect, none of them in existence, no matters reported. Not one on the registry. Is there a registry? Is there a computerized central database so that sex offenders, the most heinous of people can be known to our society, tracked by the Trinidad and Tobago Police Service, DNA collected so that repeat offenders could be managed? Any study on recidivism or numbers or details, hon. Members? None. None!

So having put this law into circulation since July last year, I am indicating to hon. Senators that I feel a deep sense of the need to draw a line in the sand as to what we tolerate or do not tolerate for our society. [*Desk thumping*] The Government does not make law by itself, particularly when there are three-fifths rights involved. What are the three-fifths rights? Right to privacy and family life, section 4(c) of the Constitution. Yes it is tripped in this Bill. Second right, potentially arguably tripped, section 4(g) of the Constitution, the right to freedom of movement which is a subset of the liberty that you enjoy under your Constitution. Yes it trips the Data Protection Act, yes it trips the Freedom of Information Act, yes, these are the truths of our society. But do we feel warmed that the statistics of the Children's Authority tell us we are moving in the right direction? Do we? So let us get to the Bill.

You see, proportionality, if it is to ever be decided in a court of law has to be scrubbed against the rationale of Trinidad and Tobago, who we as a society consider ourselves to be in the context of section 13(2) of the Constitution.

So, clause 3, we treat with the provision for the Act to have effect within consistency to the Constitution, obviously, I have just described the rights that are

tripped. Section 4(a), right to private life and family life; 4(g), the right to freedom of movement. You can also argue that 4(e) is being tripped in the discrimination argument as to whether treating with your passport and having an endorsement of a sex offender on his passport is a discriminatory treatment. And I will come to that.

In the Bill, of course, in clause 4 we make sure that we harmonize the continuous reporting aspects. We say in the Bill, the Bill shall mean the current law. We want to make sure that we capture what is under the existing law together with the law that we treat with now. We make sure that we treat with the amendments for the removal away from the limited type of information which is required, where you only had to give name, your date-of-birth, and your address and you report once. We make sure that we treat with the aspects that go further, we have defined “minor”, as I said earlier, child is now child, that is person under 18 years. That is clauses 5 and 6, where we delete “minor” throughout the Act and we substitute with “child”.

Clause 7, we amend section 2A of the Act to expressly state that the Act would bind the State. Why? We want to bind the State because the State was not doing its part for a whole 19 years and therefore we want to make the State subjected to suit for an incapacity and unwillingness to operationalize the law. This binds the Trinidad and Tobago Police Service, the prison service and all of us who have an opportunity in the Executive of any country at any one point in time.

Clause 8, we go on to amend section 26. We provide that a person under the age of 12 is deemed incapable of committing an offence under the Children Act. I know Sen. Thompson-Ahye, I have given you the limb to talk about the age of discretion which is something which the Government is considering. You are doli incapax; you are deemed to be incapable of the mental intention for crimes under

the age of seven in our country, except in relation to sexual offences where the limit is 12 years old.

The amendment expands the range of laws under the Sexual Offences Act, under which are deemed incapable. Clause 9, we amend section 31 of the Act to expand the range of offences which a specified person is to report abuse of children. Very importantly we are moving away from what the law provided there and we are saying, in this clause 9, that it applies to persons with responsibility for the child, obviously parents, guardians, et cetera, and we are making them have an obligation to report registerable offences. What is a registerable offence? It is to be included in the body of clause 10 when we look to the First Schedule and we describe all of the elements of registerable offence as they are scrubbed against Sexual Offences Act, Chap. 11:28; Trafficking in Persons Act, Chap. 12:10, Children Act, Chap. 46:01, and we have not listed them individually because we propose instead to allow the law to continue to speak.

Even though we have made reference to the sections, we have allowed that very importantly, we have removed some of the things which were included in the Summary Offences Act, Chap. 11:02 which is in the original Schedule, exhibiting obscene prints, prostitutes, and naked children. We did that against the consultative approach because of the realities of Trinidad and Tobago's society. But we do of course have all of those offences bound by the Schedule which clause 10 brings forward as clause 9 refers to it.

We repeal and substitute Part III of the Act. This is where we had the registered position. Of course we are now saying that there is a National Sex Offenders Register and we are having that in two aspects. One, there is a public aspect which is done on the website controlled by the Commissioner of Police. On

that public aspect there is a limited information, photograph, name, address, et cetera, but then we have a private register which only the Trinidad and Tobago Police Service has and that private register treats with the provisions of the Second Schedule which we have included, ought to be pursuant to section 39(2): name, main address, date-of-birth, sex, national ID card, passport, drivers permit, telephone number, everything down to fingerprints, DNA, photograph, IP information for devices, email addresses, et cetera. And we say that we require a constant updating position otherwise there would be an offence tripped if it is that you do not provide this information.

We allow for the mandatory taking of your fingerprints, your photographs, and your DNA. We cause constitutional, we cause consequential amendments to the Police Service Act for photographs and fingerprints, to the DNA Act, for the non-intimate samples and we allow for the amendments to the Immigration Act because we are going to compel the sex offender to give this material or information in default of consent as we are obliged to do in a law such as this.

We allow for compensation and further compensation, but in the compensation we are saying you could have a medical exam and the moment you are charged, not convicted, bearing in mind the realities of Trinidad and Tobago which say that the gap between charge and conviction could be 20 years long. Suppose there is an STI that is contracted in the period between your alleged offence and the conviction?

2.40 p.m.

We allow for further application of the law, we are allowing for deportees to be brought in to this matrix. Nationals and residents who live abroad and are returning to Trinidad and Tobago, persons who are under the Transfer of Prisoners

Act, Chap. 12:06, we catch them for the first time as our other laws, when harmonized against this, also provide.

Very importantly, we are causing an amendment to the Immigration Act. I am fast out of time. In the Immigration Act, I will say, what we are doing in our clause is to say that, if you are a child offender, a registered child offender, you have forfeited the privilege of your anonymity. We have borrowed from the laws of Australia and the United States of America and we are saying that we will put an endorsement via the Chief Immigration Officer onto your passport to say that you are a child offender. We allow by way of proportionality the ability of the accused to expunge the record, seek an amendment to the record via the court process.

We allow for persons who were caught under the previous Act to be brought under this Act, but we have not gone respectfully as far as we would like to go which is to say that everybody ought to report in the same cycle as those who are subjected to the law, if and when proclaimed. I leave that open to hear submissions as to whether the Senate ought to move further than the Bill proposes. I personally would love to but this is not an “I” in “government”, it is a policy decision which we welcome some assistance on from hon. Members of the Senate.

We provide for the exclusion of children. Child offenders will not be on any public register, they will be on the database, but they will not in view of the treatment that we have given in the other laws that we have done to children, we are not going to have them publicized, we respect the anonymity provisions which we ourselves as Government have implemented into law.

We allow for offences abroad to be caught, but we allow for a process where prior to your release from prison, the Commissioner of Police must attend four

months in advance, obtain your information, prisons must inform Commissioner of Police. If it is a child offender, then we have to tell the CIO, the Chief Immigration Officer and that goes in. We prescribe the initial reporting of the sex offender, tight time frames as to when you ought to get there, what you ought to give, what can be taken compulsorily from you, et cetera, and we provide, of course, for a discounting of reporting periods in the event that you are in extremist circumstances: you are out of the country, you are incarcerated, you are a detained, you are in a medical institution.

Offenders must inform of travel abroad. We provide for offenders with mental disorder, and we deal with the cessation of reporting which was not treated with before. I wish I had an hour more.

This law has been long in the making, hon. Senators. This law is one which the Government feels very passionate about. This law is not one which the Government can pass on its own. Today, I ask for no division on this floor, I ask for unanimity of purpose that we all consider this something that we ought to treat with. The Government welcomes all submissions, the Government is minded and willing to move to special select or select if necessary.

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

Hon. F. Al-Rawi: The Government believes stakeholder consultation is important. The Government does believe all voices ought to be heard. In our democracy we get to the point, as a society, where after we analyze the law, after we have had consultative process, we then draw a line. This Bill has a constitutional line drawn in the sand, that constitutional line is the three-fifths majority issue. No government from the year 2000 come forward, has treated with this issue of women, children, gender in as comprehensive a way as this

Government has done. We do not boast a lot, perhaps we ought to, but when it comes to the issue of family and children, I want to bear in mind, I ask hon. Members to bear in mind, that we have done a very important thing, we have kept to our undertakings on the record of this Parliament, and each time we give an undertaking to come back to refer to a law, we do that. [*Desk thumping*] And each time we come back and do that, we refer to it. That is how we have managed in 2016 to amend 19 laws, in 2017/2018 to amend another 13 laws. That is how we have managed to open two courts to treat with children specifically. That is how we have managed to bring the United Nations protocols into gear, the child rehabilitation centres, the community homes, as we begin to work our way into a sense of decency in our country.

So, hon. Senators, the gates are open, the floor is open, where and when we draw this line is up to us as a Parliament. I want to tell the Opposition, Madam President, most respectfully as I move to a conclusion, in 2012, when we debated the Children Act, six PNM Opposition Senators sat there, I sat on that side, nine Independents sat behind us, 15 Government Members on this side. It was the Government under the UNC and the Opposition under the PNM that passed that law in 2012. The Independents respectfully chose an important ground of abstention because they did not want to support with the issue of child marriage or with the issue of sexuality not being defined as it relates to homosexuality, and so that law could not pass unless the Opposition and the Government piloted it. We finished at 3.00 a.m., I wrote out 202 amendments myself, because then President of the Senate would refuse to let the Opposition speak unless we circulated written amendments.

We have come a long way since then, but the point is this, in our humble

opinion this law is critical, it is by far overdue. We look forward to a meaningful contribution, we believe that in the days that we will debate this Bill, and I repeat, in the days that we will debate this Bill as we allow the law to settle, as we allow the contributions to crystalize, we can get the issues narrowed to see if we really need to do further consultation or not and therefore, we are going allow a couple of days of debate on this Bill because I understand that everybody wants to speak on the Bill.

Madam President, I beg to move. [*Desk thumping*]

Question proposed.

Madam President: Sen. Ameen. [*Desk thumping*]

Sen. Khadijah Ameen: Thank you very much, Madam President. I want to begin my contribution to this the Sexual Offences (Amdt.) Bill, 2019, by thanking the Government for finally acceding to the numerous calls from the Opposition, from key stakeholders and from concerned citizens of Trinidad and Tobago for the establishment of a national sexual offenders registry.

I think the Opposition is on record on numerous occasions over the past three years, calling for the establishment of this registry, and we have always said that we in the Opposition will support good law. We will continue to advocate for the protection and well-being of the citizens of Trinidad and Tobago, and unlike in other debates where the Government has one view and the Opposition does not agree, I think this is one occasion when the Opposition is in support of the establishment of a register for sexual offenders in Trinidad and Tobago. [*Desk thumping*]

I want to appreciate that the Attorney General has expressed some of the very concerns that the Opposition has. With respect to your records in terms of the

number of offences against male and female victims of crime, and statistics showing that of the offences against male and female, 68 per cent of the offences against females were sexual offences, and 81 per cent against males, male victims.

We have to, Madam President, in this debate consider where we want to take our society in terms of how we treat with victims of sexual abuse, victims of sexual offences, as well as offenders. The way we culturally as a society treat with victims of assault, victims of incest, rape, even sexual harassment, is shaped by the laws of our land, by the words of the leaders in our society, not only in politics, not only in the Parliament, but certainly by people in entertainment, in music, the lyrics in our music, the talk show content. And it is very dangerous for any leaders to follow the unfortunate—there have been some unfortunate utterances in the Parliament and in the public space, for example, likening the grooming of a golf course to the grooming of a woman, and the victim blaming of a victim of a sexual offence and murder by a public official. And the positive thing about those things occurring is that it is an example of what we should not do and what we should not encourage.

The trauma of rape, I think, is something that is one of those offences that goes very deep. Rape trauma syndrome is a psychological trauma experienced by a rape victim that includes disruption to their normal, physical, emotional, cognitive and interpersonal behaviour. Being the victim of a sexual offence changes your whole psyche, and the theory is well studied in psychology. We do have a psychologist on the Independent bench and I expect that he will explore further into that area, but we must all have an appreciation of the trauma that any sexual offence can cause to a male, female, child or adult.

There was a study by the Inter-American Development Bank and part of it

indicated that 20 per cent of women who were surveyed had been sexually assaulted, but very few reported it. I also saw some information coming out of the Rape Crisis Society where they indicated that only one in seven victims that their organization dealt with in the past, has ever reported the offences to the police and, of course, we will appreciate that not every victim would have gone to the Rape Crisis Society. So there are many sexual offences that go unreported, even those that are reported might be under-investigated, and even when it goes to court, under-prosecuted.

The training of the police to deal with matters of this nature is very critical. And in addition to the list of laws that the Attorney General read into the record that would have an impact on how we treat victims of violence and victims of sexual violence and particularly children, having the legislation is important, but as he indicated, you might have a piece of legislation there for 19 years, but the implementation, your challenges with implementation must also be addressed.

The infrastructure when it comes to the courts, for example, on numerous debates, in fact, some of these Bills listed by the Attorney General as achievements of his, in those debates the conditions in the court have surfaced so many times. The manpower required by the DPP, for instance, required by the police in terms of specialized skills, the resources available to all the agencies that play a role in bringing justice, those issues remain very relevant.

Madam President, the Bill that we are dealing with today deals with establishing a register of persons who are convicted, but there is such a long process between the offence taking place and the conviction happening before the names go on a register. And we must not forget the victims that fall through the cracks along the way; from those who do not feel comfortable going to a police

station to report a matter or going to a—well, I should start from going to NGOs for counselling, like the Rape Crisis Centre, those who do not go further to go to the police. Even those who go to the police and end up neglecting the matter because of how they are treated there, and even further, those whose cases fail because of poor evidence and so on.

So the establishment of the sexual offenders registry in Trinidad and Tobago is an opportunity for all of us as a nation to re-examine how we treat with victims, as well as the perpetrators of sexual offences, and perhaps to be more responsible with the words that influence our attitudes towards violence, towards treating with victims, and particularly victim blaming.

In Trinidad and Tobago there are numerous well-established non-government organizations and individuals who have dedicated themselves to working with victims of sexual offences, domestic violence, and advocating for human rights of women, of children, and their first-hand data, Madam President, is very important and very valuable to bringing education and awareness to this process as we go forward.

I want to take this opportunity to acknowledge two such individuals who are in the public gallery today: Ms. Hazel Brown of the Network of NGOs, and Mrs. Diana Mahabir-Wyatt, and I want to thank them for their decades [*Desk thumping*] of dedication to their issues.

The Attorney General acknowledged receiving correspondence from a list of concerned NGOs, and there are 14 NGOs which he named, I am also in receipt of that piece of correspondence. And the author indicated that in addition to those 14, there were 15 other NGOs who were invited but could not attend due to the short notice that the Coalition Against Domestic Violence had convened this meeting.

So there are 29, at least 29 organizations in all, who have an interest in having a say.

It is the view of the Opposition, Madam President, that the input of these organizations should be considered in the formation of this Bill, and their recommendations which they are firm about should be considered by this Parliament. [*Desk thumping*]

So therefore, Madam President, I am in support of the call for a joint select committee to be established. I do not see the Joint Select Committee as something that is going to, you know, just take up our valuable time without necessary benefit. We have had committees that had two meetings—that were able to gather the information in two meetings and put together a report. We have had committees that lasted less than a month, and I am of the view that the stakeholders who have put forward their views have studied the matter, they are very firm about what their concerns are, and they do have recommendations ready to be considered by the committee. So, I want to—I trust that the Attorney General will see it necessary, and the Government will see it of benefit to engage a joint select committee to treat with this matter. [*Desk thumping*]

Madam President, if you would allow me to read into the record, some of the recommendations on the correspondence from those concerned organizations that the Attorney General mentioned earlier; it is just five. And in addition to the recommendation that a joint select committee be established, they also asked that:

The Bill should be made part of a larger and comprehensive Sexual Offences Act, taking into account the need for a specialized court, provisions on rehabilitative and psycho-educational approaches.

That there should be detailed provisions for the collection and provision of

data from provision officers, social workers, NGOs, police and other stakeholders essential to the development and implementation of policy.

That there should be an established radius around schools, as well as restrictions for employment in or around schools, and that should be made mandatory for convicted sex offenders of children.

The fifth recommendation is that:

Research, locally and through international agencies, should be made available on the economic cost of sexual offences, domestic violence, et cetera.

The Attorney General spoke passionately about the need to treat with particularly sex offenders who perpetrate crimes against children and I think that some of those recommendations might be of interest to him, so I trust that we could deal with that in a joint select committee.

But, Madam President, of those 29 stakeholders mentioned in that correspondence, I want to make some other suggestions. The Attorney General has already indicated that some discussions were held with the Commissioner of Prisons and the Commissioner of Police.

I want to suggest that we include in our consultation, because there is a need for the Psychiatric Hospital Director to play a role where there is a mentally ill patient, the need for consultation with the Trinidad and Tobago Association of Psychologists. The Attorney General indicated that some consultation took place with the Chief Immigration Officer; the National Parent Teachers Association, the stakeholders within our education system such as TTUTA; there is also a principals association, the National Primary Schools Principals' Association, those persons should be given the opportunity to come forward and indicate, have their

say. So perhaps we could review the list of stakeholders or what the Government considers stakeholders.

Consultation is not having a conversation with yourself. The Attorney General listed Ministers of Government to whom correspondence went to as an invitation to consultation; those are Cabinet Ministers. If the Government and the State is having a consultation, should it be having a consultation with itself?

He also indicated that the DPP, the Law Association, the Commissioner of Prisons were notified. So, I want to just implore the Attorney General, I really do not believe that the list of persons whom you indicated were invited to consultation is reflective of the people who have their feet on the ground when it comes to treating with the victims and perpetrators, who have dedicated their lives to treating through NGOs and so on. So while you would have reached the authorities, you would not have reached down to those NGOs who would have a say. But in the future, just in general, consultations, I mean with Ministers, is something different to consultations with citizens.

So while the Opposition is in support of the establishment of a registry, there is need for a joint select committee of Parliament on this Bill to give the stakeholders the opportunity to capture those critical elements that they have encountered on the field through their decades of dedication and working with victims and perpetrators.

Some of the concerns expressed by some of those stakeholders are things that we have to consider in terms of the balance of securing public safety, with the balance of the rights of a victim after his time for his name being on the registry, for it to be removed.

How do we determine when an offender's name should be expunged from

the record? It is well established in the Bill what the process is to apply, but there is, Madam President, I think, the need for some element of restorative justice to be included in this legislation and we cannot treat it as though sexual offences are only committed by strangers to the victim.

Sexual offences are very prevalent, they are not restricted to any one class in society. Sexual offenders are not always strangers, they may be parents, step-parents, siblings, relatives, even teachers or close relatives of the victims, trusted adults. It could also be a trusted child, an older child.

So what is the process? What in this process of reporting, of prosecuting, of sentencing and then putting the convicted person's name on the sex offenders registry, in that process, what mechanisms are there in place to address family relationships? And I am not only talking about the relationship between the victim and the offender, but the relatives of the victim or the relatives of the offender where it is a person who is a relative who is the offender. We have to, Madam President, take that into consideration.

So, I want to especially call for an element of restorative justice to be included in this Bill to give the offender the opportunity or to give the victim the opportunity to meet with the offender, to give the offender the opportunity to apologize to family and the victim, as well as the family, and for the offender to hear the pain and suffering of the victim. And for many victims, confronting the offender is a liberating experience, it is closure, it allows them to move on with their lives. And sometimes for the offender, seeing the pain and suffering that they cause to their victim, can make them remorseful, can make them more committed to recovery and, in fact, help them to acknowledge that they did wrong. There are instances where offenders do not appreciate how they have violated their victim.

And I want to mention that there was a sex abuse scandal surrounding the United States gymnastics team with their doctor, Larry Nassar. And at the end of the process, before the sentence was handed down, the victims had the opportunity to speak in court, and it was widely covered by international media. And the court was addressed by the victim—the offender, sorry. The offender was addressed by the victim directly. Some of the young ladies read from a written statement, and it was very emotional, but they had the opportunity to put on the record, how the actions of the offender affected their lives. And even though, whether that influences sentencing or not, I think it is an important part of the recovery process.

3.10 p.m.

Madam President, in the Bill that we have before us also there is no element of ensuring the return of psychological well-being or recovery as being part of the objective of establishing this offenders' registry, and that is an area that I think when we meet with stakeholders we could collaborate and come up with some good points to incorporate in this Bill. The only mention with respect to an offender with a mental illness, for example, was in section 52 where a registered sex offender with a mental disorder, when he is required, he or she is required to report to the police station or to report to the Immigration if they are leaving the country, the Immigration Department, that they may be accompanied by a representative of their choosing. That is the only area where an offender with mental illness is mentioned.

There is in, no provision, Madam President, for assessing the mental state of an offender before or after this punishment of displaying his name. And yes, the court in any process, the attorneys can ask for a psychological evaluation, but in the Bill there is no requirement for that person to be deemed psychologically fit to

come off the sex offenders registry, and that is something I think we have to give consideration for.

There is a process identified for the cessation of—an application to be made to the court for the cessation of the reporting period, and the provisions would be that the sex offender may apply to the court if he was not mandated to report for a period of 25 years, if he has served three-quarter of his reporting period, and he was not charged with or convicted of any registrable offence during his reporting period. And I think we should add there that some psychological assessment be done to determine whether he or she is fit or suitable to not be considered a danger to society. And even where the application is made to the court, the process for that name to be expunged from the registry, the application is made, the court is required to inform the Commissioner of Police. The Commissioner of Police will ensure—through their department—that the information is placed on the sex offenders' website.

Not everybody in Trinidad and Tobago has Internet. I have a concern in terms of the availability of the information, and that is something I think we could take some consideration in terms of how do we ensure that the affected parties, the victims, the relatives are notified that the offender is making an application for his name to be removed from the registry. The court will then, after it receives the application, will consider the application and within one month after the information being displayed on the website, it will make an order for the cessation of the reporting period of the registered sex offender. I suppose the victim can attend in court if they see the notice on the website, and have a say in the matter, or be able to make some submission to the court. But, that is not clear in the legislation, and I think it is important for us to consider the victim or the relatives

of the victim if for instance the victim dies, for them to have a say in the matter.

So that is an area I would like us to explore. There is no mandatory psychological treatment for sex offenders from the court in terms of your punishment. You receive a fine, you receive a sentence, your name goes on the registry, that is a form of punishment as well. But how do we assess whether a person is certifiable? A person can be certified mentally fit or certified not fit to return. Well, I should not say return to society, because they would still be living in society, but that they are mentally fit in a manner that they no longer pose a danger before their name is removed, because that is the purpose of the establishment of the sex offenders registry, the protection of future or potential victims.

And bearing that in mind, Madam President, while the punishment is the shame and the—well just for your name being there, that is part of it. But the main purpose is the protection of future victims. We could not protect the first one, but if we keep that in mind we will also want to give serious consideration to the child offender, where the victim was a child, that considerations be given to keeping away from schools—that the offender be mandated to keeping away from schools, from playgrounds, children's activities centres. And I do not want us as Senators to list areas we feel that the child offender should be kept away from. Because, in our small communities instructing a child offender to stay a hundred metres away from a school may mean he may not be able to go into that community at all, or he would be very limited because a hundred feet from the school may be the park, and may be another facility for learning, or another children's facility. So, we have to take that into consideration, balance the protection of the children against the liberty of the person whose name is on the sex offenders registry.

But, Madam President, in order for this Bill to be effective, we come right back to the rate of conviction. I just want to remind the Attorney General, there was a debate we had in June, I believe, of this year. It is on the *Hansard*, where we were doing the administration of justice, the DNA Act, the DNA regulations, and that was last year, June of last year, and the Attorney General indicated in this House that for the year 2000—and I just want to quote him:

From the year 2000 to the present there were 13,630 sexual offences cases, and the number convicted was a whopping—he was being sarcastic—321 or 2.35 per cent.

So, a 2 per cent conviction rate is shocking and it is very dismaying. The responsibility to ensure conviction is on the State to ensure that justice is done for victims to receive justice.

So, the Attorney General and definitely the Minister of National Security has to, I mean, in this debate where they could share with us, what are the methods, what are the provisions that they are going to put in place to ensure that the convictions hold up?—that the cases hold up; that victims continue to have faith and trust in the police and in the justice system.

In order for this Bill to be effective, Madam President, the rate of conviction has to be improved, and it starts with our openness to receiving complaints, before we even reach to police reports. Our openness to receiving complaints, ensuring that our NGOs continue to receive the support they need to treat with victims, that the police are equipped to handle and treat with victims of sexual assaults or any sexual offence in a manner that is suitable, that would encourage them to pursue the matter. The gathering of evidence and the preserving of evidence. The ability to prosecute the matter. And very importantly, before we even reach to conviction,

the restoration of mental and emotional well-being. That should be included.

Madam Speaker, I also think it is important for us to look at the type of sexual offences to be included. This Bill indicates that all offences in the Sexual Offences Act would be included, but there are some offences that I think we may have to look at and ask ourselves whether persons who commit those offences should be on the registry. So, for example, there was a simple example that a person who is a guidance counsellor in a school brought to my attention, if a guidance counsellor is aware that a child, or that any sexual offence against a child takes place, it is an offence for them not to report the matter. If a guidance counsellor fails to report a matter, they can be charged under the Sexual Offences Act. Should that guidance counsellor's name go on the sex offenders registry?

So, should we just say all offences under the Sex Offenders Act, that all persons convicted there should go to the register? There are other instances in terms of prostitution, for example. All those matters, even a woman who is forced into prostitution who ends up before the court and she is charged, will she be listed? It might end up being a form of advertisement for her services inadvertently. So we have to, I think, Madam President—

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

Sen. K. Ameen: Thank you. I think we have to look at the offences and perhaps categorize them and decide which one should fall under the registry and in this Bill.

Madam President, I want to implore all of my colleagues on the Government, Independent and the Opposition Bench that this establishment of a child registry is an opportunity for us to move more towards restorative justice as opposed to punitive justice, and I trust that they would have an appreciation for

that. I reiterate my appreciation for the people who have spent decades in the trenches working with victims, working with offenders, who have valuable, valuable contributions to make, and I look forward to us giving them the opportunity to have their say and make their input into the people's Parliament of Trinidad and Tobago. Madam President, I want to thank you for the opportunity to contribute. [*Desk thumping*]

Sen. Charrise Seepersad: Thank you, Madam President, for the opportunity to contribute to the debate on the Sexual Offences (Amdt.) Bill, 2019. Madam President, it is generally accepted that all sexual-related crimes are heinous. Statistically, sexual predators are mostly men targeting women and most of the offences are generally not reported, and there are several reasons for this. They include social shame, fear, and the tedious legal process. Well fortunately, the Me Too Movement has emboldened women of all backgrounds to come forward, but never nevertheless, victims suffer permanent psychological scars.

Madam President, the primary focus of the Bill is, simply put, to name and shame offenders publicly, and to provide the Trinidad and Tobago Police Service with a crime database with the category "sexual offenders". While a sex offenders registry is not unique to the country, this registry sets to capture data on persons convicted of sex crimes from 2000. The subset of the registry, which will be released online for public use contains the name, former name, aliases, date of birth, photograph, address, et cetera, of persons convicted of registrable offences, and a subset of this registry is expected to be expunged after a predetermined period. However, it is almost impossible to remove data from the World Wide Web once it has been posted. The database is under the direct control and custody of the Commissioner of Police, who is responsible for populating and updating the

database. The database is structured so that the TTPS would have access to additional details, including what the Attorney General pointed out, the place of work, next of kin, children, medical history, et cetera.

While every effort to reduce, if not eliminate these heinous offences is of critical urgency and is laudable, Madam President, I would like to voice a few concerns especially since the constitutional right to privacy is being taken away from registrable sexual offenders. The first concern is the security of data. As I have already mentioned, the Internet is not secure and confidential personal information can and will be misused.

My second concern is the integrity and the accuracy of the data. Data captured must be both accurate and complete, it cannot be one or the other. And the third concern is the confidentiality of the extended personal details in the care of the TTPS. No system is secure enough that hackers cannot compromise the database. And my fourth and last concern is what redress is there when a conviction of a person on the database is overturned because of new evidence? Thank you, Madam President. [*Desk thumping*]

Sen. Sophia Chote SC: Thank you, Madam President. Madam President, in principle, I support the idea of a registry, but I do think that there is still quite a bit of consideration of the proposed legislation to be done and a consideration of the views of many stakeholders who deal with persons who have either been victims of these kinds of crimes or deal with persons who have perpetrated these crimes.

Sen. Ameen has referred to a document received, and I think many Senators have received that document, and I certainly agree with those portions which she has cited to this honourable House. There are some additional comments which I wish to make, and I ought to say up front that I would be respectfully suggesting

that perhaps this piece of legislation goes for the consideration of a joint select committee, and I will say why.

Now, the meat of this proposed legislation comes or starts at page 15 of the consolidated bundle which we have. That is to say Part III, Notification Requirements for Sex Offenders. Now, according to the definition, a sex offender is a person who is convicted of a registrable offence and who at the time of the issue of the registrable offence was 18 years of age or over. Now, I pause to say that while we have been advised that this enactment seemed to have borne no fruit, we really have not been given an explanation as to why that was so, where did the system fail, and if the system has failed then is it to be cured by legislation or it is simply to be cured by making people do their jobs? I do not know, I just ask the question in passing because certainly it would lend some depth to the consideration of the amendments if we know why the first piece of legislation did not do what it ought to have done.

Now, this takes me to the other point, which is to say that this piece of legislation is proposing to make all the offences under the Sexual Offences Act, Chap. 11:28, registrable offences. When I did a quick read-through, we have the offences which are, how should I put it, which are better known or infamous. We have the rape, grievous sexual assault, incest, indecent assault, and so on. But we have other ones such as publishing and broadcasting of information leading to the identification of a virtual complainant. Now, that has to deal with the media and probably corporate citizens. But what are we proposing then, that these corporate citizens now be included on this register? And if so, what is the point of that and how are they going to be monitored and so on? So, I think perhaps that instead of doing a broad-brush approach to the Sexual Offences Act, what we ought to do is

to identify which of the offences under the legislation should be registrable offences, as in fact the legislation proposes to do for the Children Act and, yes, the Trafficking in Persons Act, Chap. 12:10. So I think perhaps we need to narrow that down and clear it up a bit because it is way too broad.

Now, the other thing that concerned me when I considered this piece of legislation is how—what are we trying to effect, and is this piece of legislation going to do what we would like it to do? Because we have already seen that there was legislation passed which dealt with some sort of registration for the purposes of monitoring. I take it that had been with the intention of preventing recidivism or identifying persons who may reoffend and that kind of thing. But we basically stand here in 2019 with no information as to how many of those persons who may or who ought to have been registered at that time, how many of those persons did in fact reoffend. I think that would have been a valuable statistic for us because what we are being asked to do in this honourable House is to balance fundamental, constitutional rights with concerns, public interest concerns, and we cannot take that lightly.

I mean, all of us could stand up and say we want to protect children. Everybody gets passionate about that. All of us can stand up and say that sexual offences are horrible things, everybody gets passionate about that. But with all due respect, when we come to legislating we must do so with cool heads and try to ensure that [*Desk thumping*] the ill that we are trying to prevent, or to cure, that we do so as effectively as possible while protecting the rights of citizens who may have broken the law. Because if we corral sexual offenders into a particular group, then quite frankly we are treating them worse than persons convicted of manslaughter or other horrible and very serious crimes.

So in taking this tactical decision, we must understand what offences we are talking about, why registration is necessary. And I take it to—I ask another question, why must it be made available to the public? To me that part of it is [*Desk thumping*] extremely important for our consideration. Now, making it available to the public is simply going to stigmatize the convicted person. If the police have the information and they have a list of sexual offenders, and a sexual offence has been committed—these days when people are arrested their DNA is taken and so on, so all of that is already with the police. So, if the police officers or the Trinidad and Tobago Police Service have a list of sexual offenders then certainly that is going to help them identify who may have perpetrated a particular crime and bring that person to justice. And to me, that is more in the public interest than putting something up on the Web in a police station.

I think we also have to understand, and there was an interesting article which I found on the Web called Attitudes About Community Notification: A Comparison of Sexual Offenders and the Non-offending Public. It was published online in October of 2007, and it was written by Yolanda Brannon, Jill Levenson, Timothy Fortney and Juanita Baker. And it is a study done about the State of Florida, and how they approached balancing registration as opposed to—how they approach the issue of registration of persons convicted of these crimes. What they did find is that half of the offenders—half of the number of offenders that they had interviewed had, post registration, apart from their sentences and so on, received threats, had had their property damaged, had been physically assaulted, and run out of town basically as a result of public disclosure.

So it means that vigilantes, if they know that someone has committed a sexual offence, and it is in the public domain, vigilantes have no compunction

about going to administer their own justice. And certainly that is something we do not want to encourage in this society. We have had incidents resulting in death, where people have taken justice into their own hands, and I think we all subscribe to law and order, and we do not want to encourage or put anything into place which may allow that to happen.

Now, what the article also suggested was that—and I thought it was particularly important, especially for the position in which we have found ourselves today. The article said that there should be collaboration between victim advocates and offender specialists in order to craft policies that hold offenders accountable, and facilitate public safety while allowing the future rehabilitation of those likely to benefit from it. Now, do not get me wrong. I, for one minute, am not saying there should not be a register. I, for one minute, am not saying that sexual offences are crimes of a particular kind. But I also do understand, having been a practitioner of law for some time, that there are different kinds of offences, and there are different kinds of offenders.

Now, we are saying, for example, that someone who is under 18, will not have, if he has committed a sexual offence, will not have his name placed on the register, and his name will not be available to the public. Okay, what if he is 18 years, 18 and a half, or 18 years and two days? What if he is 18 years with a much lower mental age? I do not see what is the magic in this. I feel that we have to look at this with a bit more information from those more familiar with mental health to say there must be a hearing, in my respectful view, there should be a hearing at the sentencing part of the process if somebody is convicted. And at that point we could have inputs from mental health specialists and so on, so that the judge who is ordering the registration can then say, or may then say, this person

should be registered for a particular period of time, this person should not be registered because of these factors, and that kind of thing.

3.40 p.m.

I think we cannot have policy taking away from citizens' rights regardless of whether the citizen has committed a crime. I know this is going to make me dreadfully unpopular, but thankfully, it does not really matter. I think it is important, as legislators, for us to understand the significance of that balancing act that we have to perform here.

Now, the other concern I had was the fact that this legislation basically is saying that if you committed an offence at the time of the passing of the 2000 Act, or post the passing of the 2000 Act, and you served a term of imprisonment—let us say you have served out your term, and so on—you now stand to be covered by this legislation. So if you were 18 years old, or 20 years old in 2000 and you committed an offence, let us say, of serious indecency, you are now flagged at 38 to 40 years old, 19 years later. Now I, quite frankly, think that that has to be unbalanced. I do not think that that is reasonable. I do not think it is proportionate. I think that if we have to have this legislation advanced, we must say that our starting point ought to be from the date of the passage of the legislation because, surely, it cannot be right that 19 years afterwards, and after somebody may have served their sentence, and so on, that we are saying you should now be put on a sex offender's register. I think that is simply wrong.

Now, I see an opportunity for us to actually do something good with this legislation apart from the creation of the register, because I think it is important to have one. If I may just go to section 35, and in particular we are looking at 35(7)(ii). I am suggesting that we have an insertion there because what we are

talking about is where somebody has been the victim of a sexual offence and that person has died, the victim has died, but it turns out that that person may have been infected with a communicable disease by the perpetrator of the crime. We are saying in this legislation that compensation may be paid to certain categories of people. So we have a spouse or former spouse who is being maintained by the VC at the time of that person's death; a person who is living in a co-habitational relationship with the virtual complainant before his death; a child of the virtual complainant under the age of 18 years, or a person who at the time of the virtual complainant's death was financially dependent on him. I think, and I urge my fellow Senators to consider, that we should include here a provision for homosexual couples [*Desk thumping*] so that persons who are in relationships which are not heterosexual relationships, who may have been partners for years, or perhaps been in relationships for longer than marriages, that such persons may also be treated in the same way and receive the same compensation. If we do not do that, we are discriminating and that is unacceptable.

I know it is not—it may not be politically popular but, thank goodness, Independent Senators do not have to be. I think this is such a wonderful opportunity for us to try to reach to a position where we can truly say that each citizen in this country has the same rights, and we had an example of that through the decision of the High Court last year. And we have a wonderful opportunity in this Parliament, which is the highest court of the land, to step up and say that we are on par with what the Judiciary is saying. And I urge my fellow Senators to grab this opportunity, because we cannot continue to treat members of our LGBTQ community differently or as lesser citizens than other citizens in this country. [*Sen. Vieira thumps desk*] The fact that I only have Sen. Vieira supporting me on my

left, perhaps is an indication of—I do not know—my ability to convince others.

Now, one thing took me a bit by surprise and that was the hon. Attorney General's reference to having the sex offenders' passports stamped. I, again, do not think that that is proportionate and I do not think it is reasonable. I do not know whether other countries have their sex offenders' passport stamped and we see it when they enter this country. I have absolutely no idea. But when you consider when you travel, what you use a passport for, it seems to me to be unduly onerous because if it is stamped in the passport, then essentially what you are doing is, you may be preventing, let us say, somebody who did his crime, served his time and is now travelling with family members and who has a conviction for a sex offence, to be prevented—

Hon. Al-Rawi: Can the Member give way?

Sen. S. Chote SC: Sure.

Hon. Al-Rawi: Thank you so much for giving way. Just because it is such an important point, just to note that it is only for child offenders—offenders against children—and there are multiple jurisdictions that have a similar position which I will happily provide as well. But just for the distinction; that this is for people who have committed offences and have been convicted for children—against children.

Sen. S. Chote SC: Well, thank you, hon. Attorney General, but you know, I think there are other media by which we can correct that. We have sharing of information with all policing and immigration agencies worldwide. We often boast about that. So sharing these convictions with other agencies, if it is not happening already, then it should be happening. But to put it on a passport where somebody has to go and take out your passport to buy something in duty free, or if you travel, to go and use a credit card, or if you wish to emigrate, or if you wish to

visit an ailing parent in another country, this stamping of the passport is effectively going to block you from doing that. It is going to block you from seeking employment anywhere else in the world. So you are affecting liberty. You are affecting privacy, and I think there are other means of achieving the same purpose without having the draconian act of stamping your passport and saying that forevermore you are a child offender. I agree, we have to protect, not only our children, but children in other countries and I hope other countries take the same position with respect to our children. But I think we have to look at what is the appropriate way to channel this information so that this information can be shared by all policing agencies throughout the world.

Now, the reason I had wanted, or I had asked that, you know, in the hon. Attorney General's wrapping-up, Madam President, if we could have some information as to why the earlier legislation fell down so badly—is because I found online a statement from an organization called “The Caribbean Committee Against Sex Crimes, and they had said that in 2016, then Minister of National Security, had indicated that that registry would have been implemented by June 2016 in, I think, nine police stations. So it means there was something there. Something had been collected; something was in the process. So it would be interesting to know why that did not happen. Is it just a failure of systems? Or is it something more significant?

Now, I know we have heard about the number of offences reported—sexual offences reported. I looked at the weekly police media briefing of just about a year ago, of the 28th of February, 2018, and it was done by a woman Sergeant Michelle Lewis of the Child Protection Unit and she said that between the years 2015 and 2018, 552 persons were charged for offences against children. Now, it is certainly

not the thousands that the hon. Attorney General spoke of when speaking generally of reports made but what was also interesting in what this police briefing had to say to us as members of the public, was that the police had found, according to this briefing, an unsettling trend emerging in custody disputes whereby children are being coached to make unfounded allegations against one of the parties to the dispute. Now that is a reality. I can say I have seen it happen myself. I have heard colleagues speak about it. It is more common than we would like to think.

So it is important for us, when we talk about dealing with sex offenders, that we do not look at the issue in broad terms. For example, in my view, a paedophile is an extremely dangerous person and that is a category of sex offence. Somebody who is suffering from a psychiatric illness with some sort of compulsion towards violence, that is a very dangerous person and ought to be treated as a special category. So what I am saying is that when we set time limits for reporting, and so on, and for being listed at a police station and for being named and shamed—because that is what that provision for access at the police station is about; naming and shaming—we have to consider the different kinds of people, the different kinds and levels and dangerousness of these offenders.

So I respectfully think that we do not have enough information at hand. I really do think that we need to have some more background knowledge about this whole affair before we press on to have people's names registered, which I have no problem with. But before we press on to publication, I think that is a huge jump that we are going to make legislatively and I do not think, when you are talking about constitutional rights, that you jump over them and say, "Okay, too bad. Crime is high, you know? So forget that." Because if that were so, then why not do that for every single thing?

So, Madam President, with these few words, I respectfully thank you for the opportunity to speak. [*Desk thumping*]

Madam President: 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, kindly, Madam President. Madam President, I appreciate the opportunity to contribute to this piece of legislation before this House, on a Bill to amend the Sexual Offences Act, Chap: 11:28, and the Amendment Bill is of 2019.

Madam President, our assiduous and very capable—he was just here a short while ago—Attorney General, has brought before this honourable Chamber, legislation to amend and to strengthen a very important piece of legislation, and as I rise and I look towards the public gallery, I see two persons whom I know very, very well. I see former Senator Diana Mahabir-Wyatt and Hazel Brown, both of whom I know from the women's movement, because I am a child—I am a product of the women's movement, and I would have worked closely with them over the years. And I have a vivid recall of the original legislation, the Sexual Offences Act, and when it was passed in 1986. That piece of legislation generated much debate within the society, and, indeed, I listened to the Attorney General indicating that he was in receipt of a letter from certain women's groups requesting the opportunity to comment, and I am quite sure that the Attorney General will give that listening ear, because in 1986 the women's movement did have an opportunity to comment on that very important piece of legislation.

As a matter of fact, Madam President, at that time I was the chairperson of the Public Services Association of Trinidad and Tobago's Women's Committee

and I would have organized many a fora within the union. Those were the heady days of the democratization of the PSA that is no longer there. I vividly recall clause 4, because I was labelled by my male colleagues—I have always worked all my life in a male-dominated environment—always. That is why I always—with all due respect to my female colleagues, I have an affiliation to lean towards my male colleagues because that is what—how I have learnt over the years. And I remember being labelled “Madam Clause 4” in the PSA because clause 4 recognized rape in marriage for the first time. And I remember all the pundits, and all the priests, and all the pastors, and all the very passionate men in the society, and they were saying, “The sanctity of marriage”, and “Leave the law out of the bedroom.” But, Madam President, in the final analysis, the law was passed. So that this piece of legislation, this amendment, touches to the core of my being because I would have contributed, along with all the other women in the women’s movement, to ensuring that particular clause remained within the legislation.

So, Madam President, as we sit here today to debate this amendment, we do so against the background that the passage of the original Bill did not pass as easily. There was a struggle to ensure that that legislation was enacted. Day after day in the news we are faced with stories of persons committing sexual offences. As a matter of fact, we are bombarded. And it is really heart-breaking. I mean, it is heart-breaking to me; heart-breaking to all of us. I am a mother; I am a grandmother, and therefore, it is heart-breaking when you read of all these instances of violation of, not only women, but in particular the children of our society. It is really heart-breaking; and the way in which many of them suffer at the hands of very depraved individuals in the society. And it is especially heinous when the victims are our defenceless children. And that is why this administration

is tackling sex crime head on. Anyone can become the victim of a sexual offence—anyone. Often it occurs within the home or at the hands of someone known to the victim, because it is only those persons who are closest to the victims, where trust—the issue of trust—exists, can harm those children.

These crimes represent a fundamental violation of another human being. And in addition to the physical consequences, these crimes carry with them invisible scars, deep, deep scars, that are not easily visible to the naked eye, but can only be identified if you sit and you speak with some of those victims. The emotional trauma can haunt survivors forever, preventing them from enjoying relationships—healthy relationships. Survivors often struggle with depression, feelings of unworthiness, suicidal thoughts and post-traumatic stress.

Madam President, so deleterious are these offences on the psyche that the Ministry of Labour and Small Enterprise Development, we have been working to deliver a National Workplace Policy on Sexual Harassment in Trinidad and Tobago. The policy explicitly defines sexual harassment, identifies the responsibilities and procedures for all stakeholders when there is an allegation of sexual harassment in the workplace, and it also aims to assist and guide employers in developing their own individual sexual harassment policies for their respective organizations.

Madam President, the Ministry of Labour and Small Enterprise Development believes that the introduction of the National Workplace Policy on Sexual Harassment will be a significant first step in eliminating sexual harassment in the workplace completely. Similarly, this amendment Bill is another step in the elimination of sexual offences in Trinidad and Tobago. In fact, this amendment is just one of the many pieces of legislation that this Government has brought to the

Parliament in an effort to strengthen the legislative framework in Trinidad and Tobago, as we seek to protect citizens of this great nation and to provide them with the necessary law and order to live and work peaceably in a safe and secure environment. Madam President, this administration, as part of our vision, sees Trinidad and Tobago as a place where the family is still the bedrock of the society, and therefore citizens must feel safe enough to raise their families in a peaceful and nurturing environment.

Within our National Development Strategy, 2016/2030, popularly known as *Vision 2030*, we identified the second of five themes as delivering good governance and service excellence. Two of the short-term national outcomes on this theme are: The improved administration of justice and a modern and effective law enforcement system. And it is with these outcomes in mind that we have brought so many Bills intended to strengthen the legislative framework to this honourable Chamber.

Madam President, allow me to just mention a few of the Bills we have laid during the Third and Fourth Sessions of the Eleventh Parliament alone: The Anti-Gang Bill of 2018; The Administration of Justice (Indictable Proceedings) Amdt.) Bill, 2018, The Cybercrime Bill, 2017, the Miscellaneous Provisions (Proceeds of Crime, Anti-Terrorism and Financial Intelligence Unit of Trinidad and Tobago) Bill, 2018; The Anti-Terrorism (Amdt.) Bill, 2018; The Criminal Division and District and Criminal and Traffic Courts Bill, 2018 and the Finance Bill, 2018, which allowed us to increase the fines for all offences under the Children Act, Chap. 46:01. So that, Madam President, we do not believe in just ole talk. Our actions speak louder than any amount of words, and with the tenacity and passion of the hon. Attorney General, we have been very slowly,

incrementally, but consistently, building and reforming the legislative framework and the judicial system of Trinidad and Tobago, one brick at a time.

Madam President, this piece of legislation is no different, as it aims to provide both a deterrent to who may be tempted to commit sexual offences, as well as providing important information with respect to the identity and whereabouts of convicted offenders. This amendment is one more tool we are providing to those who uphold the law and enforce the law, as we continue to protect and to care for our citizens of Trinidad and Tobago, especially the most vulnerable in our society who are often disproportionately affected by crime.

Madam President, the objective of this Bill is to make several amendments to the Sexual Offences Act, Chap. 11:28, to allow for the reestablishment of the national sex offender register and to make provisions to matters connected therewith. As a consequence of the provisions of this Bill, the following five pieces of legislation are also subject to amendment: One, the Criminal Injurious Compensation Act, Chap. 5:31; The Administration of Justice Act—I would not attempt to pronounce that word. [*Laughter*] The Administration of Justice Act, Chap. 5:34; the Immigration Act, Chap. 18:01; the Police Act, Chap. 15:01 and the Family and Children Division Act, 2016.

So that, Madam President, there is absolutely no doubt that in Trinidad and Tobago sexual offences and sexual violence are perennial societal problems which must be aggressively prescribed by the State. Citizens ought to expect that the law should offer as much protection as possible and the sexual integrity—people's personal autonomy of all members of our national community. And this Government is once again seeking to protect the citizenry with this Bill. So that, Madam President, sexual violence is a violation of one's fundamental human right

which adversely affects and negatively impacts on the dignity and well-being of the victims. Moreover, it has significant damaging effects on the victim, their home, their organizations and communities.

Madam President, as I share some perspectives on this legislation, I wish to remind the Members of this honourable House of the United Nations Secretary-General, Mr. Antonio Guterres' message on the International Day for the Elimination of Violence against Women on November 28, 2018, wherein he underscored that violence and abuse, including sexual violence and trafficking, is a major obstacle to inclusive, equitable and sustainable development. And in particular I have noted this particular statement he made; and I quote:

“Not until the half of our population represented by women and girls can live free of fear, violence and everyday insecurity, can we truly say we live in a fair and equal world.”

Mr. Guterres also noted that:

“At its core, violence against women and girls...is the manifestation of a profound lack of respect - a failure by men to recognize the inherent equality and dignity of women”—and that it—“is tied to broader of issues of power and control in societies.”

This, he noted, has:

“...far-reaching consequences for families and”—societies.

Notwithstanding this, this Government also recognizes that our men and boys are also victims of sexual violence and they are, of course, protected by this legislation. Madam President, it is without doubt, the number of individuals who have become perpetrators and/or have perpetrated sexual violence and victims of sexual violence have increased. Alarmingly, for the years 2016, 2017 and 2018,

the Trinidad and Tobago Police Service statistics advise that there has been a steady and drastic increase in the number of reported cases of rapes, incest and sexual offences.

4.10 p.m.

The statistics for the period January 01 to December 31, 2016, show that there were 496 reported cases as compared to 531 reported cases in the year 2017 for the same period, and then 726 for the same period in 2018. Madam President, this Government has been making meaningful changes to reforming our criminal justice system, and this Bill is a continuation of that work. This Bill reflects our commitment to modernizing the criminal justice system as it relates to the perpetrators of sexual violence.

Madam President, I turn now to the key provisions of the Bill. An analysis of the Bill demonstrates that a lot of the amendments relate to the updated provisions in the Children Act and the Trafficking in Persons Act, Chap. 12:10. The Bill also primarily re-establishes the National Sex Offender Register and amends the notification requirements for registered sex offenders. The purpose of this machinery is to allow the police and immigration officers to closely monitor the movements of persons convicted of sexual offences to prevent recidivism and to further protect the wider national community.

Clause 5 amends section 2 of the Sexual Offences Act, Chap. 11:28, by inserting the definitions of certain words and phrases, and provides for the deletion of the word “minor” and substitutes it with the word “child”. A “child” still means a person under the age of 18 years. However, the use of the word “child” versus “minor” ensures uniformity with the phrases and terms used in the Children Act and ensures that there is no ambiguity.

Madam President, definitions for “Chief Immigration Officer”, “Commission of Police”, “Commissioner of Prisons”, “non-intimate sample”, “registrable offence”, “registered sex offender”, “sex offender” and many other insertions are set out in clause 5 in order to provide proper meaning and interpretation to the later clauses which I will quickly get to.

Clause 8 provides for section 26 of the Sexual Offences Act to be amended to include specific sections of the Trafficking in Persons Act, Chap 12:10, namely sections 16 to 19 and section 23. Essentially, Madam President, this amendment provides that a person under the age of 12 years old will not be deemed capable of committing sexual offences under the Act, trafficking in persons, inciting, organizing or directing another person to trafficking in persons, trafficking in children, inciting, organizing or directing another person to trafficking in children, and transporting another person for the purpose to trafficking in children, transporting another person for the purpose of exploiting that person’s prostitution. Madam President, clause 8 also includes references to Part IV, and Part VI, and Part VIII of the Children Act, and in so doing harmonizes the age of liability amongst these three pieces of legislation.

Clause 9 provides for the expansion of the number of offences for which specified persons—parent, guardian, employer, teacher, medical practitioner, registered nurse—who have custody and control over a child are to report suspected abuse of that child by virtue of section 31 of the Act. This clause replaces the word “sexual” with “registrable”, and “Registrable Offences” are set out in Schedule I and have been expanded to include offences under the Trafficking in Persons Act and Parts IV and VI and VIII of the Children Act.

Madam President, clause 10 repeals and substitutes Part III of the Act and

re-establishes the National Sex Offender Register and amends the notification requirements for registered sex offenders with the insertion of the Part IV and Schedules 2 to 5. Clause 10 also amends the Act to include sections 35 to 55, and Part IV which includes sections 56 and 57. This clause modernizes the concepts and functionality of the National Sex Offender Register. Sex offender registries exist in many English-speaking countries including Jamaica, Australia, Canada, New Zealand, the United States, South Africa, the United Kingdom, Israel and the Republic of Ireland.

In Jamaica, the sex offender registry was established in 2014, and offenders are kept on the register and are monitored for at least 10 years before they are eligible for termination of the registration and reporting requirements. Madam President, removal of registrants from the register can only be ordered by a judge, and offenders must notify the authorities before leaving Jamaica. As such, the Government is moving towards keeping up with our regional and international counterparts in the battle against sexual violence.

Madam President, just yesterday, I was reading the *Newsday* on page 18 and it shares with us that even Antigua and Barbuda, they are contemplating moving in the same direction, and I quote from the *Newsday* of yesterday, page 18:

“Attorney General Steadroy ‘Cutie’ Benjamin says the government will be establishing a registry for sex offenders in the very near future.

...once convicted, the names of all sexual offenders will be placed on a public registry.

We are going to make certain also to notify the neighbourhoods into which”—these offenders—“are going to reside...

‘Mothers in the community must know that this person is a sexual predator

and special care must be taken to protect those young, vulnerable persons.””
So this piece of legislation seeks to put in place the necessary teeth in the legislation to address this criminal offence.

Madam President, I will now highlight the key and significant provisions introduced within clause 10. Section 35 will now ensure that persons charged with a registrable offence can be ordered by the court to be medically examined for sexually transmitted infections. This is broader in scope than the current section 34E which provides for the detection of the human immunodeficiency virus, HIV, or any other communicable disease.

Madam President, with the prevalence of HPV and other emerging sexually transmitted infections, this change in wording is very essential. Victims of sexual violence or virtual complainants will be immediately notified if the person charged is found to be suffering from a STI. Additionally, if it is found that a virtual complainant contracted a sexually transferred disease from the person examined, the High Court may order the person convicted to pay compensation to the virtual complainant. So there is a compensation aspect of this legislation. This is an additional and significant deterrent in preventing the reckless infection of persons.

Madam President, section 36 provides for the court to order the payment of compensation to the virtual complainant by a person convicted with any registrable offence. Section 37: Nationals of Trinidad and Tobago and residents convicted of a registrable offence from September 25, 2000, and who completed their sentence, or have not completed their sentence before the commencement of this part, are subject to its provisions and subject to the registering and reporting requirements.

Madam President, section 39 establishes the National Sex Offender Register which contains detailed information about the sex offender which is set out in

Schedule 2. This information—and it is important for us to note here—will not be accessible to the public. The register will be under the control and custody of the Commissioner of Police. With respect to Section 40, it is important to note that the United States is the only country with a registry that is publicly accessible. All other countries in the English-speaking world have sex offenders' registry only accessible by law enforcement.

Trinidad and Tobago will now provide public access to information on registered sex offenders via a website, and I dare say, Madam President, that this can only benefit the national community. The publicly accessible information will be limited to the name, date of birth, photograph—which is very important—main and secondary address, and convictions of registrable offences by the sex offender. Additionally, once the reporting requirements are completed, the sex offender's information must be removed from the website.

Madam President, section 41 compels the court to order the convicted sex offender to comply with Part II and to report to a police station for the purpose of registering as a registered sex offender upon the completion of sentence. Where the virtual complainant is a child, the Registrar of the Court shall inform the Chief Immigration Officer. Section 42 covers nationals of Trinidad and Tobago, or residents that commit registrable offences abroad and return to Trinidad and Tobago. They are also mandated to comply with Part III. The Chief Immigration Officer must inform the Commissioner of Police within 48 hours of the entry of the sex offender back into Trinidad and Tobago. These provisions are ensuring that there is mutual cooperation and sharing of information between and among different state agencies to ensure that sex offenders comply with Part III. Section 43 mandates that the Commissioner of Prisons and a psychiatric hospital notify the

police four months before the discharge of a sex offender from a prison or psychiatric hospital.

Section 45 stipulates that initial reporting of a sex offender at their nearest police station, and it sets out very strict timelines for doing so. The information to be collected by a designated officer in the police station is set out in Schedule 3. Photographs, fingerprints and non-intimate samples must be recorded from the sex offender. Madam President, where the sex offender refuses to supply any of this information, it may be taken without their consent pursuant to the Police Service Act and the Administration of Justice Act. A sex offender that fails to report to a police station or comply with any request under this section commits an offence and is liable to a fine of \$150,000 and imprisonment of 15 years—certainly a deterrent, Madam President. These reporting requirements are therefore to be taken very seriously because they are simply not optional.

Madam President, section 46 sets out that sex offenders must report to the nearest police station every six months for the duration of the reporting period, and the reporting periods are set out in section 47 and Schedule 4. Where there are any changes in the information provided to the police, the sex offender has the responsibility—that person must update the designated officer at his or her reporting police station further to section 48. It is also an offence to fail to inform the designated officer of any changes to the information provided under sections 45 and 46.

Madam President, this Bill deals with more practical considerations. For instance, at section 49 where a sex offender has been detained at a police station, remanded into custody, serving a sentence of imprisonment, warded at a health facility, is out of the jurisdiction, reporting may be suspended. Failure, however,

to resume reporting within 48 hours of release, discharge or re-entry into the country, however, is an offence. Under section 50, a sex offender must notify the designated officer of their intention to travel outside of the jurisdiction seven days before departure, and to provide certain information set out within the section. These provisions are necessary to keep track of the movements of these sex offenders. At the end of a reporting period, a sex offender may apply to the court to have their information expunged from the register by virtue of section 53.

Finally, Madam President, section 55 ensures that the information and records obtained are to be kept confidential, unless an Act or written law permits the disclosure of same. It is also an offence to contravene this particular section.

Just over two weeks ago, it was reported by the Trinidad and Tobago Police Service that four young men, between the ages of 20 and 31, appeared before the San Fernando Magistrates' Court charged with the rape, kidnapping and sexual assault of two women on December 29, 2018, after they entered a vehicle for transport. These types of headlines and reports must become a thing of the past. Our men, our women, our children must be protected from sexual predators and be allowed to peaceably enjoy and live their lives and realize their fullest potentials without being so violated. There are many other victims who remain invisible, unheard due to shame, fear of intimidation and some perpetrators never face the consequences of their actions, and the victims live in fear, addressing with impunity at every level, in particular the state level, and therein lies the grave responsibility of all of us in this honourable Chamber.

Madam President, I see it therefore as the duty of the Government, the Independents, the Opposition, the organizations who operate in society and deliver healing, deliver assistance, all those organizations helping to piece back broken

lives, all of us have a responsibility to support this Bill and maintain a policy of zero tolerance of sexual violence against our women, children and men. The welfare of all of us is paramount, in particular the children of our country. All circumstances must be taken into account and weighed—

Madam President: Minister, you have five more minutes.

Sen. The Hon. J. Baptiste-Primus: Thank you, Madam President. I am wrapping up. All circumstances must be taken into account and weighed and the course that will be in the best interest of our citizens' welfare must be chosen. This Government has consistently demonstrated its willingness to act in the best interest of the citizenry of this beloved country. The amendments being proposed by the Bill will improve the lives of all of us, not only the lives of those who are victims of sexual violence and those who interact with the criminal justice system, because these amendments allow for the establishment of a valuable crime-fighting tool and, therefore, I strongly urge my colleagues and hon. Members of this Chamber to support the passage of this Bill.

In closing, Madam President, we are making steady progress in implementing the initiatives required to achieve the goals set out in Vision 2030. With the mandate that has been provided to us by the citizens of Trinidad and Tobago, we will continue to deliver good governance and service excellence. Madam President, I do believe that I have presented to the Members of this honourable House all the valuable reasons for this amendment and its necessity. I have described what the amendments are attempting to achieve.

Madam President, through you, I wish to urge my colleagues to really consider the legislation before us, to understand the need to protect the people of Trinidad and Tobago, and to support the Sexual Offences (Amdt.) Bill which is

Sexual Offences (Amdt.) Bill, 2019 (cont'd)
Sen. The Hon. J. Baptiste-Primus (cont'd)

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intended to assist in doing just that. Madam President, I thank you. [*Desk thumping*]

Madam President: Hon. Senators, we will now suspend the sitting and we will return at five minutes past five. When we return, Sen. Haynes will make her contribution.

4.31 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

[MR. VICE-PRESIDENT *in the Chair*]

Mr. Vice-President: Sen. Haynes.

Sen. Anita Haynes: Thank you, Mr. Vice-President. As I rise to contribute to the Sexual Offences (Amdt.) Bill, 2019, I would just like to start with a story from the United States, an incident that occurred in 1989, and the reason I am starting here, it is because this incident is what prompted the sexual offender registry in the United States as well as the sexual offender notice.

So, this is a story of a young Jacob Wetterling who went to a convenience store with two of his friends and they were held up by gunman. This young man, Jacob, was the youngest of three and he was subsequently kidnapped by the offender. His mother, Patty Wetterling led a crusade. She led a crusade with the National Guard, the FBI to find her young missing son and she was told—eventually young Jacob was found murdered and sexually abused—and the police told her that if only they had a list of suspects, a registry, that they would have at least had a place to start. And this prompted the establishment, in America, the nation’s first public sex offender registry.

Now, this is the beginning of an article, scholarly article on “Rethinking Sex-Offender Registries”, and they started there because they noted that given the

emotion and the context in which we are always asked to examine things like sexual offender registries or any of our legislation dealing with sexual offences, the way the public policy conversation is framed and contextualized, it is almost impossible in a political sphere to have a conversation that is not emotive or that we would look at the data and the statistics in a logical manner and ask: Are the things we are doing working right? Usually when we debate, anywhere worldwide, sexual offences, we are told about the horrified parents, people who are scared for their children being snatched and that sexually-oriented crimes committed against children are one of the most deep-seated, cultural and perhaps the most innately human reason—the violation of our human dignity.

And therefore, Mr. Vice-President, we, as legislators, are constantly asked to confront two things. What is my opinion? How do I feel? What would I like to see happen? If I could do anything, what would I do? And then, because we have the people's business to take care of, we must say what does the research say and what is the data telling us and are we doing the right thing? And so I started there because in my contribution, I hope to address a couple of things and I had hoped that when the Attorney General piloted the Bill that I would have heard certain things and I will get to those.

What specifically do we hope to accomplish, specifically, with this amendment? Once we have established what we specifically hope to accomplish, does the amendment before us achieve that goal? What is the research telling us? And I have compiled four different data sets and for the benefit of *Hansard*, I would read the sources into the record but I have also compiled a works-cited sheet so that it would be easier for the record-keeping. When we as a Parliament agree that we have found a good solution to our articulated problem, how are we going to

implement it and are the things in place to implement it. And that is my approach in my contribution.

And when the Attorney General opened the debate today, we started much in the way that the debate started in the United States. I heard his anger and I agreed with it. I heard all of the emotion behind it and I agreed with all of it. But the question of the legitimate aim of the legislation was not answered and in the event of all of the consultations that the Attorney General spoke about and the 19 years in coming and all of these things that we ought to be doing, I still had my very first question unanswered which is: What is our intention here? Is it to protect children or is it in essence punitive? Are we saying that we are so aggrieved by the crime that you have committed, we as a nation are so angry that we want to find new ways to punish you for what you have done? Because the statistics reported by the Attorney General gave us numbers from 2015 to 2018 in terms of the numbers of cases reported, and in that vein, continuing, the Attorney General said, with the statistics coming from the Judiciary, hardly any of these were dealt with—and I wrote down here—then therefore most of these cases, the numbers that were meant to move us to be so angry and so upset by what is happening in our nation—what is this Trinidad and Tobago that we live in?—the vast majority of those just will not be captured by this legislation.

This legislation does not treat with the vast majority of the cases that the Attorney General spoke about simply because there have been no convictions. The Attorney General went through the pieces of children's legislation and to say that this was not done in a silo and this is part of a package that is meant to protect our children. Again though, having examined the elements of the legislation as well as the research, I have not seen what the protection element of this legislation is as

yet. [*Desk thumping*]

The Attorney General asked us to—prior to that, in asking what has been done in the 19 years, what were the statistics?—the Attorney General himself noted that, well, with the studies that were done and that was one of the things where he noted nothing was done in that area and that also concerns me. Because in my preparation for the debate, I could not find any local studies done so I had to take the legislation as proposed here, find similar sexual registration and notification legislation elsewhere. I landed on the legislation in South Carolina, just trying to see how close it was to see if we can—and the societies are still ultimately different but I think some of it can inform what we are doing here today.

And that being said, I would just from the onset say I have no problem at all with our sexual offender registry but I want to disaggregate the two things here. In this Sexual Offences (Amdt.) Bill, we are asked to do two things—well, we are asked to do a number of things but the things that are drawing the most contention are the National Sex Offender Register and where I have some issue is section 41 which is the trigger of the notice where sexual offenders, your information is given to the public and I will go into much detail later on on that.

The Attorney General noted that he consulted with the Minister of Foreign Affairs, the Chief Justice, the Minister of National Security, DPP, the Minister in the Office of the Prime Minister, Children's Authority, the Police Service, Prisons and the Law Association. Helpful in this debate, I think, Mr. Attorney General, would be if the submissions by these persons and how it filtered into what our end product is today would have been helpful I think. Because if we are here and we are asked to discuss the amendments, I would like to know what those contributions are as I weigh in on where I stand on this legislation and I think that

would have been helpful, which is perhaps why the call for a JSC because then these things would have been filtered out in the public eye and people get to make a more informed assessment, a more informed judgment in terms of what we are being asked to do here today.

So I am as passionate about the issue. Sexual crimes do trigger a lot of emotion. The Minister of Labour, in her contribution, also went into a kind of detail to trigger a lot of emotions. But I have to agree with Sen. Chote where when you are legislating, you have to do it with a level head. You have to be able to separate yourself and separate your emotions [*Desk thumping*] and your instinct and say, are you doing ultimately what is best? Again, I heard the call that we must do something and we must start somewhere but unless we, again, identify the legitimate aim of what we intend to do, then starting somewhere could just be blowing in the wind. We could be doing absolutely nothing at the end of the day.

So some of the things that I was hoping to hear from the Attorney General—which I can still hear I am sure—is in terms of convicted sexual offenders, the data that we have now. How many persons are returned sexual offenders or what is the rate of recidivism? I think that is important for us to know when deciding whether or not a register will work in terms of protection. We have to look at two things. Right? Well, we have to look at a number of things. But the Minister of Labour said on a number of occasions that it is a deterrent. I heard no data to back up whether or not it is, in fact, a deterrent and the statistics would be able to tell us whether or not—because the deterrent element is an important starting point in saying whether or not this Act will protect anybody because the deterrent element is the only protection arm that you can have here. Other than that, we would not be protecting anyone but we will be saying that we are aggrieved as a society and we

want extra punishment.

So we got the numbers in terms of cases reported versus convictions but we really do need to know what is the rate of recidivism and that brought me to one of the first studies that I got to: “Evaluating the Effectiveness of Sex Offender Registration and Notification Policies for Reducing Sexual Violence Against Women”. This study was done in 2010 and it was done by the Medical University of South Carolina. I picked this study to start with because of its specific aims. The aims of this study were:

“To examine whether”—or not the—“South Carolina registration...”

And I started by saying that it was the most similar to what was proposed here—that the:

“...South Carolina registration and notification policies”—whether or not they—“have the intended effect of preventing first time sexual offending;”—and—“To examine whether”—or not the—“registration and notification policies have the intended effect of reducing sexual recidivism for known sexual offenders...”

So those are two of the main points that I started with. And whether or not there were any unintended effects.

So the conclusions early on noted that—a significant deterrent effect was noted after 1995, but post-1999 when there was no significant decline, post-1999, which is the year that South Carolina implemented its online sexual offender registry. And that study was backed up by two others which I would present to the Parliament—but I would not go into detail because it says the same thing—that a sexual offender registry is useful but the notification or the publication of that register had no direct impact on reducing anything after 1999. So the studies are

telling us that the register is important and we can all agree on the register but whether or not the public needs access to the register is something that we really do need to think about.

And I will go with the alternative argument in terms of why people want a public register and what they see as the usefulness of the public register but, again, Attorney General, this is why things like the Joint Select Committee I think would have been helpful because I am not an expert in the field. I did research over the last week and I am presenting that research here in my job as a parliamentarian but there are experts in this field and there are people who deal with this on a day-to-day basis. There are people who do this research, people who do this every day and their knowledge, I think, is what we need to put into the decision-making on serious matters such as the establishment of a sex offender registry.

The original aim of the registration laws was to provide law enforcement with a database. Right? None of us will ever argue or argue against a database or data collection or understanding the criminal element in our society. I see the value in that. And the information from that database was intended to help monitor known sex offenders and assist in the investigation of new allegations. However, the community notification is the practice of releasing the registration information to citizens and the intent of the public notification is to arm citizens with information to protect themselves and children from sexual predators. So that is the thinking behind it. But what actually happens? Right? The sexual offender is now subject to public scrutiny or community scrutiny and Sen. Chote noted in her contribution the kinds of offences that are captured under here—and Sen. Ameen also raised it—that would allow you to be placed on the register. The question here becomes: What are the unintended effects of this kind of thing?

Another study, this one by Hanson and Harris from 2004 noted that the vast majority of new sexual crimes were not committed by registered sex offenders who, by definition, have prior offences. I do not have that statistic for Trinidad and Tobago but again, that is a useful statistic for us when making these decisions because if it is that in Trinidad and Tobago, the vast majority of sexual offence crimes are not committed by repeat offenders, then will the registry really be effective in protecting our citizens?

They noted that a number of the registered sexual offenders, in facing community scrutiny, there was the sexual offender but there was also the family of the sexual offender whereby the children of the offender were stigmatized, the family in and of itself faced a lot of difficulty. This is an unintended consequence. So while we are again thinking of punishment and we are angry and we all agree that things like this should not be done and our society needs to stamp out crimes of this nature, there are people involved who have not committed a crime, who would be affected by a public notification on our sexual offender registry and I just want for us to think about that as we go forward.

When you look at whether or not you have to have a public register in Trinidad and Tobago, did we ever consider our culture in that space and how society reacts to certain things? So I recall, if you just read the comments on social media underneath any story about paedophilia, about sexual—well, any crime against children, you read the comments, the vast majority of persons push for vigilante justice. The idea is that the system is too slow; that nobody is protecting our children and that we want justice and justice ought to be in our own hands because it is too slow in the hands of the system.

Now, contextualize that and take your public register, Mr. Vice-President,

and put it on the Internet, a website, and you can go and find persons in your area who may have committed a crime—and I will get to the thresholds. Right? You have committed a crime, you have been convicted of a crime and you are living in my community. What is your reaction now? Is it that I now know I will protect my children from you? Or do we continue this idea of punishment? Do we continue this idea of these people ought to be punished fully by society?

And that, again, divorcing myself and my emotions from this because instinctively I have no desire to stand here and say we have to protect people who have committed these kinds of crimes. It is not the natural position that I would want to take but that is not my job here today and I fully endorse every single thing the Attorney General has said in terms of protection of children, and anybody that is captured under this legislation, and I would like to see strong and robust legislation that would allow for the protection of children. I just respectfully do not think this is it. I think this makes us feel good about ourselves. It makes us feel like we have accomplished something when you can go online and see a register. It makes us feel as if we are doing something but the data internationally is telling us that we are not doing anything at all, and if we were better at data collection in Trinidad and Tobago, and once our register is implemented, if we are very careful about the monitoring and evaluation and serious about saying whether or not the things that we are doing here are effective and working to an end goal, then I would say we would have done a good thing.

Going to the memo that I am sure we all received from the NGOs who I think legitimately felt like they are not, or having been adequately consulted, a number of the things itemized in terms of what is our public policy here, they are addressing the same concerns that I am attempting to address but they are coming

from it with a different data set and more specific drill-downs into the areas that they would like, I think, to see changed within the Bill. The question of competing rights comes up and, again, all of those things about the unintended consequences.

But, Mr. Vice-President, I think one thing that they noted which I think is very important here as well as we try to wrap our minds around what we intend to do—well 4.2 of their memo says:

The wishes of the child are not included and consistent with Article 15 of the UN Declaration of the Rights of the Child, nor is there a mechanism for a child to report such offences against their person other than through someone who may be the offender or have coercive power over them.

You see, these things are important because if we are talking about the protection of these children, all of these things have to be distilled and ensure that the legislation is robust enough to actually provide the protective measure.

The studies tell us—and Sen. Chote started by talking about the number of crimes that would be captured under this legislation that would trigger you being on the register, and one of the studies shows—and this is on the other Harris study—that the register, the more offences you capture under the register, the less effective it becomes. So there is a data set spanning 15 years in the United States that is telling us that the wider you try to make that net to get as many people on your registry, the less effective your register is, and so that is something that we would want to think about. When you are looking at the register, are you separating the most heinous crimes from—because I think captured under here as well is indecent exposure, et cetera. Are we doing a tier system in terms of where they would be located under the online register assuming we go forward with these things? And these details become extremely important when the data is showing

us that a wide register that would be implemented by Trinidad and Tobago if this legislation is passed is not the most effective way to go about the registration of sexual offenders.

I want to turn to some policy recommendations as it pertains again to the South Carolina model which says to look at the—one of their main policy recommendations coming from studying how this has played out in the United States—because this is our first time here so we do have to look to international models for an evaluation of the concept. And they said the basis of the sexual offender registry and notification requirements in general, across the board, really needs to be assessed and especially the basis for the online notification requirements in particular.

You see, the problem that struck me instinctively, which is this idea of an online public register, and a number of other people, the data set is also telling us that that is the thing that as it has been in practice in the United States for the last 20 years or so is the problem that they are facing right now—that the register being online is an issue because of the unintended consequences. The emphasis on registration compliance here as well.

Another study—and like I said I will share the works cited with the *Hansard* record—showed that offenders who failed to register or failed to keep up with their registration requirements were no more likely to reoffend, that they would no more likely than those who systemically kept up with their registration. So that is another thing that we have to think about. We are reporting into the station, what is the impact of that and how are we evaluating the concept as it goes forward? So the ideas that persons who are very good at reporting are just as likely to commit an offence again against statistically smaller as persons who were not reporting as

strictly although the legislation does capture them in a different way. So that takes me to what the data is telling us and where we ought to be going.

And then I go to section 44(1) of the amendments which looks at:

“The Commissioner of Police shall, not later than two months before the discharge of a sex offender referred to in section 43, cause a designated officer to attend the prison or psychiatric hospital...”

And then do a number of things. Good in principle, what will be the practice?

The Child Protection Unit of the Trinidad and Tobago Police Service is required to have a total strength of 169 officers. Currently, the Child Protection Unit of the TTPS is operating with less than half of this mandated strength. So when we are legislating things and we are saying this is the right way to do it: “we gonna create this register, a police officer will be designated to go from”—you collect the information, you put in the information, and then in reality, right now, as we stand—and it is a simple thing—the Child Protection Unit of the TTPS is not well resourced, not well staffed and is not given a high priority in terms of being able to effect the laws that we already have. So we add to this and we are not giving them the resources.

And this took me back, Mr. Vice-President, to things like the anti-gang legislation and number of other pieces of legislation where we told: Let us do this now, let us start somewhere, let us work together and pass the legislation and you will start to see the changes. We have not seen any changes from a number of legislation that we have passed. The anti-gang is particularly important now because we were told, Mr. Vice-President, we were told in this Parliament that people know where the gang members are, we know we will get them quickly, everything will be off the board, quick, running.

And then this week, yesterday, Sea Lots, gang violence. Right? Right as we sit here and speak and we try to convince the population that we are passing all these bits and pieces of legislation that will help you, will keep you safe, will keep your children safe. This is what we are being told today; that this legislation will keep our children safe. We were told that with the anti-gang legislation.

5.35 p.m.

We were told that with the DNA legislation, we were told that with so many pieces of legislation. And it just has not played out in that way. [*Desk thumping*] And so I am saying, Mr. Vice-President, that as we stand here, and you give under section 44, new—you give assignments to the Commissioner of Police and to the TTPS. Why not in that same space, make sure that our Trinidad and Tobago Police Service is well resourced and capable of performing the duties in the manner that we would like to see, because all of these things have to work hand in hand.

I went through the strength of the Child Protection Unit, but they also face a number of difficulties in terms of effecting their duties as it stands. So, I understand that the Commissioner of Police then, Stephen Williams, was consulted in the legislation but I think we can go further, I think, and talk to the unit, get reports from the units that are mandated to deal with these kinds of crime, and then they will give us a much better picture in terms of what is happening on a day-to-day basis and how we can fix those problems. And, is a national register or public register the solution to the problems that they are facing?

Because the same statistics that the Attorney General started with, that one out of seven crimes are reported, that means the majority of people are not going to the police stations, they are not reporting the crimes. This does not protect them, it

does not help them, and it in no way fixes that situation. What are we then, as a society saying, how are we going to help that particular problem? And those questions can be answered I think, or at least thoughts can be put forward and the ideas can be ventilated in spaces like a joint select committee.

How we go about protecting our most vulnerable citizens, I agree it ought to be on our high priority and I completely agree that things ought to be done. But I also would like to say to the Attorney General, that the list of organizations that said that they were not consulted, or that they had no input, or that they had not seen the legislation, is very, very, startling to me. Because, is it that the expectation was that when you wrote to the Minister in the Office of the Prime Minister who has responsibility for children and gender affairs, that that Minister ought to have written to these institutions and sought their feedback? Because, I really would like to know where the disconnect happened, how did this happen? Because, as far as I am aware, if you are talking about sexual offences, Rape Crisis Society should have been high up in the list in terms of persons to be consulted. So, in listing the number of persons who were consulted, I really want to know where was the disconnect, and how was this big gap of people just completely left out of the loop.

If it is that they were written to and somewhere along the way the correspondence got lost, and therefore that is why we can say the legislation has been out for eight months or whatever it was, and that people—we ought not to tolerate these kinds of things, well then, yes, I would be on the side of the Attorney General and say, yes, right? We cannot wait for the last minute. But if it is that the legislation—and I think in the wrap up, the Attorney General needs to be very clear to us, is it that these people were written to, and that we can see the

correspondence, and they attempted to contact these organizations, and they were derelict in their duty, or is it that they were somehow left out of the loop. Because, that, I think, is very startling to me.

Now, we could talk about consultation, we can talk about widespread consultation in the face of a memo from interested parties who are saying not just that they have issues, eh, but that they have recommendations and then they have ideas, and that they want to share their ideas to make the legislation stronger and make the legislation better. Why would we leave them out? What is the thinking behind leaving out people like this? And I know the question becomes, how would the legislation change if the consultation was going to be opened up? What is the difference between having this open and vibrant discussion across the floor and that we could all list our ideas and we can say what we would like to see differently. Well, in my respectful view, Mr. Vice-President, our desire for speed, getting things done quickly or checking boxes. Because that is what I think is really happening here today, that a box will be checked—

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

Sen. A. Haynes: Thank you, Mr. Vice-President. If we pass this legislation today, what we will hear at the next sitting or five sittings after that, that this Government was responsible for the creation of a register; that is it. We will hear that over and over. But, what we will never hear, is that the sexual offenders registry—*[Interruption]*—well, not that it is just that it is populated, but that we have seen since the implementation—we never hear that, I can tell you that. But, we have seen since the implementation of X, the reduction of Y, and that it has achieved its legitimate aim. We never hear that. And that is my major problem as to what goes on here, you know, they bring the legislation, you tell us all these great things will

happen.

There is never any reporting, never any reporting, never any accountability that the legislation has achieved its legitimate aim. And we will always run into that problem if on the onset you cannot define the legitimate aim of the legislation. Because the legitimate aim of this legislation cannot be defined as protection because from my examination of it, it is punitive, the idea behind this legislation is to say that we, Trinidad and Tobago are angry, we hate all sex offenders, all—blanket, and we want to put your name on the internet and we want everybody to see you, we hold you up high as a social pariah and that is what we are doing here today. And I respectfully do not believe that we would protect anybody and our goal here as an Opposition Bench, is the protection of children and that is why you saw things like the Children Act and you saw things that—

Sen. S. Hosein: We started the children's court.

Sen. A. Haynes:—the Children's Authority, you saw things, Mr. Vice-President that would say, let us as a society state that this is our priority and this is how we will go about it. And with those few words, I thank you. [*Desk thumping*]

Sen. Hazel Thompson-Ahye: [*Desk thumping*] Thank you, Mr. Vice-President. I rise to speak on this Sexual Offences (Amdt.) Act. Sexual offences as we know, is something very, very prevalent in this society. From where I sat, I had to listen to stories every week on the committee and it really could make you very ill. And even before that, as a lawyer, I would listen to stories and some of them were so horrendous. I remember a mother sitting before me and she showed me the report from the doctor, this mother who had been obeying the access order of the court and sending the child to the father, every other weekend, the doctor said the anus and the vagina had become continuous. She reported to the police once, twice and

she would come back and say he still has not been arrested, and the last time she came she said he is now in the United States, nobody is looking for him.

Before I went to a conference in Cardiff, I met with two clients, totally unknown to each other, and they both said to me, “Mrs. Ahye, when my divorce finish I would like you to help me get counselling”. One had been abused by her brother, the other one by her father. I went off to the conference and I heard a social worker say, “Children who have been abducted and been sexually abused recover very quickly”. I jumped up and I said, “What? What?”—and that was a packed hall. And I said, “that cannot be” and I repeated to him what had happened with the clients who years before—these are women now in their early 40s and they are asking for help because they have not recovered, and here was this man talking about children recovering very quickly. But, unlike Trinidadians, he said to me, “Thank you for bringing this to my attention”. I will never put that in my presentation again, and every time we met during the conference he would say, “Thank you, thank you”.

In Trinidad, I was at a conference at the hotel of many names on a Saturday morning and the United States psychologist or psychiatrist, many letters behind her name said, “Children who are abused by their fathers, hate their fathers”. And I said, “What”? And the criminology department of UWI, the young lady there said to me, “you know, you do not understand what you say, you must be careful”. This little girl is telling me, and I am talking about experience and I had seen that from a background of the most horrendous cases of abuse that I have come across in Trinidad. The 16-year-old girl had been twice impregnated by the father, and the four-year-old girl had been found with a venereal disease. At the end of the day the court ordered that the file should go to the Director of Public Prosecutions

and the Commissioner of Police. That is what the judge ordered. I took the woman back to my office, Legal Aid had put me to represent her. Before she left the court “she cuss de judge, she say, ‘the nuns and them doh mine their business’”, and she was really carrying on. And I pressed her and she said, “what should I do”? And she broke down into tears. She had been abused too as a child. So you have the cycle of abuse.

Years after, I am reading the newspaper—now, all the children were taken away, all the girl children were taken away and sent to various institutions, and I am reading a newspaper and something struck me as being a little familiar. So, I went down to Legal Aid office and I said, “Can I see that file”? It was the same man. The same man where the court had ordered the file go to the Commissioner of Police and to the DPP’s office, nothing had been done about him and he was now sexually abusing the boys. And I always remember the lawyer in the case saying, “My Lord”—pleading for this man—“he is too old to go to prison, do not give him a custodial sentence”. That is what my colleague was saying.

I was sitting in court one day and we were all—about six of us at the bar table and there was a matter of an incest before the court. When we heard the address of the parties and the names, all the layers swivelled around to look to see who those persons were. Well appointed, and the area they were living we were really, really surprised, because we have certain assumptions. So the matter was adjourned. Coincidentally, on the next occasion when the matter came before the court, I was again in the Tunapuna Magistrates’ Court and the young lady was not there. I looked and I saw the parties, well appointed, well dressed, both of them could win beauty contests, beautiful looking people, well dressed. And what was said is that she is not here, you know, because she went to Miami to study, and I

looked at the prosecutor, I looked at the lawyer and the next thing I heard, case dismissed. So when I see a provision in the legislation which talks about, Mr. Attorney General, about preventing people from testifying, I often wondered—I mean, was that the case here?

Because, I still carry in my mind's eye, the face of that mother, the pain, and I said to myself—the police in Tunapuna would always call me, “come into the witness room, help me because there is this woman from Caroni and she does not want to give evidence”. And I would sit with her and I would speak with her about her responsibilities and the child, and the woman would be crying and, of course, she is very poor and she would say, “he say, he would not do it again”. So she is conflicted. But they did not call me in that case, they did not ask for my assistance and heavens knows what happened with that young, beautiful girl.

We are discussing this legislation about sexual offences in the shadow of Akiel Chambers. And we know what happened with him, and we suspect why there has been no justice in this case. But, you know, we have many stakeholders and we expect that the people would do their jobs, we expect that the police would do their job, we expect that all of the people who are supposed to be acting would do what is required of them.

Now, before we reach the registry we must have a conviction, before we reach the conviction, we must have a prosecution, and before we reach the prosecution we must have reporting. And I have said in this Chamber before that I am not at all satisfied with who must report. On the last occasion I spoke about this matter, I brought examples of jurisdictions which have wider reporting requirements than we do. And I asked please, could we do something about it? So since this is relevant to our purposes, what we are doing here, we are extending the

categories of offences but not the categories of, in fact, who are the people who must report. And I am asking through you, the Attorney General, look at Anguilla, I did not mention Anguilla on the last occasion. Look at Cayman Islands, look at Jamaica, I spoke about Barbados and Bahamas and the others on the last occasion. And, you know, they mentioned things like member of the clergy, they speak also about a Minister of religion, psychologist and so on, probation officer, social worker and so on. I think we need to zero in, because when you say “any other person”, people believe it is not me, they are not talking about me, they are talking about somebody else, I am not mentioned here.

And I spoke in another place in this building about the reporting of things like pornography and so on and I mentioned that reports are not coming out as they should. And when I speak, I speak from a position of knowledge, it is not old talk. And I would particularly like to see in this legislation, “psychologist”, and I have a reason for saying so. And I said in another place, I saw it was reported in the newspaper yesterday that some of the prestige schools that are aware of things that are happening within the schools are not reported, they are not going to report.

Now, I meant to begin by thanking the Parliamentary staff. And I wanted to thank them for putting together the consolidation—

Hon. Al-Rawi: That is the AG’s Department.

Sen. H. Thompson-Ahye: The AG’s Department? I am giving them your praise? I am sorry. [*Laughter*] But far be it from me not to give the Attorney General his pips. So, I thank the responsible parties for the consolidation and the Bill Essentials, you did the Bill Essentials? I suppose you did the Bill Essentials as well.

Hon. Senator: No, he cannot take credit for that.

Sen. H. Thompson-Ahye: He cannot take credit for that. All right. The only thing is it could have come earlier, because I have a confession, I have a confession, they say confession is good for the soul. I was coming here, today, when I heard that the Sexual Offences (Amdt.) Act was coming before the Parliament, and I was planning for the AG. All right, and I was going to have my pound of flesh. I was going to be Shylock and while I was thinking of being Shylock, I was also thinking that, you know, in *The Merchant of Venice* they said that “the quality of mercy is not strained”, but I was not going to strain the quality of mercy because I was also thinking of Caesar, forgive me for being a student of the classics. But he did say, “Yond Cassius has a lean and hungry look...such men are dangerous”. So I say, maybe I would not get my pound of flesh. But then it was after midnight when I opened the attachment and I saw or I did not see, and I had to say like Shylock, it is not in the Bill, it is not in the Bill. So I said, no, you know what happened, he had a very hard day, you are too tired, check it again in the morning. And in the morning I went back and I looked again, and I said, that is how a balloon feels when you put a pin in it?

You know, after all the work that I did, all the research going back to when, you know, we celebrated the 100th anniversary of the first juvenile court in Chicago, Illinois, and I sat down with the National Council for Children and we all looked at all of these things and I was armed and well prepared, “like Anthony, man”. “Give me your hand, Bassanio”, I was about to say. And then what happened, the Attorney General took it out of the Bill; it no longer applied to minors, “he waste meh time”. [*Laughter*] Because I was going to, you know what, and then I could no longer argue that point. So, I must say thank you, thank you that it no longer applies to minors. [*Desk thumping*] You know they are not even

using the word “minors”. So, yes, you could hit the table for that. Thank you, because I really was very upset by that.

Now, you know, there is something called “cherry-picking”, so we interfere with this and we “doh” interfere with that, we interfere with this and we “doh” interfere with that. And quite recently, as a matter of fact, the report is dated on my birthday, this lady, whom we all know, Prime Minister Theresa May, said that she deeply regrets Britain’s homophobic colonial legacy and doubles down on the UK commitment to LGBT rights. And I am saying, but we are amending the Sexual Offences Act. So why are we leaving buggery untouched? [*Desk thumping*]

Hon. Al-Rawi: Thank you. If I may, the hon. Mr. Justice Rampersad, amended that law already in the Jason Jones decision. So the law as it stands, section 13, has in fact been amended and that is in the course of the courts right now. So, it would have been *infra dig* for me to amend that law whilst it has been amended and is under appeal only because of the need to clarify the law. And the further reason is that law in relation to buggery finds itself in 26 other laws; the umpteen laws across Trinidad and Tobago from the Immigration Act come down. So, I did not want pull one thread whilst the law had to be settled. So the law has been amended pursuant to Justice Rampersad’s decision in the Jason Jones matter.

Sen. H. Thompson-Ahye: And that is not what you are appealing, right?

Hon. Al-Rawi: Yes.

Hon. Senators: “Ahhh.”

Hon. Al-Rawi: But, I will explain why after in the wrap up.

Sen. H. Thompson-Ahye: All right. I will wait for the wrap up. Now, when you speak late in the day you run the risk of other people taking your talks. So, I had

Sen. Ameen interfering with my baby, restorative justice, I will talk about that in a while again. And then I had the other Senator interfering with my business because, the World Wide Web, I looked and I got the Medical University of South Carolina report. So, when she started to talk about it, I looked to see if it was still on the table. [*Laughter*]

So that was my difficulty, but one—I thought it is a very useful report and the fact is the findings are very important. One of the things that came out of the report and which should really guide the Attorney General and the public to understand that this is not going to be a panacea for all the ills of sexual offending. It does not solve the problems, it is, of course, a desirable thing because when your name is on a sex register, it is not just the legal consequences, but the social consequences and in that report is referred to as unintended consequences. And you have people suffering like the family of the offender and the children because there are so many things that can happen as a result of your being on the register. So you have the situation of housing, you have the stigmatization, you have the loss of job, the loss of friends, you have even the children in school the way they will be, you know, dealt with by the teacher, because teachers can be very unkind. And I was say that because I was in the teaching profession, I suppose I still am at a different level. And, you know, sometimes what they do to children, you know, really cannot be countenanced.

Insofar as reintegration is concerned there are things happening in other parts of the world. We have had a number of conferences—at least six—and symposia dealing with restorative justice, but there is something holding us back and actually, you know, there was actually a conference that said “restorative justice, what is holding us back”? And I do not know what is holding us back. But

it does have relevance for sexual offenders. And I speak here about COSA, Circles of Support and Accountability. Where you have criminal justice volunteers who are creating supportive frameworks around sex offenders following their release. Because when they come out from prison and they have nowhere to go sometimes and no one to turn to, then the likelihood of them reoffending multiplies a thousand fold. So you have representatives from the community, because it is the community that has to receive the offender back, and these people who are volunteers, they actually work with the offenders to assist them in various ways and to hold them accountable for their heinous crimes they have committed. And they are doing that on behalf of the wider society.

You also have a programme called the Restore Programme which facilitates survivors of sexual violence and they work with selected individuals. Sex crimes, when they are committed by persons, and it is their first offense and the person is an adult, they work with these offenders to assist them to keep from reoffending. So they participate with them in programmes. They have a chance to discuss with the offender and the victim what has happened, the harm that has been caused. Now, if the offender does not wish to participate then—the victims, sorry, the person can send a victim impact statement. At the end of the day, there is a redress agreement including mandatory supervision and whatever the victim desires that is put forward at the conference, the offender must agree to undergo treatment and must complete that treatment within a year. If it is that he does not do so, then he will have to go back to the court and face prosecution.

Another programme is the victim offender panels, where you have a number of offenders who have committed sexual offences and they meet with various victims, but they do not meet with the victims of their offence. So you may have a

number of women and a number of offenders, but not those who know one another. So, what happens is that, the women tell their stories and the offenders listen. How has this impacted me, how have I been affected by what has been done? And sometimes hearing the women's stories for the first time, it has a tremendous impact on the offender. So those are things to be considered, legislation is not all.

6.05 p.m.

And with the legislation that is being enacted, we must think about educating the police, educating the community and putting in place a number of options so that, at the end of the day, we do not have this recidivism, because many times what happens is that you come out of the prison and because there is nowhere to turn, you go right back in. And what the studies are showing is that these registries, they work in the sense that the first-time offenders, aware of the implications of the registry, they desist. So there is desistance from offending, but those who in fact are offenders, there is sometimes not much impact in preventing them from going back into their old ways. The level of risk has to be explored as well, and one of the things that one looks at is what kind of criminal activity went along with the act. Is it that this person was involved in other criminal activities? What is the propensity of the person? You look to see what kind of offence.

Many times what worries me though, with the first-time offender, who really is an aberration, when we put that person on the registry, is it the best thing to do? And I would like to refer to *Restorative Justice: Contemporary Themes and Practice* by Helen Bowen and Jim Consedine. It is available in the Supreme Court Library. I brought in a number of them. It is written by these people from New Zealand who did the first training—I did first training with them—and there are a

number of books that were purchased. So, it tells the story of this offender who was a grandfather—one of the stories in here—and he abused his underage granddaughter. He was hitherto, a very loving grandfather. So it created a lot of problems with his family—the wife, the mother of the child, the father—everybody was in turmoil—his elder son. They could not understand how such a loving grandfather can commit an act like that.

So there was a conference put together and what it turned out was that he had been looking at a pornographic movie, and I want to link this with the high rate of pornography that makes us famous in the world and say, if that pornography is not linked with the number of sexual offences that are committed in Trinidad and Tobago. What can we do about pornography? I know we talk about people's rights, but just imagine that if we can do something that would make sexual offences fewer in the society, even if we have to curtail some people's rights, because sometimes people have to really be saved from themselves. Maybe, just maybe curbing the pornography will help.

And, again, work for the police, because we know what happened when we had that very popular figure with all of the pornographic pictures and movies and so on, and he was allowed to leave the country. All right? We know the good churchman what happened there and the zoo man and whatever. So that we have had a history sometimes of not doing or dealing with what we need to deal with, and you know why? Because we believe only certain people should be in the prisons in our country and certain people must not be in prison, but the poor, the disadvantaged, they flood our prisons.

So we talk about you have a role here for the Commissioner of Police, you have a role also for the Commissioner of Prisons, and if it is that the Commissioner

of Prisons cannot at this point provide the DPP with the names of the persons in prison who would have served their sentences if they had been tried, then I do not hold up much hope, I am very sorry. Because a lot of Commissioners of Police have been talking a lot of religion; they preach about God and God and God but we had the “Year of Mercy” and the Archbishop asked that we do something about the suffering in prison. I know you want to tell me about the new legislation is coming on stream—[*Hon. Al-Rawi on his feet*]*—*all right, I give way.

Hon. Al-Rawi: I am very pleased to say that the past maximum sentence was done by the Commissioner of Prisons and by the Judiciary. Seven people fell into that category only, and the reason is that multiple offenders were there for multiple offences. So they may have passed maximum sentence for one aspect, but they had related crimes. So in keeping—I gave a solemn commitment to the Archbishop that I would conduct that exercise and it was faithfully done, and I reported the issues and the results to Archbishop Harris, in particular. So I assure you that that was done.

Sen. H. Thompson-Ahye: Hope springs eternal in the human breast. Do I have any more time?

So, at the end of the day, I would just ask that everybody, all of us, play our part and do what we can, because it is not only the children. Children do not remain children. There are many adults who are suffering and people who cannot function and sometimes we do not understand the ripple effect. It has an effect on the health, it has an effect in the workplace and it has an effect in the home. So if we are to fix this thing which is deep into the psyche of so many people in this society, we would go a long way in fixing the society.

I met a young man who had a number of offences, and the history was that

as a young boy—very handsome young man, very personable—and he was abused as a child by his mother’s friend. His mother did not believe him. He had a string of offences. Who can you turn to if your mother cannot and will not support you because it is her friend? So we talk a lot about the girls, but there are lots of young boys who are suffering in schools. We also need to educate the medical personnel. We cannot take it for granted that they know what to do.

I remember a head of a department coming across to the law school and saying, you know, we want somebody to teach ethics, and I said: “what about child rights? Why can you not educate the doctors in child rights?” And he said to me: “They have too many things on the timetable, I cannot put in child rights.” But I said: “I had sat with Prof. Andrew Shepherd at Hofstra University and there with the doctors and the lawyers and they were learning child rights.” And it was such a powerful example of what we can do, because there are sometimes doctors and psychiatrists who do not understand.

And this morning I read in a newspaper about a coach abusing a child. and I remember years ago, I was in a session presenting and a woman came to me and she said—you know, any time anybody tell me: “Hazel, I have something to tell you”, I know it is a burning thing and I know it is going to keep me up during the night—and she said, “You know, this child had been abused by the coach and she was hysterical so she needed another type of intervention.” So, we took her to someone who should know better, because that person was qualified to treat with this hysterical young girl, and what was the attitude? “Huh, she geh on as if she never had sex before?” So here is somebody in the medical field who is unable to understand that a child, a young girl, having consensual sex is not in the same place as someone who has been abused by someone in a position of trust. So there

is so much work in the country to be done, there is so much education that sometimes I grow weary, but I try. Thank you. [*Desk thumping*]

Sen. Garvin Simonette: Thank you, Mr. Vice-President, for permitting me to contribute to this important amendment Bill, a Bill to amend the Sexual Offences Act, Chap. 11:28. I listened to Sen. Thompson-Ahye with deep interest as she shared with us her anecdotal experience with several citizens. To some extent, I feel that I am connected to this initiative of the Attorney General, in that along with the member of the public sitting in the gallery earlier, Diana Mahabir-Wyatt, I undertook a task for which I had absolutely no training around 1995/1996 and that was lecturing on then Sen. Wyatt's request, to the Trinidad and Tobago Police Service, on what was then the Domestic—the new or virgin, if I could call it that—Violence Act.

This intervention in this Bill, as we have heard today, is some 19 years overdue. The research on similar legislation in the world shows that sex offender registration legislation only emerged around the mid-early 1990s, so that this approach to criminal justice regulation and monitoring is not centuries old, but there is legitimate experience elsewhere, that I will come to shortly, in regard to how other jurisdictions have approached it and, indeed, how other jurisdictions have battled with the very concerns expressed, and rightly expressed, by my learned friend Sen. Chote, in regard of having to balance our constitutional rights and privileges against intervention that reduces those rights and privileges, but dare I say in this Bill, in appropriate circumstances.

So that the intervention, Mr. Vice-President, is long overdue, and it is a long overdue intervention to strengthen law enforcement in the area of monitoring, tracking and invigilating sex offenders, especially those sex offenders of serious

sex offences that have caused pain, suffering and much harm to our women and to our children.

I agree entirely with the Attorney General that the interventions are not such that require more protracted searching debate, and so I join with him in calling on the Opposition Bench to appreciate that the subject matter requires us to act, yes responsibly, but we have had a long period of time to reflect on what we ought to be doing. The interventions in this Bill are in the main, practical, and I dare say proportionate and balanced with regard to what sex offenders are rightfully entitled to do once they have complied with the reporting requirements in regard to the offences they have created. And I will engage, just for the benefit of those listening—the public listening audience—in some comparisons to what other jurisdictions have been doing.

Mr. Vice-President, the national registry that is being advocated in Part III of the Bill will, quite likely, have the huge benefit of reducing recidivism and recidivistic conduct in this area of sexual violence. I think that the studies internationally more than support that sexual offenders—especially those of the more heinous crimes of sexual offence—are often repeat offenders, and in the jurisdictions that registration and notification have been practised, it has been observed that the objective of recidivism has had some success. In our large country, I think that that success could well achieve better statistical performance than in larger countries.

Mr. Vice-President, my learned friend, I believe it was Sen. Ameen, thought that we should pause to obtain historical data on why the previous efforts at this task had not achieved success. And I think that with respect, on many occasions, statistical data is very useful and very helpful, but if we have had 19 years of

inaction, what more statistics do you want than that? That underscores beyond doubt that—

Sen. Ameen: Mr. Vice-President, just to clarify. The point the Senator is referring to was not made by me.

Sen. G. Simonette: Did I say Ameen? I do apologize. Sen. Haynes. I do apologize, Sen. Ameen. [*Crosstalk*] The other criticism made, Mr. Vice-President, is that the notification, that is, the website provisions of the Bill are merely intended to shame persons. And, Mr. Vice-President, I could not differ more with that interpretation of the objective of notification. It has been widely accepted in countries where notification has been deployed that notification has the significant public benefit of protecting the public by way of informing them as to the proximity or otherwise of sexual offenders who could be resident in their neighbourhoods, attending educational institutions or even attending the work place.

And one of the heart-rending contributions, or references, by Sen. Thompson-Ahye was her reference to the tragedy of Akiel Chambers. This area is not an area—and by that I mean this environment—of abuse of children, of abuse of women, but especially I say the abuse of children is not a matter that affords us the flexibility of further prevarication and delay, and I really do urge those on the opposite benches, including the Independent Senators, to appreciate that the Bill does indeed weigh, proportionately, the rights and the entitlements of a sex offender as against the rights and entitlement of victims, and the manner in which the monitoring, tracking and notification is intended to be deployed. And why do I say that?

[MADAM PRESIDENT *in the Chair*]

You get on the register after you have been convicted of an offence. The offence that you are convicted of is not a minor offence, it is a serious offence. You then remain on the register for a number of years, so as to afford your conduct to be monitored and tracked by those with the duty to do that in protection of the public. Of course, the Bill clearly indicates that the sex offender who has some compelling reason to justify being removed from the register can make an application so to do. So that therein lies one aspect of the proportionality of the Bill that I mentioned earlier, and that applies also to the offender's rights to cease to report if, indeed, he can justify same on an application.

When one looks at the available material, the notification on public registers—and in this Bill, Madam President—we have two aspects of notification. The first is the Commissioner of Police placing the registration information onto the website, and the second, his placing the relevant information at the police station in the area where the sex offender resides. Publicly available information demonstrates that 29 countries have similar legislation to the legislative amendments being proposed in the Bill.

And in relation to notification on the websites, Trinidad and Tobago will be no different to Canada, albeit Canada has an additional level of notification where the sex offender is convicted of an offence against a minor and considered to be high risk. We are no different to Guernsey, to Chile, to Jersey and one locality in central India where the web development is being undertaken. In addition, I believe that the United Kingdom also provides for notification on the Internet. No, I do correct myself. The United Kingdom does not provide for that, but it is done in South Korea. I do apologize.

So that there is precedent amongst these countries for what we are pursuing

here, and in relation to how such publication has been received by the Supreme Court of the United States—and I think it is important to appreciate this point, where one is considering the balancing of interests in this particular area of serious sex offences, especially those offences that are perpetrated against our women and children.

So that the constitutionality of the Web advertisement has been challenged up to the US Supreme Court. The US Supreme Court held in *Connecticut Dept. of Public Safety v Doe* in 2003 that:

“...the constitutionality of a Connecticut statute allowing sex offenders to be identified on an Internet registry without first holding a hearing to determine their dangerousness to the community.”

—was upheld and not struck down as contrary to the Constitution.

In another case, in an Alaska case, the Supreme Court ruled that registration and notification—and this particular case is very interesting for our circumstances here when we consider the provisions on what I have crafted in my notes “the look-back provisions”—that is, the requirement of past offenders to register that is provided, I believe, at clause number—yes, it is 37 of Part III—where section 37 stipulates that:

“...a sex offender who is a national of Trinidad and Tobago or a resident and who—

“(a) was convicted of a registrable offence by a court within or outside Trinidad and Tobago on or after 25th September, 2000—”

—is required to register. So that would be someone who committed an offence before these provisions came into force, and this is what the American Supreme

Court had to say in an Alaska case on similar facts. In the Alaska case of *Smith v Doe*:

“...the Court ruled that registration and notification of offenders sentenced before the law went into effect did not constitute ex post facto punishment...The Association for the Treatment of Sexual Abusers has developed a set of recommendations that”—they—“believe will facilitate that the original goal of registration and notification”—continues to enhance—“community safety—”

So that I think that we are in reasonably good company when drawing the provisions here against the likelihood of there being either constitutional infringement or an imbalance with regard to treating with the rights and privileges of a convicted sex offender.

And dare I say, Madam President, that we tend as lawyers, some of us, to have an oversensitivity to protecting sections 4 and 5 rights under our Constitution—that is, the right to freedom of movement, privacy and so on. Ordinarily, were there to be infringements of those rights without justification, the sensitivity is well placed, but I think we have to be careful in this particular area of not squandering the opportunity to start, as the Attorney General has indicated, a process that leads us to avert ever having to experience, again, the likes of the tragedy of Akiel Chambers. So, I urge Members to read the provisions of the amendments very carefully before rushing or even getting there slowly to a judgment position that we are, in some way, in danger of infringing rights and privileges.

Bearing in mind that the situation regarding the statistics that have been shared with us certainly demonstrate that there is more, a disregard for law, a

disregard for order, and an intent to continue in that vein that we require, as legislators, to take very seriously if at all we intend to arrest the serious decline of our society and the hindrance of development of the common good as something that we all aspire to.

6.35 p.m.

Madam President, the provisions of these amendments also require a great deal of administrative input from the Trinidad and Tobago Police Service, as well as from the prison service, and no doubt we take heed of the need to ensure that those divisions of our criminal justice oversight are well-provisioned to deploy the tasks that are placed before them. The other concern that I would indicate we ought to also be alert to is that we should bear in mind the concerns expressed, I believe by Sen. Thompson-Ahye and by Sen. Chote, that rehabilitation and counselling should be elements that we move towards as being part of the environment of treating with victims, as well as offenders. Without dismissing it as being irrelevant, we also need to tread carefully as to what modern experiences we consider may or may not be appropriate to our society, and I think that in the area of sexual offences, asking for exploration into victim-offender reconciliation is a little bit wishful in our small society.

Madam President, I believe that the Bill provides, very adequately, the type of information and the category of information that is intended to be displayed or to be accessible by the public on the Internet and at police stations. In addition, I think that the penalties for non-compliance, which are sound in both financial, as well as incarceration penalties, are sound in an attempt to dissuade from either re-offending or offending, and in each case of the requirements to report, the failures to do so carry the appropriate consequences. Again, in the balance that I think the

Bill achieves, an offender who is required to register has an opportunity to make timely submission of any changes in his circumstances or any changes in the information that he has previously submitted on registration, and that is in relation to both changes in circumstances if he requires to move residence, as well as in terms of his anticipated movements out of the country. Again, the time period is shortened where an offender—a registered offender—can show that because of some emergency, whether medical, family or otherwise, his requirement to travel had not permitted him to report in the longer time period and he is permitted to report such circumstances, I believe, two days before he requires to travel. Again, the proportionality of accommodating and ameliorating the draconian effect of having to give long periods of notice with regard to movements abroad.

Again, there was a lot of—a strong opposition to the provision for notification in a passport. I myself had thought that that provision was not set out and that it was a provision requiring the Chief Immigration Officer to keep a record, but that provision of notification in a passport applies only to the most heinous offender, that being a child offender. Madam President, could you indicate how much time I have left?

Madam President: You have until 6.54.

Sen. G. Simonette: Madam President, so in treating with this area, I would urge that we not consider a requirement for further penetrating discussion in the form of joint select committee appointment, that we appreciate that an intervention is long overdue and urgently required, and that we join in a bipartisan effort, which is indicated by all speakers thus far on the other side, to ensure that this item of legislation is operationalized and, more importantly, are the subject of a communications effort that brings the provisions to the attention of the general

public, including the very important consequences regarding contravention of the provisions. So having said that, Madam President, I wish to urge my colleagues to support this Bill and to support the approach to its speedy passage that we on this side contend for. I thank you. [*Desk thumping*]

Madam President: Sen. Obika. [*Desk thumping*]

Sen. Taharqa Obika: Thank you very much, Madam President, as I rise to contribute to the Sexual Offences (Amdt.) Bill, 2019. A lot of this debate, Madam President, is centred around the creation of or operationalization of a sexual offenders register, and, as I begin, I would like to quote from the *Model Guidelines for Sexual Offence Cases in the Caribbean Region*, a publication of the Judicial Reform and Institutional Strengthening (Jurist) Project in the Caribbean. And I want to quote from the foreword by the Rt. Hon. Sir Dennis Byron, President of the Caribbean Court of Justice, dated 8th of August, 2017, and I quote:

“Although progress has been made in the Caribbean Region in promoting gender equality, there are still many aspects which remain unresolved, chief among these being sexual violence against women, young girls, and boys. The region experiences high levels of sexual and domestic violence, which are often under-reported and ineffectively dealt with by the justice system.”

I want to go to a second part of that which states, I quote:

“Greater effort is therefore needed on national and regional levels that will markedly improve the capacity of courts to handle these types of cases efficiently and justly; improve the treatment, support and protection of survivors and witnesses in the criminal process; and ensure that those who have suffered from sexual or domestic abuse are able to give clear and effective evidence in court.”

Now, Madam President, that statement there speaks to the efficiency and effectiveness of our criminal justice system in dealing, in particular, with sexual offences, and, sadly, much mention was made of Akiel Chambers, and it begs the question if really and truly this legislation, on its own, would have really resulted in a different outcome. That question is left to be answered, you know, because if one were to take the foreword, and I cannot read the entire foreword, but if one were to take those two excerpts from the foreword of the Rt. Hon. Sir Dennis Byron, no less a person than the President of the Caribbean Court of Justice, we would recognize that really and truly the problem is not necessarily only with legislation but with the wheels of the criminal justice system where it administers, in particular, as sexual offences. One point the honourable President stated, Madam President, is that:

“...speedy adjudication of cases and reduction of case backlogs over time.”
—is one desire that they hope that this, the adoption of these guidelines, which would have been piloted just over a year ago, would result in.

Now, I want to turn to something regarding the register because a lot of persons have made commentary on it, and this is in particular with regards to the publication of the register and availability of it online, so in essence to all humanity. This very document which I cited, states on page 42, and I quote:

“In some jurisdictions, there are provisions for a sexual offenders’ register in the sexual offences legislation. The legislation may designate that convicted persons in all or specific offences will be registered. It is recommended that a sexual offence register should contain primarily convictions of serious sexual offences and make a further provision for application to be made by the D.P.P. in special circumstances for non-serious sexual offences where

the public interest would require that due to prevalence of the crime or for serial offenders.”

The second point, which is the more salient point, pertinent to this argument is that, I quote:

“The main purpose of a sexual offenders’ register is to help police services prevent and investigate sex crimes by giving police agencies access to a data bank containing confidential personal information about convicted sex offenders, particularly their residences, to track and inhibit sex offences.”

Madam President, if we are to rely on this project, which one would expect is inclusive of our Caribbean civilization’s focus in terms of dealing with sexual offending, one would expect that we would have followed or mirrored—mirrored is a stronger term, but at least followed these guidelines with respect to the accessibility of the information in the Sexual Offenders Register.

Just to divert a bit, one of the groups that submitted their concerns, in terms of the consultation, the request for this matter to be ventilated at a joint select committee, indicated, possibly, to mitigate against sexual offenders reoffending, to mitigate against recidivism, to allow access to special interest groups who may have charge of our children, for example, schools and libraries, and so on, which is really an expansion beyond the police. I want to suggest, Madam President, an alternative. Before one seeks employment, the trend is today that you must submit a police certificate of good character. Whilst I am not familiar with what it has if you have a record, because I am not one who has one, a suggestion can be that if someone is a sexual offender, when you request a police Certificate of Character, it may indicate separately from other offences if you are a sexual offender on such a certificate so that the institution with whom you are seeking employment can

identify that particular example of offence and determine if they want you in their institution or not. So, for instance, if you are employing a security guard at a secondary or a primary school, or a day care, or you are employing someone at a day care or a secondary school, and so on, you can decide because you will have this specific reference.

So what it does, it protects the concerns that persons from the NGOs and the special interest groups have with the information being available to the public and precipitating vigilante justice. So, in essence, the information is accessible but through the medium of the police certificate of good character which is pervading our society today. So that is the suggestion. I want to stand on another limb from the very document, the *Model Guidelines for Sexual Offence Cases in the Caribbean Region*, where they cite a best practice sexual offences registry for Canada. It is a short paragraph and I wish to quote:

“The Protecting Victims from Sex Offenders Act SC 2010 now allows for automatic inclusion of convicted offenders in the Registry, mandatory DNA sampling of sex offenders, registration of sex offenders convicted abroad, notifications to other police. The registry is not accessible by the public and is restricted to police officers allowing all police services to search the registry and can use the information to notify other police when sex offenders are traveling to their area. Offenders convicted of more than one sexual offence remain on the register for life.”

I just want to stop at that point and just make reference that remaining on the register for life, because the register is only accessible to the police service means it cures the issue that—the concern that persons may have that someone may appear on the register for a crime as serious as rape and then no longer be on the

register at some point in the future, once they seek recourse of the court.

So the fact that the register is only accessible by certain mechanisms, you can leave persons on the register for life if they have reoffended more than once, and that then gives the opportunity for better tracking. I continue to quote:

“Offenders are required to notify police of any change in address, work, vehicle they own or use. The registry also includes information about the offender’s method of operating to assist other police officers investigating crime.”

Because the register is accessible only by this method, it allows you to capture much more information, and because I am standing on the best practice, as proposed, or recommended—which is a stronger term—by the study done by the Caribbean Court of Justice, I believe that the Attorney General would see the wisdom in that suggestion. I want to just divert to special interest groups, and this is really with respect to the researchers, Madam President, and I quote from an article in the *Trinidad Guardian*, dated Thursday, 26 April, 2018, by Camille Clarke, and it is titled, “Prof. Reddock at symposium on abuse: Child sex offenders going unpunished”, and there are two points I want to just highlight from it. The seminar was on:

“...Break the Silence (BTS), Educators and Child Sexual Abuse symposium at the School of Education Auditorium, UWI in St Augustine campus.”

Madam President, one has to collect oneself very well to contribute to this debate, because it is a very emotive debate and we do not want emotions to cloud the contributions that we make because it affects everyone. I just want to say that the contribution of the hon. Minister of Labour and Small Enterprise Development was

very moving in that regard, so I am trying control myself. [*Crosstalk*] No, it was; it was very moving. So, Madam President:

“Reddock said the research was to understand how the act was rationalised and justified.”

She said here, I quote:

“I believe there has been a consistent problem of under-reporting and I believe that is still the case...”

So I want to turn to my notes where I made a comment there regarding recidivism, and I want to turn to section 40 of this Bill, Part IV, and this section basically speaks to—I need to read the notes to remind myself. That section states that:

“Information in relation to a sex offender referred to in section 37(a)(i) shall not be published on the website referred to in subsection (1).”

That is a sexual offender who has completed his sentence before this part. This masks two issues, one is the issue of recidivism in the Caribbean and the other has to do with the detection rate challenge, so the illusiveness of tracking reoffenders or offenders and then the challenge of detection rate. So the fact that someone has not been convicted, Madam President, so one has been convicted, they have been sentenced and they have fulfilled their sentence as the justice system demands, and they are now off the register. They being off the register can be deemed to be good justice if we have a very high and satisfactorily high detection rate. But if one were to depend on the submission of Prof. Rhoda Reddock—and the hon. Attorney General made mention of a one-in-seven in terms of detection or conviction—I stand to be corrected on the actual terminology.

Hon. Al-Rawi: That is correct.

Sen. T. Obika: So if in essence that is the challenge that we have in terms of

detection and follow through with the justice system, one cannot rely on the fact that someone has not been reconvicted to really be sure that they have not reoffended, and that is the problem of recidivism in the Caribbean. [*Desk thumping*]

Another point is the gaps in the justice chain in the region for sexual offences, and the very document that I quoted from, on page 10, they point to some gaps, six gaps, and because I could not commit to memory, I wish to quote it. So I quote:

“poor investigative and evidence gathering procedures by the police”

I wish to elaborate only to say that Sen. Haynes did make mention of some of these issues, so I do not need to go further on that. The second point:

“inordinate delays in the completion of cases”

I remind you, Madam President, of when I began, I indicated that the President of the Caribbean Court of Justice lamented—well pointed to the issue that the justice system in terms of the efficiency must be a key cornerstone in handling or bringing to rest the issue of sexual offences in the Caribbean. So inordinate delays is a big problem. The third point:

“undervaluing of sexual offence cases in relation to the public interest”

Madam President: Sen. Obika, I have to interrupt you here because I need you to remember what previous speakers have already dealt with in respect of the Bill, but I also need you to remember the Bill that is before us. So it is not everything on sexual offences that would be relevant to the Bill, it is to the debate that would be relevant now. You need to speak to the Bill, to the particular clauses in the Bill, what the Bill is seeking to do. Okay?

Sen. T. Obika: Thank you very much, Madam President. I wish I could have

submitted it, but I will go on to section 43(b) and 44, and the issue I want to bring to bear here is the impact on the innocents in this whole thing, and I have not heard anyone mention on that, and I would explain what I mean. As referenced to the importance of psychiatric treatment for sex offenders, and I want to state, Madam President, that there are persons who are connected to sexual offenders who themselves are innocent. A very simple example that I am sure no one will argue with is where someone is a sexual offender, they have found themselves on the registry, publicly available via the Internet, and they have children, and these children can now be labelled the child of a rapist.

Madam President: And, Sen. Obika, again, that point has been made by several different speakers, so you need to make some new points because I have to caution you on tedious repetition. Okay?

Sen. T. Obika: I thank you very much, Madam President. So I proceed. I would go on to children of incest but I am not sure if I would be allowed, so I will go on to the offence of providing false information. There are instances where I have seen, personally, persons venture false information, through no fault of their own, simply because they may not be in a position to understand the questions, and the line of questioning. For example, and if I were to bear this example, there was one example of an individual being placed before a magistrate and being asked the question if he has any prior convictions, and, of course, he gave a defiant, “no”, to which the prosecuting officer, a police officer, was defiant, he said, no, that cannot be true. So the magistrate reworded, rephrased his question and asked, “yuh ever make ah jail?”, and of course he gave a long list of prior offences. So this may sound humorous, Madam President, but it meant that the individual simply did not understand the question. So I would hope that, in the instances where this may

occur, there may be some level of explanation for persons involved. It may be a simple point, but it is a point I wanted to make nevertheless.

Now, Madam President, I want to go on to the guidelines for offender's rehabilitation and management. Before I go on to that, there is a point I wanted to bring to bear regarding case management in the Magistrates' court, and again, once more, it is from the very document that I cited at the beginning, *Model Guidelines for Sexual Offence Cases in the Caribbean Region*. And I would seek your permission, because this section would take some doing in terms of reading. It is eight points. [*Madam President assented*] Thank you very much, and you can guide me as you always do, and which I am grateful for.

- “1. Though most of the case management process ought to be done at the first hearing where directions are given for disclosure and other matters, there may be additional hearings to give further directions to prepare for trial.”

Basically it states what should happen, and we must juxtapose this with what we have in the Bill and what we know is the situation before us in the current system.

- “2. Typically, the case may be called up at least three times before the actual date for trial is set.
3. The court must minimize the number of hearings in sexual offence cases by ensuring appropriate directions are given and that timelines are adhered to.
4. In some cases, sexual offences in the magistrates' court will involve child complainants.”

I will stop that point there and continue:

- “5. One of the main issues that must be considered by the magistrates’

court as part of the case management hearings is whether there are ongoing analogous applications pertaining to the circumstances of the case in the family court.”

Madam President: So, Sen. Obika, if we were debating a new Sexual Offences Act and we are talking about all the different offences under the Sexual Offences Act, what you are saying would be extremely relevant. We are dealing with an amendment Bill to certain clauses of the Sexual Offences Act, not all, and therefore that is what I am trying to get you to say. Whatever you are saying you need to tie it in to what we are dealing with, and what you are giving me is a lot of information, interesting information, but you are veering off of the Bill. Okay?

7.05 p.m.

Sen. T. Obika: Thank you very much, Madam President. I was seeking to address issues raised in Schedule I “Registerable Offences”.

At this point I want to end my contribution, and I wish to thank you for the opportunity to contribute. Thank you very much, Madam President.

Sen. Anthony Vieira: Thank you, Madam President. Because my contribution may run the risk of being criticized as being soft on criminals and that I am a bleeding heart, let me state from the outset that I acknowledge the need for and I support all effective measures that will address the epidemic of sex abuse in our beloved nation. For those, especially children, who have been sexually abused, life loses value. Sex crimes are horrific. They cause physical, psychological, emotional damage to the victim and to the victim’s family, and this is damage that can last a lifetime. So we all share the goal of wanting to protect citizens from sex abuse.

Let me also say that there is much that is good in this legislation. It is well

intended. I very much like clause 35 where you have the accused medically examined to see if he is suffering from any sexually transmitted infections. I like the Romeo and Juliet provisions where child offenders will not be put on the register. Clauses 35(b) and 36 where convicted persons must pay compensation to those they have violated and hurt, again, all very admirable and I would like to see it maybe extend to other bits of legislation.

But in the main my concerns really centre on the National Sex Offender registry, whether the registry will do much good in terms of preventing sex crimes; whether the registry will ostracize offenders, turning them into social lepers and putting them at risk. Concerns that the legislation will have little, if any, impact on crimes of incest, where sex crimes are perpetrated by teachers, coaches, clergymen and people known to the victim. Concerns that the legislation will have little or no impact on the paedophiles who operate on the Dark Net using webcam sex. Concerns of a constitutional nature, privacy, freedom of movement, discrimination and the right against self-incrimination. I am one of those lawyers who tends to be sensitive about these kinds of things, because they are in fact fundamental rights. I also have concerns about how the legislation might impact on homosexual relationships between consenting adults, given that buggery is still a criminal offence.

I agree with the hon. Attorney General that there is no simple solution, no one panacea for the devastating problem of sex abuse, but I am concerned that the National Sex Registry may give rise to a false sense of security without providing real solutions.

In my respectful view, and for the reasons that I will give, the National Sex Offender Registry and related policies are fundamentally flawed, in that, they do

nothing to support prevention. They are not a deterrent. They do little or nothing for people who have survived sexual abuse. They will put offenders at risk of technical violations: failing to report, failing to inform of a change of address. As Sen. Obika has said, when you are dealing with some of these guys and they may not even understand what they are doing, they will be continually offending and staying within the criminal legal system, and I do not know if that is a good thing.

I think the thinking behind the registry is if you commit a sex-related crime you go on the registry. Now, besides the obvious fact that the registry places a burden in terms of monitoring as well as costs and legal consequences, as Sen. Haynes properly pointed out, in countries where there are sex offender registries there has been no demonstrable effect that they have actually reduced sexual re-offences. Instead there are reported instances of harassment, ostracism, and even violence against former offenders.

Remember these are persons who have finished their sentences, and what they really need is a place to live, to participate in family life and to get meaningful employment. I remember when I used to practise at the Criminal Bar often getting calls from guys who had come out of prison, “cyar” get work anywhere, could you help them find somewhere? And I will call all the guys that maybe had estates in the country and say, “Well, give the guy a little job. He could be a watchman. He could be a caretaker.” Nobody would touch them—nobody would touch them. And so, if you find yourself on a sex registry, well you are anathema. You are just not going to get anywhere to live, anywhere to work. What is the effect of that? It may very well drive you underground, alienate you further and lead you back to a life of crime, which is not really what the intended purpose of this is. As Sen. Thompson-Ahye talks: rehabilitation, rehabilitation. That is one of the major goals

of the criminal system.

There is also this assumption that once you are a sex offender, you are always a sex offender. But research has indicated that that assumption is highly questionable if not downright false. Indeed, studies have shown that sex offenders once caught have one of the lowest rates of recidivism of any class of criminals. Studies show that treatment can be effective for those who commit sex crimes. So unsurprisingly Human Rights Watch recommends, and again this is what Sen. Obika talked about, that registration requirements should be limited to those offenders who have been assessed as posing a real risk of committing another serious sexual offence.

That being said, we should be mindful that onerous restrictions and counterproductive measures, as I said, may only serve to isolate the offenders and push them underground, when what they really need is family support, treatment, supervision. So the focus should be on reducing recidivism, not further punishing or having continuing punishment.

In fact, many jurisdictions that have sex registries are now rethinking the efficacy of those registries. So it is something to look at for sure. Having your name on the registry is akin to being, as I said, a modern leper and an outcast. So I think this legislation may actually impede offender rehabilitation.

All right, I recognize that there are many who will say, "He is a beast, he deserves no less. I feel no sympathy for him", but does that resolve the problem? Will that prevent crimes perpetrated by relatives, by caregivers, by people known to the victim and on the Internet? Because the vast majority of sex offences are committed by trusted family members, by friends and people known to the victim, and these crimes go unreported because of the manipulation of the victims. Family

members, the offenders saying, “Well, you cyar do that. If you go it is going to cause real shame and disgrace on the family.” You know, “You want your family to be in trouble with the law?” So these offenders never really get into the criminal justice system and, as a result, the idea of a sex registry may give the public a false sense of security.

Madam President, so far I have been talking about those who have already been caught and convicted, all well and good. But as I say, will it prevent further sexual abuse? Let us consider now the issue of child pornography and cybersex, a billion dollar industry across the globe. First point: We like to think that paedophiles are—somebody used the word “aberration”—they are an aberration; they are relatively rare. Well, that is not so at all. According to some studies it is much more common than you might think. Apparently 1 per cent of men are paedophiles, that is, attracted to prepubescent children.

Second point: Our children are not just at risk by those who are convicted. This global demand for child porn with sites and forums all over the world, especially in poor and developing countries—and we have had a lot of reports about how big the industry is in Trinidad—for relentless users sharing child porn. This legislation does not address child porn and cybersex. We are talking about heavily encrypted sites where child porn is traded. Big money is involved, so much so that in many instances the children are treated as commodities by their very own parents. There is a word called “pedo-mom” and “pedo-dads” who abuse their own children for webcam sex. So this legislation does little or nothing to address the paedophiles who operate on the Dark Net. And just as a matter of interest, on Netflix, there is a documentary called the “Dark Net” and it treats with some of these issues.

Let us look at incest. Like Sen. Thompson-Ahye, I have also had experience treating with incest cases in the court. It poses many, many challenges. Often, the offender was himself or herself a victim. Incest just does not happen so, usually it has been going on for generations. It has been cyclical. The victims and the other family members do not want to testify. They do not want to testify against loved ones. They do not want their brother, their grandfather, their stepfather, their father to go to jail. And, if they go to jail, how do they live? That is a very real concern, because more often than not the offender is the main breadwinner. So it is a very, very difficult situation. Even well-intentioned lawyers trying to help, because we bring our moral values to the thing, end up looking as though we are the ones that are trying to hurt the family and separate loved ones from each other.

Whether it is incest or paedophilia, what I think is fundamental is the need for treatment. Laws like this, sex registries, and even harsher penalties, will not stop these offenders. These people cannot control what they are, and we have to help them control what they do.

Incest, oftentimes the rationalization is, "Look, he is just showing love, and this has always been how it has been done in this family". In paedophilia, I am sure Sen. Deyalsingh will tell you, there is a phenomenon known as "disassociation", where the offender, even where he recognizes that what he is doing is wrong, is able to separate himself from what he is doing and so ignore social norms and the fear of law and all of these different things.

So, should this legislation go to a select or a joint select committee, I would urge a focus on how to prevent crimes by new offenders. Sexual abuse and child molestation are real problems that need real solutions. We need to turn our attention and resources to ways that are effective. I would respectfully suggest sex

education in schools, the need to develop and fund public educational programmes that teach about the effects of sex abuse and the importance of reporting abuse so that it can be stopped. The need to provide mental health treatment for both victims and offenders.

Convicted offenders should not be allowed to use the Internet, and just as convicted offenders are required to provide samples, I would suggest that they should also be required to undergo counselling and treatment. We need measures that will address the epidemic of sex abuse in ways that work. The challenge is how to accomplish this in an effective and meaningful way.

Madam President, I thank you.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Madam President, I now beg to move that this Senate do now adjourn to Tuesday the 12th, February 2019 at 1.30 p.m. At that sitting we will continue debate on the Sexual Offences Bill, 2019.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised.

Members of Protective Services

(Programmes to Assist)

Sen. Wade Mark: Thank you, Madam President. The issue confronting members of the protective services, and the need for appropriate programmes to assist them is extremely important and, if not, urgent.

Madam President, the truth is that policing as one of the elements involving the protective services is a very stressful job. I think members of the protective services, whether they are in the Defence Force or in the police service or in the

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fire service, they undergo extreme stress in their responsibilities and carrying out their duties. This evening I would like to look at the plight of police officers who are engaged in this particular area.

Madam President, I think that the time has come for the Government to give consideration to the establishment of a special unit that would be able to monitor and to pick up issues without waiting for an admission.

Many officers in the service, like any other human being, would be experiencing serious challenges. Maybe some of them are going through a divorce or even a separation. Maybe their children are giving them trouble or problems or they may be having problems in their communities, and there is need for intervention and there is need for assessments.

Madam President, because of the absence of a particular unit within, let us say, the police service, to conduct what I would like to describe as psychometric, behavioural and even psychiatric analysis of officers who may be undergoing stress or dealing with frustrations, you end up with these officers either taking their lives, taking their family's lives, and you have a tendency in this country to deal with the situation after it develops, and there is no proactive measures being employed. Therefore it is incumbent upon us, and the Government in particular, to pay attention to the plight of police officers and members of the protective services who, as I said, would be undergoing mental stress, frustration and other emotional and psychological disturbances.

If you look at the police service as an example you would realize that over the last few years many police officers have taken their lives through suicide, as the case may be, and many of them, whatever challenges they were going through or experiencing somehow those symptoms were not detected early. Therefore I

think it is incumbent upon the Government to pay attention to this development.

Madam President, we have over 7,000 police officers in the service. It is my understanding, and I need to be corrected by the Government, that there is only one psychiatrist available to 7,000 police officers. My information is that we have two doctors, one in Port of Spain and one in San Fernando, and there is some arrangement in Tobago. The doctor in Port of Spain can only see a maximum of 25 police officers on a daily basis. In the south I understand the challenge is even more grave, whereas in Tobago it is done twice a week, and all of these doctors they are attached to the Ministry of Health.

So, Madam President, I think that there is a need, because you remember police officers bear arms, and if police officers are under mental stress and emotional strain, and are experiencing psychological problems, you could understand having these officers with weapons they can pose a danger, not only to themselves, but to members of the public. That is why I believe that the Government is not doing enough in investing resourcing in the police service, in the army or the Defence Force and other arms of the protective services.

Madam President, I understand in the Ministry of Education there is something called an "Employee Assistance Programme", but that programme apparently has not really been properly developed, as we speak, at the level of the police service. We understand that moves are afoot to have a properly established and developed EAP programme or arrangement in the police service.

Madam President, would you believe that even the availability of pharmaceutical products is in short supply in the police service, in terms of when they need to get medical attention from this doctor in Port of Spain or doctor in San Fernando, or the arrangement that they have in Tobago?

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I believe that the time has come for us to have an arrangement where there is almost like a compulsory assessment of police officers on a regular basis. Maybe every five years there ought to be some compulsory assessment of police officers, members of the Defence Force and other members of the protective services, so that you can detect and discern, based on the professional examination of these officers, their mental state. Whether we have psychiatrists, whether we have psychologists, we would be able to make the assessment of what is taking place.

Therefore I raise this matter for the Government's consideration because that is a major issue affecting the police and the protective services in Trinidad and Tobago, the absence of a well-defined proper employee protective arrangement. [*Madam President rises*]

Sen. W. Mark: Thank you very much, Madam President.

The Minister of Agriculture, Lands and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I thank Sen. Mark for his Motion. Let me say right away, understanding the Senator's deep concern, there is an EAP programme in the Trinidad and Tobago Police Service. There is—in each division of the Ministry of National Security there are specialized arrangements to deal with the employees in each area. I know Sen. Mark appreciates details, and I will now provide all the details.

First, in relation to the Trinidad and Tobago Police Service, the TTPS is cognizant of the fact, as Sen. Mark has rightly pointed out, that there are times when personal problems such as alcohol, drug abuse or dependence, mental disorders or other psychosocial disorders may affect an employee's well-being and job performance. To demonstrate its commitment in promoting the health, safety and welfare of all individuals employed in the organization, the TTPS has in place

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an employee assistance programme, EAP.

Sen. Mark would be happy to know that the EAP is available to all police officers, special reserve police officers, public officers, permanent and regular daily-rated employees, and contract employees and their immediate dependents. The EAP includes clinical services such as assessment and referral, short-term and long-term problem resolution, case management and follow up. In addition, there is an EAP for the promotion and education of the employees on all matters relating to their health, welfare and safety.

Madam President, accessing these EAP services is available through a supervisor or peer counsellor who may suggest that an employee attend the EAP, or the employee can do a self-referral. The TTPS also has peer counselling, which is a proactive measure for peer to peer support. The TTPS has a 45-hour peer counselling course for police officers and recruits.

7.35 p.m.

In relation to the Trinidad and Tobago Defence Force, Madam President, the Trinidad and Tobago Defence Force welfare department Care and Assistance for Military Personnel, called CAMP, was established in 1981 to deliver confidential, social services in response to the needs of individuals and families within the defence force.

The support services provided to service personnel include, management of depression and other mental illnesses, counselling through internal counsellors trained in general counselling, peer counselling, marriage and social support, and external counselling through service providers such as mental health and wellness centres and contracted professional counselling services providers.

The defence force also has programmes for the prevention of depression and

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other mental illnesses through financial guidance, health insurance, outreach programmes, a programme called BOSS, Better Opportunities for Single Serving Persons and finally, career guides.

Further, Madam President, the TTDF has special units including a retirees affairs support unit, a family support unit, a chaplaincy unit, addictions support unit, and the social worker counsellors unit.

The defence force offers a series of seminars and workshops aimed at addressing issues like depression and mental illnesses. The defence force has mental health seminars, a programme called Applied Suicide Intervention Skills, HIV sensitization awareness workshops, critical incident stress management sensitization workshops and the chaplaincy certification programme aimed at increasing the number of defence force chaplains. I am sure you would like that one, Sen. Mark.

In relation to the Trinidad and Tobago Prison Service, Madam President, the Trinidad and Tobago Prison Service has a prison psychologist who treats with matters concerning mental illness in the prison service. If an officer requires further attention, the psychologist refers the officer to the EAP service from an external service provider.

Madam President, I will close by pointing out to Sen. Mark, apart from the support offered to the various divisions through the EAP and other programmes for employees, in December 2018, the Minister of National Security formally handed over to the Police Social and Welfare Association, a beautiful facility in Brickfield in Carapichaima, for the purpose of finally having a permanent home for the hardworking second division officers in the country, and that facility will include the development of a gym and facilities to support the health and wellness of the

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officers. Thank you. [*Desk thumping*]

Madam President: Sen. Mark.

**Supply of Regular Gasoline
 (Government's Inability to Source)**

Sen. Wade Mark: Madam President, thank you very much. Madam President, the matter of regular gasoline is a very critical matter affecting the fisherfolk of Trinidad and Tobago. [*Desk thumping*] The Government having taken a decision to deliberately shut down the Petrotrin refinery to allow BP to become the sole supplier of all our refined products, PDVSA, Madam President, to accomplish this mission, has resulted in a situation, where the Government is unable to import and to supply fisherfolk with regular gasoline.

Hon. Senator: Not unable; they refuse.

Sen. W. Mark: They have literally abandoned the fishing industry [*Desk thumping*] in this country, where you have thousands and thousands of fisherfolk.

Madam President, the excuse of the Government is that the 8,000 to 10,000 barrels of regular gasoline imported on a monthly basis is too small in volumes for the Government to be bothered with these fishermen. So you know what they have recommend Madam President?—it is like Marie Antoinette, when the masses were protesting—

Hon. Senator: Marie.

Sen. W. Mark:—Marie Antoinette, when they were protesting in France and they wanted bread, she said okay, “eat cake”. So in the case of this Government, the “local Marie Antoinette”, they say, instead of using regular, use super, [*Laughter and desk thumping*] eat super, use super. But, Madam President, what they did not tell the fishermen is that a litre is 4.97, \$4.97. You know what it was for regular,

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Madam President?—\$2.60 per litre; look at the big jump. But then this bourgeoisie government does not care about the proletariat and the working class, [*Desk thumping*] they do not care about the working people.

So, Madam President, the people, the fisherfolk are under extreme stress and they are literally begging the Government to reconsider your ill-advised decision to shut down Petrotrin and to consider importing regular fuel. But I want to give them a warning, this Government, and I also want to advise the fishermen, “time longer than twine”. [*Desk thumping*] We have already given an undertaking that the new government led by the hon. Kamla Persad-Bissessar [*Desk thumping*] that will be in power—why I am telling you, I am not arguing with you, you know, I am telling you that the UNC will be in government; [*Desk thumping*] I am not arguing that. And, Madam President, when it comes we have already given the fisherfolk an undertaking that we shall, we are going to revisit that decision of the Government to shut down the Pointe-a-Pierre refinery; so we will get things going.

Madam President, you know what has been the result of this whole development? The price of fish has gone up enormously, it is almost about \$70 to \$80 to \$90 a pound, you understand, Madam President? So for kingfish, in fact, somebody told me recently, kingfish is really king now, and that has to do with the Government’s decision, you know, to actually bring about this situation where citizens who are fisherfolk, they cannot access in a proper way, you know, that ability for them to use regular gasoline.

So, Madam President, the industry is in crisis, they are crying out to the Government for help, they are calling on the Government, the Prime Minister, to reconsider their position. I am simply voicing their concerns this afternoon. I am asking, this evening, the Government on behalf of the thousands of fisherfolk, for

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the Government to reconsider its decision to abandon them and to reconsider this whole question of regular gasoline. And even if the Government as they remain in office temporarily, let the Government and so on take a decision to import regular fuel for the fisherfolk so that they can use it. And do not tell me that Tobagonians are using super gasoline. Tobagonians never use regular gasoline for whatever reason. We in Trinidad use—Madam President, the fisherfolk use regular gasoline in order to go out and fish and to earn a decent living.

So, Madam President, I have raised this issue on behalf of the fisherfolk of this country, for the fisherfolk, and I am asking the honourable Government, that is through the Leader of Government Business, the Minister of Energy and Energy Industries, to give this Parliament an undertaking that the Government will reconsider its position and revisit its decision on this matter of abandoning the fisherfolk as it relates to the supply of regular gasoline for their vessels. And if you cannot do it, and if you fail to do it, I give the fishermen the undertaking that a UNC government will do it and they will have regular gasoline [*Desk thumping*] in their boats when we return to office. Thank you very much, Madam President. [*Desk thumping*]

Madam President: Minister of Energy and Energy Industries.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): [*Desk thumping*] Thank you very much. Madam President, I have a response to this question and this Motion, but the dilemma of the fisherfolk is that, if they go to take Sen. Mark's promise, they will wait forever. But having said that, seriously, when we closed and restructured Petrotrin and discontinued the refinery operation, it was a decision that has been well articulated so I would not repeat it, so it was in the national interest. We promised the country three things

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specifically.

One, that there will be a seamless and smooth transition in the supply of liquid fuels, gasoline, diesel and aviation fuel. A lot of hullabaloo was raised and they said it would have a shortage. There was a time when they said that the imported super was burning out faster than the super that was produced in the refinery; all that has dissipated, because there was no scientific basis to that. We have successfully given the country a smooth transition into the supply of fuel.

Secondly, we said that there will be no disruption in the supply of LPG. LPG was produced by the refinery, we now buy LPG from PPGPL which is Phoenix Park Gas Processors Limited.

It is important to note that the Government now stands in excess of \$400 million in the subsidy of LPG per annum. A 20 pound cylinder of LPG that sells in Trinidad for TT \$20—[*Crosstalk*] no, \$3 transport, they put that on the van, it is \$20—that is sold, it is equivalent in Jamaica for TT \$100, five times the price.

Thirdly, we said bitumen, we have a supply from Lake Asphalt and we have opened up the market, we have reduced the CET, and the contractors could import their bitumen to continue their road paving exercise. But, Madam President, there has been an issue with regular. We the Government genuinely sympathize with the fishing community in dealing with that challenge, but the Government was left with no other choice but to discontinue the use of regular gasoline. Several factors were considered before making this significant decision.

As I have stated previously, regular or RON 83, that is the octane number of 83, was only available in Trinidad with a monthly average volume of between 8,000 and 10,000 barrels per month as articulated by Sen. Mark being sold by Petrotrin.

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With the cessation of refinery operations at Pointe-a-Pierre, that small volume is extremely difficult to source on the international market as refiners do not even produce RON 83; so hear what you have to do. You have a million barrels a day throughput refining in the Gulf Coast of the United States, it is an off-spec product, so they are not making it, you have to go and order 10,000 barrels a month. They will make that for you?—and even though they make it for you, it will cost you a “pound and crown”. And, so to continue making RON 83 available to Trinidad after the closure of the refinery, it would have to be specially ordered due to the small volume; I will get more specific.

A market survey was conducted to determine the availability and cost of importing unleaded regular gasoline, RON 83. Due to the parcel size and the specification, only few suppliers were willing to respond due to the custom grade and the ability to segregate small volumes in the refinery, terminal and vessel. So to segregating your refinery is a problem, to store it in a terminal to ship it, you are taking a 100,000-barrel tank to store 10,000 barrels, because you cannot commingle the different the grades.

Now shipping, you are taking a big tanker, we have segregated in tanks, you are taking a 50 or 100,000 barrel tank to ship 10,000 barrels; it is just grossly uneconomic. We know it will cause some level of hardship to the fishermen and by extension to the community, and it may well affect the price of fish however, all is not lost.

You heard the Prime Minister yesterday at the energy conference indicating that there are 50 companies that have shown an expression of interest. A request for proposal will be published by the middle of this month. The Oilfields Workers' Trade Union has an exclusive period in which to prepare their offer, after which it

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will be opened to the international community.

With 50 expressions of interest and with a new business model, it is very likely, it is extremely likely that we will find a partner or somebody interested in the refinery, to operate it under a new business model, the State will not be involved. We will lease it, we will sell it, we will work out some arrangement that will mutually benefit both parties. Some operator may have a source of crude, some may have markets, some may have technology that they could bring, and a new operating environment, so that is how the business has to evolve. And we cannot take these major decisions, multi-billion dollar decisions, and if there is one fly in the ointment, we just have to know how to take the fly out. Okay?

So, I feel confident, hopefully by the end of this year or, at a minimum or at the latest early next year, the refinery could become operational again, and this whole issue would have gone long past us.

It is not that we do not care, it is the very reason because we care that we have done what we had to do. Okay? And the dust has settled, the nation has seen the wisdom in our decision, and we ask for more perseverance and understanding in what the specific situation is with regular, and we hope that it will be solved in the not too distant future, Madam President. I thank you. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.52 p.m.