

SENATE

Tuesday, February 12, 2019

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

**TRESPASS (AMDT) BILL, 2019**

Bill to amend the Trespass Act, Chap. 11:07, brought from the House of Representatives [*The Attorney General*]; read the first time.

PAPERS LAID

1. Annual Report of First Citizens Investment Services Limited and its Subsidiaries for the year ended September 30, 2018. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Ministerial Response of the Ministry of Finance 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. A. West*]
3. Ministerial Response of the Ministry of Community Development, Culture and the Arts to the Fourteenth Report of the Public Accounts (Enterprises) Committee, Third Session (2017/2018), Eleventh Parliament on an Examination of the Audited Accounts, Balance Sheets and other Financial Statements of the National Commission for Self Help Limited (NCSHL) for the financial years 2008 to 2015. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]

UNREVISED

PUBLIC ACCOUNTS COMMITTEE REPORT**(Presentation)****Public Accounts of Trinidad and Tobago**

Sen. Taharqa Obika: Madam Speaker, I have the honour to lay on the table the following report:

Twentieth Report of the Public Accounts Committee Fourth Session (2018/2019), Eleventh Parliament on the examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the Financial Year 2017.

PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE REPORT**(Presentation)****National Petroleum Marketing Company Limited**

Sen. Wade Mark: Thank you. Madam Speaker, my throat is giving me a little trouble; it is hoarse, so please forgive me. I have the honour to lay on the table the following report:

Sixteenth Report of the Public Accounts (Enterprises) Committee, Fourth Session (2018/2019), Eleventh Parliament on the examination of the Audited Financial Statements of the Trinidad and Tobago National Petroleum Marketing Company Limited (NP) for the financial years ended March 31, 2008 to 2017.

URGENT QUESTIONS**Potential Spread of Malaria****(Steps Taken to Avoid Outbreak)**

Sen. Wade Mark: Thank you. To the hon. Minister of Health: In light of the warning issued by the Chief Medical Officer of a potential increase in the spread of

malaria, can the Minister advise as to what measures are being taken to avoid a major outbreak?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam President. And to my colleague, I hope you feel better very soon and I thank you for the question. Madam President, the issue of malaria is being dealt with at a strategic level since June of 2018, when as Minister of Health I alerted the Prime Minister and the Cabinet to the potential threat. The Prime Minister, in his wisdom, agreed with me to set up an interministerial committee to deal with the issue. On that committee sits CARPHA, PAHO, Ministry of Health, Finance, Foreign and Caricom Affairs, National Security, Tourism and the Tobago House of Assembly. Because of that committee, we have now formed strong links with TTV Solnet, which is an NGO between Trinidad citizens, and Venezuelan citizens, and Living Waters, to reach out to migrant population especially the Venezuelans to identify potential cases of malaria and to treat them. We have also done bilingual flyers so that the Venezuelans who are the majority of imported cases can have the information ready for them.

When we have a malaria case, Madam President, our standard operating procedures as determined by WHO will swing into action. So, for example, we had a case in December in Rousillac. For that particular case—and the numbers will vary from case to case—we would have done perifocal treatment for about 250 houses which includes inspection, education. We would have found positive houses not for malaria, but for anopheles mosquito. Based on that, we would have done assiduous spraying for 42 houses, and ultra-low volume spraying for 350 houses. What you try to do with these protocols is choose about a one-mile radius which will vary depending on population density. So it is not hard and fast. You will do blood smears. So like that particular case, we would have done 31 blood

smears—*[Interruption]*

Madam President: Minister.

Hon. T. Deyalsingh:—and you would distribute bed net, 100. Thank you very much, Madam President.

Sen. Mark: Madam President, can I ask the hon. Minister whether the Government intends to place any medical personnel at our various ports of entry to warn and/or to test those persons who are coming into our country to determine if they have that particular disease?

Hon. T. Deyalsingh: That is an excellent question, Sen. Mark, and I thank you for it. Testing for malaria involves taking a blood sample which is very invasive. It is not the policy anywhere in the world at ports of entry as people disembark from a plane, or a ship, or whatever, to en masse, take people's blood samples. What we do is at ports of entry under the auspices of the County Medical Officers of Health, you do have screening and surveillance that takes place there; whether it is at the airport, at the Port of Port of Spain, or in Cedros. So there is medical screening, but it is not the policy anywhere in the world to take blood samples which is invasive of people coming into your country, but it is a good question. It is something that we considered, but it is not advisable. Thank you very much again, Madam President.

Release of Funds

(National Carnival Commission)

Sen. Wade Mark: Thank you. To the hon. Minister of Community Development, Culture and the Arts: Given the imminent Carnival celebrations, can the Minister advise as to when funds will be released to the National Carnival Commission?

The Minister of Community Development, Culture and the Arts (Hon. Dr. Nyan Gadsby-Dolly): *[Desk thumping]* Thank you very kindly, Madam

President. As is customary, the National Carnival Commission, funds are released to the commission upon request by the commission to the Ministry of Finance. Recently, within the last two weeks, \$25 million was requested and released, and another request has been made today for another tranche of money to be released for Carnival celebrations, and certainly will be processed as expeditiously as possible and released to the NCC.

Sen. Mark: Can you indicate how much has been requested by the NCC for this next tranche?

Hon. Dr. N. Gadsby-Dolly: A request has been made in the sum of approximately \$73 million.

Sen. Mark: Could you explain to us why the Chairman of the NCC, conscious that he has made advances to the relevant authorities to have funds released would be still be making statements to the effect that funds are not being released; could you share with us why that is being done?

Hon. Dr. N. Gadsby-Dolly: Madam President, that would make me accountable for somebody else's statements. I am not sure that I can explain exactly why the chairman would say that. It is not within my remit, not being in the chairman's mind at the time of the utterances.

Privy Council Ruling
(Government's Decision to Effect)

Sen. Wade Mark: To the hon. Attorney General: Given the recent Privy Council ruling that the JLSC was not properly constituted, can the Attorney General advise as to how the Government intends to give effect to this decision?

The Attorney General (Hon. Faris Al-Rawi): Thank you. Madam President, the supreme law of the Republic of Trinidad and Tobago pursuant to section 2 of the Constitution is the Constitution. Section 110(3) of the Constitution is instructive in

answering this question.

“The appointed members shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition...”

The Government intends to comply with the Constitution. It has no role in the appointment of members of the JLSC. It never had and it never will other than within the confines of section 110(3) of the Constitution as I referred to. And as Sen. Mark ought to know, to ascribe a role unto the Government is to ascribe a role unto the Opposition equally, insofar as the Leader of the Opposition must be consulted as she sat as Prime Minister when the challenge could have been brought in the period 2010—2015. So this is a rather curious line of questioning, Madam President.

Madam President: Sen. Mark, next question.

Carnival Celebrations

(Safety of Visitors)

Sen. Wade Mark: To the hon. Minister of National Security: In light of the expected increase in the number of tourists arriving for Carnival, and having regard to the fact that some tourists have been victims of crimes, what measures are being employed to ensure our visitors are kept safe?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you. Madam President, I respond to this question on behalf of the Government. Madam President, Trinidad and Tobago Police Service and other arms of national security have been planning for the safety and security issues associated with Carnival for the past few months as it does on an annual basis. The Trinidad and Tobago Police Service deals with the additional inflow of tourists for Carnival on an annual basis and has sufficient experience to plan for and deal with the issues surrounding additional tourists during this period.

There is always greater presence of police officers and Trinidad and Tobago Defence Force personnel during the Carnival period, and this year it would be no different. Threat assessments are continuously being done and operations for Carnival are always being fine-tuned. In particular, Madam President, the Trinidad and Tobago Police Service has been liaising with Carnival party promoters and Carnival band promoters to implement safety and security measures specific to these particular events and parades. Thank you.

Sen. Mark: Madam President, may I ask my colleague, in light of the recent situation involving tourists in Tobago where four of them were harmed, can you tell this House what specific measures are being taken by the Government, through the THA, to bring about a greater sense of safety for tourists in our sister isle?

Madam President: No. Sen. Mark, that question does not arise having regard to the question that you initially posed and the answer. Can you ask another one?

Sen. Mark: Can I ask, for instance, what specific measures, Madam President, are being taken to protect tourists who tend to visit our beaches throughout the two islands and seem to be exposed to criminal elements; what specific measures is the Government seeking to employ in this regard?

Madam President: Sen. Mark, the question time has expired.

ORAL ANSWERS TO QUESTIONS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, the Government is pleased to announce that will be answering all questions for oral answer.

Greenvale Housing Development (Refusal of Planning Permission)

44. Sen. Wade Mark asked the hon. Minister of Planning and Development:

Can the Minister 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?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. I rise to respond on behalf of the Minister of Planning and Development. Madam President, searches of the records of the Town and Country Planning Division, Ministry of Planning and Development, have revealed that planning permission for the development of a housing community in the area now known as Greenvale Housing Development was refused on two occasions for the following reasons:

1. Outline planning permission was refused on May 31, 2000, for the development of land namely the making of a change of use of parcel of land from agricultural homestead use to residential use.

Reasons:

- (i) the site falls within an area which under planning policy is allocated for agricultural purposes;
 - (ii) the site falls within the floodplain of the Caroni River and is subject to flooding;
 - (iii) the draft East-West Corridor land use strategy plan identified the site for landscape river corrosion purposes, or better known as open space.
2. Final planning permission was again refused on June 26, 2009, for the development of land, namely the carrying out of building operations, namely the direction of buildings for single families and multifamily residential purposes, and residential/commercial purposes.

The reasons:

- (i) the site falls within an area which under present planning policy is allocated for conservation purposes;
- (ii) the site falls within the floodplain of the Caroni River where no development can be considered;
- (iii) the site forms part of a larger parcel of land which does not have the benefit of approval for subdivision as required under the provisions of the Town and Country Planning Act, Chap. 35:01.

Subsequent to receiving correspondence from the TCPD, the Director of Drainage, Drainage Division, Ministry of Works and Transport, advised the Town and Country Planning Division by letter dated November 18, 2011, that since the development of the site was well advanced, it considered and accepted in principle the drainage proposal for phase one to three submitted by the Housing Development Corporation.

An application was therefore submitted by the HDC on April 09, 2013, seeking final planning permission for the subdivision of 73.06 hectares of land by the excision of 41 hectares from four comprehensive residential development to include residential, commercial, recreational, institutional, agricultural and open space use. The application was subsequently withdrawn by the applicant.

By letter dated May 28, 2014, the HDC submitted revised plans for the subdivision of land to create lots for residential and ancillary purposes. The TCPD issued correspondence dated June 18, 2014, indicating that, one, the plan was reviewed and found to be acceptable and, two, they could have been used as a basis for the preparation of the final plans to obtain planning permission. It should be noted, that at that time, development of the site was substantially completed.

Following the submission of the new application from the HDC, final planning permission was granted on October 24, 2014, for the subdivision of 79.82 hectares of land by excision of 52.30 hectares for comprehensive residential development. And finally, application was also submitted by the HDC to retain the existing residential building on the site in March 2015, June 2015, August 2015, and May 2016. Final planning permission was granted on July 14, 2015; July 15, 2015; January 26, 2016; and May 18, 2016, respectively, to retain buildings situated on lots within the site.

Sen. Mark: Madam President, can the Minister indicate whether—between the period May 2000 and June 2009, can the Minister advise this House whether any development works took place on that site?

Sen. The Hon. F. Khan: Madam President, as is obvious from my detailed discourse, it is also obvious that commencement of the work on Greenvale commenced just prior to 2009 and continued in full speed ahead post-2010.

Madam President: Sen. Mark.

Sen. Mark: Can I ask, through you, to the hon. Minister, which company or contractors were involved in the commencement of work in 2009 and beyond? Can you give us an outline of those contractors that were involved in this development?

Madam President: Sen. Mark, that is not relevant and I would not allow it. You can ask another question.

Sen. Mark: Having regard to what has happened at Greenvale, can the Minister indicate whether there is need for a criminal enquiry into this whole scenario that impacted negatively upon so many households in that community? Given the nature of the lands that you mentioned, agricultural, and it was in a flood prone area, do you think there is need for some kind of enquiry into this development?

Madam President: And Sen. Mark, I would not allow that question either. You have one more question if you wish.

Sen. Mark: Madam President, what was the role of Trinity Housing in this whole development? I understand Trinity Housing is owned by the former—
[*Interruption*]

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

NGC's Methanol and Ammonia Agreement

(Details of)

66. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries: Having regard to NGC's methanol and ammonia production agreement, can the Minister indicate the following:

- (i) How many of said contracts had expired as at September 2015?
- (ii) The name(s) of the companies whose contracts have expired?
- (iii) The total number of methanol and ammonia contracts that will expire in 2019?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, in response to (i), one contract expired as at September 2015. In response to (ii), the confidentiality provisions in the contractual arrangement with the NGC's customers precludes them from divulging the name of customers whose contracts have expired or are expiring. And in response to (iii), five methanol ammonia contracts are expiring in 2019.

Sen. Mark: Madam President, can the Minister outline the names of the five companies whose contracts would be expiring in 2019? The names. We are not asking for details. The names we are asking.

Sen. The Hon. F. Khan: If you listened to my response to (ii), which said, “We are prohibited from so doing”. That is why I gave you the numbers and not the names.

Sen. Mark: What provision in the contracts denied the Parliament of that right to that information? Can you share with this Parliament what provision in the NGC agreement that prohibits this Parliament from having information on the names of those companies that are involved? Can you share that with us?

Madam President: Sen. Mark, that question will not be allowed. Next question.

Gas Sale Agreement

(Signing of)

67. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:
When was the gas sale agreement between Trinidad and Tobago Upstream Downstream Energy Operations Company Limited and Niquan Energy Limited signed?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, the gas sales contract between Trinidad and Tobago Upstream Downstream Energy Operations Company Limited and Niquan Energy Trinidad Limited was signed on the 29th of June, 2018.

Madam President: Sen. Mark.

Sen. Mark: Can I ask, through you, whether the Minister is prepared to make a copy of this agreement available for public consumption?

Sen. The Hon. F. Khan: Again, Madam President, the hon. Senator is well aware that these contracts are subject to strict confidentiality clauses. They are commercial arrangements especially volume and price.

1.55 p.m.

Sen. Mark: Can I ask, Madam President, seeing that this contract was signed on the 29th of June, 2018, when will the new plant involving NiQuan become fully operational?

Madam President: Sen. Mark, that question does not arise because if you— please look at the question that was posed and the answer given. Any other question, Sen. Mark? Next question.

Guaracara Refining Company Ltd.

(Relationship with NiQuan Energy)

68. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries: What is the nature of the relationship between NiQuan Energy and the newly established Guaracara Refining Company Limited?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much again, Madam President. Madam President, NiQuan Energy Trinidad Limited does not have a relationship with Guaracara Refining Company Limited. NiQuan Energy Trinidad Limited had an offtake agreement with Petrotrin which would now be assigned to Paria Fuel Trading Company Limited.

Sen. Mark: Can you share with this House this arrangement that will now be taken over by Guaracara?

Madam President: Sen. Mark, repeat that please, I am sorry.

Sen. Mark: No, he said that this is an agreement that was inherited from Petrotrin now taken over by Guaracara. I am just asking if he can share with this Senate what is this agreement all about or this arrangement? That is all I am asking.

Sen. The Hon. F. Khan: Sen. Mark is not listening. I said the contract will be now assigned to Paria Fuel Trading, but having said that, it is an offtake agreement. An offtake agreement basically says I offtake your products for sale.

So it naturally falls into the lap of Paria Trading and Terminalling Company Limited and now Paria will be responsible for the sale of the high-quality diesel that will be produced from the NiQuan plant.

Sen. Mark: Can the Minister inform us when this operation involving the high-quality diesel will become operational given the fact that they now have a gas agreement with the NGC? Can you tell us when it will become operational?

Sen. The Hon. F. Khan: Madam President, the plant has to be refurbished and retrofitted for use. The gas supply should be available later this year and the plant, all things being equal, could become operational sometime in 2020.

SEXUAL OFFENCES (AMDT.) BILL, 2019

[Second Day]

Order read for resuming adjourned debate on question [February 05, 2019]:

That the Bill be now read a second time.

Question again proposed.

Madam President: Thus far there have been 10 speakers on this Bill including the mover of the Motion, the Attorney General. Minister of Trade and Industry.

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Thank you very much, Madam President, and I thank you for the opportunity to make an intervention. I probably would not last for my 40 minutes because I want to be very careful of not repeating some of the things that have already been said. There are just some very main issues in this Bill which need to be cleared up.

It is a very important Bill that is brought before us, this amendment Bill. Matters of sexual crimes, offences, these are all very tough issues. The one good thing is that it is out there in the public domain once again and it is healthy. The debate that has gone on before and of course, we thank all of those who have contributed and give you all the assurances that are necessary to know that these

Sen. The Hon. P. Gopee-Scoon (cont'd)

are—all that you have said has been very important. We acknowledge all of the points and give you the assurance that it will not be swept under the carpet. It is very heartening to see the views of the public as well that, even up to today, in the national newspapers, again, contributing to something that really rips at the core of all of us as human beings.

As I said, at the end of the day, what is this all about? The main issue really has been about the registry and it really has been about the offender's rights which they are entitled to under the Constitution of our dear country but also we have to acknowledge the rights of society and that is the right of the society to be protected. Therefore, it is a balance that we must weigh and eventually it is going to be tipped on one side but, of course, I will speak, certainly, in defence of the right of the society to know and to be aware of these sexual offenders and certainly the right of the society to be protected.

And I will tell you, there is a first-hand that many of us would have experienced but certainly coming from Point Fortin, one cannot forget the days in the '60s of Mano Benjamin. But Sen. Obika, I do not think you would have been born as yet. But I will tell you, Mano Benjamin—

Sen. Obika: “Dais the boogiemán himself.”

Sen. The Hon P. Gopee-Scoon: This is a very, very, very serious case and it is not something to be joked about. Mano Benjamin was a very tall man from Biche and Mano Benjamin—*[Interruption]*—yes, he was known as the “Beast of Biche” but he brought notoriety to Biche and, of course, Biche is now known for other things which we will not talk about but that is what we know of this man.

What he had done essentially was that he had imprisoned two young sisters whom he mutilated in a very savage manner. One of them, he would have gouged

Sen. The Hon. P. Gopee-Scoon (cont'd)

out their eyes and he would have subjected the other one—or both of them to some very serious sexual atrocities, and Mano Benjamin went to jail for 20 years. And I say this to say that when he got out of jail, Mano Benjamin came to live in Point Fortin. So as a child, I knew about Mano Benjamin. He lived on a road called Central Road. You might know the place, Sen. Obika and it is a community. Central Road, there is a community living there. My parents knew a family there and we would go to them. So we were all aware of the fact that Mano Benjamin lived there. All of the schoolchildren knew that he was there. It was good to know. The community knew of his existence—came to know of his existence.

But the point is, it gave some comfort that we knew who this man was, we knew to be aware and to stay out of his way and so on. But at the end of the day, Mano was allowed to live out the rest of his life and he died in Point Fortin. But I do remember and recall the schoolchildren, on seeing him, would run away and scamper and screaming and so on “There goes Mano Benjamin”. But it really brings us to the point, again, that society and communities do, in fact, need to know of the existence of these offenders and as I said, we knew where he lived but it meant that we were able to protect ourselves in the community of Point Fortin and that included adults and children alike.

So, again, the biggest issue in this debate has been the National Sex Offender Register which is dealt with in Part III of the Bill from section 37 and onwards, and the hon. AG and the Minister of Labour and Small Enterprise Development, when they spoke would have spoken in detail. They would have referred to all of the clauses and I do not think there is any need for me to go into them. However, I just want to make the point for the sake of the public and those who are not aware that there is in fact a public register. The difference is it is not

made known to the public. The public does not have access to it as far as I understand. What this will do is to ensure that the public has access to it and in this case, as we are promoting, via the Internet. And I know that the questions were raised on the other side—it may have been by a Member of the Independent Bench and also a Member of the Opposition—of why make this available to the public, and I raised one instance, one very practical example of why the public needed to know so that they could live in safety.

But the concerns raised in the defence of the offender was that the public is going to stigmatize the convicted person and, in any event, that the police officers have the list and they are the ones who need to identify the perpetrators of these crimes. It was also raised, the question of possible vigilante action when those persons are made known to the people in the community and so on. And again, all of your concerns are understood and it is our Constitution and so we understand the seriousness of it, but on the other hand, there is as well certainly the right to protection.

So I think though we must recognize that this question of the public sex registry has been debated over and over and all across the world and so it is not singular to us at all, and there are many jurisdictions with registries and some of them were only made accessible to the law enforcement and other government bodies. Again, and I am just going to fleetingly go past this, that the whole question of making a registry public was in 1994 in the United States with the law now informally known as Megan's Law and that was created in response to the brutal assault and death of a minor, Megan Kanka.

And so that, again, the debate has existed in several countries and I can tell you that in the United States, it is, in fact, that the registry is made public and there

Sen. The Hon. P. Gopee-Scoon (cont'd)

are several countries as well, so this is where it has gone. Again, the debate hung on two main arguments. Those in favour of the awareness and the person's right to know who they are surrounded by and those who would wish to protect the privacy rights of others and, again, therein lies the balance that we must always consider. But, again, I hasten to add that the argument, I think, favours the public awareness of these offenders, and I will go to speak a little bit more about that.

And it is that communities, as in the case of Point Fortin, really must be aware of these offenders and, again, where it can be of use is in the case of vetting, let us just say. Many of us in here, because of the jobs that we do, have to rely on help for our children and our children at very young ages, whether they are helpers we are hiring; drivers, leave our children in the hands of drivers. There are handymen around our homes and so on. You leave your children at babysitters and, therefore, it is very important to be able to know in whose care you are leaving your children under, to know the persons you are hiring. And again, if this list is made available to you via the Internet, which is the way in which we communicate in this modern age, it is an important tool for us to vet who, in fact, we are hiring to bring very close to us.

Again, I remember a case in Point Fortin where a two-year-old was murdered. And murdered by whom?—a handyman who was around, and this was in Clifton Hill. So that it is very important to vet. It is very, very important to know, to be aware of those that are around us and therefore, as a responsible Government and especially recognizing the upward trend in sexual offences, we must really do everything that we can to, in fact, reduce and in large measure, to prevent. But prevention is a difficult thing when it comes to dealing with these particular types of illnesses, if you may want to call it. So that the sexual registry,

Sen. The Hon. P. Gopee-Scoon (cont'd)

again, is absolutely necessary to empower citizens to be in the know of those with whom they may interact. And again, I would say that the safety of innocent children and citizens will far outweigh the rights of the sex offenders to privacy.

So that there is much research and every country that I have looked at, the arguments were the same and, again, it came down to the fact that the Internet is the most useful tool by making information available to the public. The public, in almost every country, having easy access to the Internet. Citizens have a right to know if there is an offender living in their neighbourhood and it certainly is the right of innocent children and others to safety as well.

So that also, in section 53 of the Bill, it is very important to the debate and to this particular consideration because the inclusion of section 53 allows applications for information to be expunged from the register and of course, that gives a cushion of hope for those who are on the registry. Once the reporting period is completed, they can in fact move on with their lives without stigmatization. I think the important thing is to set up the machinery and so that all of these provisions can actually take place in the way that it is meant to. But again, I want to go back to the very seriousness of these types of offences. So that we realize and we acknowledge that these are not casual offences and perhaps until it hits home to you, to relatives, someone you know, the debate will continue and you would take a position which really provides the kind of protection that is necessary for society, because this really rips away at your soul. Again, unless you know somebody involved, you would continue to debate without really concluding on the side of protection of the citizenry.

And I can tell you I know first-hand of an eight-year-old girl who had been raped several times during her childhood, from eight onward and of course,

Sen. The Hon. P. Gopee-Scoon (cont'd)

everything existed in a cloud of secrecy. The parents never knew and so on and this was done by a relative who was living in the home. I do not want to be very anecdotal but stick to the facts because I am aware of the situation and of course, that heavily influences the way I think and, again, there are many other people who have experiences but it is a topic—it is something that people are not prepared to be very open about. But this little eight-year-old girl has gone on and has become a successful professional, but I can tell you that her private life has been severely impacted in terms of her ability to love and her ability to accept men, or whoever she chooses to be her partner, easily. And because again, you know, your body lives on after these offences but your soul really dies and therein lies the seriousness of it all.

And in many cases, I can tell you that several of these persons who are directly impacted, it is taken to their graves. So, in other words, every day of your life, 365 days of the year, you get up and you think of this and of course, that is all you can do because you are so ashamed and you are so offended, it has affected you so deeply that you are actually not able to live your life to the fullest. So that is the seriousness of the crime, I do not want to say too much about it and again, I do not want to be anecdotal, but certainly, I think the protection of the citizenry is primary.

In the defence of society, if I were just to take a sampling of society in this very room, and of course, I am not going to spend the Parliament's time on asking each and every one of us about any situation which they may know or of whether they were affected or anybody that they know. I am sure—I can certainly speak for myself—I do not want my grandchildren—

Madam President: Minister, if I may? We have had several contributions.

Sen. The Hon. P. Gopee-Scoon (cont'd)

Sen. The Hon. P. Gopee-Scoon: Yes, I am finishing.

Madam President: Okay.

Sen. The Hon. P. Gopee-Scoon: But what I am saying is, if you were to do a sampling, because this thing really is about tipping it on the side of the protection of society, and if we were to do—and again, Madam President, I am speaking directly to the registry which is here and the question of making information public via the Internet and Part III in the Bill speaks directly to that. The point that I am making to drive the tipping home that it must tip in the favour of society is that, if I were to do a sampling of society in this very House and speak to the protection of your grandmother or mother, spouse or children, you would certainly want the protection of those persons.

This is not without understanding that the whole question of rehabilitation needs to be addressed and it is very important. It is a fact that very specialized treatment is needed and this is somewhere, as we hope to be a modern country, we must think in terms of treatment. Have a focus on treatment so that these individuals who commit these unsavoury crimes really can create a life for themselves after and manage their lives. So those kinds of therapists are, in fact, needed.

Madam President, I would make, again, before I close, because I strongly support all of the clauses in this Bill but in particular the question of the registry being made public and via the Internet. I would only bring to the attention of those present the article in the today's papers:

“Paedophile predator roams”

Just again to ring home to the existence of these offences all around us. In the case of the:

Sen. The Hon. P. Gopee-Scoon (cont'd)

“...male karate instructor”—who was—“arrested back in 2014 for the rape of three boys”—and again—“will continue to walk free unless victims come forward to assist the police with their investigations.”

And indeed people have not been coming forward but who knows who else would have been affected apart from the very two incidents that were spoken to in the article.

But as I conclude, I mean, I really want us all to be honest with ourselves as we support this Bill. I hope that everyone will. I want us to be very, very honest and understand that this is an issue that Government must deal with and that giving the public access to the registry, again, really provides the sense of safety that the public really needs and therefore, Madam President, I end very quickly but to say that I support this Bill. Thank you. [*Desk thumping*]

Sen. Saddam Hosein: Thank you very much, Madam President. I am delighted to join this debate because as a Parliament, we are at a very critical juncture where a Bill is brought to this Parliament which seeks to create some protection for those who are vulnerable in society and those who are most affected by sexual crimes, and those are women and children in society. But, Madam President, you will appreciate that Trinidad and Tobago, since becoming an independent state and then a republican country, we have our 1976 Constitution which also affords the right and the protection of law of persons. With respect to this Bill, Madam President, this Parliament is being asked to create or strike the proper balance with protecting those who are vulnerable in society and also protecting the rights of those who are offenders or who may have been accused of certain crimes.

Thirty-three years ago, the Sexual Offences Act, Madam President, by Act 1986, was made part of the laws of Trinidad and Tobago, amended three times: in

1994, in 2000 and in 2012. But the most important amendment was brought about in 2000 where certain amendments were introduced into the Sexual Offences Act which tried to strengthen the legislation to create that protection for those who are vulnerable in society, and it dealt with the warnings that a judge will give to a jury with respect to the corroboration, restrictions of sexual history of complaints, legislating that there can be rape in a marriage—and this came out from the common law in the case of *R v R* in 1991—and most importantly, the establishment of a sexual offences register. And my friend, the Minister of Trade and Industry, alluded that the register that was created was not a public register.

Madam President, in 2000, Trinidad and Tobago stood on the international stage because there were only a few countries in the world that actually set up sex offenders registry: the UK, the US, Canada, Australia, New Zealand, South Africa, Ireland and most recently India. So there are nine countries in the world and Trinidad and Tobago stands proud that we have a registry. But when we look at the implementation, we look at the population of the registry, the Attorney General told us, during the piloting of this Bill, that it is zero. Not a single name is on the register since the year 2000. So, Madam President, we are here now, we are going to try to reform the registry, one that was never working in the first place, to try to populate this registry to make our citizens more informed of those persons in society that may be dangerous, that may be more inclined to commit acts of sexual misconduct.

And, Madam President, what startled me while I was doing my research on this debate, I looked at the series of questioning in the other place and the Member for Oropouche West asked the Minister in the Office of Prime Minister whether or not a register was created and the answer given was yes. A register was created on

the 22nd of December, 2015. Madam President, then the Member for Oropouche West asked the Minister if the persons on the offenders list, are those persons being monitored and the answer given by the Minister was yes, by the Trinidad and Tobago Police Service. But the Attorney General told us that there are no persons on the register but then the Minister in the Office of Prime Minister is saying that there are persons who are on the registry who are being monitored by the Trinidad and Tobago Police Service. So that left me very confused.

Hon. Al-Rawi: I thank the hon. Senator for giving way. It is an important point. The information that I gave came from the Judiciary, not the TTPS, so there are two separate sources of information and I was careful to say that it came from the Judiciary but I do catch your point. Suffice it to say, the register is there.

Sen. S. Hosein: Thank you very much, Attorney General, for the clarification of the point also. But I want to also go on to the other points raised by the Attorney General during the piloting of this Bill because it was the first time that we had the statistics to work with and I thank the hon. Attorney General for providing those statistics so that as a Parliament, we can make a more informed decision on the way in which the legislation will be crafted.

The Attorney General said, Madam President, that the data suggests that one out of seven matters are actually reported. Those are matters involving sexual offences. And he went on to say—this was figures from the Children's Authority—for the three-year period 2015 to 2018, the total number of cases was 14,581 cases. But the Attorney General placed heavy reliance on figures coming from the police service, from the Judiciary, but the Attorney General did identify the gap. It is one out of seven persons who report, so therefore, the data will not accurately reflect what actually happens in society.

So, Madam President, this wide gap must be closed. We must get the data to account for those other six victims of sexual offences. And how do we cure this? I urge the Government, while you have the resources, that there is something called a victimization survey and my friend, Sen. Phillips, on the Independent Bench will understand what I am saying. Because a victimization survey is information from those victims who did not report to the police but there are independent surveys being conducted and they will offer the information stating whether or not they were victimized, whether they were victimized once, twice. They will give the types of offences, the dates of the offences.

2.25 p.m.

So, therefore, Madam President, it closes the gap and gives an accurate representation of what the situation is like with respect to those persons who are being victims of sexual offences, and I ask the Government, let us conduct the victimization survey so that we have a proper window, a proper outlook, of the situation that we have to deal with.

Now in 2015, Madam President, through the Citizen Security Programme, a National Crime and Victimization Report was compiled, and this report says, Madam President—it has some interesting statistics—that persons were asked if they received assistance from agencies and organizations that support sexual offences victims and survivors. The answer for that was 99.3 per cent of the persons said no, they received no assistance from agencies and organizations. And when you ask these persons what was the reason for non-reporting, 82.4 per cent of those persons, Madam President, said that the main reason was one, privacy; two, police inefficiency; and three, they do not trust the police because the police would not do anything about it. Madam President, this is very worrying because the

police service has a duty to protect and serve all victims, all persons, every single citizen of this country, and where you have victims of sexual offences feeling as though—that the police is not protecting them, well then, Madam President, in my respectful view, this Bill alone will not do it. [*Desk thumping*]

Now, I want to move on also to the readiness of the Trinidad and Tobago Police Service. Are they ready to deal with this Bill, Madam President? I know the registry was created in December, in 2015, but when you look at the clauses of this Bill, in particular, clause 40(1) at page 10 of the Bill states that the police service on the register must publish the following information: They have to publish the:

- “(a) name, former names and aliases”—of the offenders; their—
- “(b) date of birth;
- (c) photographs;”—their
- (d) main address or secondary address;
- (e) convictions of registrable offences committed by the sex offender, including the date of each conviction.”

Now, Madam President, when you look at the proposed clause 37 of the Bill, the police service will have to collect data from the period 25 September, 2000, to present. If this Bill is passed, Madam President, is the police service ready? Do they have the resources? Was anything allocated to them—additional staff, technology—in order for the collection of all of this data? Now, the police have made concerns—they have spoken about lack of resources in the past, but more must be done. And when you look at the investigation of sexual offences, if we are going to say that a person is going to be placed on the registry after conviction, well, let us look at from the stage of investigation.

Madam President: Sen. Hosein, I have given you some time to put your contribution in context but you are, in your contribution, repeating some of what has already gone. Okay? So, you remember I said I think there are some 10 speakers who spoke on this Bill already. So I will ask you to raise some new matters in dealing with the Bill.

Sen. S. Hosein: Madam President, I will just end the point with respect to the police service that we must assist the police with respect to DNA evidence in investigations.

I move on to the point where I will deal with the Judiciary. Now, Madam President, with respect to the Judiciary, the Attorney General gave us some figures that there are 470 matters pending at the Supreme Court for sexual offences—149 of that 470 are pending for over 10 years; awaiting trial. In the Magistrates' Court, there are 2,915 matters: six of them over 11 years, three of them over 13 years, two of them over 14 years and 13 of them over nine years. Everyone in this Parliament, everyone in this Senate, will agree that this is a totally unacceptable performance by the Judiciary.

But, Madam President, let us look at the victim in this case. A victim of sexual offence has to be in the court for over 10 years, and each time that person goes to court, Madam President, he or she has to face their offender. Every single time that person sees their offender, it is traumatic. They will have to remember that entire incident all over again, and then when it reaches the stage, let us say, preliminary enquiry, they give the evidence and then they have to relive the entire debacle at a High Court level before a jury, Madam President, and that in this country I think is totally unacceptable. It will reverse the treatment, the healing process of that person.

So, in my respectful view, Madam President, in my research, I came across in New York, the Centre for Court Innovation and it is something called the “Sex Offense Courts”, and that is a specialized court that deals with those sexual offences. And just like the model that the Attorney General always speaks of, which is the Family and Children Court Division, where children are treated as children, so that they do not feel as though that they are criminals, that this court offers treatment to the victim, and while offering treatment to the victim, they also offer treatment to the offender because, at the end of the day, [*Desk thumping*] the offender, if he is rehabilitated properly, it will cost the State much less than arresting him again if he re-offends, then convicting him again. And the point is that the court, we must set up our judicial system in such a way that it is proactive and that it works. It makes no sense locking up a person [*Desk thumping*] for 10 years without a trial. Ten years! That is only going to make him into a hardened criminal if he was not one before.

So, Madam President, when we look at this special sex offences court, I plead with the Government, let us assist the Judiciary, let us create these specialized courts in order to deal with these matters, so that when the victims go to court, at the end of the day, the rehabilitative process for that person would be hastened, so that they can live and be reintegrated with a normal life.

The Minister of Trade and Industry spoke of several instances where persons who would have gotten back their bodies but lost their soul. Let us give these victims back their soul after they have been traumatized. This court will also assist with respect to the—

Madam President: Sen. Hosein, I have allowed you to speak on the court, but your entire contribution cannot be on this court that you think should be set up,

because what you are actually doing now is debating what is not part of the Bill. Okay? You could talk about it but you have to move on and you have to make points that are relevant to the Bill, please.

Sen. S. Hosein: Madam President, thank you very much for your guidance and I always take your guidance. And I am going to end on the point of the court that with respect to the registry, at the end of the day, the registry alone is not going to be the answer for all of the ills. When you look at the Bill, when you look at the provisions of the Bill, a person can only be placed on the registry if they are convicted. If they are convicted means that there must be a conviction from the court. I will end on the point that this court will assist in clearing the backlog so those who have to be placed on the registry, will be placed on the registry in a very quick, expeditious manner because we want to speed up the rate in which convictions—proper and safe convictions—are done in Trinidad and Tobago.

Madam President, let me go directly into the clauses of the Bill. I read proposed section 37, and proposed section 37 gives an indication of those persons, as I mentioned earlier, who will be placed on the National Sex Offender Register. So you have the first category, which is a person who was convicted:

“...within or outside Trinidad and Tobago on or after 25th September 2000...

(i) completed his sentence...”

Madam President: No need to read it, Senator.

Sen. S. Hosein: Okay. Sure. No problem, Madam President. And, Madam President, when you look at section 43—so we get it clear, only a person who is convicted is placed on the registrar. When we look at section 43, Madam President, it says:

“Not later than four months before the discharge of a sex offender from—

(a) a prison, the Commissioner of Prisons; or”

—the hospital, as the case may be, they:

“shall notify the Commissioner of Police, in writing, of the date of discharge of the sex offender...”

My question, Madam President is: At what stage is the person’s name placed on the register? Is it at the stage in which he is convicted or is it at the stage in which he is going to be released? Because if you read the Bill in its entirety, it would seem as though it is the latter, because the Commissioner of Police only collects the information two months prior to the release—that is the information required to be placed on the register—and I found this, Madam President, at the new section 44 where the Commissioner of Police will go and collect the information two months before, and that is the interview, the names, the date of birth, photographs, address, previous convictions. So I just want clarification because it is not clear to me whether or not it is at what stage the person’s name is being placed on the register.

Then, another issue that came across, Madam President, through practice also, is how is this reporting going to be done? Because in Trinidad and Tobago, the accused person normally carries a copy book to the police station and a police officer will sign and certify that the person visited the police station. Madam President, we are in 2018. I think some system must be put in place—be it electronic or electronic and a physical system whereby an electronic receipt can be given to the accused and an electronic log can be made in the police station so that it is easier to access the information whether or not a person was reporting according to his requirements under the Act.

My next issue is, when I looked at clause 10 of the Bill—and this takes me to new section 35(2) which states, Madam President—this is with regard to the testing of an accused person for sexually transmitted diseases, and it says:

“Where a person who is required to be medically examined pursuant to subsection (1) does not consent to the medical exam, he may be medically examined without his consent.”

And what point this is brought to my mind, Madam President, is that if a person is not consenting to being tested then some level of force has to be used. So I went to the DNA Act and I looked at the DNA Act—and this is a point that the Attorney General can consider.

At section 21(1) of the DNA Act it says that:

“A person authorised under this Act to take a sample, or a person assisting such a person, may use reasonable force to take and protect the sample.”

So I anticipate that if the person does not consent force will be used. I think we should prescribe in the legislation that reasonable force can be used because there can be challenges afterwards hon. AG with respect to the admissibility of that evidence if force is used in order to acquire the evidence.

Another point that I looked at was compensation. How is this compensation to be assessed? Because a person can be awarded now compensation where a sexual offence has been committed on them. I can see if we are going to assess the damages—I am looking at it from a civil light—that there is no problem with assessing special damages. Those will be proven by receipts, for example, their medical bills, their pharmaceutical bills, therapy, any sort of treatment, travelling, will account for special damages. But how are we going to assess if we are going to award it general damages?—because general damages are awarded or assessed

based on a case by case comparison. Are we going to also allow interest and cost in these matters? Is it going to be a criminal or civil court going to decide these matters? Is it going to be a judge or a master? And that brings me back to the point that I moved on from, Madam President, that maybe a sex offence court can properly deal with these matters of compensation.

Another issue I have was with respect to new proposed section 53(1) of the Bill and 53(1) speaks of the information that has to be expunged from the register, and there are two instances in which the records can be expunged:

- “(a) on the completion of his reporting period; or
- (b) on the basis of any compelling reasons,…”

Now, Madam President, that is very wide. What constitutes “any compelling reasons” for a person to be removed from the register? And we need probably some clarification there in terms of what are some instances in which may qualify as compelling reasons for a person’s records to be expunged from the National Sex Offender Register.

And, Madam President, I listened to the debate. I heard the Government and I heard the Independent voices and I also heard and read some of the submissions made by the several NGOs. And as the Minister of Trade and Industry also indicated, that this law came from the instance of Megan Kanka, who was raped and killed in 1996 in New Jersey. And, Madam President, the law in New Jersey has developed and there is a debate here, and the debate is whether or not we make the registry public or we do not make the registry public.

Now, during my research, I humbly suggest in this debate that I came across maybe some model that can be looked at in order to try to strike that balance between all of the competing interests with respect to this registry. And the

Megan's Law in New Jersey, there is something called a "tier process". So there is Tier 1, there is Tier 2 and there is Tier 3, and let me explain that after a person has been convicted and their name is to be placed on the registry, an assessment or—sorry, a recommendation is made by the prosecution. This recommendation indicates whether or not this convicted person falls within Tier 1, Tier 2 and Tier 3. Now, the tiers are dependent on the severity and seriousness of the crime and other factors. And if you would just allow me, Madam President, to assess these persons, they take into consideration the degree of force used: the degree of contact, the age of the victim, victim selection, number of offences/victims, duration of offensive behaviour, length of time since last offence, history of antisocial acts, response to treatment, substance abuse, therapeutic support, residential support and employment/educational stability and, Madam President, these are factors which they use in order to determine whether or not a person falls in either of the tiers.

So, let us look at what happens—and this is my suggestion for an amendment to the Bill, and if the Bill goes to a JSC, maybe it can be considered that when a person is placed on the Tier 1 scale, Madam President, what happens is that that person, there are different levels of notification that are given. And if you will just allow me to find the page with respect to the various ranks.

The first tier, Madam President, is that the court will make the decision—the prosecution will make the recommendation, the offender will have an opportunity to respond and then the court ultimately decides which tier to place the person at. So the first tier, notification will be given to the community privately.

The second tier, it goes up a little. It will be given to the community plus it will be given to schools in the area. The third tier, it will be given to the categories

in the second tier which is community, schools, but then a decision is made at that point in time, based on the seriousness of the crime, whether or not the person's name shall be placed on the public sex offender registry online. So that is one suggestion I can probably make for the consideration of the Parliament with respect to striking a balance with the competing interest with regard to this Bill. Because, according to our proposed law, Madam President, as long as you are convicted of a sexual offence or an offence under the specified offences under the Trafficking in Persons Act, it would mean that you automatically will be placed on the registry and you have no right to determine whether or not this person shall be placed or they shall not be placed. So, therefore, this gives some discretion and some comfort to those in society who require a voice to be heard after the fact that they have served an entire sentence for a crime that they have committed, because we must remember that the registry, it is punitive in nature.

Now, I want to move on, Madam President, and the point I want to make here also is that: What is the reason for the registry? The reason for the registry is for notification, to advise persons that yes, there are these persons living amongst you who are sex offenders, so that—as the Mano Benjamin example was given—you stay away from these persons. But that does not assist with regard to reintegration, and I know this point was belaboured, so I will not go there. But the point I will make, Madam President, is that: Why not give these persons—these victims—a protection order? Why not make an order so that after these persons are released—the offenders—that there is some level of protection for these victims so that if they go near the victim, if they try to reoffend that, it becomes a criminal offence just like the protection orders that are given under the Domestic Violence Act, so that you offer some sort of consolation, some sort of comfort and

some sort of security to those victims when the offender is released. Because as I said earlier, if you confront the offender in any street, Madam President, it definitely becomes very traumatic for that person. So it will limit interaction between the offender and it will limit interaction with the victim.

There is another point I would like to move on with; that point is regarding the human trafficking issues. When you look at the Schedule of the Bill, Madam President—and that is Schedule 1—Schedule 1 establishes the registrable offences and sections 16, 17, 18, 19 and 23 of the Trafficking in Persons Act, Chap. 12:10, those are what are classified as registrable offences; and these are offences such as: trafficking in persons; inciting, organizing or directing another person to trafficking persons; trafficking in children; inciting, organizing or directing another person to trafficking children; sorry—transporting a person for the purpose of exploiting that person's prostitution. And all of these offences, Madam President, are registrable offences.

And I looked at some of the studies with respect to whether or not Trinidad and Tobago is immune from this concept of human trafficking. But just a couple days ago we heard about the incident in Westmoorings regarding the young girls who were kept there, and that matter is now under investigation—and I do hope that there is some fruitful outcome of that matter. It shows that Trinidad and Tobago, we are not immune. We have an influx of immigrants in our country, Madam President. Our borders are very porous. So I happened to look at a report and this report, Madam President, is a 2014 report by Channing May, and it says that human trafficking is one of the most profitable enterprises in the world.

Madam President: Sen. Hosein?

Sen. S. Hosein: Yes, Madam President.

Madam President: Human trafficking is a registrable offence as contained in the Bill before us, so that is the link of human trafficking to the Bill. I cannot let you go off on a tangent to talk about human trafficking in and of itself. Okay? So if you can come back to the Bill please.

Sen. S. Hosein: All I would like to say, Madam President, is that these registrable offences will curtail; it will assist definitely with respect to the law enforcement bodies, especially immigration, with regard to detecting and prosecuting these persons who are involved in human trafficking.

Now, I want to make a point, Madam President, and the point is the procedure in which this Bill was brought to this House. This Bill was laid, Madam President, on the 29th of January and the debate started one week later on the 5th of February and it prompted civil society to get involved. About 29 NGOs would have expressed their concerns with regard to the Bill, and I think that the Attorney General, in the Opposition's view, should establish this joint select committee to properly listen to all of the concerns in this Bill so that we can craft a piece of legislation that is satisfactory for the country, and we should not haste in this one. I know the Attorney General said we should start somewhere, analysis paralysis, but this is not a Bill which we should hasten to pass, Madam President. It requires the input from everyone.

And you would just allow me—because I am going to conclude now Madam President—I just want to quote from an article, and that article is a guest column in *India Today*: “‘Register’ the legal lacunae more urgently” by Shruthi Ramakrishnan, and he ends the article by saying this, Madam President. He said:

“Any beneficial impact the registry may have in advancing the safety of women and children is contingent upon a well-oiled criminal justice system.

The government must focus more urgently on increasing systemic accountability for crimes, which demands better police investigation, robust prosecution and rigorous yet speedy court trials. More urgently and importantly than a sex-offence registry in the country, we need preventive systems in place and long-term plans to address the root causes of sexual violence. The mounting public pressure to address these safety concerns must be tackled at root instead of distractionary their measures such as instituting a registry that offers at best a false sense of security.”

This was his view, Madam President. [*Desk thumping*]

I want to say that, Madam President, on this side of the Parliament that we supported the call for the public sex offender registry, but that is just one brick on the wall that we have to build. We need to do more as a country, and I ask and I plead with the Government to establish the joint select committee so that we can properly ventilate all of the issues in this Bill, Madam President, and I thank you very much. [*Desk thumping*]

Sen. Paul Richards: [*Desk thumping*] You have to wait for the applause to die. Good afternoon everyone. Thank you, Madam President, for recognizing me and giving me the opportunity to make a contribution to the Bill to amend the Sexual Offences Act, Chap. 11:28, and fortunately or unfortunately, I am coming in at position number 13, which means quite a lot has been said, and I will not be running afoul hopefully of the Standing Order related to tedious repetition, but I really want to make some important points.

In my opinion, what we are trying to balance, in particular, the clause 3 with regard to the sexual registry, where much of my focus will be is—the public safety and security of children, in particular, and families where offenders may pose a threat

after they have served their term incarcerated, and I will present research to show exactly what that level of threat is where repeat offending is concerned and, two, what some considered as the offender's right to a decent life after having served his or her time, and supposedly paid their debt to society and should have, in the eyes of the law, most if not all of the same rights as other citizens once—and I add this important caveat—the offender is rehabilitated and poses no further threat to society. That is the important caveat there. But that is the million dollar question, and we have to ask ourselves: What are the implications for a public registry?

And I think we have to reframe our thoughts on debt to society. Very often we feel debts to society of an offender is simple serving jail time. But I might proffer that debt to society should also include an undertaking to be rehabilitated, a process by which someone is rehabilitated and an assessment process during the incarceration and afterward to ensure that the rehabilitation process has had some effect in the interest of a continued public safety; and I do not think all our ducks are in row where that is concerned.

Madam President, through you, the hon. Attorney General in piloting the amendment, gave quite some startling statistics, but statistics always do not tell the story, and as I said before, we are balancing here, public safety and, in particular, the safety of children with what are presumed as the offender's rights, and I want to go a bit further than statistics and, with your leave, Madam President, I want to read some names to bring home the importance of this Bill: Sean Luke 6, Amy Emily Annamunthudo 4, Pamanand Persad 13, Dane Andrews 12, Radha "Pixie" Lakhan 16, Lily Seepersad 7, Mastaq Benoit 16, Lisa Sammy 17, Zakiyah Mitchell 14 months, Dion Barclay 16, Shernelle Codrington 16, Ricardo McKenzie 16, Jashouna Hypolite 15, Neil Clement 17, Mikhaeil Alleyne 13, Dario Mc Coy 16,

Jevon La Monte 17, Simeon King 16, Kimo Richards 15, Kyle Grant 17, Akel Gafoor 17, Ronald Palakdhari 16, Shahida Phillip 16, Dominic Thomas 16, Michael Forde 14 and Akiel Chambers 11, who would have been turned 32 on January 04, 2019.

2.55 p.m.

I do not read out these names to bring further grief to the families but we have to honour them somehow because they lost their lives, and, in most cases, the perpetrators have not been brought to justice, which means that other children and families are at risk. That is the balancing act we face today and we have to do more, because if we are to honour their short lives we have to put systems in place to protect those who are left alive. I kept hearing people referring to those who have been subject to the perpetrators as victims, and we need to be careful with language. They are survivors. They are survivors. Because if we keep calling them “victims” we keep re-victimizing them, and we need to be very careful with language to encourage their lives to a more productive level.

Madam President, what is the objective of the registry? As we said, public safety, the safety of children, but it goes a bit further than that in my opinion, and I will get to the Bill very, very quickly. I just want to lay some context. You know, our justice system is not going to be fixed by one or two Bills but—because it has to deal with the police service and detection, the courts and speedy trials, and effective and fair trials, the prisons, and a comprehensive rehabilitation system and restorative justice system, which means the victims and their families and the offenders must be treated properly. To me, what needs to be added to this, and I will add this as a possible mechanism in lieu of many people going on a registry, a national registry, a system whereby persons who have shown a willingness and

commitment whilst in the system to availing themselves of the rehabilitative process and going through what is akin to a parole, committee or board assessing them before they are released and at regular intervals afterward. And if they subject themselves to that, and this committee assesses them like a parole board, six months after, 12 months after, 18 months after, for five to seven years, and sees that they are making an effort and have shown that they have reintegrated properly, they do not need to go on a registry.

The ones who do not subject themselves, or who the committee assesses as flouting it, and intend to continue in their ways, should go on that registry, because they would have proven that they want to continue to be a threat to society and children. That is a consideration, through you, Madam President, to the hon. Attorney General. In addition to what is a public registry, for those who are intent and not showing that they are willing to be rehabilitated, and who are assessed by competent people, a psychiatrist, a psychologist, prison warden, law enforcement, maybe a judge, to be a continued threat to society, I think those people should be subject to a national public registry. That is the caveat I wanted to add to the registry, because I would tell you, through you, Madam President, most of the research has shown—because the Megan’s laws, in existence since 1994, 1995; we have the Dru Sjodin National Sex Offender Public Website (NSOPW), first established in 2005 by the US Government, and all 51 states have sex registries. And I have a document from a 2018 study, sex offenders registry, a study by Hack McGuire, university—by an NGO, with global statistics from 2018, which has shown that there is no significant reduction in sex offences by the publication of a national sex registry; empirical data. [*Desk thumping*] So the objective around the world, and these are longitudinal studies in the US, Australia, Canada, and the UK

and India, all countries that have a national public sex registries, it has shown that it does not achieve the objectives as presently constituted, as what we are trying to do here.

So I join many of my colleagues in suggesting, through you, Madam President, and I do not agree with a joint select committee, I agree with a special select committee which has timelines, because I do not think this should lapse. [*Desk thumping*] I think a special select committee with certain parameters, because I have had the opportunity to interface with Hazel Brown, a former Independent Senator, Diana Mahabir-Wyatt, and several of the NGOs who want to make a valuable contribution, and this is important enough to allow for the—and I hope I am not misspeaking—the hon. Attorney General may be open to that, because there are several unintended consequences, with all the good intention, a national public sex registry has for several different stakeholders in society, including—and this one may be debatable, the privacy of the offender. Maybe I do not think they deserve privacy unless they have shown that they have been properly rehabilitated by, as I said before, a competent continuously assessed team.

Degrading treatment in their neighbourhoods, punishment, security of the offender and their families and their communities, because in some jurisdictions people have set houses ablaze because they know a sex offender resides there; people have died. There is also the issue of standard of living and the opportunity to reintegrate by word because people are 90 per cent less likely to hire a known sex offender, and the employer has the right to know that, but then how are you to be reintegrated properly if you do not have work? Property values plummet in areas where people are known sex offenders and known to identify to live, plummet, and also there is the issue of the victimization and stigmatization of their

family members who are not offenders themselves but who suffer because, well, a family member broke the law and abused a child or a woman. So there are several considerations that we must take into consideration. And then there are, of course, and it has been mentioned before, the issue of vigilante justice and people have lost their lives. I know it is a very passionate issue because it involves children, and people have the right and responsibility to be passionate because it involves the well-being of children, but also we need to be careful in terms of actually achieving the objectives.

So, through you, Madam President, let me go directly to the Bill, because I do not intend to be long because a lot has been said already. In clause 40 where, and I read by précis, I do not want to read the whole thing, where there is a requirement for:

...“the Commissioner of Police shall ensure that the following information in relation to each registered sex offender is made accessible to the public...”

If we go that route, or if we have a registry that is not public, I suggest adding, in addition to “name, former names and aliases”, “date of birth”, “paragraph”, I think it should be photographs, plural. Even for a non-public sex registry it should not be—because this suggests, and I do not know if the law allows for photograph to be photographs as plural. Main addresses or secondary addresses, I think it should be all addresses.

“convictions of registrable offences committed by the sex offender, including the date of each conviction.”

And may I suggest, through you, Madam President, to the hon. Attorney General, the addition of a clause that includes email addresses, all email addresses, all social

media accounts, all, because from the “International Sex Offender Registry Laws: Research and Evaluation”, a document by James Vess, Andrew Day, Powell, et al, from 2011, more and more the conduit through which contact is made is the Internet, email addresses, social media accounts.

Sex offenders are not going to neighbourhoods anymore around the world. They attract and lure their victims through the Internet. So I want to add that, and approximately one in seven, 13 per cent of youth Internet users received unwanted sexual solicitations; 9 per cent of youth Internet users have been exposed to distressing sexual material while online; predators seek youth vulnerable to seduction, including those with histories of sexual and physical abuse, so re-victimization is happening. One in 25 youth received an online sexual solicitation in which the solicitor tried to make offline contact, and more than one quarter, 27 per cent of incidents solicitors asked youth for sexual photographs of themselves in breach of our Children Act. So, might I add, suggest, through you, Madam President, that the hon. Attorney General add to this clause, “all email addresses and all social media accounts held by the offender”; and these have to be updated every six months, because we all know how easy it is to change a social media handle and become another anonymous possible offender.

Also, Madam President, and it may sound just superficial, the—and I know it may be a drafting issue, but, I do not know, I just have an issue with clause 10, 35(1), and it appears in several other areas:

“Where a person is charged with a registrable offence, the Court shall make an order requiring that the person be medically examined for the purpose of determining whether the person is suffering from a sexually transmitted infection.”

Can I suggest something? That we change that to “a person who has tested positive for a sexually transmitted infection”, because people may be positive for sexually transmitted diseases without necessarily suffering? I think testing positive is more accurate medically than “suffering”, and it appears in section 6 and several other areas. In Part III of the National Sex Offender Register, section 39:

“The Commissioner of Police shall have control and custody of the Register and shall be responsible for-

- (a) maintaining the Register;
- (b) ensuring that information is entered into the Register in accordance with this Act and any other written law; and
- (c) ensuring that the information entered in the Register is accurate.”

And might I suggest humbly, through you, Madam President, “by a senior police officer” is specified so there is a higher level of accountability as opposed to just left like that where there may not be that level of accountability where junior officers are concerned.

Also, in section 41(3):

“Where a person referred to in subsection (1) is convicted of a registrable offence against a child, the Registrar shall, in writing, inform the Chief Immigration Officer of the conviction and the sentence imposed on the person.”

There is no time frame there. I do not know if it appears in some other part of the law or in the Schedule, but I think there should be a time frame insisted upon here because it is against a child, and we do not want to leave an open, or a lacuna where someone takes two weeks to do it, leaving children at risk. Also:

“The Chief Immigration Officer shall inform the Commissioner of Police of the name and secondary address of any sex offender referred to in subsection (1), within forty-eight hours...”

So we see there is a time frame here but no time frame in the other part. That was my point. In 45(1):

“A sex offender shall report to the police station nearest to his main or secondary address—

- (a) within seven calendar days of his discharge from prison or a psychiatric hospital, where he is convicted by a Court in Trinidad and Tobago;”

And it goes down to cite the seven calendar days, and I just find there is an inconsistency. If this is a person who is a sexual offender and convicted, why is it not a shorter time frame? Why are seven days being allowed to elapse when what is at stake is the security of children and their protection is of utmost importance?

I wanted some clarification also, hon. AG, on clause 45(8), where:

“An acknowledgement referred to in subsection (7) shall bear—

- (a) the date that the sex offender reported to the police station;
- (b) the police station to which the sex...reported;”

And it may be a typo where it should say, “sex offender”. It just says:

“the police station to which the sex...reported;”

—and that does not read like it makes sense. So maybe there is an error there and it should be “sex offender”, and it was not captured. So those are the specific amendments to the Bill. As I said, I was not going to be long because a lot has been said already.

Madam President, one of the important aspects of this is that there are

particular presumptions about sex offenders, and because of the nature of the crimes involved, people tend to believe a lot of stuff that is false, sometimes much to all our detriments in terms of providing mechanisms for protecting children and communities. I will just quickly go through some of them so we would have a clearer understanding. Facts about sex offenders, from the same document, a sex registry study, 2018:

“Most men who commit sexual offences do not know their victim. False...90 per cent of child victims know...”—the—“...offender...”

That gives us a sense of how we need to construct the law. Next:

“Most sexual assaults are committed by someone of the same race as the victim. True.”

Believe it or not, according to the American Indians and Crime, 1999. Next:

“Most child sex abusers use physical force or threat to gain compliance from their victims. False. In the majority of cases, abusers gain access to the victim through deception...enticement...”—now the Internet, and—“...seldom by force.”

It is a manipulation, a psychological manipulation. The areas that we need to really protect are: school yards and playgrounds in particular.

The other issue, and I am going to go back to the issue of the option that may be available to us where those who submit themselves for evaluation in a complete and comprehensive mandatory restorative justice system within the prison system, and even after persons have served their time, because, as I said before, I do not believe the debt to society has been served just by serving your time in prison. I think, generally, all serious crimes, inclusive of sexual offences, need to fall into this protocol where there is a mandatory assessment and reporting

period of the offender even after he or she has left the prison service. And one of the options that I suggest should be made available to offenders is the issue of—the option of subjecting themselves to electronic monitoring, as opposed to being on a registered list. I know a committee is looking at a pilot project regarding that now, but if an offender really wants to show that, well, I do not want to be on this list because it will damage my opportunity for work, it will stigmatize my family, et cetera, well—and you do not intend to offend again, they put an electronic monitoring bracelet it on you, for a certain level of time so the police know where you are, and law enforcement can take action if you go within certain amount of metres of a school, et cetera. So that option, through you, Madam President, to the hon. Attorney General, may be an option that may be included in lieu of the person being mandatorily put on a national public sex registry, which, as I said before, has proven not to work around the world. So it is important that we look at our options in the interest of satisfying, as Sen. Hosein said, all the competing interests. And I lean heavily on the rights of children and vulnerable groups, as opposed to thinking it is a balancing act between the rights of the offenders, because the offender has offended and is on the lower end of my consideration, anyway. I can only speak for myself when it comes to that critical debate that we are engaging in here.

So I, again, as I close, I hope that the AG is open to a special select committee with specific time parameters so that we do not lose the opportunity for completing this important work and protecting our children and honouring those who have lost their lives, in addition to giving a fulsome opportunity for many of the over 25 NGOs and stakeholder groups who have submitted recommendations, who would like that opportunity to interface and add their views in the interest of making fulsome law.

In closing, might I stress again, we need to think past only this important issue to all serious crimes where our restorative justice system is severely lacking in Trinidad and Tobago. There is talk about rehabilitation in the nation's prisons, no one can be rehabilitated, and I have spoken on this before, in those dungeons; no one. Let us not kill ourselves. Nobody could go in Port of Spain or Golden Grove and come out better for it under those conditions. No proper rehabilitation or restorative justice system can be administered under those conditions. No proper restorative justice system can be inconsistently administered, and it does not end when the person serves their time. It has to be an assessment as the person is about to be released by competent authorities who will say, "We assess this person is on the way to rehabilitation". It has to continue after the offender is in society at regular periods. He or she has to submit and subject him or herself to prove to society that not only have you served your time but you are doing the work necessary for proper reintegration and to be a productive member of society. Other than that we are just, as we say in Trinidad and Tobago, "spinning top in mud", and we are not going to get very far and more and more people are going to be left at risk and we will continue to have these abhorrently high recidivism rates in Trinidad and Tobago because on these ongoing issues. With those few words, Madam President, I thank you very much for the opportunity. [*Desk thumping*]

Madam President: Minister of Agriculture, Land and Fisheries. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I thank you for the opportunity to speak on this very important Bill, the Sexual Offences (Amdt.) Bill, 2019, and in particular, the opportunity to speak on clause 12. Just going back in the legislative history of this Bill, up until 1986 the statutory law relating to sexual offences in the country was

rooted in the Offences Against The Person Act, 1861, and the Sexual Offences Act, 1986, was really landmark legislation that set the tone and the standard in which the country wished to deal with the matter of sexual offences. There was a subsequent amendment, Madam President, in 1999 a Bill was introduced, the Sexual Offences (Amdt.) Bill, 1999, and I do not think any speaker before me has recognized this country's place in history. In 2000 when that Bill became law, Trinidad and Tobago became only the second country to introduce a system of registration in relation to sexual offenders. That is where we stand in the world in relation to a registration system. In the year 2000 we became second to the United States, and several countries have followed, some with national registries, some with provincial registries, some with registries which allowed the public access to information, and some with registries that are just databases.

So there is, in my view, because we are dealing today with a Bill which seeks to deal with what we did in 1999, there is, from what I have heard, no debate about the need to have a registry. We already have a registry. The efficacy of it, the reasons why it has not worked, it is all left to debate, but the establishment of a registry is not a matter that is before us and it is not a matter for debate. The real issue is the publication of information that is in the registry; that is the real issue. And just as the legislators in 1999 and 2000 were called upon to do something that is landmark, we are called upon to do something that is landmark in debating this Bill. But it is not an easy matter.

I have listened to all the contributions and it is not an easy matter. There are grave consequences. If you look at your passport you would see, it does not belong to you. You have the privilege of possessing it. You have to protect it, because any interference or mutilation of the passport carries with it certain

consequences, and what we have been asked to do in this legislation is to provide to the Chief Immigration Officer to make an entry in the passport. And as Sen. Chote has rightly pointed out, in our society a passport is used for many reasons. In fact, you would be surprised to know that many Americans did not have a passport until it became a requirement to travel out into other countries. In many countries a passport is not something that large sections of the population have, but many of us have passports in this country, and this Bill calls upon us, among other things, to have an entry placed in someone's passport, an entry that would be visible for the purposes intended, but may be visible for purposes which were not intended, and that is a decision that we have to make as a House.

We have to decide what is the value of the public having access to information on someone's conviction, is that access useful, is it necessary, it is appropriate, and does the access outweigh the consequences to the individual of having information on his or her conviction, a matter for the public? There are a lot of emotions, of course, when we talk about sexual offences, and even more emotions when we talk about sexual offences as they relate to children. And why do we feel that way when it comes to children?

When we debated what is known as the child marriage Bill, in that contribution I made one particular point that I hope did not go unnoticed. I said, I would like to see us revisit the sexual offences law in this country and address directly offences committed by persons who are in a position of trust in relation to children, specific offences, and that is because when you look at the cases, and when you look at judgments in relation to offences, sexual offences in relation to children, you would see that issue of trust coming out. And the children of this country now and those in the future have placed today their trust in us, because

they are not capable of protecting themselves as yet, and would this registry protect our children as it will protect our adults, and do we have an obligation in pursuit of the protection of children of this country to make the conviction of sexual offenders a matter of public knowledge?

Madam President, on Sunday morning at a function I signalled one particular issue that I intended to talk about, and that is the issue of incest. But before I go there, let me say this. When you read the cases, when you read the judgments, if you pick up any two judgments on sexual offences in relation to children in this country, there are common characteristics; and I could share them very quickly with you. I do not want to revisit the crimes by referring to the parties, but for the record I will just say, Criminal Appeal No. 14 of 2010, and none of us can ignore the similar facts across sexual offences in Trinidad and Tobago as it relates to children.

3.25 p.m.

Madam President, this case involved a step-parent. It involved a situation where generations lived together in the same house. Grandparents in one section, parents in one section and children eventually raising their own families in another section. The victim shared the house with her mother and three siblings. The step-parent was a visitor to the house, and most importantly the victim and the offender slept on a mattress on the floor while the mother and siblings slept on the same bed. The point I was making on Sunday is this: the opportunity for sexual offences and the opportunity for incest in this country arises every day, especially given physical living arrangements, economic circumstances, broken family arrangements, and most importantly, the fear of reporting. That is what drives this thing.

The point I was making on the weekend is that when you look at incest in particular, the data has shown, ending with a report presented publicly by Prof. Rhoda Reddock last year, April 2018, where she highlighted this issue of under-reporting, and it is endemic in rural communities, because of the structure, because of the economic circumstances of many mothers, having to depend on a male breadwinner in the family, having to depend on male step-parents in the family, and having to leave the living arrangements undisturbed in order to protect the family.

The point I was making is that if we go behind the system, and if we have a system where teachers are required to report to the police, and if we have a system where health care workers are required to report to the police, and if we have a system when we collect data on sexual offences, offences on predators and on incest in particular, if we have a system where we go into the communities and talk to the people who interface with these little children, then we would have a better view of what is happening.

I live in those communities, I come from there, and all my life I have lived around incest, predators and a pervasiveness of sexual offences which are facilitated by a culture of not reporting, of feeling embarrassed, of feeling the need to protect, and most importantly, of having to feed the family.

This first case, like many others, involves a threat to kill if you tell anybody. And this case only came to light because of a very observant school principal. On many occasions, it is the school that is bringing the matters to the authorities. So that we should not be trying to keep things away from the public. We should not perpetuate a culture of hiding offenders. We should be presenting to the public the truth. We have an obligation in this Parliament to decide. I cannot tell you how to

vote, and I cannot tell you how to think, but I believe that the more information that is available on convicted sex offenders in this country, the better prepared we are in our communities to deal with the situation. [*Desk thumping*]

This Bill, and in particular clause 10, addresses two issues. This issue of repeat offenders—Madam President, if you go through the literature that comes from Australia, North America and the little that is available in our country, you would see divergent views on this issue of repeat offenders. In Australia, for example, the data shows that convicted sexual offenders have a low likelihood of re-offending. That is the data in Australia.

The data in North America also points to the fact that there is a low likelihood of convicted sexual offenders re-offending. But the data also points to something, that in the mix you have chronic sexual offenders. You have people who cannot help themselves, and they continue to re-offend. So over the average, the average is low, but if we protect the citizens of this country, and in particular the children of this country, from one potential sexual offender, we would have done our job as legislators. [*Desk thumping*]

The other rationale for a sex offender registry is even more dangerous. The literature tells us that in many countries you have a registry to allow law enforcement to do their work. For the purposes of identification, for the purposes of locating somebody, law enforcement has access to the registry, but that creates a very important risk. It creates the risk of profiling. It creates the risk of targeting. In other words, if you have a public registry, you may lead to people targeting persons on that registry to blame for sexual offences. That is a risk, a real risk, but I believe that it is a risk that has to be balanced by the support, knowing where convicted sexual offenders reside and knowing how to reach them is an important

requirement for law enforcement in our country.

Madam President, the issue of the stamp in the passport is something that has been ventilated, and I know a previous speaker on this side drew attention to it. I want to say it again, that where the Bill provides at the proposed 41(3) for a person convicted of a registrable offence of the information to be provided to the Chief Immigration Officer, that is where the registrable offence is against a child—that is where a registrable offence is against a child. So this is not broad. This targets a specific type of offence and a specific risk.

Not for one moment I want anybody to feel that this is something new that will prevent somebody from entering another country. The fact is every sovereign State has the opportunity to refuse entry to anybody it desires to refuse entry to. But you will be surprised to know that in the United States and Canada, the focus on the impact of a stamp in a passport in relation to a sexual offence against a child, a conviction for it, not an allegation. But if you go to the immigration websites for Canada and for the United States you would see that if you have a conviction for driving under the influence of alcohol, you can be refused. So that the idea of refusing entry, consequent upon an offence, is something that already exists, and it is for any sovereign State to determine the basis of your entry or your lack of entry.

This introduces no new risk—it introduces no new risk—but it is an important step in Trinidad and Tobago, once again taking our place in the world, as we did in 2000, when we became the second country to introduce in its laws the requirement for a sex offender registry.

Madam President, when you look at the proposed section 37, you will see that this registry actually applies to two categories of offenders and treats the two

categories differently. You would see at 37(a) there is a category where the person:

“...was convicted of a registrable offence...on or after 25th September, 2000, and...”

—has completed his sentence or her sentence or has not completed his or her sentence. That is the first category—the proposed 37(a)(i) and (ii).

Then there is a second category dealing with a person who:

“is convicted of a registrable offence...on or after the commencement of the Part.”

So the amendment deals with offences which are committed after this Bill becomes law, and offences that are committed before. And a particular date of 25th September, 2000, is used simply because that was the effective date of Act No. 31 of 2000 which introduced this Sex Offender Registry in the country.

If you look at the proposed section 40(4), 40 introduces for the first time the public access to information on the registered sex offender; it is the first time. If you look at 40(4) you would see:

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

Again, we are dealing with two categories, and I felt it is important to point out that this does not apply to everybody. The proposed amendment deals with two different categories. One, the information in respect of that offender will not be available to the public. But going forward—going forward—section 40(1) proposes that any offender to whom this Bill applies would have the information listed in 40(1) available to the public. It is not all the information, it is specific information that is available to the public which allows the public to identify the

location and other information relating to the convicted offender.

I listened to Sen. Saddam Hosein and his suggestion that we introduce protection orders like the domestic violence legislation provides, in order to introduce a level of protection, and I disagree with that for two reasons. In a previous debate I in fact referred to those specific provisions in that Domestic Violence Act, which calls upon a police officer who receives the information to make an entry into the station diary, and to do certain things in relation to the report. I made the point that when we check or if we check, a failure of the system has to do with the failure of the officers on duty to record information and act on it. But I make a more important point. A protection order to protect a victim is unnecessary because the victim knows the perpetrator. A victim in a sexual crime generally knows the person who has been convicted, so it is not necessary. It may be necessary, and that is up to the judicial officer, to make a protection order. But the purpose of registration is to protect future victims who are unknown. [*Desk thumping*]

The law in its current form, and the powers of a judicial officer, and the powers of sentences carry with it the opportunity to protect a victim. This amendment carries with it the opportunities for compensation. But this registry is not simply to protect the victim who knows, but it is to protect those who do not know, and their only opportunity to know is by having the information accessible. I could see schools and I could see other places benefiting from knowledge of this information that they do not currently have.

I followed Sen. Chote, in particular two matters which were raised. The need to identify the registrable offences and not paint a broad brush, and I believe the AG will address that matter. But we have to be careful. We have to be careful

in cherry-picking at this stage. There is virtue in it, but we have to be very careful in cherry-picking the offences which are registrable and the ones which are not.

On the issue of letting the judge decide as part of sentencing, whether or not the convicted offender's information becomes public, I do not think as a Parliament we should leave that to the sentencing officer. I think we have a responsibility here. In saving the judicial officer from having to—the judicial officer has other discretions in sentencing. The judicial officer has other things that could be done. But if we saw the virtue in 1999 and 2000 in following the United States and creating a registry, I do not see why we cannot see the virtue in doing what so many others have done by making that information public, and not leaving it to a judicial officer to deal with. [*Desk thumping*]

Madam President, there is a lot that could be said—there is a lot that could be said—but this as I said is not a matter that has been extremely contentious. We all agree that we should have a registry. Where we disagree on is the extent to which it should be information that is available to the public. But on reflection, when you think about all those children sharing mattresses with adults, and walking through somebody's property to get to a place where they could shower and use a toilet.

When you think about some of these cases where a child—Criminal Appeal 23 of 2009, when a child getting ready for school and was dressed only in a towel, just returned from the bathroom, had to deal with a parent whose breath reeked of alcohol. No child in this country getting dressed for school, coming out of a bathroom must face an adult in a position of trust without our protection and without us using our power to protect others. [*Desk thumping*]

When I say that many of these families have multiple siblings—multiple

Sen. The Hon. C. Rambharat (cont'd)

siblings having siblings and sharing the same—that is what I am talking about. The pervasiveness of sexual offences committed against children by persons whom they know. And we have an obligation, and we must not shirk our responsibility to protect the known and the unknown. Just as I said in the child marriage Bill, I say today, this is my contribution and my last contribution, I will do my part to build on what this country did in 2000 and make this information public. Thank you very much.

Sen. Wade Mark: Thank you very much, Madam President. I rise to make my contribution to an Act to amend the Sexual Offences Act, Chap.11:28. In doing so I want to share with you an essay, a quote from an essay, written by one Cesare Beccaria. He wrote an essay in 1742 entitled, “Of Crimes and Punishment”. On page 23 of this essay he left this with us:

“If punishments be very severe, men are naturally led to the perpetration of other crimes, to avoid the punishment due to the first. The countries and times most notorious for severity of punishments were always those in which the most bloody and inhuman actions and the most atrocious crimes were committed; for the hand of the legislator and the assassin were directed by the same spirit of ferocity,...”

Madam President, I want to share with you a little excerpt from the World Health Organization report entitled the “World Report on Violence and Health”, of 2002. In that report, I just want to quote briefly for you and for our colleagues here what Nelson Mandela in the foreword to this report had to say, and I quote:

“We owe our children—the most vulnerable citizens in any society—a life free from violence and fear. In order to ensure this, we must be tireless in our efforts not only to attain peace, justice and prosperity for countries, but

also for communities and members of the same family. We must address the roots of violence. Only then will we transform the past century's legacy from a crushing burden into a cautionary lesson.”

Madam President, I just want to share with you one final statement in this report. It says on page 6 in its 1996 resolution the World Health Organization declared:

“violence, a leading public health problem,…”

Violence was declared by the World Health Organization in a 1996 resolution as:

“a leading public health problem,…”

Now, Madam President, I also want to share with you one final quote. This is on page 17 of this World Health Organization report:

“A major obstacle is simply an absence of knowledge. For many decision-makers, the idea that violence is a public health problem is new - and indeed, rather contrary to their belief that violence is a crime problem.”

Madam President, I raised these matters very early to let you know that in examining this situation that we are dealing with here today, we have to take into account that we have grown accustomed to approaching matters of violence, sexual abuse, gender-based violence, in a reactionary mode, and we are not paying attention to what is considered to be a health problem as defined by the World Health Organization.

Sexual abuse of the person is an evil that is very prevalent in our country, affecting thousands of citizens. As you are aware, in 1986 we introduced the Sexual Offences Act and that was amended as we went along. The last major amendment was in 2000. When we speak to the issue of sexual offences we must be aware of what we are speaking about.

In accordance with that Act of 1986, amended in 2000, here are the forms of

sexual abuse. Madam President, it includes rape, grievous sexual assault. It includes sexual assault by a husband in certain circumstances, that is domestic violence as you know. It also includes sexual intercourse with a female under 14. It includes sexual intercourse with a female between 14 and 16 years. It includes sexual intercourse with a male under 16 years. It includes incest, Madam President, buggery, bestiality, indecent assault, serious indecency, among others.

3.55 p.m.

Madam President, one of the areas that we have not paid attention to, and I want to share with you today, has to do with the whole issue of the cost of sexual abuse in our country from an economic standpoint. There is a very important study that was conducted by Prof. Karl Theodore and a group of university lecturers on this whole question of the cost of sexual abuse, and, Madam President, I want to share with you what they shared with us and this was in 2005.

And in 2005, we were told that the cost of sexual abuse in Trinidad and Tobago along with domestic violence was estimated at close to half of a billion dollars or 0.51 per cent of gross domestic product. Madam President, this is the economic cost that our country back in 2005 was paying for this question of sexual abuse.

Madam President, not only—and when we break it down, that is, the authors, they were able to show that the survivors, the cost to the survivors at that time in 2005 was close to \$244 million or 50 per cent of the total cost or 0.26 per cent of GDP. Madam President, when it came to the State, as you know, when it comes to sexual offences—

Madam President: Sen. Mark, may I just—you have been speaking for a little while and you are trying to put your contribution in a context. I just want to

remind you of the Bill that we are dealing with and what has been said by speakers before you. Okay?

Sen. W. Mark: Yes. So what I am saying is that nobody, as I recall, spoke to the economic cost of sexual abuse in our country.

Madam President: So while no one, as you say, might have spoken about the economic cost, what I am speaking about is relevance to the Bill. I have allowed you some time to make your points, but it cannot be your entire contribution cannot be couched on the economic costs; it has to be a little more relevant to the Bill itself.

Sen. W. Mark: You are anticipating me, which is a violation of the Standing Orders. When I say, you are anticipating me, Madam President, I was about to leave that section.

Madam President: Sen. Mark, I know that you are suffering today and I do not want to add to the suffering. I just want you, please, to move on and deal with the Bill.

Sen. W. Mark: You do not want me to add to my suffering. Madam President, let me just indicate that, first of all, in addition to what I have said, I would like to indicate to this honourable House and Senate that the Attorney General in his presentation made reference to several players that he discussed and consulted with on this Bill. And I honestly believe, Madam President, it might have been a genuine oversight on the part of the Attorney General since July of last year to the present time, not to have consulted with the survivors and the players who are involved directly with this issue of sexual abuse, sexual violence, gender-based violence, and we have a lot to say today on this matter; I am coming to that Bill.

But what I would like to suggest to the Attorney General is that he should

take on board the views that have been expressed by us on this side, the views that have been expressed by 30 NGOs to have this Bill referred to a joint select committee [*Desk thumping*] so that this matter could be properly ventilated in a way that you and I and the country would be very pleased and happy with.

Madam President, I want to take your advice and deal with the actual matter that is before us which is the Bill as you mentioned. Madam President, I go to 35(1) of the Bill and I want to ask the Attorney General to revisit 35(1).

Madam President, as you know, under criminal law a person is innocent until he or she is proven guilty. And what 35(1) is saying without repeating it, it simply says that once you are charged you are simply charged, you are not convicted, you are not found guilty, but look at the kind of power that is being utilized in 35(1) just by being charged. So, I believe that this is a provision which is highly dangerous and I would like the Attorney General to revisit it 35(1) of this legislation. Maybe he meant instead of saying where a person is charged, he wanted to say, where a person has been found guilty under a charge; so I would like that to be looked at.

Madam President, we go to 35(6). Again, I am no criminal lawyer, but these are criminal matters that we are dealing with in terms of indictable offences, and I am seeing where in 35(6)(b), we are talking about a balance of probabilities. Madam President, are you following me?

If you look at 35(6)(b), we are talking about a balance of probabilities, and I would have imagined that in a criminal indictable matter the basis for determining a matter so that whether a person commits an offence under a criminal arrangement or purview, that should be clear, it should be beyond any shadow of a doubt or beyond any reasonable doubt. So, I am asking the Attorney General to look at this

provision where he talks about balance of probabilities and revisit this particular section. So that is another amendment that we are going to suggest that the Attorney General examines.

Madam President, the matter of the sex offender register, other people have spoken about. I just wanted to indicate that the United States legislation on this whole matter is captured under Public Law 109 of 248. And in this particular law I want to advise the Attorney General that we can probably look at putting an amendment because, Madam President, as you know, there are pros and cons, there are people who are for and against this registry being made public, and this is why we would like to support the view that it be thrashed out at the level of a joint select committee.

So, Madam President, for example, the proponents for supporting the dissemination of information on sex offenders through the Internet would argue, among other things, that the information would be easily accessible to the public and therefore, that should be a positive.

There is another argument that several instances occur in which private citizens would cite sex offenders engaging in potentially dangerous activities in violation of their parole, Madam President, or if they are given community service, then that is an advantage.

There is another advantage that says citizens have a right to know if there is a sex offender living in their neighbourhood; that is another view that is expressed by those who support it being put on the Internet.

And another advantage for those who want it there is the right of innocent children and others, their safety outweighs the right of the sex offenders to privacy.

So, Madam President, those who are opposed to this particular dissemination

of information through the Internet would argue that the records are often incomplete, inaccurate or out of date. They would argue that this practice in effect extends offenders' sentences. They would argue that this practice makes it difficult for ex-offenders to find employment or housing. They would argue that the practice raises concerns about the kind of vigilantism. And the last one, Madam President, is the availability of this information, it could lead to networking among sexual predators.

So, Madam President, there are arguments for and against this sex offender register being made available and accessible to the public hence the reason we need to go to a joint select committee to really thrash out this question.

Madam President, I do not know if you are aware, but in the United States as an example, those persons who are convicted, not who are charged, those who are convicted as sex offenders, Madam President, do you know that they cannot live within 1,000 or 200 feet or 300 to 600 metres within a designated school area or even a day-care centre. We have not put that in our legislation. Is that something that we will want to consider?

Madam President, there are provisions in law as we speak that prohibit a sex offender from such areas as bus stops, gyms, recreation centres, playgrounds, parks, swimming pools, libraries, nursing homes and places of worship; these are real situations that are occurring in a country like the United States. We have not introduced these matters or measures in our legislation. Should we not then look at these things in the context of thrashing them out at the level of a joint select committee? I put that for the hon. Attorney General's consideration.

Madam President, I would also like to take you to section 44 of the Bill. I would like to know and I would like the Attorney General in winding up to

indicate to us, why is he or what is the rationale, I should say, for the Commissioner of Police having two months, not later than two months, it could be before, but not later than two months before the discharge of a sex offender, causing a designated officer to attend the prison or psychiatric hospital to conduct interviews or an interview? Madam President, why this two-month period? Why it could not be one month? Why it could not be two weeks? So, I am trying to get a rationale for this particular period that the hon. Attorney General has advised.

Madam President, I also want to say that one of the reasons why this sex offender register might have failed and we were not successful in having one offender registered in the sex offender register, it could have been that there was not a strong support and robust and solid system in existence. It could have meant that the resource system required at the police, at the prison, at the Immigration, at the psychiatric hospital level was very, very poor and therefore, Madam President, we are advising and advancing that there is need for the Government to consider a very robust, solid system where we will have the necessary resources for these agencies that are going to be very critical for this particular register.

And, Madam President, I indicated to you, it is a Commissioner of Police, the Commissioner of Prisons, the Chief Immigration Officer and the director of the psychiatric hospital and, Madam President, they are not going to be doing this by themselves, they need to get a body of personnel in place to do this for them. So that is an area I would like the Attorney General to pay attention to because if he does not, if he does not resource the police and these other personnel responsible for the maintenance of this system, we are going to have a repeat of its failure as we had in 2000 and beyond. So that is an area I would ask the Attorney General to pay some attention to.

Madam President, I would also like to ask the Attorney General, when we look at section 56 of the legislation, 56 sub (2) or clause 56 subclause (2), I would ask the Attorney General that this resolution that is being advanced be subject to an affirmative resolution, Madam President.

I also would like to say under 57 that the Minister may make regulations to give effect to the provisions of Part III. Again, I would ask the Attorney General to keep the Parliament apprised of what is taking place with this legislation. So, I am suggesting an amendment that it should be subject to an affirmative resolution of the both Houses of Parliament. Madam President, the last amendment to the Sexual Offences Act was in 2000, we are now in 2019.

Hon. Al-Rawi: 2012.

Sen. W. Mark: 2012, rather. Thank, hon. Attorney General, 2012. The last one was in 2012 but, Madam President, what I want to advise the Attorney General to consider, I have seen it in the Jamaican legislation and I think it is a very progressive and innovative approach, where the Parliament does a continuous review of its work. We want to see how effective our legislation has been in terms of its operation and its outcome. In this regard, I am suggesting for the Attorney General's consideration that we include a new provision in this legislation which reads that:

This Act shall be reviewed from time to time by a committee of both Houses of Parliament appointed for that purpose, and that the first review shall be conducted not later than three years after the commencement of this Act.

The Parliament must have responsibility for oversight of legislation when it passes, and it must not just gather dust on the shelves without us having a say, Madam President, in the way forward. So that is another area, Madam President, I

would like to ask the Attorney General to pay some attention to, so that we can ensure that we have a say in this particular matter.

Madam President, the Attorney General did not pay attention to the whole question of prevention and rehabilitation and restoration. Madam President, whilst our legislation and our jurisprudence does not follow the American experience, I must tell you that I was impressed with the American approach to this matter of sexual abuse of children in particular.

Madam President, in this legislation which I would want to ask the Attorney General to pay attention to, there are provisions in this legislation to deal with rehabilitation, to deal with restoration, to deal with prevention, all of these things are in United States legislation. So it is not only punitive, Madam President, but it is also rehabilitative, and I would like the Attorney General to look at this very carefully.

So the FBI is responsible for making sure the Internet system is there for the public to access it, and they are also responsible for the register, but you know what the United States Government also did? They established an office of sex offender sentencing, monitoring, apprehending, registering and tracking, it is called the SMART Office, and it has a director. So it is not the police commissioner alone being responsible, there is an office that is going to track these things. And, Madam President, resources are allocated to NGOs in this legislation in the United States, and resources are allocated to law enforcement in order to make sure that this piece of legislation works; and this is the weakness I see in our legislation here today.

Madam President, you would agree with me that for us to tackle violence in this land—and this is gender-based violence that we are dealing with here—the

same framework I outlined to you and this honourable Parliament some time ago, it remains relevant. You have to prevent crime, you have to detect crime, you have to convict persons when you catch them of the crime, and you also have to rehabilitate. Madam President, you must have a comprehensive and holistic approach to solving problems of violence in our country, but what we get from this piece of legislation, it is a one-sided approach, Madam President. And this why I believe that the hon. Attorney General would do well for us to get together—

Madam President: Sen. Mark, you have five more minutes. And may I urge you in those five minutes to tighten your contribution.

Sen. W. Mark: Thank you very much, Madam President. Madam President, I want to urge the Attorney General through your good self to really take a comprehensive and holistic approach to what we are doing here today, and take on board the views that have been expressed by the various stakeholders in this matter.

Madam President, as I said, we have gotten views from a number of stakeholders, and I want to ask the Attorney General to pay attention to what these stakeholders have been saying and have said about what we can do strengthen the legislation. And they have recommended a number of areas that we can use and we can actually suggest to strengthen the legislation, not only the sexual offender register, but also entry and duration on the register, also public access to the register, the removal from the register and consultation and amendments to the legislation.

So these are issues that these NGOs have put forward for the Attorney General's consideration and for our consideration as a Senate. And I believe, Madam President, we want to make good law, we want to make good legislation

and pass good legislation at the end of process, and we are willing to work with the Attorney General and the Government [*Desk thumping*] through a joint select committee to make this thing happen, and we would like him to consider, as I wind down my contribution, Madam President, to send this matter to a joint select committee so that we can all have our inputs where we can invite the 30 non-governmental organizations to this joint select committee and let them put forward their views.

So, Madam President, when we bring law, at the end of the day, you as President, we as legislators, the country, the stakeholders, the survivors, the providers, the advocates, would all be happy to ensure, Madam President, that we have good legislation in our country which we are all committed to. I thank you very much, Madam President. [*Desk thumping*]

Madam President: Hon. Senators, at this juncture we will suspend the sitting and we will return at 5.00 p.m. When we resume at 5.00 p.m. Sen. Dillon-Remy will begin her contribution.

4.24 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

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

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

Sen. Dr. Maria Dillon-Remy: Mr. Vice-President, I thank you for allowing me to contribute to this important debate on the Sexual Offences (Amdt.) Bill, 2019. I too concur with the sentiments that have been expressed by persons who would have contributed before, on the importance of this Bill. The number of sexual abuse cases, particularly against children in Trinidad and Tobago, must be reduced. I do commend the Minister for bringing this Bill to the Senate as one of the tools to

Sen. Dr. M. Dillon-Remy (cont'd)

assist in the curbing of these crimes. As I say, it is one of the tools. I have seen a number of cases of child abuse in my years of paediatric practice; there have not been many, but I have seen, and one case is too many. The cases that I have seen, the perpetrators have usually been family members or trusted friends as others have mentioned before. My comments will be related to clause 10 of the Bill, and section 35(1) says:

“Where a person is charged with a registerable offence, the Court shall make an order requiring that the person be medically examined for the purpose of determining whether the person is suffering from a sexually transmitted infection.”

Which sexually transmitted infection are we talking about? There are more than 30 types of sexually transmitted infections, be it bacteria, viruses, or parasitic infections. Some of them can be tested for, very simply, by blood test, and we think of things like HIV and syphilis. However, many of them, you cannot test easily for them. It does not mean therefore that the person does not have a sexually transmitted infection, but if you are testing and assuming that a negative test means that the person does not have an infection, you may be wrong.

And, as I said, currently the tests that are available easily within the public sector include those for HIV and syphilis and gonorrhoea; and gonorrhoea is if the person actually has a discharge. But if the person does not have a discharge, you may not know whether that person has an infection or not. And the other important thing is that these people—some people may not have symptoms of sexually transmitted infection, but they can still pass it on to the person who they have had sexual contact with. And if you are not testing for, or you do not have tests for important diseases like chlamydia and human papillomavirus, what are

you going to get as a result of the testing? The way it is put here, it seems as though you just do a test for STIs and you know whether this person has an STI, and I am suggesting that that may not be and it needs to be looked at.

It is probably an opportunity that something like this is being considered now, for the Ministry of Health to look at the types of testing, to increase, to expand the number of tests that are available for sexually transmitted infections because this is not something that is just for sex offenders. This is something for people in a situation where we have an epidemic of STIs, and this is not just us, this is worldwide. So it is possibly an opportunity in preparation for this type of activity coming to, this Act being proclaimed, that by that time there would be more—an increased number of tests that are available for sexually transmitted infections.

And as again, I would also say that it is important to know when you are testing, you have appropriate protocols in place because there are some sexually transmitted infections that may not be like HIV, you may not test for it positive initially, and therefore, you have to have some protocol in place for retesting; and therefore, systems must be put in place for that so that you do not, again, just assume that the person does not have an infection and the person is incubating the infection at that point in time. Mr. Vice-President, subsection (3), 35(3), says:

“Where an examination conducted in accordance with subsection (1) or (2) reveals that the person examined is found to be suffering from”—an STI—
“information to that effect shall be immediately communicated to—”
—and they talked about the person, but also the virtual complainant, the representative where that person has died, et cetera.

These tests are going to be available—the results of those tests are going to

be available for the most part, I would say within a month. This person is still innocent. In other words, this person is still just charged but not found guilty. I mean, the person has not come to trial as yet, and therefore if you have, for instance, information from that person—suppose the person tests positive for HIV at that point in time, you are going to share that information with somebody who then has information on you and you are still considered—presumed innocent. That has to be taken into consideration because, when the trial eventually comes, if that person is found not guilty, you would have shared information with other persons about that person that would be very, very detrimental to that person. It has to be looked at very seriously.

The other area is in clauses 8 and 9 of the Bill. Clause 8 says that section 26 was amended by—et cetera—and the registerable offences that they are talking about specifically refer to Parts IV to VI and VIII of the Children Act. What are they? Part IV talks about offence of female genital mutilation; Part V, abuse of children through prostitution; Part VI, other sexual offences; and Part VIII, section 8, sorry, child pornography. These are offences which the person can be charged under. Many of these offences have nothing to do with actual penetration or even touching the other person. Why therefore, are you going to have that this person must be mandatorily tested for a sexually transmitted infection? I am suggesting that that needs to be looked at because the types of possible crimes that you are committing here, some of them have nothing to do at all with sexual penetration or even sexual touching, and according to what is written here, once the person is charged with a registrable offence the court shall make mandatory testing. It may not be necessary. The other area I would like to address is section 35(4):

“The virtual complainant of a registrable offence may be medically

examined for the purpose of determining whether the person is suffering from a”—STI.

Who decides “may”? Is it the person says, I want to be examined or I do not want to be examined? Or is it someone else? A court? Someone else, the police. Who decides on whether that person is examined or not? That needs to be specified here. And the other thing is that since the results—let us say the person is examined and the results of that person’s tests are going to determine, it says in section 6(b), it says:

“being satisfied on a balance of probabilities that the virtual complainant contracted the infection...”

So, the testing at that point in time will indicate your—will let you know whether that person has an STI, that you are going to decide whether that STI is caused by the offence, let us say. It means, again, that it is very important that what you do in terms of testing of that person be considered carefully, because the other thing is that you test a person at that point in time, the person may be incubating an infection from some other sexual—it may not be the first time the person is having a sexual encounter, and that person may be incubating. How do you know that this disease that you have found at that point in time is necessarily related to the offence? It is something that is not as easy to do as it is written here, so it has to be given good consideration.

Okay, there is another point I wanted to make about the testing. The registerable offences, I talked about that already. Okay, the other point I would make, Mr. Vice-President, is about the—because lots of persons have talked already about the registry, I just want to make two points: one is that we do not give a false sense of security that by having a registry we know the sex offenders,

Sen. Dr. M. Dillon-Remy (cont'd)

and that is because it was already said that about 80 per cent of people do not make reports, do not report sexual offences. Therefore, if we are putting the registry out there, as the, let us say the be-all and end-all—these are the sex offences that you have in your community—it will be giving people a false sense of security, and we ourselves would probably be fooling ourselves that we are letting people know who the offenders are when there are many other offenders who may be, as Sen. Rambharat said, right in your homes, and nobody knows who they are, because you are not reporting because of the other social issues and stuff like that.

So I am just saying, yes, I think they should have a registry, but please do not let people think that the registry is the be-all and end-all of reporting of sex offences, because most of the people would not be on that registry. And the other point I would like to make is that the persons should—the public should be made aware of the fact that accessing information on the registry cannot remove the responsibility of the individual—for instance the persons who are trusted, parents and guardians, et cetera—does not remove the responsibility of those individuals taking care of children to make sure that they take the responsibility for their children, and therefore do their own investigations around the society, and be—in other words, the public must be aware about what is happening in terms of our children, and be educated so that we do not put our children at risk, to the degree that we can. We must be more vigilant.

And, I am saying, again, the sex offences register would only give a small proportion of those persons who may be committing offences and should not give us a false sense of security. And with that, Mr. Vice-President, I thank you. [*Desk thumping*]

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

Sen. Dr. Varma Deyalsingh: Thank you, Mr. Vice-President, for allowing me to partake in this discussion, the Sexual Offences (Amdt.) Bill, 2019. As I looked at the parent Act it covers a wide—a lot of things it covers here in terms of rape, incest, gross indecency, prostitution, among other crimes. And as I looked at the Bill, and I heard the presentation from the Attorney General, I heard the pain in his—the anger and the pain in his voice, that we actually, he was pleading to us that we need to pass this Bill. There is a need to get this urgently. I saw his anger. He said he is drawing the line. And the figures that he had given us that the Children's Authority produced since, you know, from the 2015 to 2018—14,581. It is alarming. And between the ages of one to three, we see 787 children were abused, and we have the figures there, and going down the line from different ages—four to six, 1,604; seven to nine, 1,837; 10 to 13, 3,548. So this huge amount of cases that were brought to light by the Children's Authority shocked many persons. Many persons out there would stop me and say, "Doc, we didn't know that this was happening in our country".

But, the thing is, for years now persons in the medical profession knew that this was occurring. They knew this, it was one of the best-kept secrets. It was a hidden epidemic. You know, and when you look at the amount of cases that were brought forth, and the fact that one—it is only one in seven may be actually brought to light, and a lot of those cases are what you call underground, hidden, it is not brought to light, so it is there. People are out there, people are suffering, children are getting abused, they are getting raped by their neighbours, their cousins, their grandfathers, their fathers. And sometimes in my clinic, in the health clinic where we see these patients, you may see an adult suffering from obsessive compulsive disorder, adults suffering from depression, anxiety, and you see them suffering

from different psychiatric conditions, and if you go back in the past sometimes you realize that person was abused as a child, and it manifests years later.

So, if we are looking at the increasing mental illness in the country, the increasing persons who suffer from emotional distress, we have to look at what is happening in their homes, and what is happening at when their childhood. We really need to address this. And the delays that were highlighted, the delay where 2015 to 2018 where some of the offences, looked like 470 pending at the Supreme Court and 149 pending—of those cases pending for over 10 years. These children at 12 they would be an adult, they would go through that whole life, and the trauma of having to come to court to face this, it is like you are re-traumatizing the system. And I have always said, a slow-paced judicial system re-traumatizes these victims, and we have to look at this, and I am happy to be in Parliament where we looked at the legislation where we said that we would have to fast-track certain cases from the Magistrates' Court, the preliminary enquiries; so, things are being done to see if we can fast-track certain matters that would help and assist these victims of sexual abuse, and victims of crime.

Sen. Ameen actually looked at the conviction rates, and it was alarming that out of 13,000 cases there is only 2.3 conviction rate. So when we look at it, there are a lot of children being abused in their homes and they are not coming in the public domain. We do not know about it. Years later they come to us, and I may see someone, and I am caught in a dilemma that if I see somebody and they go in and they said, "Doc, as a child I was raped," and we go into that history, I want to ask the Attorney General, could we go back in time and see how could we get that person who did that offence? Because it would have happened years ago, there is no evidence. But you see, we are creatures of habit, and that individual who may

have abused that child will look at another child and that may be another victim, a potential victim.

And I had a case recently where a 19-year-old came to me, she is schizophrenic, split personality. When you say split personality, I mean hearing voices. Schizophrenia, the term is split personality, but it is really not that, it is hallucination, delusion, she comes, she is paranoid, hearing voices. And when we settled her down she told me she was raped by her stepfather, and when we settled her down further, her fear is that stepfather has moved on, left that common-law and is living with a new woman and that woman has two daughters, and she told me that. And we were helpless to do anything, because the guy was not charged, but we know that danger. We believed her, because we believed she got ill because of what atrocities happened to her. How are we going to protect that other family? So we could not legally go in and warn them, but our social worker was very brilliant—anonymous letter to the mother of the other children just warning her. Did their part. But we felt helpless. We felt impotent that we could not really somehow have something set up in place to prevent two other girls who may be abused.

So those are the practicalities we see and we face in our clinics. And as a medical student years ago, I remember I was shocked when I attended a clinic in Chaguanas and there were warts growing in the anus of a four-year-old child, and the doctor then told me, “Hey, this is a child who was sexually abused”. So, as a medical student I now opened up to the world of what goes on in the community, what goes on in society.

So, those figures that the children’s health authority had, I knew that for years. Daphne Phillips a parliamentarian who served here, past Member of this

House, this Parliament, she had a report in 2008 where she studied the political economy of school violence in Trinidad. She looked at certain schools, junior secondary schools in the East-West Corridor, children who were behaving violent, and she wondered why—let us see what is happening to these guys. Why are these children violent? And when she looked at that study, the cause of violence in those children crying out for help, she found 10 per cent said neglect, their parents may have been gone, the mother may have gone abroad, left them with the grandmother; 40 per cent said sexual abuse was a cause of it, 40 per cent.

So we know that 2008 and even before that. Verbal abuse 5 per cent, poverty 30 per cent, and physical abuse 15 per cent. So the figures were there, and even before that, decades before, I knew that we had a sick society. It was a sick society, and even in 2002 a study done in Tobago, and when I read the study I actually saw Dr. Remy's name there as one of the—I do not know if a participant of it. It was a study where the, 2002, they looked at early sexual activity and it raises HIV risk for Trinidad and Tobago girls. So it is a finding of teenage—a teenage survey they looked, and it calls for policy change in the light of HIV and AIDS. It was 2002. So, it was a study of the findings of teenage and calling for key policy changes in the light of HIV, 2002, the author was Fraser T, and it was a study, a survey conducted of 676 young adults in Tobago, 10 to 29 years old, and the Family Planning Association did it with the AIDS Society, the Caribbean Epidemiology Centre, with support from the Dutch Embassy, the German Technical Corporation Agency, and the study found that sexual activity starts as early as 10 years. The average age is being 14 years old for boys and girls combined, 13 per cent of those between 10 and 14 years had sex. The overall young age of sexual initiation as reported by the study reaffirms that young people

between the ages of 10 and 24 years are at risk of acquiring HIV infection.

So, they looked at the sexual practice, what had happened, what is happening to our children in Tobago, and what they found is 6 per cent of the young people surveyed, all girls, said they had sex with a father, a stepfather, an uncle, or older people, especially girls assuming high-risk behaviour at an early age. And this had to do with the failure of parents—that was one of the conclusions—to speak to the children about sex. To educate the children about sex. And, Mr. Vice-President, I have been battling with this problem with adults coming in with mental problems, having it, you know, manifesting as unfortunate childhood events. And as far back as 15 years ago I had meetings with the then education Ministry, and Minister then, and what I tried to say is, listen, we have to get at the cause of it. We have to get these children to come out and speak, and there is something called Good Touch Bad Touch, and it is a movement where they actually show you. They can actually have posters. You could go to school, you could learn what is a good touch, what is a bad touch, who is supposed to teach you. And I told the Minister of Education then, as we teach children ABC, we have to teach them Good Touch Bad Touch. [*Desk thumping*]

This is something, it is part of life, because it is there. It was glaring. It was there facing us. And if 15 years ago, in the syllabus that was introduced we would have had children that if their father even touched them inappropriately they would have raised an alarm. Just as how they see A and they say apple, a bad touch would have raised an alarm, “Hey, something is wrong, lemme go and get check”. [*Desk thumping*] We need to do that, and I am hoping that the Attorney General could even try to see if we could get that introduced in schools, introduce that good touch. Because then, remember we are looking at the registry, those are the

offenders who have made it there, but that is such a small amount, the vast majority are walking amongst us, jacket and tie going about their business, some of them would be a priest who was allowed to leave the country, a curator who got away here from the zoo, a brilliant author. If you look at his book on zoological animals, but when he reached the States they held him. They held him.

So, what I am gathering at is, you have to look at these offenders and if they have their ring here, their pictures here, they are engaging in sex here, they go abroad also to look for children. People go Taiwan, they go different places, they go looking for kids where they can have sex, and I would love as passports to tell me, this is an offender, he is coming into my country, he may be coming in to violate my children.

So, what I would like to say is that recently Sen. Wade Mark asked, I think it was a written question to the Prime Minister, when the Tobago Children's Authority mentioned their recent statistics that they had 418 cases, I think it was, and Mr. Mark asked the question, how many of these were brought to justice? And even though he got a reply we did not get numbers. So, I am still trying to say is, what we have working now, is it really working? Because you are getting figures coming in from the Children's Authority, so it is good statistics, but we want to see follow-through. I want to see results. I want to see 418, how many of those are perpetrators?—are in prison? This is what I wanted to see, and I think Mr. Mark may have to ask that question sometime and hope he can get some statistics, because it would give me a level of comfort that we are getting justice, we are getting not just statistics, but we are getting some follow-through for this.

Now, some global figures would also show that 10 to 20 per cent of females rape boys, and this is something even in our local figures we are seeing that boys

are being molested. So, as a warning we have to look at the nannies, because even recently there was a case where a nanny was caught having oral sex with a four-year-old boy. The mother found it out. What do we do? How do we protect this? How do we put things in place? There is the nanny cams, there is, you know—I mean, should the Government give us a tax break for this? Because if it is so prevalent, I think sometimes people with kids who have to go to work, and they need to be educated that the persons they leave their children with may be the ones to violate them.

So, you have to look out, not just for your workers but sometimes you have to look out for your own husband. You have to look out for your new boyfriend. And I always warn patients when they say, “Doc, I am going on with my life, I have a new guy in my life, I am so happy.” Once they have daughters—well, now you have to say sons, eh, I warn them that that man could be going through you to get at your daughter.

5.30 p.m.

So you have to teach your daughter the proper—do not leave them alone home. Do not. You have to start educating these women. They are happy they are getting a new partner.

So I am looking at the existing system we have. The existing system we have, you know, to me there is a system where it is failing. The existing system is failing and I think we may have to give a collective apology to all those persons waiting for justice and also reach out to all those being raped and ravaged by their relatives home. So, therefore, we have to get something to work. And this, again, is a challenge to the Attorney General to get a system to work. Right? So, somehow, we need to put mechanisms in place—some sort of mechanism in

place—that we could reach to those persons.

Now, there are cases where the victim may not want to come forward, and I see challenges here; challenges where, to get somebody to come and say, “Listen, my father is molesting me.” The mother may not believe that, if it is a stepfather, even a real parent. And I have a case where this girl, they came from a good Christian background. What happened to her is, the father used to bathe her and she found all of a sudden the father now, you know, somehow just focusing on one part of her body. The mother went to a church function and he, then, started to—you know, he molested the girl at that moment when the mother went to a church function. Now that girl, when she came to me years after, I said, “But, what went on in your mind? Why you didn’t tell your Mums what went on?” She said, “Because Daddy told me that in the Bible, Cain and Abel—there were not many people. There was just that family.” So her father warped that child’s mind and told the child that in the Bible there was Adam and Eve, Cain and Abel, and obviously they would have probably—how did they procreate?

So the father utilized the Bible to get at that girl’s mind. He utilized the Bible to tell the girl that, “Listen, you know, if you tell Mamie, Mamie will separate from me, because she doesn’t understand that.” So then that girl felt guilty that, “If I speak out to my mother and tell my mother what is going on, I will cause my parents to break up.” So she could not talk. She was trapped there, you know? And she was caught in emotion. The love for her father, who she loved for—you know, she reached—you know, she was eight years old when he started molesting her. So as a child, happy, eight years old, years in the future she turned a bipolar disorder patient, walking the road naked in San Juan, talking, hearing things at 24 years of age. And when we went into it, this is what happened.

You see, what happened, the love and the respect of the dad, “who is protecting me”, that love emotion collided with the hate emotion. “I hate this man, what he is doing me. He is violating me.” And the fear—and when all these emotions mixed, it created this mental illness in this girl. But her horror story did not end there. To escape from the daddy she would have gone by her cousin, her girl cousin, to play with, and one day when she went by her girl cousin, her uncle gave both of them Benadryl cough mixture to drink, made them knock out and she found her uncle on top of her.

So the horror stories are there. So when I see patients like this, and the Attorney General comes with a Bill like this, I am very, very tempted to give him my full support because I have been knocking on doors to get some better support for the children, some sort of recognition to let the children be empowered to know about Good Touch Bad Touch. I have also, in that way, tried to tell teachers, to train teachers to look out for these kids. And, you know, I am looking at ways that we could get these children out of the closet; get them to come out; get them to speak out. And when I have patients who come to me I always look at them and say, “Listen, talk. Get to it out your chest.” But there is hope. I always look at Oprah Winfrey. Oprah Winfrey—she was raped at the, you know—from nine years—

Mr. Vice-President: Senator, I understand that you have created the context, using your professional background as well, as most Senators have done in this particular debate, but at this point in time, as you are moving forward, you need to speak specifically to the Bill that is before us that is prescribing a solution to the issue. So what you have been doing—and you have rightly done so—is create the context of what the issue is and giving examples based on your professional

Sen. Dr. V. Deyalsingh (cont'd)

background. The Bill prescribes a particular solution and a pathway to, sort of, treat with that, and I would like you to use the Bill and clauses in the Bill and make your points going forward from that standpoint.

Sen. Dr. V. Deyalsingh: Thank you, Mr. Vice-President. I look at the Bill and I see merely three problems. The law only gets a minority and most of us are not seen and suffer in silence. I also look at the fact that, you know, that we are trying to get the delays in the system—we are trying to improve, you know, the system, and I have to plead with the Attorney General to ensure that the staff is beefed up in the Children's Authority, in the DPP's office, in all these offices who deal with these children.

Sen. Ameen spoke about the rape trauma syndrome, so I would just like to say that, yes, that exists: post-traumatic stress, you know; anxiety; panic attacks. Sen. Baptiste-Primus spoke about, you know, that she looked at the fact that the sexual harassment policy is being, you know—somehow you are bringing that into focus and this is something that I am sure the women of the nation would be very grateful for this—*[Interruption]*—yes, and this is what I am saying. That is an excellent piece of legislation because the women need protection.

So, therefore, this Bill before us, we looked at certain aspects of this Bill and I am looking at the fact that most of these attacks occur in the victims' homes, taxis, beach, you know, different areas. We are looking at the fact that the entire life of these victims can take a turn. Most of the vulnerable age is between seven and 13, and I am looking at: Is this Bill going to help us in any way curb the crime? Will the naming and the shaming of these sexual offenders be able to somehow ease that trauma I am seeing out there, to make more people come to life?

I heard different opinions on this side: the rights of the individual will be infringed in terms of the rights of privacy; the rights of the individual in terms of movement; and I heard also Sen. Rambharat speak about the issue in Australia and also in North America. So, you know, you are getting different opinions. You know, some say that it is on the way out, this Megan's Law and the register, while we got on the other side, someone for it. So what I am looking at is that I think that, you know, if we want to name and shame, I have no problem with that, and I honestly do not have any problem with that because I have seen the level of hurt among my patients and I am thinking well, how will this help them? How will a naming and shaming help them?

So I am for it. I am for the register and for publishing it, but it is two issues I look at. Because part of the Bill actually mentioned that when you are going to name and shame that person, you have to have the offence. So, for instance, I think it is clause—let me see if I could get it here. So the Bill actually looked at the—I think it is clause—I think I have it here—where it actually stated to name the offence. So it actually stated that, you know, besides naming the name, the address and also other information, it was saying you should actually have the offence placed there.

Now, I have a little problem with this because, yes, I do not mind having a name placed that, “Hey, this is a sexual offender”, but I would not know if he actually went in for prostitution; went in for exhibitionism; went in there for, you know, whatever disorder. I would not like it there to be noted that he went in there for molesting his daughter. Because, you see, if you are in a home and one daughter is molested by a father, and then that father is in this register and his name is there, all the other daughters there will be stained. People will say, “Look,

Sen. Dr. V. Deyalsingh (cont'd)

that house, all those girls get molested.” Whilst if you do not have the listing of the crime, just sexual offender, I do not know what he is there for. He could have gone to one of those brothels. But putting him down as a sexual offender would not only affect the person who was molested but anybody in that home. So I think we need to look at, when we are placing that, I am hoping that we may have to look at deleting that aspect of it where they ask for the actual named offence, just for the protection of the other females in the home.

Another thing I looked at is, you know, we looked at the fact that how could we get these children to come out? And there is a blue teddy bear pin that people may see, with a bandage, and it is really an NGO that—

Sen. Baptiste-Primus: Break the Silence.

Sen. Dr. V. Deyalsingh: Break the Silence. It was an NGO, and they actually had that movement since 2008, and UNICEF actually adopted it from Trinidad in 2012. So those are systems that we need to push. We need to get a child to come forward. We also look at the fact that, you know—I actually attended with an NGO called ASPIRE 10 years ago. We went to a school and we were teaching children sexual education, and it was a drama. We did not do it in school. We actually did it in the university, and a Catholic school won the prize. But when it was time to get the prize they said they are not allowed to get it because it was on sexual education. So we are faced with difficulties like that, when we are trying to educate our children. I say we have to break those barriers because, you know, it is something that we have to move ahead and see, as much as possible, if the parents cannot teach sexual education we may have to say we have to put the sexual education in school. Children’s safety, I think, is paramount.

Some Senators mentioned Megan’s Law, and even before, I think it was Sen.

Haynes looked at the Jacob Wetterling crime where that individual, you know, was, I think killed and raped, I think, and the police officer said if they only knew, that child would have been saved. In Megan's Law, too, it was a seven-year-old girl raped, killed and the offender had two previous convictions and he was living across the street. Now, I would love to have a list of offenders, in the sense that if I am going to hire someone in my children's school, being in the PTA, and he is going to clean the bathroom, I want to know who is this individual; what sort of history he has. Does he have any sort of an offence that I need to look out for? I personally would feel more comfortable in looking at this.

But, you see, we have to appreciate, this problem of child abuse, it is a global problem. If we remember in South Africa, up to recently a seven-year-old was raped in a restroom in a popular restaurant.

Mr. Vice-President: One second. Again, you are focusing on the problem itself and the Bill speaks to a legislative solution. So as much as that context has been created, you have to remember, this late stage of the debate where you are coming in, a lot of context would have been created going forward by every single Senator, and you have properly done so in relation to your professional background already for most of your contribution. So at this point, if you can point to specific clauses in the Bill that you may want to make a contribution on that is not repetitive of what has been said before, then I invite you to do so now.

Sen. Dr. V. Deyalsingh: Sure. Thank you, Mr. Vice-President. It is just I wanted to catch the ear of the AG to tell him I think with this legislation he needs to do more. And why I wanted to say he needs to do more—more in terms of, you know, the punishment meted out, not just a register. Because in India there was a case in BBC news: “India introduces death penalty for child rapists”. He may need

Sen. Dr. V. Deyalsingh (cont'd)

to consider that. It was the 21st of April, 2018, BBC news. It was a grim case; 17 men raped an 11-year-old girl over several weeks in a flat. You know? She had hearing disabilities. So the Attorney General will need to look at: Is the legislation working? Do we need to go a little, you know, on the side that, you know—I may be more on the side of a stronger sort of legislation, not just the registry. So this is why I was hoping the Attorney General could look at what transpires elsewhere.

And I would like to—I do not know if you would allow me to address Sen. Hosein's comment where he was asking about the root causes of why people have this offence.

Mr. Vice-President: You have the right to reply to any Senator who has raised a particular issue in the debate, but you can do so pretty shortly. You do not make that the larger part of your contribution.

Sen. Dr. V. Deyalsingh: Okay, yeah. Thank you, Mr. Vice-President. So Sen. Hosein asked: Why do people rape kids? Why do men go with children? And very quickly, I would say some men have low self-esteem. They feel a child cannot judge their sexual prowess. Some individuals may be attracted to the body changes at puberty. Some may be a paedophile. As Sen. Vieira said, it is 1 per cent in the population and they just cannot help it. They are just attracted to children who are prepubescent, so they are not even attracted to a child that is going into puberty and developing. And right now, society is looking: Is this a sort of an alternate lifestyle? This is the trend that is happening in some countries; that they are looking at paedophilia as that. Some people go with a child because it is less chance at getting STDs. Their child has not been infected.

Some fathers say that, you know, “She is developing now; she is going with boyfriend. I will break her out now.” Those are some of the societal reasons why

Sen. Dr. V. Deyalsingh (cont'd)

these things happen. Some fathers may be abused as a child. Some of them have a crazy power trip and sometimes they use—I think Sen. Rambharat mentioned that some girl was getting ready for school and her father was drunk. So some people, they may have the thoughts of doing an act to their child but the alcohol will cause a disinhibited behaviour and then they act out on it. So the thought is there and they think about it and it manifests: “How I could do this? How I could do that?” And the alcohol, as the case he mentioned—

Sen. Baptiste-Primus: You think it is the alcohol?

Sen. Dr. V. Deyalsingh: What?

Sen. Baptiste-Primus: You think it is the alcohol?

Sen. Dr. V. Deyalsingh: Well, the thought is there and they may think that, “Hey, I could go after my daughter.” But when they use the alcohol, there is nothing to hold them back. They are not, you know, what they call disinhibited. So it is easier for them to go and do it. So alcohol has a part to play. And the discourse that he gave about that situation, the father was smelling of alcohol. So it has a part to play in some instances.

Some of them look at children as easy targets; some say virgin cleansing. There are different reasons; revenge for the wife. There were cases where a mother and father was going to separate and the father said, “Well, this is your daughter. She is the object of your love. Let me rape the daughter.” So there are a lot of reasons. So whatever reasons they have, Sen. Hosein, we have to see—it is a whole host of reasons and we have to see how we could hold it in place. Sen. Vieira, Sen. Chote, Sen. Ahye talked about pornography, which fuels the molester. Again, they have to look at how could we look at better control.

And I want to look at clause 7 of the Bill where it binds the State to act in

certain cases. And this reminds me of a case in Rotherham, North English town, an incident that occurred where—I got it from a book, Peter McLoughlin: *Easy Meat: Inside Britain's Grooming Gang Scandal*, where it was the failure of the authorities from 1980 to 2010. They knew what was going on in their town. They knew for 10 years that certain gangs were grooming girls, carrying them out, getting sexual—you know, having them for sex. And they knew that and they did not act. But this clause 7, I must praise the AG if it is there, and I find out there is a restaurant in Curepe that is hiding underage girls, I may take an action to the State and say, you have to act under clause 7. Because, you know, we see things and sometimes the State may just sit back and do nothing. The machinery of the State may not be well oiled.

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

Sen. Dr. V. Deyalsingh: Sure. Again, I look at cases where—you know, practical cases. The right to disclose was given. We have to disclose, you said, but there is a case where a doctor said this girl came into the office and she was pregnant and she wanted an abortion, and she was underage, and the doctor said, “You have to go and report this. I have to report it to the police.” And she showed her a picture of a guy with a big, thick gold chain, gold teeth and two guns, and said, “That is Short Man, you know. If you go and report it, Short Man will come for you.” So, therefore, that doctor did not report it. Will she be guilty? I mean, it is her life that is going to be threatened. But it is either her life—but she was shown a picture of this guy called Short Man who would come after her.

Another practical problem we face, a 17-year-old girl who came to get contraception. What should I do? You know, if she is having sex, I am supposed to report it. But look at the dilemma. If I do not report it, or if I tell her leave my

office, she may get pregnant. She may add to the statistics of 2,500 teenage pregnancies that occur a year. So, again, you know, I could be charged. So certain members spoke about the changes in the register infringing the rights of the individual, but I am looking at this register and I say—and they even spoke about the rate of recidivism. They say we are not getting what we really wanted. These people are still committing crimes. But, you know, to really get the rates down, the best thing is castration. If that is what we are doing, the best thing is castration. Eight states: California, Florida, Georgia, Louisiana, Montana, Texas, they do chemical castration. Not surgical castration, chemical castration. So you give an injection and you cut down the level of these guys having—

Hon. Senator: So you do not need the Act after that.

Sen. Dr. V. Deyalsingh: So then, you know, you have the rates, actually, chemical castration, the recidivism rates fall from 50 per cent to 5 per cent. And I am saying, even if you are thinking about parole and other things that—Sen. Mark—we have to see: could we do that? Denmark, Sweden, Turkey, Indonesia, Russia, Germany, France, all these countries do it. [*Crosstalk*]

Mr. Vice-President: The Senator does not have very much more time to wrap up his contribution, but it is getting a little loud. So can we just temper the tone in the Chamber so I can hear the Senator wrap up? Senator, continue.

Sen. Dr. V. Deyalsingh: The AG mentioned that there are so many people in prison, so probably we can use this chemical castration to get people out. But do not put them back in their homes. Put them back in other homes. They could still continue working; still earn their money, as somebody mentioned about bread earner; supply it to their home but not to be in contact. So this is something we have to look in that context. If you are talking about parole, do we utilize this

medical tool too?

We have to remember, too, that, you know, the persons may come in all shapes and sizes. And even in the Catholic Church, when it was disclosed about the amount of priests who actually had abused children, they kept it hidden. They paid off people; kept it hidden and it is only when movements called SNAP came forward: Survivors Network for those Abused by Priests, when they had the list of priests published, more people came on board.

So this is why I am saying if we get a list published, more persons may come on board. What I am saying is if we are going to publish that list, it should be under the discretion of the judge too, because, you see, the judge and the victim may have to say, “Do we put somebody on that list?” Because you have to ask—the victims may not come forward, but if they know, “My father is not on that list”—so I am saying, give some discretionary powers to the judge and the victim to meet to say who will go on that list, because some victims may not be able to come forward; may not want to come forward for this.

So, in closing, I would like to say that there was a case in Hackney, East London, where a 14-year-old girl was raped by seven teenagers and the judge actually lifted the order for naming and shame, and he allowed those minors to be named, because they were boys—15-year-old boys and he is 30, and he said he is going to lift that. So, again, the discretion may have to be there between the judge and I say, who can we name? Who can we put on the register?

I thank Sen. Paula Gopee-Scoon for reminding us of Mano Benjamin, and I think—

Mr. Vice-President: Senator, your time is up.

Sen. Dr. V. Deyalsingh: Thank you. [*Desk thumping*]

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

Sen. Zola Phillips: Good afternoon Mr. Vice-President and everyone, and thank you for the opportunity to join this debate on a Bill to amend the Sexual Offences Act, Chap. 11:28. As a criminologist and an educator, this topic is very important to me, very significant, and I would like to take this time to congratulate, or commend rather, the hon. Attorney General and his team for the work being done.

As many of the points I wanted to speak on have already gone, I will be touching briefly on a few. I will start with education and I will simply mention that education regarding sexual offences, whether it be abuse, incest, or any other form of violence, must be broad-based where we start with our pre-schoolers. Research has shown that although pre-schoolers from the age of three are deemed incapable of understanding, once they can comprehend the language you are speaking to them, you can modify what you are saying so that they understand, as the hon. Senator just mentioned, Good Touch bad Touch, and you start them from there and then you phase how much you educate as the children grow.

Education of parents is also important at a community level and at an individual household level. That is important because sometimes we are here trying to amend laws that we hope will help the general population but in individual homes there are persons that have their unique beliefs. So if we do not take into context and respect and show that we understand that some persons may be aware of the laws but respectfully agree to disagree, then we will not be addressing everyone and solving the issue on a real level.

Research has also shown that in instances of education, having an expert come into classrooms or into schools or into homes and communities, to teach persons about sex education, is not as effective as if we have teachers who are

already known by the children and the community doing that work. So my suggestion is to have all teachers trained in sex education and then they bring the message. All right? Children also have a unique ability to form a bond with a teacher that will allow them to reveal if anything is going amiss, whether in their homes or there at school, et cetera.

This brings me to my second point. Most of the points that I am talking about here, generally, will come from Part III of the Bill. My question is: What is being put in place to protect persons who intervene or who try to assist in cases of incest or sexual abuse? Or, if they are told about any sexual misconduct and then they want to support the person by helping them report it? And there is an instance in Tobago where I am from, where a school teacher was observing her class. The children were playing, and one child, in particular, was saying some things and drawing some things that she found to be very concerning. Upon investigation—well, chatting with the child, she was able to recognize that it was a case of incest. The child was having a sexual relationship with her father.

She addressed it to the principal. The police got involved and the child was removed from the home. I do not remember exactly what happened but the father of the child was released on bail and he came to the school, entered the classroom and stabbed that teacher to death. So that has remained with me throughout my years and it is a concern for me that when persons intervene, especially persons who are teachers, who are in the situation where they can see and observe children on a day-to-day basis and can note changes in these children's behaviours, when they find this information, where do they go with it and who protects them?

6.00 p.m.

Another point, the role of the media. When information is made available to

the media, whether on this registry or from the police, even if the story is sensational you know it will bring big headlines—persons would be very interested in reading it—we must remember that our victims, or the persons who would have experienced any sort of sexual violence, or abuse, or a case of incest, are human beings who then have to live their life after the story. So as we go forward with this, I would appreciate if some attention be placed in or some limitations be made to what the media can say and publish; the details of a story, for instance, can be left out.

Again, it is noteworthy that—Sen. Richards was making the point that some offenders should be evaluated by persons who are specialists, whether in psychiatry or clinical psychology before being released back into the society. Not only must the community be educated and prepared for this reintegration of the offender who would have served his or her time, but these offenders must be specifically evaluated. And I agree with Sen. Richards on, and as new basis, whether it will be three months or six months, but some of them also should not be released at all. I say that to say, some persons are psychopaths. Yes, I am going back to criminology/psychology background here, but we have psychopaths who walk among us in our society and they are incapable of being rehabilitated. So, spending time with them in group sessions or speaking to a therapist will not change their behaviour.

One of the things we know about psychopaths is that they actually enjoy these therapy sessions because it is another opportunity for them to manipulate. So being released back into society, where they are going to return to their previous behaviour, would not be the ideal thing at all. So having evaluations done so that we can identify persons who have psychopathic tendencies, and there are measures

and tests that can be done to assist us in identifying these persons. Once they are identified, they must not be released back into society.

And my final point, of course, would be the involvement of universities in research. In order for us to have real data or empirical evidence to then inform policy, research must be done, and we have our universities here—we have USC, we have UWI, we have COSTAATT—and the students there, especially in the Social Sciences Departments, must engage in research as part of their degree. So I would urge persons who have the power to give grants to the universities, or even to just engage the students to have them do research that can then be used to inform the policies that we then use or engage. And with that, I thank you all.

[Desk thumping]

Sen. Gerald Ramdeen: Thank you, Mr. Vice-President, for the opportunity to contribute to this debate on a Bill to amend the Sexual Offences Act. Mr. Vice-President, throughout the debate, over and over, those who are listening to us and watching us are hearing about this term about a registrable offence, and though we understand here—because we have the legislation before us—what is a registrable offence, by virtue of the sections that we are dealing with, the offences under the Sexual Offences Act, sections 16, 17, 18, 19 and 23 of the Trafficking in Persons Act, and the offences under Part IV, VI and VIII of the Children Act, I think it is important for those who are listening to us to understand that these offences that we speak about are rape, grievous sexual assault, sexual intercourse with a female under 14 years, sexual intercourse with a female between 14 and 16, sexual intercourse with a male under 16, incest, sexual intercourse with an adopted minor, sexual intercourse with a minor employee, sexual intercourse with mentally subnormal person.

These are very, very serious offences, and I would have thought, Mr. Vice-President, that this week, that the Attorney General would have accepted the invitation of the Opposition to work on this piece of legislation in a joint select committee.

[MADAM PRESIDENT *in the Chair*]

More so this week, because this week we saw the fruition of the work of the Government, the Opposition, and the Independent Bench, in having our first judge-alone trial in this country, and that was a piece of legislation [*Desk thumping*] that I recalled very, very vividly that when we had almost finished the debate, because of the contributions that were made, it was Sen. Mark who had stood and suggested that we have a special select committee with respect to that piece of legislation that was chaired by the hon. Minister of Agriculture, Land and Fisheries, and we saw in a very short space of time we can reap the fruits of that labour in relation to that first judge-alone trial in our country.

I think if we put our heads together Attorney General—Madam President, through you, to the Attorney General—I am sure that we can come together, work together, and as a Parliament collectively put our minds together to come up with a piece of legislation that I think will be to the benefit of the people of Trinidad and Tobago, in this particular case the victims, the accused and the general public with respect to the Sexual Offences (Amdt.) Bill, and I implore the Attorney General to take up our invitation with respect to that offer that we made.

Madam President, this is a very, very, important debate and a very important piece of legislation, because as the Attorney General indicated at the outset, this is a piece of legislation that requires a special majority. It requires the support of the Opposition, and in these types of debates, more so than in ordinary primary

legislation, what we are asked to do is have a heightened degree of scrutiny with respect to the clauses that we are asked to pass as a Parliament because it is presumed under the constitutional model that we operate under, that what is proposed will directly intrude upon the fundamental rights that are guaranteed under sections 4 and 5. And in those circumstances, just for the sake of completeness, having looked at the section, this piece of legislation would, in my respectful view, intrude upon 4(a), 4(b), 4(c), 4(i), 4(j) and 4(f) of the fundamental rights that are guaranteed under sections 4 and 5.

Madam President, a lot has been said about consultation and about education, but there is one point that I think has not been made and I think it is a very, very important point which is this. If we ask ourselves: in the rural areas of our country where many of these offences take place, how many persons, how many of our citizens in the rural areas understand what is the Sexual Offences Act; how many of them understand that there is a Children Act; how many of them understand what is sexual grooming; how many of them understand when something wrong is done to them or their children where they are to go to in order to get help?

And in that context, Madam President, I want to suggest, through you to the hon. Attorney General, that a very, very useful suggestion would be that the education that is done in relation to this particular piece of legislation incorporate the Ministry of Rural Development and Local Government, and why I say that, Madam President, it is this. In most of these rural areas, perhaps the one person that is very familiar with the types of actions that take place—the incest, the rape, sexual intercourse with minors—are the councillors and the aldermen. They are the people who are on the ground, sometimes more so

than the police officers. They are perhaps the one group of people that will be able to relate in a personal way with victims and be able to bring to the attention of the authorities, because in many of these cases, like many people have said in this debate, the problem is really getting the victims to report what is happening to them. Part of that problem is that they simply just do not know.

And so, Madam President, as part of my contribution, I would like to ask through you, to the Attorney General, to work this piece of legislation together with the Minister of Rural Development and Local Government. Have meetings in the different regional corporations and educate the councillors and the aldermen [*Desk thumping*] as to what the Act is meant to do, what the offences are. Let them also help the Government, let them help the police, let them go out there on the ground, let them have cottage meetings and let them educate the people in the villages and in the rural communities as to what is unlawful, what they can do and where they can get help. I think that will take us a long way in trying to bring life to this particular piece of legislation.

But while I say that, Madam President, that is one extreme. That is the extreme in the far-off areas where we always seem to use as the examples where you talk about sexual offences and these types of offences against children. But we must also understand that the type of action, the type of conduct that we seek to prohibit by this type of legislation, there is another extreme. There is another extreme where people in high office commit the kinds of offences that we seek to prohibit by these pieces of legislation under the Sexual Offences Act, under the Trafficking in Persons Act, under the Children Act, and under the Children Act in particular, and you know why that is so, Madam President? Because they have the power to do it. They have the power to use the opportunity to give a job in a high

office to people to take advantage of them.

They have the power to use institutions because they have that institutional power to be able to take our young girls and our young boys and employ them for what purpose, and why nobody will say anything because of who they are and where they sit. Right next door here, Madam President, in the Hyatt, you could see them on a weekend. Security entourage parked up in front, just go to the back and you will see it taking place wide open. MovieTowne, same thing; security entourage in front. And why are we ashamed to say who they are and what they do? That is part of what we are called upon to do here. Everybody talked about name and shame, let us not be ashamed to name.

So, before going more into any contextual conversation, Madam President, let me get into the provisions of this very important piece of legislation. Madam President, through you, to the hon. Attorney General, I think a very, very useful and very well-thought-out contribution was made by Dr. Dillon-Remy with respect to her interpretation with the new section 35 and her concerns, but let me take that conversation one step further. Section 35(1) deals with:

“Where a person is charged with a registrable offence, the Court shall make an order requiring that the person be medically examined for the purpose of determining whether the person is suffering from a sexually transmitted infection.”

To take the argument that Dr. Remy indicated one step further, what is a sexually transmitted infection needs to be defined. Because as it stands now, one does not know exactly what that—it is not a legal term of art. So it has to be defined. So somewhere in the definition section we need to define what is a sexually transmitted infection. But “medically examined” in the provision,

medically examined by whom? Who is going to medically examine this person? Is it somebody who is qualified under the medical board? You just cannot leave it as wide as this, Madam President, to say that the legislation says that “the court shall make an order requiring the person to be medically examined”. In a public institution, in a private institution? We just do not know.

There is a sense where you are—and what this particular clause is doing, because when you go to clause 2 it becomes even more draconian, because:

“Where a person who is required to be medically examined pursuant to subsection (1) does not consent to the medical exam, he may be medically examined without his consent.”

So when the court makes this order, the question that I want to ask is: How is this going to be operationalized? The court makes this order, an order is generated by the court, how is this going to be put into action? Who is the authority that is going to ensure that this person is going to be medically examined? When they refuse, how is this going to be carried out? Sen. Hosein indicated about reasonable force, well what degree of force? Where? At the private institution; at the public institution; at the prison?

There is a lot that needs to be worked out, Madam President, with respect to these particular provisions, and there is a lot of case law—I have it here. I am not going to go into them individually, but there is a lot of case law about this idea—because what you are doing, this particular section is authorizing somebody. We have not defined who that person is, but this section is authorizing somebody to commit an assault on an individual. It is going to be lawful because it is permitted by law, but the point about it is that we have to define who it is and in what circumstances. Where you are going to affect the liberty of the subject, you have

to be able to have that done in particular well-defined parameters; otherwise you will run afoul of the law being arbitrary.

“(3) Where an examination conducted in accordance with subsection...or...reveals that the person examined is found to be suffering from a sexually transmitted infection, information to that effect shall be immediately communicated to—

- (a) the person examined;
- (b) the virtual complainant; and
- (c) a representative...”

And then we go on in subsection (5) to say that:

“Subject to...(3), the results of any examination conducted in accordance with subsections (1), (2) or (4) shall be confidential.”

But, Madam President, this is not the register we are dealing with here. So where is this information going to be collected? Where is it going to be stored? Who is going to have access to it? Under what conditions is access going to be given? And like Sen. Dillon-Remy indicated, this is all being done in the circumstances of a person who is charged but not yet convicted. So we do not know where this information is going to be stored and who is going to have access to it.

But what I want to focus in with some detail is 35(6), because 35(6) deals with an examination being conducted in accordance with (4). This is for a virtual complainant of a registrable offence, and:

“...the virtual complainant is found to be suffering from a sexually transmitted infection”—I have already said with respect to that we need to define that—“which the virtual complainant may reasonably have contracted from the person examined under subsection (1) or (2), the High Court may,

upon—

(a) application by—

(i) the virtual complainant; or

(ii) a representative, where—they are dead;

“(b) being satisfied on a balance of probabilities that the virtual complainant contracted the infection as a result of the commission of the offence for which the person examined...has been convicted, order the person convicted of the offence to pay compensation...”

Now, let me just put this in context to understand the problems with this. The Attorney General has said we have 149 people in the High Court with cases over 10 years, 24 in the Magistrates' Court with cases over 11 years; look how the section is structured, Madam President. One assumes that this test that has to be conducted is going to be conducted soon after the person is charged. So the person is charged, these tests are being conducted, but the right that is given under subsection (6) which is the right to apply to the High Court is conditional upon the person being convicted. So, you get charged in the year 2001, your case comes up in the year 2011 which is 10 years later, you are convicted and then you have to come and face a civil suit 11 years later for compensation the way this is structured.

So let us dismantle this now with the problems. This is giving a right to sue. Right now someone will have a common-law right to sue. The statute now overrides the common law. That in law is presumed that the common law right is eclipsed. So what is the limitation period for bringing this action; and when does the limitation period start? Because there is a comparison between this legislation under the sections later on; section 36 says that:

“(2) A virtual complainant of a registerable offence is also eligible for relief under section 29 of the Criminal Injuries Compensation Act.”

So I went to that Act. In that Act, under 32 it says:

“No compensation shall be paid unless the application is made within one year after the date of the injury or death or after the date, upon determination by the Board, that good cause exists for the delayed application.”

So where is the limitation period in this? Is it that somebody can come 20 years after somebody has been convicted and bring an action and say, “I have now found out this is the position”. It cannot work like that, Madam President. It will not work. It will be unworkable. This is not a tort or a contract. This is a statutory right that you are giving to someone to bring an action for compensation and, therefore, there is another issue that arises out of that, but I must suggest to the Attorney General that we need to put some kind of limitation period in so that there can be some limit to what the virtual complainant can do.

So we get down to the issue now of “order the person convicted of the offence to pay compensation to the virtual complainant or his representative”. So you have this right to go to the High Court to get compensation pursuant to this section. It is a statutory right; it is not a common-law right. So what is the purpose of this compensation that is being given? Is it that it is supposed to be general in nature so that the normal compensatory grounds are going to work; or is it as the legislation may suggest that this is some kind of punitive power that is being given to the High Court to deal with this?

Well, Madam President, the Attorney General will be very familiar with the fact that if it is that we are going to give the High Court this power under section 35(6) to order compensation, the first thing that we should do is define on what

basis this compensation is going to be given. Because as it stands here, as I see it, the compensation in this has to be highly punitive because this is somebody who is spreading a sexually infected disease, and if that is the position, normal common-law compensatory principles for a compensatory award will not work. So there are limited circumstances in which a High Court can give compensation outside of normal compensatory principles. So that is what we refer to as exemplary damages. You could only award exemplary damages in three different situations, and those situations will not arise in this—two of them will not arise in this case.

So if it is that that is what we are proposing to do, then we need to amend subsection 6 to indicate that a person who applies for compensation under subsection 35(6), the court has the power to award exemplary damages that will achieve the benefit of deterrence and punishment at the same time. Because that is what I think we are designing us here to do, and the third category upon which you can award exemplary damages is by statute. It has to be by statute. The court has no common-law power to do that. And, therefore, I suggest to the Attorney General that we put in another section there that deals with the award of exemplary damages. We could call it another name if we wish. We have had the term “vindicatory damages”. We could find some other name for it, but we must indicate that that is the position, the court is given a special power.

Now, Madam President, this information that is supposed to be confidential, this information I already indicated we do not know where it is going to be and who is going to have access to it and, therefore, we have to put in some kind of guideline, some kind of subsection to say where this information is going to be. How is the information going to be transmitted from the person who is carrying out the medical examination to where it is going to be stored? It is going to be

reported back to the court? When it is reported back to the court, is it that all the court staff are going to have access to it like court records; or how is it that we are going to enforce this confidentiality? Because this does not relate back to the confidentiality provisions of section 55 unless we indicate who it is. At section 55, there is a catch-all kind of omnibus provision that says:

- “(1) A person involved in the administration of this Part shall keep all facts, information and records obtained or furnished under this Act confidential, except in so far as this”—part—“or any...written law permits the person...
- (2) A person who contravenes”—this section—“commits an offence...liable on summary conviction...of seventy-five thousand dollars and to imprisonment for ten years.”

Madam President, with the greatest, the best, the most generous interpretation, I do not think anybody's personal information in this kind of environment where you are dealing with somebody's medical records, that \$75,000 as a limit to a penalty for this kind of breach is, one, it is appropriate. I think it is far too low for the protection of somebody's privacy in these circumstances. So let us go to section 36(1), 36(2) and 36(3). This is in relation to the clause 10 of the Bill, and here again:

- “(1) Notwithstanding any other law to the contrary, where a person is convicted of a registrable offence, the virtual complainant may also apply to the Court for compensation, and the Court shall order that the convicted person pay compensation to the virtual complainant.”

Now, as it stands now, the court has certain powers to award compensation as it presently stands. We have to understand whether this is an addition to those

powers, or whether this is a separate cause of action that we are giving again. A virtual complainant, well that deals with section 29 of the Criminal Injuries Compensation.

“(3) Where an order for compensation to the virtual complainant is made in a Court and the virtual complainant seeks further compensation in another Court, the Court that awards further compensation shall take into account the amount of compensation already ordered where the Court makes a further order.”

Now you see, Madam President, I have a little difficulty with this particular provision in relation to 36(3) because it says:

“Where an order for compensation to the virtual complainant is made in a Court and the virtual complainant seeks further compensation in another Court...”

It just does not speak to the way in which litigation is conducted. Because what you have here again, anybody who is convicted of a sexual offence has a cause of action in civil law as we presently stand. So it has to be—it cannot be in addition to—it has to be defined, and we must say in the legislation whether this is in addition to other remedies that are available as they stand, because what you are doing again is providing a statutory cause of action to a cause of action that exists at common law now.

What you will be doing is, whereas you are thinking you are giving the person some kind of benefit to be able to go to court and get compensation, what you might be doing by a side wind is taking away the right that you have now to go to court at common law, and somebody is going to take that point and then we are going to realize that by a side wind we have eclipsed the power of somebody to go

to court in a civil action as it stands now.

And the same criticisms that—and I do not want to put them as “criticisms” but the same view that I have offered with respect to 35(6) is the same thing that we have to do with 36(1), (2) and (3) because you have to define what it is you are doing; and in 36 where it is you are dealing with the virtual complainant convicted of a registrable offence, the aim and the purpose, the mischief of the legislation, has to be similar to that that is set out in 35. And therefore, Madam President, through you, to the hon. Attorney General, it has to be again that you provide an explanation as to what we are seeking to do and how it is that the court—upon what basis the court is going to make these awards for compensation; and in doing so, whether the court is going to have the power as I suggest, put in a subsection (4) and give the court the power to award punitive damages in those circumstances.

You see, Madam President, while reference is made to the Criminal Injuries Compensation Act, in that Act itself, section 25 which deals with the way in which an application is to be made under this Act, which has to be similar to the way an application has to be made under this Act, there are five subsections that govern how the application is going to be made. So how is it that under the Criminal Injuries Compensation Act you have these provisions as to how the application is going to be made, we come here doing a similar thing, you make reference to the Criminal Injuries Compensation Act, you give a right to get compensation, but there is no statutory underpinning as to how this application is to be made and what are the powers that are to be exercised.

We may well wish, Madam President, to look at section 25 of that particular piece of legislation because it actually sets out in determining whether or not to pay compensation, consideration shall be given to these factors, and then it says the

nature of the injuries suffered, whether there was any—and listen to these factors:

- “(a) the nature of the injuries suffered;
- (b) whether there was any provocation by the victim...
- (c) whether the victim or dependant co-operated with the police and prosecutors in the investigation and the prosecution of the case.”

There are factors that will trigger the discretion of the court in exercising the powers that are given here and, therefore, I suggest, Madam President, that we borrow from the Criminal Injuries Compensation Act to be able to strengthen the legislation with respect to this section 35 and this section 36.

6.30 p.m.

Now, Madam President, it is clear that the work that has been done to bring this piece of legislation to where it is today from where it was in the year 2000 has been considerable. The 2000 legislation built upon the Administration of Justice Act that was passed in 1996, and as we go along and build on this work in progress to try and find the best way possible to deal with the mischief that this piece of legislation is meant to treat with, we have to find ways, Madam President. One speaker—I cannot remember who it is—spoke about the fact that people are not going to come forward in relation to sexual offences unless they are confident that there will be some kind of success in relation to prosecution and detection. The problem that we have is that the detection rate is low, the prosecution rate is low, the conviction rate is even lower and therefore, when one person has to ask: Should I put myself through the agony of 10 years or 11 years to be able to finally get some nebulous concept called justice at the end of the day? Will that encourage people to come forward? In the material that we have been provided by the NGOs, they say 7 per cent; one out of every seven people come forward.

And what are we going to do when we pass this legislation today or when we pass this legislation eventually as a Parliament? Is it going to encourage more people to come forward, more victims to come forward so that we can actually catch the offenders at the end of the day? Come forward and report the crimes. One of the things that—and I know you do not wish me to go outside of the Bill, Madam President, but I want to make a suggestion to the Attorney General. If it is that this legislation is put to a joint select committee, Madam President to the Attorney General through you, could we consider having closed hearings so that at the end of the day, a victim does not have to come frontally and confront the accused which is one of the most intimidating things that prevent people from coming forward and be able to report, knowing that at some point in time, they have to go through, not only the agony of reliving? The same facts that you have indicated in your opening, Attorney General, but they have to do it in front of the person who is charged with doing that to them and that is perhaps the greatest disincentive for somebody to come forward who has been the subject of a sexual offence.

And you know, Madam President, in preparing for this debate, I remember what a former High Court judge had told me one day. He say, you know, the crime of murder is dead, you are dead when you are murdered but they say when a sexual offence is committed against you, you are like the living dead and that is what you have to deal with and that is why we have to be careful. We have to be careful to balance the scales in this kind of legislation very carefully, Madam President. Because you know why? It is very easy to get up and speak in very emotional terms about this type of legislation. It is a very emotional topic. It is a topic that appeals to every single right-thinking citizen of our country, and because

it is easy to become emotional about this, it is easy to fall on one side to the detriment of the other.

We must be very, very mature in determining how we balance these rights; how we balance the rights of the victim to the rights of the accused. It is easy to take the side of the victim you know. Just like we all say, we do not understand what it is like. We are fortunate enough to not be able to have been put in that position, you only understand it when one of your family members is involved. But you have to understand, we are here to balance the rights not only for one side. We understand what we must do to protect society. We understand the policy of the legislation, but we have to be very careful that we strike the right balance. It is very easy to not strike the right balance in this kind of legislation. It is easy when you make these arguments that somebody to say you are on the side of the criminal. It is being on the side of getting it right and that is why we are saying we need to do the work to ensure that when we pass this legislation, it is what we want it to be, beneficial to the best interest of the people of Trinidad and Tobago whichever side of the divide you fall on.

Madam President, through you to the hon. Attorney General, with respect to the clause 53 and the manner in which information may be expunged from the register, this type of legislation was subject to a lot of litigation all the way to the Supreme Court and the European Court in the United Kingdom, and without going into details of it, it is a very, very important judgment from the Supreme Court of the United Kingdom, in a matter called *R (on the application of F)* which was a challenge under the same identical provisions that we have under section 4—our privacy provisions which mirrors Article 8 of the European Convention of Human Rights. And in that particular case, the respondents, meaning the applicants, were

convicted sex offenders subject to the same notification requirements that we have here under this piece of legislation that the Attorney General proposed and both of them brought claims for judicial review claiming that the absence of a right of review of the requirements rendered them a disproportionate manner of pursuing a legitimate aim of preventing crime and thereby breach their rights to privacy protected by Article 8.

And in that particular appeal that went all the way to the Supreme Court, Madam President, it is very, very important to put on the record what the court said and it is this:

“It was common ground that the notification requirements interfered with the offenders’ rights to privacy...”

These are almost the exact same provisions that we have here.

“...that the interference was in accordance with the law and that it was directed at the legitimate aims of the prevention of crime and the protection of rights and freedoms of others. The court had to consider three questions...”

Those are the same questions we have to consider here.

“(i) what was the extent of the interference with the Article 8 rights, (ii) how valuable were the notification requirements in achieving the legitimate aims and (iii) to what extent would that value be eroded if the notification requirements were made subject to review...”

And what the Supreme Court held in this matter, Madam President, was that the failure—let me tell you what it says:

“Accordingly the courts below were correct to find that the notification requirements constituted a disproportionate interference with Article 8 rights

because they made no provision for the individual view of the requirements.”

And there are a number of cases: Marper that went to the European Court set out what are the proportionate requirements that are required in these types of cases. And, Madam President, what we need to do is to carefully look at the legislation. These cases deal with section 53.

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

Sen. G. Ramdeen: I am obliged, Madam President. There are a number of clauses in the legislation, section 49—I wanted to highlight that section 49 and there are about three sections that deal with the breaches of the provisions of the legislation, and what I was concerned about is that you have different penalties for the different breaches but the mischief that the penalties are attracted to do not seem to be very different, and therefore it may well be that we may want to take a decision to make the penalties a little bit more uniformed. Section 54 is another section that deals with the penalties.

I have a real concern, Madam President, generally and I understand why the Attorney General has placed the responsibility in the office of the Commissioner of Police. But I have a real concern having regard to the state of the police service— notwithstanding the attempts by the new Commissioner of Police to change the image and the way in which things are to be done—to allow the institution, that is the Trinidad and Tobago Police Service, to have custody of this kind of registry, because no matter what penalty you attach to a breach of the provisions of this Act with respect to the confidentiality of someone’s personal information, no conviction, no fine, no restitution that could be given to someone who is subject to their privacy rights being breached could ever compensate them for the value of

what they would have lost as a result and all it takes is one individual to cause havoc, to release this kind of information into the public domain and it is something that we have to guard against.

Madam President, I think it goes without saying that everyone in this Parliament understands the need for this type of legislation. We understand the progress that has been made from the year 2000 to 2019. We understand the mischief that we seek to cure by these provisions and the establishment of a register. We understand what the Attorney General has sought to do in bringing this piece of legislation as being part of the package of the laws that are to improve the criminal justice system. But there is a lot of work to be done. There is a lot of work to be done with the legislation and we are prepared to work with the Government and to do the work to produce a piece of legislation that will pass constitutional muster and it would be for the best interest of the people of Trinidad and Tobago, and we will do that, Madam President, once we are given that opportunity, I give that undertaking on behalf of the Opposition. I thank you, Madam President. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Madam President, I wish to sincerely thank each and every Senator sitting in this honourable Chamber for their most valuable and heartfelt contributions. Each and every Member that has spoken in this debate has really given a very unique perspective. It was fulsome, it was positive, but insofar as it is both of those two things, it makes it almost a near impossibility to do justice to replying to the very many shades of argument that need to be addressed. So I ask hon. Senators to please forgive me if I have generalized some of the issues in my response and if I, in generalizing, do not do justice to the depth of the argument that was put forward.

I want to thank Sen. Ramdeen as he was the last speaker, as equally as I wish to thank Sen. Rambharat for their particular contributions because I could easily have, certainly with Sen. Rambharat, invited him to have done the closing of the debate because I think he really gave a very fulsome response to a number of the issues up until that point in time. But Sen. Ramdeen traversed a significant amount of the contribution which I would have put onto the record. I would have certainly read out what the first Schedule items to the offences that are scheduled in the Sexual Offences Act look like, the proportionality argument, the traversing of the rights in the Constitution in section 4 that this Bill does certainly collide with. Sen. Ramdeen put them very succinctly onto the record and I thank him for it.

Madam President, in terms of intricacies, this Bill has a lot. I could, right now, spend an entire 40 minutes to just answer what Sen. Ramdeen put on the record, because some of the positions offered by Sen. Ramdeen are deserving of clarification but it is not to say they have not been thoughtfully put. For instance, the statutory period arguments, as we look to the positions, are there. We are looking at upon conviction and one can rely upon the subsequent law amending the prior law. One could answer immediately that we are not infringing on the common law right towards damages, towards compensation because the statutory right exists in the current Sexual Offences Act.

The current Sexual Offences Act, for instance, in that which we propose to repeal, speaks about compensation in section 34E. So I do not need to look to the common law because the statutory provisions of the Sexual Offences Act, Chap. 11:28, have that in the existing law right now. Certainly, interference by way of a mandatory medical examination and who keeps the records, that is in the existing law, section 34E. I read:

“Where a person is convicted of an offence under the sections to which this section applies, the Court shall require that the person be medically examined.”

So a lot of what Sen. Ramdeen is pointing out is in the existing law and Sen. Ramdeen is absolutely correct. Yes, the criminal injuries and compensation mechanisms can be replicated but that is why we allow this law to prosper upon the back of subsidiary legislation, and that is why we specifically put in a provision that is contained in the proposed new section 57 that:

“The Minister may make Regulations to give effect to the provisions of Part III.”

That is exactly what we intended because we did not intend for the primary law to speak to the specifics, we intended for the subsidiary law to speak to the specifics. That is what I mean by the Bill is intricate. There is a lot of thought that went into this. Because we looked to the observed deficiencies of the 2000 amendments, we looked to the fact that the law was touched in 2012 but that the amendments were not done.

Now, I think that is important in understanding some of the larger generalizations to also consider—Sen. Hosein raised the very important point, well, do we need to put in the provision to speak to use of force and again, in demonstrating the intricacy of this law, I had point out that the proposed section 45(6) specifically says that the sample taken without consent shall be done:

“...pursuant to section 13(1)(a) of the Administration of Justice (Deoxyribonucleic Acid) Act.”

In other words then, we incorporated the use of force with reasonable force provisions in the law. So it may not be immediately apparent exactly how drilled

down and detailed we were but I want to assure you that the detail is here; that the understanding and perspective has been complicated, has been contemplated as well as has been provided. So this law really requires an opportunity to be digested. That is why we took a full nine months to get here. That is why we did not just produce a Bill and arrived here without consultation and for the record, I wish to thank the members of the NGOs that did contribute.

But I want to say that in speaking to one of the proponents for the NGO bodies, it is not true to say that we did not consult with the person's named by the NGOs. That is not true. In fact, we received complaint on the earlier occasion that a whole body of members had not been consulted. At least in respect of one of them, I have a contribution which is multiple pages in length from an entity described in this contribution by the body of NGOs as not having contributed. Well, I say without waving it at everyone, it is right here in my hands. Now, does that mean that there should not be more consultation? I do not think that that means that.

But I would like to say that the opportunity to demonstrate the Government's position has been, as you saw on the last occasion, Madam President, we did not take this Bill to conclusion on the last occasion. We are now a week later, nine months plus, nearly 10 months after, now wrapping up this Bill. Why? There is merit to receiving the contributions on the floor of the Parliament. It provides an opportunity for Members to crystallize their views and to give specific recommendations, as I welcome, for instance, those recommendations coming from all hon. Senators, the last one being on the Opposition side, Sen. Ramdeen, who gave very critical consideration. Sen. Dillon-Remy, I also listened carefully whilst I was juggling two matters and I listened to your contribution as I

have to all Members.

But the position is that the consultation and the breadth of consultation and the depth of consultation that we have had does not necessarily preclude further consultation. For the record, I would like to state that we did consult with the Commissioner of Prisons, the Office of the Prime Minister, Gender Affairs, the Children's Authority, the Trinidad and Tobago Police Service. We also received submissions from the Law Association, from the Organization for Abused and Battered Individuals. And the Law Association, as I can certify, still being on their email list, sent it out to every single member of the Law Association, many of whom sit on the NGO organizations. One cannot have perfect consultation, one can have broad consultation. Certainly the Government's intention was to facilitate the broadest form of consultation.

We have, Madam President, a question to be asked: Why now? Why bring this legislation now? Why not have brought it sooner? I would like to say in raising this question and in providing an answer to that, it ties into one of the broad general contribution points of many Senators. This law is not a panacea for all things related to sexual offences. It would be folly to think that any one law could treat with that. That is not the intention of this law. That would mean that the volumes of laws of Trinidad and Tobago are irrelevant because one law ought to have everything. Surely, this law articulates with other laws: the Criminal Injuries Compensation Act, the Summary Courts Act, the Trafficking in Persons Act. The multiple statutes that exist, in particular the Children Act, the Children's Authority legislation, child probation provisions, the Criminal Division law. It would be obtuse for the Government to suggest that this one law was to treat with everything and that broad concept of "are we doing enough to stop the generating phenomena

that causes people to be registered”, because that is one of the themes here. How are we going to treat with the issues of the people who offend and the victims and should this law provide for that time? We dare say that this law ought not to specifically provide for that but ought to be linked to other laws which provide for that.

And that is why I must say, in asking the question that I did, that we have come now, we have come for this Bill, we have come 10 months later in consultation because we have laid the ground in the following laws that treat with this law: The Judges’ Rules for Children, the Children Court Rules, the Multi-Agency Protocols formalizing the working interactions amongst agencies which play a role in dealing with children who are arrested, charged and otherwise before the courts; the Inter Agency Protocols formalizing the working interactions between the Trinidad and Tobago Police Service and the Ministry responsible for education for dealing with children who are arrested, charged or otherwise before the courts; the child defence standards, the Trinidad Table of Equivalences of the United Nations Office of Drugs and Crime’s International Classification of Crime for Statistical Purposes; the Peer Resolutions framework and rules; the Children’s Community Residences (Children’s Homes) Regulations; the Child Rehabilitation Centre Regulations; the Designation Orders; the Miscellaneous Provisions Act by which we amended 13 laws treating with families and with children and with sexual offences. The Child Rehabilitation Centre (Designation) Orders; the Family and Children Division which amended 19 laws treating with these very matters; the amendments to the Children Act; the creation of training faculty at the Police Academy; the training of over 150 children and 60 adults in peer resolution; the creation of a Child Protection Unit in Trinidad and Tobago Police Service force;

the hiring and classification of all of the probation officers and child probation officers that go with this system. We came here to treat with this law to cause the register to be managed in the suggestions that we bring now after having done all of those things, hon. Senators.

So we certainly do not think that this one law ought to treat with all of those things and we do not only tell you that, I have just recited what we have done already. So I am not raising a hypothetical, I am raising the reality of what this Government has done in operationalizing the laws and mechanisms. And dare I say, prior to this Government coming into office, I can say with certainty that the only law on the landscape for a very long time that did as much but was not operationalized was the Children Act of 2012. I will remind, not by way of “bouf” or suggestion or push, nobody on the Opposition Bench supported that law—sorry, Independent Bench supported that law, nobody, because two immovable fixtures presented themselves in that law which I respect and understand. One, there was a call that they would not support the Children Act because of the presence of child marriage still in this country and two, there was a call that they would not support the law because of LGBTQI issue not having been treated with in the law. I respect the independent voices, it sometimes causes the society to move forward, I make no complaint on that but I am telling the country that it was a PNM Opposition and a UNC Government that passed the Children Act. Where would we be today without the Children Act under a UNC Government’s authorship with a PNM Government’s contribution?

Now, I raise this to demonstrate the fact that sometimes we have to agree to start somewhere. Sometimes we have to say there is enough analysis paralysis. Sometimes we have to look at this particular Bill in the context of the fact that this

law has been on the books of Trinidad and Tobago since the year 2000 with nobody on the register and therefore, the mischief that this law sought to solve of having people know that sexual offenders exist becomes a reality.

Madam President, as Central Authority for the Republic of Trinidad and Tobago under the Mutual Assistance in Criminal Matters Act, I can tell you that while we were debating this law, last week, my office was able to go on to a particular website abroad where public knowledge of sex offenders is there for the entire world to see and we were able to locate an offender, a paedophile of multiple versions in Trinidad and Tobago.

Sen. Baptiste-Primus: Really?

Hon. F. Al-Rawi: As a result of someone looking at this debate, going on to the Internet, finding another jurisdiction and typing in “Trinidad and Tobago sex offenders”, a paedophile was discovered in this country. Is there merit in having a public register, ladies and gentlemen, hon. Senators all? I have just given you one example of a reality that happened as a result of this discussion in this Senate. Is one life enough saved? You know what I often hear people tell me: I respect the law, I understand the law, but “boy if is my child, dey hadda hold meh back”. I hear that in our society very often. I agree with Sen. Chote’s exhortation that the law requires a cool head but the law does also require a defined policy and a Government elected to govern only has one privilege: to say what its policy is. The policy of this Government by way of recommendation to the hon. Members of this Senate is that there ought to be a public register.

Are there pros and cons to having a public register? Yes, there are. That one example that I have just given you of a real life is one thing on the positive side. Can there be vigilante justice? Can there be retribution? Yes, there can. But

how about if we factor that discussion in the following? Everybody in this country knows a programme called Beyond the Tape and a programme run by a fella named Ian Alleyne, and in listening to those two programmes, persons who are accused and in respect of whom warrants have been issued for arrest find themselves portrayed on these programmes: somebody who did not pay maintenance, “somebody who the police looking for rape, somebody who the police looking for a charge”. Right now, in this country, that is public information.

7.00 p.m.

When you are arrested, under the Sexual Offences Act, the prohibition is that you cannot reveal the identity of the virtual complainant or complainant. There is no prohibition against the accused. When you are taken to a court to be assessed before a jury in a preliminary enquiry or before the magistrate, sorry, in the preliminary enquiry, and the jury in the Assizes, you are on parade with open reportage unless the court orders anonymity.

When you are convicted, it is a public affair in this country, and I, as a person in public life, had that experience, as all of us have, of googling yourself. But when you are a person in public life and you google yourself, Lord God help you. You better learn to have a good sense of humour, you better learn to have a thick skin and you better learn to laugh at yourself heartily. Some of the memes are outstanding. Apparently people like to portray me in a dress, or in some form of position, or in a ridiculous situation as happens to all of us. [*Crosstalk*] Sen. Obika included. [*Laughter*] My point is that the Internet survives and portrays everything.

So I was on the point about publicity and about whether the register ought to be public or private. I certainly think that there is room for consideration of this

registry in the context of whether one ought to have the right to have the judge order otherwise. The Government's philosophy and policy in this is that there ought to be a fixed time frame inside of this law for you to report. That has been the law since the year 2000.

If you are guilty of a certain category of offences, as we have set out in the Schedules to the law, we say that the defined terms ought to exist. But, I would like to point out to hon. Senators, in demonstrating the intricacies of the Bill, proposed section 53:

“A registered sex offender may,—

- (a) on the completion of his reporting period; or
- (b) on the basis of any compelling reasons,

apply to the Court to have the information contained in the Register in relation to him expunged.”

What does that mean? If one believes that the shame to the family may affect the voice of the child who is the victim of incest, because a father raped a child or an uncle raped a child, there is room in the intricacies of this Bill right now to say “Do not put me on the register”, because of the impact to the child. And what the Government has structured, as I have just read from section 53—proposed section 53 which comes from clause 10, is the ability to expand the provisions to say why you should not go onto the register. But let the obligation be upon the person who has been convicted to go to the court and say “Doh put me on”, because that accepts the reality of our society.

Is our criminal justice system working? No. Is it only because of the Trinidad and Tobago Police Service? Certainly not. We did not have enough judges, hence the Government came to say “Raise the judicial complement by 77

per cent”. We did not have any Criminal Procedure Rules, so we said “Implement the Criminal Procedure Rules”. We had bottlenecks in the court, so we said “Let us remove bottlenecks by divisioning the courts”. We did not have specialist courts for children, so we said “Put in specialist courts for children”.

Sen. Thompson-Ahye: If I may, Madam President. Section 53 talks about expunging, and the Attorney General is talking about not going on. It seems to me that you have to go on before it is being expunged, so I do not know exactly what provision he is talking about.

Hon F. Al-Rawi: Sure. Thank you, Senator. You are perfectly correct, but I am giving you an example of the intricacies which exist in the Bill. I did start off by saying, yes we can have some more conversation so whether we move the concept for any other compelling reason in section 53 to section 52 and also section 51 is open to us, but I am giving an example of intricacies. You see, that is why the regulations are yet to be promulgated, and that is why we proposed that this Bill actually would not be assented to until we have done the regulations.

Perhaps we ought to put in a proclamation clause—we could partially proclaim, et cetera. I am saying, we have not yet gotten to committee stage on this Bill. It is at the committee stage that things go right. And I want to agree wholeheartedly with Sen. Ramdeen. We as a Parliament, we as a Senate, worked on the judge-only legislation. The House took a different view from the Senate. Certainly, the Opposition in the House took a completely different view from the Senate Opposition, because in the House we were told nobody would ever choose a judge-only trial, no murder accused in this country was going to ever select a judge-only trial. And yet we are in living reality where, Madame Justice Gillian Lucky has proved the opposite, and dare I say that that is something and an event

which we ought to pay attention to.

Who could have believed six speed guns could cause Trinidad and Tobago to slow down, and cause the death toll on our roads to fall? Who could have believed that the Minister of Works and Transport implementing a sticker for vehicles—for vans, for trucks, et cetera—could have caused people to want to get their vehicles inspected? Why? Because there was now a sanction applied to the circumstance. [*Desk thumping*] You see, our country has been unregulated and systems have not worked because people are genuinely in a level of analysis paralysis and, Madam President, it is important for us to decide where we are going to draw the line.

So I would like to say, Sen. Haynes made a very interesting contribution. I agree with her that the research—and I want to compliment Sen. Haynes for giving very good research on the philosophies and positions that stand behind whether a public register works or not. Sen. Haynes gave us a reflection which Sen. Thompson-Ahye also reflected upon. She looked at the University of Carolina, South Carolina study. But I have also found University of Michigan Law School Scholarship Repository Articles—Faculty Scholarship 2011 entitled “Do Sex Offender Registration and Notification Laws Affect Criminal Behaviour?” by J.J. Prescott, University of Michigan Law School. We found the Australian Government, Australian Institute of Criminology “Trends & issues in crime and criminal justice” No. 550 of May 2018 entitled: “What impact do public sex offender registries have on community safety?” by Sarah Napier and others. We found Bravehearts Foundation Limited, Australia “Position Paper—Community Notification of Sex Offenders” November 2017, and the list goes on and on, and all of those publications say, sex offender registries in the public domain work.

So is the law in a state of flux? Is there agreement on this issue as to whether it ought to be private or it ought to be public? No. There is no agreement. Is the test to be found in our constitutional prescription? Yes. Section 13 of the Constitution and 13(2), in particular, says that this law ought to effectively be proportionate and one which a democracy such as Trinidad and Tobago upholds. Do we have a statistically demonstrated sick society? Yes. Are three-month-olds being raped and abused? Yes. Do we have a high incidence of incest in our country? Yes. Is it in the rural communities? Not necessarily, because I as Attorney General have come forward and demonstrated that the vast majority of teenage pregnancies, to babies making babies, are found in the urban centres and not the rural centres. I demonstrated that statistically in the child marriage debate. But will the effect of a public register, will the effect of a stamp on your passport saying that you are a registered sex offender make a difference in our country? That is for us to decide. We have umpteen joint select committees, umpteen. Sen. Mark sits on many of them with me.

There is one particular committee that we are actually discussing some law for eight years now. Eight years we are talking about a law, “cyar” make a decision yet. Analysis paralysis, analysis paralysis, over and over we go. Would a special select committee make a difference as recommended by Sen. Richards? I dare say yes, but the issues are very narrow. Public versus private; leave it to the judge to decide the period of reporting or other extraneous circumstances or whether you go on or off. Do we put a stamp in your passport? Do we look to try and measure how to prevent sexual offences in this law or not? Do we rely upon existing systems? Those are the four issues, you know. It is really not that broad.

The Government has drafted amendments to this Bill after having listened to

hon. Senators. We propose to include victim impact assessment; we propose to amend the Schedule so that we identify the Schedules in specific form as to which laws are to be registrable offences or not. We propose that there are circumstances in which, before someone goes onto the register, they ought to have the right to say why they ought not to go onto the register. We propose that people ought to have the ability to be referred to victim impact positions or to offender management positions, but we also propose that there be a public register, because it is a balancing of rights, and we do believe that the time has to be there for consideration that enough is enough because, hon. Senators, the statistics are going up. They are not going down. They could be going up for the right reason, more reporting. The work of the Children's Authority could be impactful because more people are reporting because they are coming out of the closet, literally. But without breaching the rules of anticipation, we come to this Parliament as well—on the Order Paper right now—to treat with witness anonymity, to treat with special procedures, because hon. Senators are correct. Who is going to be the evidence, the witness evidence in the trial? Who is coming to report? If you look at the Sexual Offences Act, you will realize, in answering Sen. Hazel Thompson-Ahye, and I thank her for referring me to Cayman, Jamaica, Antigua, Anguilla, et cetera in looking at the person with responsibility to report. I looked at it, but I went back to the existing law, and the existing law actually has a very interesting formula of words that can work, because it says anybody with temporary custody of the child, and then it gives certain examples. Can we look at clarifying it? Certainly, we can. Everything is on the table.

But, hon. Senators, whilst time is clocking, while Sen. Mark has made the recommendation to let us have a review of legislation with periodic assessment, let

us put things for affirmative resolution, standing recommendations coming from Sen. Mark, which I understand and I appreciate. They come from him, most respectfully, when he is in Opposition, not when he is in Government, but it is in the Dangerous Drugs Act. It is in umpteen pieces of law and the laws go on the books and then we lose space and time because nobody is operationalizing the law.

On this occasion, in Government, this Government has demonstrated we keep to our word. We accept contributions and keep undertakings as to when we will come back and treat with them. I have met many an undertaking to Sen. Ramdeen, in particular, many an undertaking, because the submissions volunteered were sincere, they were intelligent, and they were intended to improve the laws of Trinidad and Tobago. At the time, I could not have the amendment requested, because I did not have the research or capacity without Cabinet approval or stakeholder consultation to give it, but we have come back.

And what we have done as a Government, for the first time, is to do something that no other Government has done, it is to provide Trinidad and Tobago statistics. No other Government has provided Trinidad and Tobago statistics on everything that we have done—energy, children, courts. The good, the bad and the ugly have been presented here, because in offering statistics we invite the population to measure us against our performance on those statistics.

When I sat in Opposition, as I work now with the technocratic department that worked with my predecessors, the standing instruction from Attorney General, Anand Ramlogan, was: “Doh provide Faris with nothing”. No marked-up Bill, no travaux préparatoire, no consultation evidence, zero. Sen. Ramdeen knows what I am saying is true. Sen. Vieira will well remember as we sat, but we have taken a very different approach. We do not try to confuse you with the law—so you

coming least prepared, hon. Senators, because you cannot understand the law, because it is not put in the context of what is given to you. No, we have come with transparency.

So, Madam President, this is a serious law at a time when, as faith would have it, trafficking in persons became a reality in our news with the reportage indicating that girls—babies as I call them, in our country that celebrates every religious festival known to God Almighty in his many forms, girls could be trafficked and sex slaves in our country. [*Crosstalk*] Really? Eid-ul-fitr, Eid-ul-adha, Divali, celebration of Ganesh—

Madam President: AG, stop.

Hon. F. Al-Rawi: Five minutes?

Madam President: Not yet, but just—

Hon. F. Al-Rawi: My point is well made. In the multiple public holidays that we have, our society ought to be well and properly religious, but our actions and statistics standing as the public policy behind this demonstrates otherwise. So, will a public registrar within the new part—sections—assist us? We genuinely believe it will. Are the operational mechanisms in place for this? We genuinely think that they are. Can the TTPS move in a better direction? Yes. Are we intent, as hon. Members have asked, on having a sexual offences specialist court? Yes, that is why we brought the Criminal Division Bill which is now an Act, and in section 24 of that Act the Chief Justice has the ability to create a specialist court. So, hon. Members, the ball is in the Senate's court. The ball allows us to save those baby girls as we have seen them in the news.

One point I would like to raise. Quite a few Members have asked whether section 31 of the parent Act ought to be further treated, and they have asked about

the issue of homosexuality. I would like to put on the record that post the Jason Jones matter, the law as it stands has been amended. Post the Jason Jones matter and the delivery of Mr. Justice Rampersad's judgment, that law has been amended and it is not overturned. It will no doubt have clarification as it progresses through the courts, because the Privy Council will settle that matter. Why has that approach been taken? Because 27 other laws treat with the issue of homosexuality—the Immigration Act, the Cinematograph Act. There are 27 laws that treat with that. So, it is necessary to settle the law, but the law as it stands treats with that.

Madam President, we believe that it would be apposite to the best interest of citizens of this country if this law were to have the benefit of a Special Select Committee of the Senate. Why? We have many joint select committees running at the same time. We would like to propose, as the Leader of Government Business will manage this process, post my conclusion, we would like to propose that we put a tight time frame.

I have confidence that Sen. Ramdeen and hon. Members of the Independent Bench and other hon. Members on the Opposition Bench together with Members of the Government Bench, that we can together fashion a tighter law. We can explore, explain, but we are going to come down to a report. The report may or may not have a minority report, we do not know yet, but I would like to propose that the honourable Senate finish its work before the end of March. [*Desk thumping*] Why the end of March? Because the parliamentary term effectively goes on recess the first week in July and, therefore, parliamentary space is scarce.

So, Madam President, there will be more to say. We will have good consensual deliberations. I am confident that this Senate can do it, and Madam

Sexual Offences (Amdt)
Bill, 2019
Hon. F. Al-Rawi (cont'd)

2019.02.12

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

Question put and agreed to. Bill according read a second time.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Madam President. Madam President, in accordance with Standing Order 66(1), I beg to move that a Bill entitled an Act to amend the Sexual Offences Act, Chap. 11:28, be referred to the following Special Select Committee of the Senate hereby established to consider and report on the Bill by March 29, 2019:

Mr. Clarence Rambharat

Mrs. Paula Gopee-Scoon

Mrs. Jennifer Baptiste-Primus

Ms. Allyson West

Mr. Foster Cummings

Mr. Garvin Simonette

Ms. Khadijah Ameen

Mr. Gerald Ramdeen

Mr. Paul Richards

Ms. Sophia Chote SC

Mr. Anthony Vieira [*Crosstalk*]

Sen. Ameen: Call the names again.

Sen. The Hon. C. Rambharat: Madam President, may I be allowed to repeat these names?

Sen. Mark: Sorry about that.

Sen. The Hon. C. Rambharat: Madam President:

Mr. Clarence Rambharat

Sexual Offences (Amdt)
Bill, 2019
Hon. F. Al-Rawi (cont'd)

Mrs. Paula Gopee-Scoon

Mrs. Jennifer Baptiste-Primus

Ms. Allyson West

Mr. Foster Cummings

Madam President: Leader of Government Business, Sen. Richards wants to make an intervention.

Sen. Richards: Thank you, Madam President. Through you, hon. Minister, the suggestion is for—I am sorry. The suggestion from the Independent Bench is for Sen. Deyalsingh to be on the committee.

Sen. The Hon. C. Rambharat: In place of?

Sen. Richards: In place of Sen. Vieira. Thank you.

Sen. The Hon. C. Rambharat: Madam President, with your permission [*Laughter*] may I read this batting order of 11 names?

Mr. Clarence Rambharat

Mrs. Paula Gopee-Scoon

Mrs. Jennifer Baptiste-Primus

Ms. Allyson West

Mr. Foster Cummings

Mr. Garvin Simonette

Mr. Gerald Ramdeen

Ms. Anita Haynes

Mr. Paul Richards

Ms. Sophia Chote SC; and No. 11—

Dr. Varma Deyalsingh

Question put and agreed to.

ADJOURNMENT

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I beg to move that this Senate be adjourned to Tuesday 19th February at 1.30 p.m. [*Crosstalk*] and on that occasion we will deal with the Trespass Bill. Thank you.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised. Sen. Hosein. [*Desk thumping*]

Registration of Venezuelans

(Status and Nature of ID Cards)

Sen. Saddam Hosein: Thank you very much, Madam President. Madam President, it is no secret that Venezuela is facing one of the greatest political crises in the world's history. This crisis has affected the citizens of Venezuela and by extension affected the South American and Caribbean region. Trinidad and Tobago is not immune from the turmoil that is taking place in Venezuela. We are placed approximately 471 miles away from Venezuela, and being so close, Trinidad and Tobago is the most convenient destination for those who choose to flee because of the social, political and economic unrest.

Everyone is aware of the high influx of the number of Venezuelans in our country, those who enter legally or illegally. It is not known the exact number of those Venezuelans who are currently residing here in Trinidad and Tobago. As a country, Trinidad and Tobago did not ready itself for this phenomenon. There are several categories of those Venezuelans who entered our shores: those who entered legally, those who entered illegally and those who entered legally and/or illegally but sought refugee status. Let us look at what our laws in Trinidad and Tobago are to treat with this issue.

On the 10th of November, 2000, Trinidad and Tobago became a signatory to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, where we as a country placed international obligations on ourselves to treat with refugees in a certain manner. Therefore, we have international law that should guide our policy with respect the Venezuelan issue, unless we file any reservations regarding the Treaty.

There is one UN organ that is situated in Port of Spain, the United Nations Commission for Human Rights that deals with those who are desirous of attaining refugee status. I am advised that when an application is made and the applicant is successful, that person is issued an ID card by the UNHCR. These ID cards are issued after a thorough investigation have been completed by the Office of the United Nations Human Rights Commissioner identifying them as refugees.

Madam President, recently the Prime Minister announced that Government would be addressing the issue of regularizing refugees an asylum seekers with the provision of identification to assist in their protection, and the hon. Prime Minister, and I quote said:

“...we have agreed to do a registration exercise which would allow us to give Venezuelans over here some sort of identification which would allow us to know who they are, know their comings and goings and of course to protect them from exploitation. We...talked about the question of allowing them to work and to go to school.

The Minister of Security is actively engaged in bringing that position to the Cabinet.”

Now, Madam President, I have outlined that the most competent body to determine the status of refugees is the UNHCR and they issue ID cards. Therefore, it raises many concerns regarding what registration process, in terms of the identification of

these Venezuelans, is going to be undertaken by the Government as announced by the Prime Minister. Is it going to be a special type of ID card? Who will be issuing the ID card? What is the nature of this card? What rights will be given to the holder of this identification?

Now, Madam President, it was brought to my attention, and I was asked to raise this matter, that under section 13 of the Representation of the People Act, it states that:

“a person is qualified...an elector...who is of the age of eighteen years.”—
or older and who:

“(c) is not a Commonwealth citizen but has or will have resided in
Trinidad and Tobago for a continuous period of at least five
years immediately preceding such date; and

(d) has resided”—in the district for—“at least two months...”—
from the qualifying date of registration.

Madam President, this raises a lot of questions regarding the registration of Venezuelans in Trinidad and Tobago and eligibility of electors under the Representation of the People Act, hence the reason that this Motion was brought to determine from the Government, what is the status and the nature of those identification cards or whatever mechanism is going to be used to identify these Venezuelans who are in Trinidad and Tobago.

And what the announcement by the Prime Minister, Madam President, also shows, a policy shift by the Government, because the Government, in the first instance, spoke of the rights to work and the rights of schooling of those children of the refugees in Trinidad and Tobago, and they did not take any solid position with regard to those rights that are given to those refugees under the international obligations that we have through the 1951 Convention.

7.30 p.m.

So, Madam President, is it that the Government now has a policy shift because they are going to offer, through these identification cards, work and employment and schooling education for the citizens of Venezuela? So I ask, on behalf of those who had asked me to raise this matter, and the Opposition, if the Government can give an indication with regard to the nature of the registration exercise and the status of the identification to be issued to those Venezuelan nationals who are here in Trinidad and Tobago. I thank you. [*Desk thumping*]

Madam President: The Minister of Foreign and Caricom Affairs. [*Desk thumping*]

The Minister of Foreign and Caricom Affairs and Minister in the Ministry of National Security (Sen. The Hon. Dennis Moses): Madam President, thank you very much. For a person who has fled his or her home country and seeks refuge in another, the lack of identity documents may be far more than a source of inconvenience. In almost all countries a person must be able to prove, not only his identify, but also that his presence in the country is lawful.

In some countries persons without appropriate documentation are subject to detention and sometimes instant removal from the country. Such measures are particularly serious for a refugee, defined by the United Nations High Commission for Refugees as a person who has been forced to flee his or her country because of persecution, war or violence, or for an asylum seeker, one whose request for sanctuary is yet to be processed. For such a person there may also be the possibility of premature return to his country of origin. Even where the consequences of being without documentation are less drastic, such an individual, in order to benefit from treatment in accordance with international best practices, needs to be able to establish, not only his or her identity, but also his or her status

as a refugee or asylum seeker.

Due to the circumstances in which they are sometimes forced to leave their home country, refugees are perhaps more likely than other migrants to find themselves without identity or documents. Moreover, while other migrants can turn to the authorities of their countries of origin for help in obtaining documents, refugees do not have this option, and are therefore dependent upon the authorities of their country of refuge or upon the United Nations High Commission for Refugees for assistance in this regard.

Madam President, in Trinidad and Tobago interim standard operating procedures were developed and mutually agreed upon by the Immigration Division of the Ministry of National Security and the implementing partner for the UNHCR in Trinidad and Tobago, and the Living Water Community. These SOPs, or standard operating procedures, guide the actions of the representatives of the Living Water Community, as well as the officers of the Immigration Division, pending the enactment of legislation to give effect to the 1951 United Nations Convention relating to the status of refugees and in accordance with the national policy to address refugees and asylum matters in Trinidad and Tobago, which was approved by the Cabinet of our country in June of 2014.

The national policy framework on refugees is not yet complete. Such a framework involves an extensive multisectoral approach that accurately forecasts the social and economic cost to the State, as well as gives adequate consideration to the impact on society as a whole. To this end, the Ministry of National Security, the Ministry of the Attorney General and Legal Affairs, the Ministry of Health and the Ministry of Finance, as well as local and international partners are all involved in extensive consultation towards completing this policy.

Currently, there are approximately 7,000 Venezuelan nationals who are

registered asylum seekers in Trinidad and Tobago, and 700 recognized refugees are of Venezuelan nationality. Persons seeking asylum can either make contact or approach the Living Water Community or the Immigration Division. In either case, once evidence is provided supporting their claim, that individual qualifies as an asylum seeker and is then placed on an order of supervision into the care of the Living Water Community. However, if the individual does not qualify as an asylum seeker, the Immigration Division will take steps to return the individual to the original port of origin or other appropriate action.

Madam President, with the continuous influx of foreign nationals to the Republic of Trinidad and Tobago, there is need for identity documents for applicants for refugee status. During the period preceding the determination of refugee status, asylum applicants clearly have the same need for appropriate identity documents as recognized refugees; therefore, the asylum applicant should be provided with adequate documentation to ensure that his provisional right to protection against refoulement will be respected and that he will be treated in accordance with the status as a person who may in fact be a refugee.

There is an established procedure for determining a refugee's status. The UNHCR issues a certificate or a card acknowledging that an application for a refugee status has in fact been made. This certificate or card may be used by asylum applicants as provisional documentation until the destination, a determination, a decision has been taken on their application. This certificate or card does not, however, include the photograph of the bearer, which in the absence of accepted identification, such as a conventional travel document, makes it very difficult to verify that the bearer of the card is the person to whom it has been issued.

While awaiting the processing of their application, asylum seekers will

receive a stipend from the UNHCR. It should be noted that this does not give them permission to work, nor does it give their children the right to attend school while awaiting the status of their application. In addition, asylum seekers who have been determined as recognized refugees also have a waiting period before they are received by the country. Madam President, the Government of Trinidad and Tobago acknowledges the importance of refugees having documentation which would enable them to establish their identity, as well as their status as refugees.

The necessity of providing all refugees with such documentation is recognized in Article 27 of the 1951 UN Convention relating to the status of refugees. Applicants for refugee status should be provided with provisional documentation showing their identity and the fact that they are permitted to remain in the country until a decision concerning refugee status has been reached by the competent authority. It is also necessary for such identity documentation for refugees and asylum applicants to be issued in a format that prevents misuse and enables the relevant authorities to be satisfied that the person using the document is in fact the person to whom it has been issued.

Madam President, the extension of the practice of registering and issuing documentation to refugees and asylum seekers in large-scale influx situations should be welcomed. It is hoped that the Republic of Trinidad and Tobago will undertake such documentation programmes where appropriate, in cooperation with the UNHCR and other stakeholders, such as the Ministry of Social Development and Family Services, the Ministry of Education and the Elections and Boundaries Commission, which shall form part of the eligibility committee.

At this time, Madam President, the Ministry of National Security is in the process of determining the procedure for the issue of the ID cards, and it will issue further information in the coming weeks with respect to progress on this matter.

Registration of Venezuelans
Sen. The Hon. D. Moses (cont'd)

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Further discussions will be held by the Ministry of National Security, the Immigration Division, and other agencies, such as the UNHCR and the Living Water Community, to ensure that all stakeholders are included and that processes are streamlined and set in motion in the shortest possible time. Allow me to thank you, Madam President. [*Desk thumping*]

Parliamentary Autonomy
(Progress of)

Sen. Wade Mark: Thank you, Madam President. The need for the Government to report on the progress made to ensure that legislation on parliamentary autonomy, and approved by the Senate in the Third Session, was introduced for consideration by the Houses of Parliament in the Fourth Session of the Eleventh Parliament. Madam President, the Motion was moved and debated on March 06, 2018, and a number of Senators contributed to this Motion. The Motion was moved by Sen. Wade Mark, and contributors were Sen. The Hon. Jennifer Baptiste-Primus, former Sen. David Small, Sen. Khadijah Ameen, Sen. Daniel Dookie, Sen. Anita Haynes. The debate continued on March 27, 2018, and the following persons spoke: former Sen. Dr. Dhanayshar Mahabir, Sen. Nigel De Freitas, Sen. Saddam Hosein, Sen. Melissa Ramkissoon, former; Sen. Ronald Huggins, former; Sen. Clive Dottin, former and temporary; and, of course, Sen. Taharqa Obika.

Madam President, this particular matter continued in the month of April, this debate. On April the 24th we had Sen. The Hon. Clarence Rambharat, Sen. Gerald Ramdeen, former Sen. Ian Roach. I concluded the debate and, subsequently, Sen. Franklin Khan brought the curtains down on that entire matter.

Madam President, it is to be noted that the Motion was approved with amendments on April 24, 2018. The original Motion read, and I quote.

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“Be it resolved that the Senate call on the Government to introduce legislation by April 30, 2018 to give effect to parliamentary autonomy and that this legislation be immediately referred to a Joint Select Committee of Parliament for early consideration and report.”

Madam President, this Motion was amended and approved by this honourable Senate. The amended Motion, which was approved unanimously by this Senate, reads as follow:

“Be it resolved that this Senate call on the Government to introduce legislation on parliamentary autonomy during the Fourth Session of the Eleventh Parliament and have same referred to a Joint Select Committee of Parliament for consideration and report before the end of the Fourth Session of the Eleventh Parliament.”

Madam President, Standing Order 41 of the Senate states, and I quote:

“Every Private Member’s motion approved by the Senate which requires action on national policy issues shall be submitted by the Clerk of the Senate to the Cabinet for consideration within one (1) week of the date of approval by the Senate.”

Subsection (2) of Standing Order 41 goes on to state further:

“A report on the Cabinet’s decision in response to the submission made pursuant to paragraph (1) shall be tabled”—I want to repeat—“shall be tabled by the Leader of Government Business in the Senate not later than thirty (30) days from the date of its submission to the Cabinet.”

Madam President, in accordance with Standing Order 41 of the Senate, the Senate Secretariat wrote to the Secretary to the Cabinet shortly after the sitting on April 24, 2018. Madam President, I do not have a copy of the correspondence. I do not have access to a copy of the correspondence sent by the Secretariat of the

Senate to the Cabinet, but the information I have is that it was sent subsequent to April 24, 2018. Madam President, that would make us eight months and a couple of days; we have not seen, I have not received, nor any Member of the Senate, any document from the Government in response to the letter sent by the Secretariat at the end of April, early May, where there was unanimous agreement that the Government will take steps to effect this measure.

So I have raised this matter because the agreement was, Madam President, that parliamentary autonomy will take effect by the end of the Fourth Session of the life of this Parliament. The Fourth Session of the life of this Parliament comes to an end in September of 2019, and, Madam President, we are in the month of February. Today is the 11th, I think, Madam President, and we are yet to get a document—am I wrong? [*Interruption*] The 12th, Madam President. Thank you. Today is the 12th of February—I am corrected by the hon. President—and, Madam President, we have not had the courtesy of the document being tabled 30 days after, in accordance with our Standing Orders. So, I do not want to accuse the Government of contempt of this honourable Senate, Madam President, I do not want to, so I am giving the Government the benefit of the doubt to explain to this Senate what is the position of this particular matter as it relates to the future. I thank you very much, Madam President. [*Desk thumping*]

Madam President: Attorney General. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Madam President, I wish to thank the hon. Senator for raising an issue of concern. Standing Order 41 of the Senate is entitled, Motions on National Policy Issues, and it does provide that:

“Every Private Member’s motion approved by the Senate which requires action on national policy issues shall be submitted by the Clerk of the Senate to the Cabinet for consideration within one (1) week of the date of approval

by the Senate.”

It does go on in subsection (2) to say:

“A report on the Cabinet’s decision in response to the submission made pursuant to paragraph (1) shall be tabled by the Leader of Government Business in the Senate not later than thirty (30) days from the date of its submission to the Cabinet.”

I wish to firstly apologize, on behalf of the Government, for not having been able, for reasons which I will explain, to comply with Standing Order 41(2), and that is specifically because the issue before the Cabinet is one of far-reaching ramification, and one which requires a degree of consultation and policy development which affects fundamentally entrenched aspects of our Constitution.

It is perhaps not difficult to prove that submission and therefore offer an explanation for the delay in the following example. If it is that learned colleagues opposite recognized that this was such a burning issue, in the period 2010—2015, when there was a full constitutional majority in the House of Representatives for the full five years and three months in occupation then, one can only guess and measure an example of explanation by saying, surely, it was because of the very complexity and far-reaching ramifications and not because of the sincerity of the issue that my learned colleagues on the Opposition Bench did not take advantage of a full constitutional majority in the period 2010—2015 to conduct the exercise recommended by the hon. Sen. Wade Mark. Surely that must be the reason because the business was that serious for it to have been brought in the time that it was brought.

Regrettably, I think that the Standing Orders perhaps did not contemplate for issues which may require something as deep as a three-quarters majority support in this House that one month would be enough time. But perhaps the Standing

Orders did in fact comment and consider upon that form because there is no sanction to Standing Order 41(2). And therefore I prove the point, Madam President, as I humbly apologize, that this is no small matter.

The autonomy of the Parliament is also deeply rooted to the financial arrangements around which the Parliament can enjoy its autonomy, and when one has the obligation to run the economy after crashing into a financial wall, created by my learned colleagues on the Opposition Bench, in seeing our oil and gas revenue depleted by 96 per cent as it relates to taxation from oil and gas, in watching \$60 billion of expenditure, \$29 billion of wastage, Madam President, in having 33 Ministries run when 23 could have done it, in having a Beetham wastewater treatment facility with billions down the drain, in having the bankrolling of Trinidad and Tobago done via the overdraft, in taking the reserves from the National Gas Corporation, surely one understands that the parliamentary autonomy, which this Motion commendably recognizes, has to be paid for.

And if we are to talk in practical sense and understanding, the support for financial autonomy for an autonomous Parliament is intricate to the policy considerations which the Government at the Cabinet level must consider. Now, Madam President, we are no strangers in this Senate to the need for consultation. We have dealt with some clear-cut issues that my learned colleagues opposite say, we have to have deeper consultation on. There are some examples where we stand on laws that have been on the books for 20 years, 26 years, 30 years, sometimes 100 years where we are invited to have more consultation.

In one particular joint select committee right now we are consulting on a piece of law for eight years straight and cannot get a straight answer in a joint select committee. So, the Government apologizes for not yet being able to bring forward the policy considerations which would result in draft legislation for

submission to the Parliament into a joint select committee of the Parliament; number one, it is a deep and long exercise which is complicated, proved by the fact that my learned friends, when in Government, simply did not even bother to do it. And I do not think it was because they did not want to, it must have been because it was very complicated and they did not have the space to do it.

Secondly, it requires considerations of a financial nature which requires us to have the bankrolling behind the autonomy carefully considered, because it will involve amendments to the Constitution, potentially, and other pieces of law. So in the circumstances, Madam President, I certainly do intend to relay the consternation of this honourable Senate as to the production of this particular piece of work, and we will give our best efforts to provide the work product suggested. I thank you. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.53 p.m.