

**Child Sexual Abuse  
Child Care And Protection**

**A Cry For Help : The Need For Reform Of The  
Law Of Trinidad And Tobago To Afford  
Greater Protection To Children**



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VOTE OF THANKS.

## ACKNOWLEDGEMENTS:

This essay is dedicated to all children who may be victims of child sexual abuse and it is especially dedicated to my loving mother who has encouraged me in all areas of my life up until present. Thank you mummy for your encouragement in my life, you are truly my hero...

## PROLOGUE:

“Child raped slain”...Express 17<sup>th</sup> May, 2006,p.3 “Juvenile Murderers...” Guardian 2<sup>nd</sup> April, 2006, “Lessons from CRY Atrocity...” Express June, 6<sup>th</sup> 2006, p.10. For many, the headlines of the Express and Guardian newspapers are just another form of sensationalism of the media to get citizens to purchase the papers. To others, these stories reveal “nothing new”, everyday another child is murdered or raped, so what makes these stories special above the others? While for many these accounts are just another story, for the thousands of citizens of Trinidad and Tobago, these accounts represented the period in which the nation woke up to the fact that we could no longer remain silent when countless children were suffering as a result of child sexual abuse.

On May 15<sup>th</sup>, 2006, a little girl Emily Amy Annamutudo, aged 3, from a little village in Marabella in the south of Trinidad and Tobago was raped, battered and burnt with cigarette butts all over her skin, and left for dead in a broken down shack by her 40 year old stepfather. Her “cry for help” fell on deaf ears as her entire community sat by and did nothing to help her. One neighbour even confessed after the fact that he had heard the child’s screams but “thought it was a doll”.<sup>1</sup> Yet the nation expressed shock at the gruesome nature of the death of the child whom they allowed to suffer in silence... Only two months earlier, in another village in Orange Valley, another little boy Sean Luke, aged six was allegedly lured from his home by two male teenagers ages thirteen and sixteen respectively in order to go on a fishing expedition. He never returned. Later, the entire nation was appalled to discover that he had been bugged and a cane stalk was inserted up his rectum and through his internal organs and he was left suffocating to death in a cane field in Orange Valley.<sup>2</sup>

Not many months after the brutal murders of the two toddlers, Emily and Sean Luke, there were reports being made that at the CRY Foundation in Laventille Trinidad, a centre for abused and neglected children, four children had been allegedly abused by a caretaker of the home and that had it not been for the deaths of the two toddlers Amy and

<sup>1</sup> Richard Charan. ‘Child Raped Slain.’ *Express Newspaper*. May 17<sup>th</sup> 2006 p.3

<sup>2</sup> Dana Seethahal. ‘Juvenile Murderers.’ *Trinidad Guardian*. 2<sup>nd</sup> April, 2006

Sean Luke, these four children would have continued to suffer in silence since many members of the community knew of the abuse but said nothing until after the deaths of the two toddlers.<sup>3</sup>

The stories or accounts of Sean Luke, Amy and the CRY Foundation only represent one aspect of child sexual abuse, that is to say, they represent accounts in which abuse is initiated by a perpetrator against a child. However child sexual abuse is a broad topic and encompasses even cases where children may be viewed as willing participants in the abuse, such as where children may become involved in the commercial sex trade or where they are used for child pornography. This paper looks at both aspects of child sexual abuse, where such abuse is initiated against children as well as where children are involved in prostitution for commercial gain. The cases of Amy and Sean Luke are used as the launch pad for discussion in examining what went wrong in the context of Trinidad and Tobago, and to identify the role, if any the law of Trinidad and Tobago played in the death of the two toddlers. It will examine whether the law was adequate or not in protecting children against child sexual abuse, and if not, to suggest measures for reforming the law in order to provide adequate protection for children such as Amy, Sean Luke and countless others like them who suffer in silence. Both male and female will be considered, since both sexes are equally affected.

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<sup>3</sup> *Express Newspaper*. 'Lessons From CRY Atrocity.' June 6<sup>th</sup>, 2006. p10

## A Definition and An Introduction to the Problem:

Child sexual abuse is a global phenomenon that is not gender specific, that is to say, it affects both boys and girls of all ages alike including infants. Child sexual abuse under the Domestic Violence Act No. 27 1999 of Trinidad and Tobago has been defined as “sexual contact of any kind that is coerced by force or threat of force and the commission or attempt to commit any offences under the Sexual Offences Act. It may or may not involve actual or physical contact and includes rape or buggery and also non penetrative and non contact activities such as involving children watching sexual activities, encouraging them to behave in sexually explicit ways and exposing them to sexual material and includes involvement of children in prostitution and pornography.”<sup>4</sup>

In a definition provided by the Child Care Board of Barbados taken from the Incest Survivors Resources Network, it stated that “the erotic use of a child, whether physically or emotionally, is sexual exploitation in the fullest meaning of the term even if no bodily contact is ever made.” The use of the term “no bodily contact” is important since it underscores the point that sexual abuse of a child may include exposing the child to sexual deviant behaviours or pornographic materials. The definition provided by the Board is that sexual abuse is therefore inappropriate sexual behaviour with a child and includes “fondling a child’s genitals, making the child fondle the adult’s genitals, intercourse, incest, rape, sodomy, exhibitionism, sexual exploitation and commercial and other exploitation of a child.”<sup>5</sup>

Internationally the reports on child sexual abuse have been overwhelming and although many of the reports from Amnesty International and other bodies who lobby for the rights of children are graphic in nature, they are still relevant in providing an illustration of the widespread effect of child sexual abuse throughout the world. In a report by Amnesty International entitled *Childhood Stolen*, it was reported in July 1993, that a 13 year old boy Mohammed Shaukat from Dhaka Bangladesh was raped by two police constables.

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<sup>4</sup> Domestic Violence Act No.27 1999

<sup>5</sup> Child Care Board Barbados: Definition taken from Incest Survivors Resource Network

He subsequently vanished from the hospital where he was being treated possibly because he had been threatened by the police. In Colombia on the 7<sup>th</sup> of November 1992, a two year old girl, Marcela Becerra Pinzon was raped by a soldier from the Army's Mobile Brigade while her mother was being raped by another soldier from the brigade in the next room. In Honduras, another girl, Martha Marie Saire eleven, a street girl with behavioural problems from San Pedro Sula Department of Cortes was sent to the Juvenile Guidance Centre for minors run by the Board of Social Welfare in Tamara Department of San Francisco Morazon. On April 9<sup>th</sup>, 1994, two soldiers from the military reportedly grabbed her and took turns to rape her and offered her money not to talk of what happened to her and threatened to hit her. On April 11<sup>th</sup> 1994, she was examined by Dr. Miranda who determined that she had been sexually assaulted.<sup>6</sup> These tragic cases only go to prove the extent of the global impact of child sexual abuse on children of all ages and of both sexes. And these are in addition to the thousands of domestic cases.

Even within the context of the Commonwealth Caribbean as a region we are not immune to the impact that child sexual abuse has on children. In an investigation on child sexual abuse and its relationship to conduct disorder, authors Sadekie Lyttle and Stacey Brodie, it was stated that child abuse and neglect affect children and adolescents across the genders. In the surveys conducted in Jamaica and the United States on the magnitude of the problem, it was reported that between 1993-1995, the number of reported abuse and neglect cases in Jamaica was 3500, an increase from 1984. This increase was attributed to more reporting. In the United States, the number of abused and neglected children was said to double between 1986 and 1993 from 1.4 million to 2.8 million.<sup>7</sup>

In a study conducted by Ward in Jamaica, it was found that 10 percent of youth, (11 percent of females and 9 percent males) were reported as having been sexually abused, while 16% of school children were reported to have been physically abused and 10%

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<sup>6</sup> Suzanne Vega. *Childhood Stolen*. (Amnesty International Publishers, Amnesty International, British Section, London 1995) p. 30

<sup>7</sup> Sadekie Lyttle and Stacey Brodie. *Child Abuse and its relationship to Conduct disorder: An Abstract*. Priory Lodge Education Ltd. 1994-2006. p 6

sexually abused.<sup>8</sup> In Milburn's study cited by Williams in 2001, it was reported that of the 2220 cases of child abuse between 1991 and 1995 in Jamaica, it was found that the victims were predominantly female and that sexual abuse is the most frequent form of violence. Over 70% of the perpetrators being under 19 years old.<sup>9</sup>

In Trinidad and Tobago, the statistics on child sexual abuse are just as alarming as that of Jamaica. In a study conducted by Consultants Rhoda Reddock and Rosaline Barclay on the Data of child sexual abuse in Trinidad in 1993, it was found that there were 24 reported cases of neglect which accounted for 17.7% of children who were neglected during that year, while there were 20 reported cases of physical abuse which accounted for 14.8% of children who were physically abused during that year and there were 16 reported cases accounting for a figure of 11.8% of children who were sexually abused for that period, while 44.4% represented those who suffered from emotional abuse of the 60 reported cases.<sup>10</sup>

The report also revealed that between January 1990 and June 1990 in Tobago, 53 cases of child sexual abuse were reported of which 48 were girls and 5 were boys. The ages of the victims ranged from two to eighteen years old. Other reports for Trinidad showed that in 1996, 148 children were referred by district courts to the probation services as a result of child abuse. Of these cases, 68 were boys and 80 were girls. Of this figure, a total of 47.6% were reported for physical abuse, 26.7% for sexual abuse, 15% for neglect and 10.7% for emotional abuses. From the cases of incest reported to the Rape Crisis Centre between 1991 to 1997, in 1991, 22 children were reported to have been victims of incest, in 1992, 42 were reported to be incest victims, in 1993, 40 were reported to be victims, in 1994, 40 were reported as victims, in 1995, 61 were reported as victims, in 1996, 45 were reported as victims and in 1997, 55 were reported as victims.<sup>11</sup>

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<sup>8</sup> Ibid p.5

<sup>9</sup> Sadekie Lyttle and Stacey Brodie. *Child Abuse and its Relationship to conduct Disorder an Abstract*. Priory Lodge Education Ltd. p. 5

<sup>10</sup> Rhoda Reddock and Rosaline Barclay. *Statistics on Child Sexual Abuse in Trinidad for 1993*

<sup>11</sup> Ibid



In more recent statistics, it was revealed from the Second Periodic Report of the Republic of Trinidad and Tobago: Convention on the Rights of the Child 2003, that the number of offences against females under the age of 14 in 2000 totaled 67 while that number rose to an alarming figure of 169 in 2001 and 163 in 2002.<sup>12</sup>

Presently Barbados has the most up to date statistics in terms of child sexual abuse. From the Unpublished Reports of the Child Care Board for the period 1991-1999 it was indicated that for the period of 1991-1992, there were 152 cases of child sexual abuse, for the period 1992-1993, there were 125 cases on child sexual abuse, in 1993-1994, there were 124 cases of child sexual abuse, in 1994-1995 there were 106 cases of child sexual abuse, in 1995-1996, there were 142 cases of child sexual abuse, in 1996-1997 there were 181 cases of child sexual abuse reported to the Child Care Board of Barbados. A total figure for the cases on child sexual abuse between the period 1991-1999 was 1297.<sup>13</sup> (see Letnie Rock, 'Child Abuse in Barbados' in Christine Barrow's, *Child Rights, Caribbean Realities*, (Ian Randle Publishers 2001). From the Unpublished reports taken for the periods 1991-1999, there was no breakdown given between the genders. However in more recent statistics from the Child Care Board, there was a breakdown in terms of gender of children. These figures are represented on charts provided below.

Age cohorts	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
0-4	22	10	15	20	14	20
5-11	41	37	48	45	37	52
12-16	131	137	173	160	135	154
16+	03	08	06	04	04	
Unknown				02		
Total	197	186	242	231	190	226

**Source: Statistics from the Unpublished Reports at the Child Care Board for the period 2000-2006. (Both males and females sexually abused).**

<sup>12</sup> Second Periodic Report of the Republic of Trinidad and Tobago: Convention on the Rights of the Child 2003

<sup>13</sup> Letnie Rock, 'Child Abuse in Barbados' in Christine Barrow's, *Child Rights Caribbean Realities* ( Ian Randle Publishers 2001). p. 317

**Breakdown of Gender of children sexually abused (males)**

Gender of Children	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
Male								
0-4	04							
5-11	10							
12-16	03							
16+								
Total	17			10	19	14	11	22

Source: Statistics on Child Sexual Abuse Taken from the Unpublished Reports of the Child Care Board for the period 1998-2006.

**Breakdown of gender of Children involved in Sexual Abuse (Females)**

Gender of Children	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
Female								
0-4	23							
5-11	65							
12-16	142							
16+	45							
Total	275			176	218	217	179	204

Source: Statistics on Child Sexual Abuse taken from the Unpublished reports of the Child Care Board for the period 1998-2006<sup>14</sup>

From the above statistics for Barbados, it seems that there is a lack of reporting of cases of child sexual abuse for boys, and that girls seem to be the primary victims of child sexual abuse. Nevertheless, it is necessary to note that both boys as well as girls are

<sup>14</sup> Statistics on Child Sexual Abuse Taken from the Unpublished reports of the Child Care Board for the period 1998-2006

victims of child sexual abuse and that this factor cannot be overemphasized when dealing with the topic of child sexual abuse and affording equal treatment to children who are victims of child sexual abuse under the law.

What the statistics from Jamaica, Trinidad and Tobago and Barbados reveal is that in the Caribbean, the problem of child sexual abuse is more acute than imagined and that there is clearly a need to protect children from the harmful effects of child sexual abuse which may result in their adult lives in activities such as prostitution, crime, aggression and violence. These are all discussed under the effects of child sexual abuse on children.

## THE PSYCHOLOGICAL REASONS ADVANCED FOR CHILD SEXUAL ABUSE:

Reform of the law is often hindered by the fact that the reasons for child sexual abuse are not clearly understood hence no paper on child sexual abuse would be complete without examining the reasons why child sexual abuse occurs.

Much research has gone into trying to explain why child sexual abuse occurs and different models of explanation have emerged to understand the reasons why those who abuse children react in the manner in which they do. Three models have been advanced to explain the reasons for child sexual abuse. One model for example focuses on the approach that the abuser is "sick", that is to say, they suffer from some psychological disorder which affects the way that they behave. This is the psychopathological model. Another examines the socio environmental factors such as poverty and its link to child sexual abuse, and the third model is explained by socio-cultural norms linking child sexual abuse to male sexuality. This is because most perpetrators of child sexual abuse are men, although there are cases in which women perpetrate abuse against children, however such cases are rare.

In his text *The Moral Status of Children*, Michael Freeman, in exploring the psychopathological reasons behind child sexual abuse, stated that where abusers are regarded as sick or abnormal, such considerations hardly ever take account of factors such as the harsh or deprived childhood of the offender or the physical or sexual abuse of such persons. According to Freeman, there is no research on men who were abused as children and do not abuse their children. And such men do not come to the attention of clinicians. Other psychopathological factors take into account the emotional congruence of child abusers who choose children for sexual partners because they have some specially compelling meaning for them. According to Finklehor, such persons are aroused sexually by children, or have been victimized as children or there may have been a lack of alternative avenues for gratification, in other words, a man suffers from pedophilia because he is unable to find sexual gratification in an adult relationship and

## THE OTHER FACE OF CHILD SEXUAL ABUSE: CHILD PROSTITUTION OR CHILD SEXUAL EXPLOITATION:

In the Caribbean when one speaks of the phenomenon of child sexual abuse to the ordinary or layman, they generally have the perception that child sexual abuse is an act initiated by an adult against the child, for example where the adult may rape or fondle the child or engage in inappropriate sexual activities such as engaging in oral sex with the child or having the child perform oral sex with the adult. However, under the Convention on the Rights of the Child and other domestic laws, child abuse has extended beyond acts which are committed against children to even acts where children are seemingly willing participants of sexual abuse. In other words, child sexual abuse also includes the sexual exploitation of children for the gratification of the adult in exchange for financial gain. Within the Caribbean this phenomenon is also common although it has not been as widely reported or even documented as cases in which the abuser commits an offense against the child.

In a personal interview with the Head of the City Police Headquarters in Trinidad and Tobago, Acting Superintendent Leeroy Stephens, he commented that “children and particularly boys, who are sexually abused often find themselves on the streets of Port of Spain because many of them run away from home in order to escape abuse” and according to him “they may be taken in by pimps who offer them a shelter and the cycle or pattern of abuse continues”. He indicated that such children often become comfortable in this cycle of abuse and unless they are taken in by persons, agencies or social services, they do not really get the help they need and many of them turn out to be homosexuals”<sup>17</sup> According to Mr. Stephens, “they feel comfortable with this lifestyle because they are searching for love...” He also commented that many of the children on the streets also contract venereal diseases such as AIDS, gonorrhoea and syphilis and they also engage in delinquent activities such as theft and burglaries. Although there is legislation in Trinidad in particular to address the issue of sexual abuse against males, for instance the

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<sup>17</sup> Interview with Mr. Leeroy Stephens, Acting Superintendent of police City Police Headquarters Trinidad (Trinidad 18<sup>th</sup> March 2007).

Sexual Offences Act which in particular addresses the offence of buggery, it is necessary to note that there is no legislation which addresses the issue of therapeutic counseling for sexually abused victims, male or female. This point is explored in more detail later on in this essay. For now it is only necessary to note that sexual exploitation of children is another effect or side effect of child sexual abuse which has a tremendous impact on children in the Caribbean and therefore there is need to address this issue in legislation concerning children, particularly in Trinidad.

In an interview with Ms. Katrina Smith of the Child Care Board of Barbados, she too mentioned the fact that in Barbados, "there are reports which come to the Board of parents, and particularly of mothers who encourage their children in prostitution. However the sexual exploitation of children is very subtle".<sup>18</sup> According to Ms. Smith, there are very smart mothers who would arrange for the child to have relationships with men and the child becomes involved in the relationship and isn't even aware of what is actually taking place" that is to say that the mother has encouraged them to be in sexual relationships for gain.<sup>19</sup> She stated that she knew of external trafficking of children from Trinidad, Jamaica and Guyana but generally there were very few reports of sexual exploitation in Barbados. In terms of child prostitution she stated that in most cases, this situation occurred because of poverty. According to her, "A man may see a woman with two daughters and for reasons that are not necessarily altruistic, he may offer to help the woman with her children and later extract his pound of flesh".<sup>20</sup> In other words, a man may take advantage of the situation that a woman may not be financially well off and therefore take advantage of her children because she is financially dependent on him.

There is perhaps more reporting and better documentation of the occurrence of child sexual exploitation in Jamaica. In one article on child sexual exploitation in Jamaica by Sian Williams, entitled 'The Mighty Influence of Long Custom and Practice, Sexual Exploitation of Children for Cash and Goods in Jamaica', the author explored the accounts within the Jamaican landscape of children selling sex for commercial gain. In

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<sup>18</sup> Interview with Ms. Katrina Smith of the Child Care Board of Barbados (Barbados 19<sup>th</sup> March, 2007)

<sup>19</sup> Ibid.

<sup>20</sup> Ibid

one account, there was a description of a weekly trade fair and market held in Hendon Square bus park and transport centre in Savannah la Mar in Jamaica. According to Williams, “between 150-200 girls and women compete for the interest of men buying their services, especially those in the smarter cars:

Every Thursday you’ll see them. They come from across the island. you should see their hair, their clothes. From nine in the morning, business people come for them. They come in their cars or they send their drivers or a taxi for them. They look at their physical condition and they select the ones they want. They pay them to dance about \$J800 (approximately US\$20) a night and they provide food and clothing for them. At the clubs where they dance, they’ll top up their earnings by providing sex...Why do they come here...it’s the new Caribbean business now...<sup>21</sup>

According to Sian Williams, the accounts of Hendon Square are just some of the numerous anecdotal descriptions and stories of boys and girls involved in sexual activity for economic gain. The author suggested that there is no evidence of a mechanism in place for collecting hard data to support what are common experiences and understandings of the professionals which she interviewed but “everyone knows that there is a problem”.<sup>22</sup>

In an article in the Sunday Herald on the 13/3/2000, there were also descriptions in the press on the sexual exploitation of young high school girls. The accounts described the process where young high school girls were traveling in groups and demanding sex in return for goods-lunch money and their bus fare. It began as a sequence of stories in which a school girl was abducted and raped by a bus conductor and ended with the overwhelming of a bus conductor by girls demanding sex. According to Williams, a major factor securing the entry of the girls to the profession is the “encouragement by friends or family members who are working as commercial sex workers”. According to

<sup>21</sup> Sian Williams, ‘The Mighty Influence of Long Custom and Practice’ in Christine Barrow’s *Child Rights Caribbean Realities* (Ian Randle Publishers, Kingston 2001). p. 331

<sup>22</sup> Ibid.331

her, from the time the girl is deemed “ripe” she will be introduced into sex work. The movie “Dance Hall Queen” which is a dramatization of the Jamaican reality made a distinction between the entry into the sex trade and entry into a relationship with a sugar daddy in exchange for economic or what is termed by Williams as “in kind” support for the family. The latter form is sex for gain or survival and was the basis of the film. In that film, the protagonist who was 15, was indirectly made to know that she was the source of the family’s economic survival. Her “uncle Larry makes sexual advances at her and when she resists, he reminds her of who is paying the bills and taking care of the family.”<sup>23</sup> When she tells her mother about it though, the mother encourages her to sleep with him because according to her “him contribution pay most of the bills around ere”. This process of “handing over” as Hilary Beckles described it, is linked to the slavery process and he suggested that it was merely a continuum of that process.<sup>24</sup> Whatever the root cause of child sexual exploitation, the fact is that it exists and is perhaps the ugliest face of child abuse because it diminishes the child’s sense of self worth.

According to Williams, “the long custom and practice of prostitution of young girls 12 years and older can be seen in the brothels of Montego Bay, the second major tourist centre of the island. There are also many reported concerns among teachers of the Greenisland Comprehensive Scholl which were undocumented of girls leaving school early, drawn to the high earnings to be made in commercial sex work with tourist. In Ocho Rios, there are reports of poor boys who are invited for a weekend initially, they have a good time and they want to return. By the third or fourth visit, they begin to trade in sex with big business men in exchange for money, gifts and clothes.”<sup>25</sup>

But according to the author, the most worrying concern is of children who dance at the “go-go clubs, in which one account was given by Winston Bowen, the director of the Children’s Services in Jamaica of children in Westmoreland who “jumped in front of his car completely naked gesturing for him to come into a club in which they were pointing

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<sup>23</sup> Sian Williams, ‘The Mighty Influence of Long Custom and Practice’ in Christine Barrow’s, *Child Rights and Caribbean Realities* (Ian Randle Publishers Kingston 2001) p. 333 -335

<sup>24</sup> Ibid 336

<sup>25</sup> Ibid 331



to. According to the author, “the girls may dance, strip, provide oral or vaginal sex on or off the premises in what has become the entertainment norm”.<sup>26</sup> These tragic accounts of children selling themselves for commercial gain reveal that it would be too narrow to think of child sexual abuse as only abuse which is initiated by perpetrators against children. It even encompasses instances where children may or may not be willing participants of such abuse (as in the case with Tina of Dance Hall Queen who sold sex for survival). In the interview with Ms. Katrina Smith she also stated that there is also capitalistic exploitation of children such as where a child will sell sex in order to purchase a phone card. Williams also highlighted that there is also this sense of capitalistic exploitation in which children exchange sex for “Nike gear” or “the look”.<sup>27</sup>

The accounts from Trinidad and Tobago, Barbados and Jamaica reveal that enacting legislation which merely outlines penalties for persons who cause children to become involved in the sex trade, is according to Ms. Smith of the Child Care Board, “not enough”. According to Ms. Smith, “it is not a matter of creating more legislation” but a matter of “law enforcement”.<sup>28</sup> If reports however of child sexual exploitation of children are not made however it will be hard to determine how those responsible for enforcing the law would be able to carry out their duties. Furthermore, where children are made to feel that selling sex for money is a normal way of life, certainly there is need for therapeutic intervention or counseling and seeking help for children to acquire a greater sense of self worth. And perhaps the best solution for dealing with the problem may be to remove those children from homes in which they may be encouraged by a parent or guardian to sell themselves in order to support their families and place them in foster homes or give them the opportunity to be adopted by someone who is willing to love them and care for them in the manner that they should be loved and cared for.

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<sup>26</sup> Sian Williams, ‘The Mighty Influence of Long Custom and Practice’ in Christine Barrow’s *Child Rights Caribbean Realities* (Ian Randle Publishers Kingston 2001). p. 339

<sup>27</sup> Sian Williams, ‘The Mighty Influence of Long Custom and Practice’ in Christine Barrow’s *Child Rights Caribbean Realities* (Ian Randle Publishers Kingston 2001) p. 343

<sup>28</sup> Interview with Ms. Katrina Smith of the Child Care Board of Barbados (Barbados, March 19<sup>th</sup> 2006).

## EFFECTS OF CHILD SEXUAL ABUSE ON CHILDREN: CHILD SEXUAL ABUSE AND ITS RELATIONSHIP TO CONDUCT DISORDERS:

According to Clinical psychologists Sadekie Lyttle and Stacy Brodie, children and adolescents who have experience child abuse are generally at a high risk for social problems due to conduct disorder. The reports reveal that the pervasive symptoms identified in these children and adolescents include explosive temper tantrums, physical aggression, fighting, threats or attempts to hurt others including homicidal thoughts, use of weapons, cruelty towards animals, fire setting, intentional destruction of property and vandalism and other behavioural symptoms identified in the criteria for conduct disorder. Furthermore, a history of childhood abuse has been associated with higher rates of psychopathology in adulthood when compared to non-abused adults.

A survey of 70 substantiated cases of abused children between the ages of 10-19 years was conducted to identify whether the behavioural symptoms they displayed are severe enough to warrant a diagnosis of conduct disorder and identify the nature and difference in presentation across age, gender and type of abuse. Participants were assessed using the conduct disorder scale and a demographic questionnaire was also given. The results indicated that 50% of the sample met the criteria for conduct disorder. Those who met the criteria were sexually and physically abused with high rates of aggressive conduct, hostility and rule violating behaviours including theft, while those neglected or abandoned had lower rates of conduct problems when compared to other types of abuse and the majority did not meet the criteria for conduct disorder. One police officer the Acting Superintendent of the City Police Headquarters of Trinidad and Tobago stated that "many of the abused children run away from home and find themselves on the street of Port of Spain begging...they may be taken in by pimps who offer them a shelter and the cycle of abuse continues..." He also commented that "many of these children engage in delinquent activities such as theft or burglary and are used as the tools to break and enter people's homes".

Lyttle and Brodie also commented that conduct problems were found to intensify between the ages of thirteen and fifteen years with females exhibiting higher rates of aggressive conduct than males. According to Lyttle and Brodie too, there is converging evidence that suggests that abuse in childhood is associated with delinquent behaviour. Furthermore, the relationship between child abuse and delinquency was stronger for the more serious types of delinquency than for the minor forms. It is estimated that approximately fifteen to thirty percent of maltreated children go on to become delinquent.

A significant number of studies also revealed that having a history of child abuse has been associated with poor mental health and predisposes the individual to various mental illnesses and conduct problems. (Edward, Felitti & Anda 2003). The results from an assessment of the rates of psychopathology in a general population sample who reported a childhood history of either physical or sexual abuse indicated that women with a history of child sexual abuse had higher rates on all disorders. For example women with a history of child abuse were predisposed to having anxiety disorders, mood disorders, alcohol abuse and dependence and antisocial behaviours than those with a history of physical abuse.<sup>29</sup> According to Nancy Van Pelt, an American author in Family life psychology and the author of the books "*Train up a child*" and "*To Have and to Hold*", women who had a history of childhood sexual abuse were predisposed to becoming promiscuous with the possibility of this leading to prostitution.<sup>30</sup>

In examining the effects of sexual abuse in men, Lyttle and Brodie stated that "in men, disorders were more prevalent if there was a history of sexual abuse and the effects of sexual abuse in most cases led to alcohol abuse and dependence."<sup>31</sup> Overall the research indicates that a history of childhood abuse increases the likelihood of developing psychopathology in the long term especially in women. (Mac Millian, Fleming Steinger et al 2001). Other conduct disorders included alcohol. And drug abuse or addiction, schizophrenia (Read and Argyle, 1999), personality disorders, trait impulsivity,

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<sup>29</sup> Sadekie Lyttle and Stacey Brodie. *Child Abuse and its relationship to Conduct Disorders: Abstract* (Priory Lodge Education Ltd. 2006) p.6

<sup>30</sup> Nancy Van Pelt. *Train up a Child*. (Review and Herald Publishing Association, Washington D.C. 1984)

<sup>31</sup> Sadekie Lyttle and Stacy Brodie. *Child Abuse and its relationship to Conduct Disorders: Abstract* (Priory Lodge Education Ltd. 2006) p.6

aggression, violence and delinquency. What is more important to note is that the effects of sexual abuse is said to vary with age to note is that the effects of sexual abuse is said to vary with age and has long term physical, mental, psychological and behavioural effects on the child. Child sexual abuse is more than a sexual act. It affects all aspects of the victim's life. It has been suggested that a child who seemed unharmed by the abuse could develop crippling symptoms years later and have difficulty in their interpersonal relationships. (Hunter 1990).

In one study investigating differences in the amount of pathology for different age groups, it was found that the highest incidence of psychopathology was among sexually abused children between the ages of seven to thirteen years who demonstrated substantially higher levels of hostility on scales of aggression and antisocial behaviour. (Tufts New England Medical Centre 1984). This conclusion is consistent with Swanston, Parkinson, O'Toole, Plunket, Shrimpton and Oates 2003 who concluded that having a history of child sexual abuse led to criminal behaviour and aggressiveness.

The studies also revealed the gender distinction regarding the expression of anger, one of the most common behavioural symptoms of child sexual abuse. It was revealed that males demonstrate higher levels of aggression and impulsively express their anger with the motive to gain revenge while females on the other hand were found to be angry longer, more resentful and less likely to express their anger (Ri Guiseppi & Tafratate 2003).<sup>32</sup>

Other effects, according to the Child Care Board of Barbados, include withdrawal and mistrust of adults, suicidal ideations, difficulty relating to others except in sexual or seductive ways, the unusual interest in or avoidance of all things sexual or physical, sleep problems and nightmares, secretiveness, unusual aggressiveness, neurotic reactions and phobias.<sup>33</sup>

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<sup>32</sup> Sadikie Lyttle & Stacy Brodie. *Child Abuse and its relationship to Conduct Disorders: Abstract* (Priory Lodge Education Ltd. 2006) p.6

<sup>33</sup> Child Care Board. *Statistics on Child Sexual Abuse 2007*

Given the psychological impact that child sexual abuse has on its victims whether male or female, it seems obvious that if the problem is not dealt with in a comprehensive manner, it could lead to an increase in anti social and delinquent or deviant behaviour, leading to even greater social problems for society. It is therefore critical that legislation is not only implemented but enforced in such a way to afford adequate protection from the harmful effects of child sexual abuse.

## INTERNATIONAL MEASURES TO PROTECT CHILDREN FROM CHILD SEXUAL ABUSE:

Under the Declaration on the Rights of the Child 1959, state parties under Principle 2 affirmed that “the child shall enjoy special protection and shall be given opportunities and facilities by law and by other means to enable him to develop physically, mentally, spiritually and socially in a healthy and normal manner in conditions of freedom and dignity.”<sup>34</sup> Principle 8 asserts that the child shall in all circumstances be among the first to receive protection and relief. Principle 9 states that “the child is to be protected against all forms of neglect, cruelty and exploitation and shall not be the subject of traffic in any form”. Under the Convention on the Rights of the Child, the preamble to the convention sets out that “childhood is entitled to special care and assistance and that the family and particularly children should be afforded the necessary protection and assistance so that they can fully assume their responsibilities within the community.”<sup>35</sup>

Unlike the Declaration on the Rights of the child, the convention on the Rights of the child actually defines who a child is for the purpose of the Convention by specifying a specific age limit. Under Article I of the convention, a child for the purposes of the convention is defined as “every human being below the age of 18 years, unless under the law applicable to the child, the majority is attained earlier”.<sup>36</sup> Article 3(2) then sets out the responsibility of the state towards children, which provides that “state parties undertake to ensure the child such protection and care as is necessary for this or her well being and to this end shall take all legislative and administrative measures.”<sup>37</sup> Article 3(3) expands on Article 3(2) by providing that state parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities particularly in the areas of safety and health. Article 34 deals specifically with the issue of child sexual abuse and exploitation, by providing that “state parties shall undertake to protect the child from all

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<sup>34</sup> Declaration on the Rights of the Child (adopted September 2<sup>nd</sup> 1959).

<sup>35</sup> Ibid

<sup>36</sup> Convention on the Rights of the Child (adopted November 2<sup>nd</sup> 1990)

<sup>37</sup> Ibid

forms of sexual exploitation and sexual abuse. For these purposes, state parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent (a) the inducement or coercion of a child to engage in prostitution or other unlawful sexual practices (c) the exploitative use of children in pornographic performances and materials.

The Convention clearly places the responsibility on states to establish legislative and administrative measures to protect children from sexual abuse and exploitation or any harm that would retard or hamper his or her development. In this regard, the Convention may be viewed as an international protective machinery geared towards protecting children's rights.

Apart from the Declaration on the Rights of the Child and the Convention on the Rights of the Child, the United Nations also established a system for the convention to work. It has been stated that for the first time an international legal framework exists on which those concerned for the human rights of children could base their work. A ten member committee for the Human Rights of Children was established and began meeting three times a year from September, 1991, to examine the reports which state parties must submit to it within two years of their ratification of the Convention and every five years after that. Governments must report on all measures adopted and the progress made in advancing children's rights in their countries. All too often though, the reports are submitted late. Governments also have a duty which many fail to carry out, to make the provisions of the Convention widely known to adults and children alike.<sup>38</sup>

Given the above considerations, it is clear that the international community views the protection of children against sexual abuse as a major concern and in seeking to ensure the child's interests establishes a legal framework for the protection of children's rights against such abuses as well as a supervisory body to ensure the rights of such children who may be in danger of abuse are adequately protected. Whether such legal actions are effective is another question. This is because, as stated earlier, many governments have

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<sup>38</sup> Suzanne Vega. *Childhood Stolen: grave human rights violations against Children.* (Amnesty International Publishers, Amnesty International British Section, London, 1995) p. 12

failed in their duties of reporting their findings to the United Nations Committee on the Rights of the Child which acts as a watchdog to safeguard the rights of children.

It may be suggested that while the Declaration the rights of the child and its successor, the Convention on the rights of the child are certainly laudable, they have very little effect as international legal instruments geared towards protecting children from abuse if governments do not perform their duties to report where necessary the violations committed against children in their country and would also be ineffective if children and their caretakers as well as their society are unaware of what legal rights are available to them. Of course there are other non governmental organizations such as Amnesty International which report on incidences of child abuse and lobbies for the rights of children, however even the information available to these institutions depends on the reports of internal organizations on child abuse.<sup>39</sup> It is therefore imperative that governments take their responsibility to report such abuse seriously in order to protect the rights of children under these international legal instruments.

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<sup>39</sup> Suzanne Vega. *Childhood Stolen: grave human rights violations against children* (Amnesty International Publishers, Amnesty International British Section, London, 1995) p.12



## TRINIDAD AND TOBAGO AND THE ISSUE OF CHILD SEXUAL ABUSE:

Within Trinidad and Tobago, child sexual abuse is currently addressed under the broad heading of Domestic Violence. Domestic Violence, under the Domestic Violence Act No. 27 1999, is defined as “physical, sexual, emotional, psychological or financial abuse against a spouse, child or any person who is a member of the household or dependent. (see Domestic Violence Act No.27 1999). Sexual abuse within this definition includes sexual contact of any kind that is coerced by force or the threat of force and the commission or attempt to commit any of the offences under the Sexual Offences Act.<sup>40</sup>

The domestic Violence Act was amended in 1999 to provide better protection to children together with the provisions of other legislation yet to be implemented, for example the Children’s Authority Act No. 64 of 2000 (amended to the Children’s Authority Act 8 of 2003), the Children’s Community Residences and Foster Homes and Nurseries Act No. 65 of 2000 and the Sexual Offences Amendment Act No. 31 of 2000 which seeks to provide the legislative framework for the protection of children from abuse.

According to Dr. Adele Jones of the Social Work Unit of the Department of Behavioural Sciences of the University of the West Indies, “child sexual abuse may or may not involve actual or physical contact and includes acts, for example rape or buggery and also non penetrative and non contact activities, encouraging children to behave in sexually explicit ways and exposing them to sexual material and it includes the involvement of children in prostitution and pornography.<sup>41</sup>

Although Trinidad and Tobago has a number of child protection laws as outlined earlier in this essay, starting with the Domestic Violence Act No. 27 1999 (which specifically addresses the issue of child sexual abuse), it is necessary to note that there is no single piece of legislation on child care and protection which deals specifically with child abuse and in particular child sexual abuse. The fact that such abuse is categorized as Domestic

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<sup>40</sup> Domestic Violence Act No. 271999

<sup>41</sup> Adele Jones. ‘Tackling Child Sexual Abuse’ *UWI Home* Sunday 14<sup>th</sup> May 2006 p.1

Violence rather than child sexual abuse within the meaning of the Domestic Violence Act may be a defect of the Act itself since the definition is not specific to abuse perpetrated against children but against the wider social unit of the family. Apart from this, the issue of affording protection to children against child sexual abuse may tend to get obscured and even outweighed by the wider interests of protecting their adult caretakers from Domestic Violence or abuse.

The Act however does afford protection to children by providing that a protection or occupation order may be made in the interests of the child. Under section 5 it provides that the court may impose restrictions such as prohibiting the respondent from entering the premises of a particular locality or engaging in conduct which is of an offensive and harassing nature and where a respondent breaches an order, under section 18, a fine of \$5000.00 or imprisonment for a six month period or both may be imposed upon the respondent.<sup>42</sup>

Under the Sexual Offences Act 1986, Trinidad and Tobago amended by the Sexual Offences Act.No.31 of 2000, the law also provides under section 6(1) that where a male person has sexual intercourse with a female person who is not his wife and who is under the age of 14 years, he is guilty of an offence, whether or not the female person consented to the intercourse and whether or not at the time of the intercourse, he believed her to be 14 years of age or more and is liable on conviction to imprisonment for life. It is necessary to note here that there is no similar provision made for boys under the law and this may be one of the defects of the act itself. Under section 10(1) of the Act it provides that an adult who has sexual intercourse with a minor who is the adults adopted child, step child, foster child, ward or dependent in the adult's custody is guilty of an offence and that an adult who commits an offence under this section is liable to conviction if committed with a minor 14 years of age or more, for 10 years.<sup>43</sup>

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<sup>42</sup> Domestic Violence Act No.27 1999

<sup>43</sup> Sexual Offences Act 1986

Section 9(1) of the act specifically addresses the issue of incest and imposes a life sentence and where the act is committed by an adult with a minor 14 years or more for 10 years. Section 13(1) deals specifically with the offence of buggery. Initially the offence of buggery was placed in the law to deal with offences committed by men against men however the section also includes acts which are committed against females. The sentence for the offence of buggery against a minor is a life sentence and where the offence is perpetrated by a minor against another minor it is a sentence for five years.

Section 14(1) provides that a minor under the age of 16 cannot consent to sexual intercourse and section 17 deals with the procurement of minors which imposes a liability of imprisonment for 15 years on the offender. The Sexual Offences Act it would seem affords greater protection to children against sexual abuse and exploitation by imposing various sanctions against the offender, however it is up to the parent or guardian of the child or the person who has actual custody of the minor, or a medical practitioner or registered nurse or midwife who has performed a medical examination in respect of a minor or police officer, to report his or her reasonable belief on whether the child has been sexually abused. It follows therefore that if no such report is made then the child may not obtain the necessary protection that he or she needs in instances of sexual abuse. The law can only do so much. It is therefore up to people to report instances of abuse so that those responsible for law enforcement can carry out their duties in protecting children.

Under the Sexual Offences Act, Section 18(2), where a parent, or caregiver or medical practitioner or police officer fails to report the crime, he or she may be liable to a term of imprisonment for a term of seven years or to both such a fine and imprisonment. In most cases however this is sadly never done. Section 31(b) of the act allows the court to admit into evidence a statement written by a minor made to the police but if the police again fail to take the matter seriously again this may create a problem for children who are sexually abused and in need of protection. Under section 31(b), the court also allows for statements made on behalf of a minor who cannot write. The problem with this, however, is that in most cases there is a failure by care givers to report incidences of child

abuse where they may have such knowledge for fear that it may “expose, ruin or disrupt” the life of the family or the parties involved so as Zanifa Mc Dowell suggests in her text the *Elements of Child Law in the Commonwealth Caribbean*, such persons may prefer to turn a blind eye to the situation<sup>44</sup> and even in cases which are reported and in which parties are prosecuted, the question of evidence which we will examine later, is a difficult hurdle to surmount.<sup>45</sup>

Again, the fact that there is no single piece of legislation dealing with child sexual abuse is a major deficiency in the legislation relating to child protection and where such legislation exists, it has not been enacted or implemented to afford the required protection which children need against child abusers.

For instance up until May, 2006, the Children’s Authority Act of Trinidad and Tobago, which deals specifically with the issue of creating a Children’s Authority to provide institutions for abused and neglected children, was still not implemented may have contributed to the atrocious deaths of the two toddlers Sean Luke and Emily Amy Annamutudo on March 26<sup>th</sup> and May 15<sup>th</sup> 2006 since there was no authority created for them. The tragic nature of the deaths of the two infants revealed something about the adequacy or inadequacy of the laws of Trinidad and Tobago relating to child abuse. An examination of the legislation pertaining to Child Care and Protection in Trinidad and Tobago an in particular the Children’s Authority Act and the Act for the Prevention of Cruelty to Children and Young Persons (which seek to afford greater protection to abused and neglected children) is therefore necessary to underscore and assess the effectiveness or deficiencies of the particular legislation in question.

Under the Children’s Authority Act section 4, the Children’s Authority is to be established as a corporate body with the powers, according to section 5 of the said act, to monitor community residences, foster homes and nurseries, and conduct periodic reviews with prescribed requirements. Under section 5(c), the authority is required to investigate

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<sup>44</sup> Zanifa Mc Dowell, *Elements of Child Law in the Commonwealth Caribbean*. (University of the West Indies Press Kingston 2000) p. 220 - 221

<sup>45</sup> Ibid

complaints of (i) staff (ii) children and (iii) parents and guardians of children with respect to any child who is in the care of a community residences foster home, or the nursery's failure to comply with requisite standards as prescribed under the Children Community and Foster Homes and Nurseries Act and any incidences of mistreatment of children in such places.<sup>46</sup>

Under section 5(f) it is also required to investigate complaints or reports of mistreatment in their homes, 5(g) to act as an advocate for the rights of all children in Trinidad and Tobago. Under the Act, The authority is also responsible for doing what is in the best interests of the child and in doing what is in the child's best interest, this includes taking into consideration whether domestic violence was directed against or witnessed by the child. Under section 22(1) (f), it provides that where a child is ill treated or neglected in a manner likely to cause him suffering or injury to health or is exposed to moral danger or is destitute or wandering that the intervention of the authority is necessary in the best interest of the child and that it would be lawful for the authority to receive the child into its care. The Act also provides that a police officer or any other persons having reasonable grounds for believing that a child is in need of care or protection may seek the assistance of the Authority for care and protection of such child.

Apart from the Children's Authority Act, there is also the Act on the Prevention of Cruelty to Children and Young Persons Chapter 46:01 which provides under section 3(1) that if any person over the age of sixteen years who has custody or care of any child or young person willfully assaults or ill treats, neglect, abandons or exposes the child or young person or causes or procures the child or young person to be assaulted, ill treated, neglected or abandoned, or exposed in a manner likely to cause the child or young person unnecessary suffering or injury to his health or loss of sight, hearing, limb or organ of the body and any mental derangement that person is liable on conviction to an indictment of four thousand dollars or alternatively or in default of payment of such fine or in addition

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<sup>46</sup> Children Authority Act No.64 2000

thereto to imprisonment for two years or on summary conviction to a fine of one thousand dollars or alternatively or in addition thereto to imprisonment for six months.<sup>47</sup>

The Act clearly establishes a framework for dealing with abused and neglected children. However as discussed earlier, the Act itself was not implemented up until the time of the brutal killings of Sean Luke and Amy Annamutudo and in this respect was clearly ineffective.

It may be argued however that even if the Act was implemented, it would not be sufficient to deal with the issue of child sexual abuse because of the fact that child sexual abuse is a very sensitive issue which most people do not wish to speak about. This situation was revealed in the case of baby Amy whose death led to the discovery that the majority of her neighbours knew that she was being abused at least physically, but said nothing about the abuse. One neighbour even confessed to hearing the child's screams but said that he thought it was a "doll".

Child sexual abuse is treated as a taboo. However because of the tragedy that has resulted from baby Emily and Sean Luke's death, the society has been forced to come to terms with the fact that it can no longer remain silent about the issue because of the gravity of the impact that it has on children, including infants who are not immune to its impact.

The legislation such as the Children's Authority Act is certainly progressive in its scope since it focuses on providing protection to children who are abused and neglected by providing them with homes or institutions which it is thought would be better for their safety and development. The Act for Prevention against Cruelty to Children and Young persons also provides protection to children in the form of sentencing those who perpetrate the abuse against children to a fixed fine or a term of imprisonment.

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<sup>47</sup> Act on Prevention of Cruelty to Children and Young Persons Chapter 46:01

While these measures may be progressive in their scope however, such legislation would be still inadequate in protecting children from harm if persons are unwilling to speak out or report incidences of child sexual abuse. It would therefore be just another piece of legislation without any real effect.

Another critical point is that the majority of the community is unaware of the laws relating to Child Care and Protection in Trinidad and Tobago, and since they lack this knowledge, they may not know how to respond to situations such as the cases of Sean Luke, Amy and the CRY atrocities. It is often said that knowledge equals power. Perhaps this is one of the principles which should apply to the context of Trinidad and Tobago. The society needs to be educated on the laws relating to child abuse such as the Domestic Violence Act, the Children's Authority Act, the Act on Prevention of Cruelty to Children and Young Persons and the Sexual Offences Act and more importantly this legislation needs to be implemented in order to be truly effective.

There may be a deeper lesson to be learnt by the deaths of Sean Luke and Amy and also from the abused children at the CRY Foundation which goes deeper than merely enacting legislation which it is hoped will lessen the incidences of child sexual abuse. What the deaths of these two children reveal is that there is not only the need to establish or enact more legislation to deal with the issues of child abuse but a deeper need to expose perpetrators of the offence against children in order to get help for these persons since in many cases, the perpetrators of the offence were once victims of abuse themselves.

For instance in the case of six year old Sean Luke, his victimizers were male teenagers who were 13 and 16 respectively, According to Dr. Adele child psychologist and social worker at the Behavioural Sciences Department at the University of the West Indies, St. Augustine, most perpetrators are victims themselves and most of the perpetrators of child sexual abuse are male, while most of the victims that are reported are females.<sup>48</sup> This does not mean however that child sexual abuse does not affect males, on the contrary in the case where the abuse is perpetrated on males most of these cases go unreported. In

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<sup>48</sup> Adele Jones. 'Tackling Child Sexual Abuse' *UWI Home*(Sunday 14<sup>th</sup> May, 2006) p.3

the case of Sean Luke it is possible that these two teenagers may have been victims of abuse themselves in which case their behaviour is indicative of a "cry for help".

In an article by Jim Hopper entitled *Factors in the Cycle of Violence: Abused Boys, Gender Socialization and Violent Men*, he laments the paucity of services for male child sexually abused victims. In his opinion, such victims hardly ever get help. He feels that it is unfortunate that men are still viewed as predators and perpetrators and not as victims and like Dr. Adele, he reinforces the fact that most perpetrators were once victims themselves. He underlined a critical point which is that men who are sexually abused often do not get help, "they are less frequently seen in clinical settings and more seen in criminal settings"<sup>49</sup> and according to Dr. Hopper, "inward anger becomes outward rage, private pain turns into public aggression."<sup>50</sup>

Dr. Hopper stated that the abusive behaviour by men perpetrated on children is linked to cultural and gender stereotypes and biases which make men less likely to report their abuse or assault. Historically men have been discouraged from acknowledging vulnerability. Men are socially conditioned to hold back tears, not to cry and to minimize all emotional pain. As a result this contributes to dealing with pain in a more disguised way, through male rage. According to Dr. Hopper, male rage is a "cry for help".<sup>51</sup>

With these considerations in mind, it is obvious that what is needed perhaps beyond legislation, is a need to bring healing for child sexually abused victims, both males as well as females since both suffer equally as a result of child sexual abuse. There is also a need for healing for those who perpetrate the crimes who may have once been victims themselves, and perhaps more so for the perpetrators of the abuse who have not had the opportunity to find help or healing, thus exhibiting external aggressive behaviours.

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<sup>49</sup>David Lisak & Jim Hopper, 'Factors in the Cycle of Violence: Abused Boys, Gender Socialization, Violent men' <<http://www.jimhopper.com>> accessed 12 May 2006.

<sup>50</sup> Ibid

<sup>51</sup> Jim Hopper, 'Male rage: A Cry for help' <<http://www.jimhopper.com>. accessed 12 May 2006



Certainly this essay does not seek to condone such acts by abusers against children but to seek to find a plausible solution to child sexual abuse. In order to do so, it is necessary to get to the root of the problem itself which goes beyond law enforcement measures or legislation itself. There is the need for rehabilitation of the offender through therapeutic healing so that such offenders do not repeat the offence.

It is certainly commendable that there is legislation which seeks to prevent acts of abuse committed against children but as seen earlier, legislation by itself is not enough to prevent abuse. There must be a willingness of the members of the community, the family, the police officers and everyone to report incidences of abuse where they have knowledge of such abuse, otherwise legislation itself would be useless. Furthermore, in dealing with issues relating to children, in particular issues of child protection and abuse, it may be more effective to have legislation which deals specifically with children rather than seeking to combine the issues relating to children with those of their adult caretakers, since the issues pertaining to children may become obscure in the wider framework that pertains to their parents or guardians. (see Domestic Violence Act No. 27 1999 Trinidad and Tobago).

The Children's Authority Act and the Acts for the Prevention against Cruelty to Children are undoubtedly more effective in dealing with child abuse and neglect. However, they would be of little use if they are not implemented and if the community is unaware of the measure that could be taken with respect to protecting children under the Acts.

It is therefore submitted that the laws in relation to child care and protection and particularly where such laws seek to prevent child sexual abuse in Trinidad and Tobago are certainly praiseworthy and perhaps even necessary, if only to act as deterrents for offences perpetrated against children. However such laws would be wholly ineffective and even useless if no reports are made about child sexual abuse, if the laws pertaining to child care and protection are not implemented and if such laws do not address measures to deal with the root of the problem in bringing healing for those offenders who may have

been victims themselves of child sexual abuse who did not have the opportunity to deal with their pain in a positive way

## SUGGESTIONS FOR REFORM OF THE LAWS IN TRINIDAD AND TOBAGO: A COMPARATIVE ANALYSIS:

As stated earlier many reasons have been advanced for the causes of child sexual abuse, for example Michael Freeman in his text *The Moral Status of Children* has stated that child sexual abuse is a problem of male sexuality. In the opinion of the writer however it is more a problem of psychopathology of the abuser, that is to say a mental disorder of the abuser rather than a problem that results from socio environmental factors such as poverty or the unavailability of a spouse or even socio cultural practices and gender. However whatever may be the cause of child sexual abuse, it is clear that there is a need to deal with the problem and hence the legal system is one which cannot be ignored. The major question however is how can the law provide solutions to the problem of abuse against children when the law is part of the problem itself?

In Trinidad and Tobago, what exists at present is a “patchwork” of legislation pertaining to child care and protection and particularly the issue of child sexual abuse and there is clearly a need for reform in this area. In this respect, it is proposed that Trinidad and Tobago should take example from the Jamaican Child Care and Protection Act which was implemented in 2004. The Act brought under one umbrella measures concerning children which was previously embedded in the Juvenile’s Act (effectively repealed with the enactment of the Child Care and Protection Act), as well as the provisions of twenty other laws among which also includes the Offences Against the Person Act. The Child Care and Protection Act of Jamaica also draws on the provisions of the Offences Against the Person Act.

The fact that Jamaica under its Child Care and Protection Act has been able to combine issues relating to children under one piece of legislation may be the first step toward improving the situation of children in the Caribbean.<sup>52</sup> It cannot be overemphasized that the issues pertaining to children need to be separated from the issues pertaining to their adult caregivers since children need to be afforded special attention under the law based

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<sup>52</sup> Child Care and Protection Act Jamaica 2004

on the fact that like adults, they are individuals with inherent rights and the need for protection. Their issues should not be cloaked under legislation which is created to give particular attention to their adult caretakers.

Among the many other innovations of the Jamaican Act which seeks to improve the welfare of the child, is its move to establish an office of Children's Advocates which acts in legal matters on behalf of children. It also establishes a central child registry for the reporting of abuse of children. Perhaps the most profound innovation of the Act however, is the introduction of mandatory reporting in which the maximum penalty for not making a report on child abuse or neglect could attract a penalty of \$500,000 or six months imprisonment. Such reports must be made without delay and under the Act a person making the report cannot be sued unless such a person knowingly makes a false report which would attract a penalty of \$250,000 or three months imprisonment.

In Trinidad and Tobago, there is no provision of mandatory reporting of abuse or neglect under the Domestic Violence Act or any other Acts which deal with the issue of child sexual abuse and therefore this may be one of the defects which the legislation needs to consider revising in order to afford children greater protection.

Whereas in Trinidad and Tobago under the Domestic Violence Act and the Sexual Offences Act, a parent or guardian or person who has legal custody of the child, or a police officer or medical practitioner or teacher can bring a claim on behalf of a child, the Jamaican legislation, following its response to meeting its international obligations under the Convention on the Rights of the Child, offers a wider cross section of persons who can respond in cases where child abuse or child sexual abuse is suspected. The Jamaican Act itself embraces the West African concept that "it takes a village to raise a child" and thus makes it incumbent on every member of the society to become involved in the protection against child abuse. The Act emphasizes that the duty to protect children not only rests on the family but is the shared responsibility of the community, the police, the media, the courts and even private Children's Homes and places of safety, even fit

persons or persons in whose care a child is entrusted by the court have a responsibility to ensure that the child is adequately protected against child abuse.

The fact that members of the wider community or the public have not been listed as persons who are required to report instances of abuse against children is yet another deficiency of the law in Trinidad and Tobago since, as in the case of Amy Annamutudo, members of the public who knew of the ongoing abuse of the infant did not report the abuse because many did not view it as their responsibility to report what was happening to her. The fact that one member went so far as to comment that "he heard the child's cries but thought it was a doll" illustrates the level of detachment which the society has to matters which are not directly related to their own families or experiences. If, as under the Jamaican Child Care Act, there was a mandatory sentencing procedure which extends even to the community or those aware of acts of violence and abuse against children, perhaps persons would feel even more compelled to make reports where such abuse or violence is suspected. It is therefore recommended that if Trinidad and Tobago follows Jamaica in updating its legislation pertaining to children, it may wish to include a wider cross section of people which may involve including the community in the responsibility for looking out for the best interest of children and imposing a mandatory penalty against persons who know of abuse and later testify that they knew of the abuse but did nothing to help the child.

Another major innovation of the Jamaican legislation is the introduction of monitoring officers in which an officer is assigned to each region in Jamaica with the responsibility for supervision of all residential facilities or children's homes in Jamaica. Under the monitoring system, homes are visited on a regular basis to make the reporting mechanism to the registry more effective. (see Child Care and Protection Act Jamaica 2004). Within the system too, recommendations are made on an ongoing basis and a new system of licensing of all children's homes for a three year period is introduced. Prior to this, licenses were granted to persons as private operators indefinitely. However, the new licensing system is put in place to ensure that homes or care facilities for children are doing their job. The license is set for three years and at the end of the three year period,

the caregiver must apply to have the license renewed and part of this process involves reassessment of the results which forms part of the basis for deciding whether the license will be renewed or some other action taken.

This monitoring system and system of licensing is perhaps another consideration which Trinidad and Tobago may take into consideration with respect to institutions such as children's homes or children's institutions to ensure children are properly supervised and protected against acts of abuse and in particular acts of child sexual abuse whose effects as discussed earlier could lead to serious consequences for society. This need to put in place a licensing system is illustrated by the case of the CRY Foundation in Trinidad and Tobago which was an institution established to protect and shield children from abuse. The greatest irony is that the institution established to shield children from abuse was a centre for abuse itself. In that case four children were allegedly abused by a caretaker at the Home. If there was a system of monitoring children's homes on a regular basis as well as a system for penalizing institutions which fail to do their duty, such as not renewing their licenses, then it is arguable that this may improve the quality of care of children in such institutions.

In Barbados, the Child Care Board of Barbados which was established by the Child Care Board Act 1969 and amended in 1981, is an example of a functioning agency which was established under the Ministry of Social Transformation which was established to provide services and programmes for children who are deemed at risk and in need of care and protection. The Act of 1981 makes the Board a viable entity (i) to provide and maintain child care centres for children in need of care and protection including Day Care centres and children's homes (ii) to provide counseling for children (iii) to place children in foster care and supervise the foster care of the children as well, and to provide adoption. Trinidad and Tobago may also wish to follow the system in place in Barbados in implementing the Children's Authority Act which is responsible for providing children with foster homes and also to facilitate the process of adoption.

Other innovative methods of dealing with the problem of child sexual abuse include the aspect of interviewing children themselves or allowing them to testify at least at a preliminary stage on what has happened to them. This method has been used in many cases in America. Under the Sexual Offences Act of Trinidad and Tobago, there are only provisions whereby a police officer can make a report on behalf of a child who is alleged to be abused or to have someone such as a parent, teacher or medical practitioner make a report on his or her behalf however the child is not allowed to give his or her testimony. This may be another area for reform within the law where children are allowed to give their own testimonies, even if this may include the assistance of a trained psychologist on the various interviewing techniques to assist children in giving evidence against their abusers. In many cases children are not believed so this aspect is important to the credibility of the child's testimony.

One device that has been employed by psychologists includes the use of anatomically detailed dolls which has been employed by the American Psychological Association's Council, to assist children who may be too young to articulate clearly what has happened to them or who may be afraid to speak about their experiences within the context of the court.<sup>53</sup> The anatomically detailed dolls, or anatomically correct dolls as they are sometimes called, which were used by psychologists since the 1970s, have become the "assessment tool" and have received endorsement by the American Psychological Association's Council of Representatives. They, according to the association may be the best available practical solution to the problem of validating allegations of child sexual abuse.<sup>54</sup>

The use of the dolls includes the use of a male doll and his genitalia and a female doll with genitalia with or without pubic hair. The justification for the use of the anatomically detailed dolls reflects not only a belief that they permit children to reveal aspects of abuse they wouldn't reveal verbally, but also an assumption that sexually abused children will manifest inappropriate sexual behaviour when playing with such dolls especially

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<sup>53</sup> Forensic Psychology

<sup>54</sup> Ibid.

precocious play. (Skinner & Berry 1993, p.401). The results of tests based on this assumption however have been mixed as it has been indicated that some children who were not abused also demonstrated sexual acts when playing with the dolls. However, several studies indicated that the use of anatomically detailed dolls increased the reporting of genital contact when such contact occurred. (Goodman, Quas, Batterman, Faime, Riddlesberger & Kuhn 1997).

What has been suggested is that if anatomically detailed dolls are to be used at all, they are to be used following specific guidelines such as that the dolls should not be used to make an initial diagnosis of abuse, mental health professionals who use the dolls should be trained about proper interview techniques, and also videotaping of the interview to ensure that proper techniques are used is highly recommended.

Although there is some question as to the value of the use of anatomically detailed dolls in getting children to testify of their abuse, it may be one of the methods which Trinidad and Tobago may wish to consider in revising its legislation to allow the child to make reports for themselves if no one else will report such abuses against children. Children would be able to acquire a voice of their own and would not have to wait for someone to always act on their behalf where such experiences occur.

Another practical approach for dealing with child sexual abuse may involve creating legislation which allows the court to effectively remove children who may be in an abusive environment and placing them in the care of persons who may wish to adopt them. Indeed it was suggested in one article in the Express Newspaper that "adoption could have saved the life of Amy Annamutudo who was physically and sexually abused by her stepfather and neglected by her mother."<sup>55</sup> Under the Jamaica Child Care and Protection Act and the Barbados Child Care Board Act 1981, there is already provision under these legislation for the adoption of children where as in the case of Jamaica, the court is allowed to place children in the care of "fit persons" or persons whom in the

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<sup>55</sup> Joan Rawlins. "Adoption could have saved this child". *Express Newspaper* (Trinidad 19<sup>th</sup> May, 2006) p.12



court's estimation are in a proper position to look after such children and to provide them with the adequate love and protection they need.

Freeman in his text *The Moral Status of children* also underscored the importance of sex education as an important solution to the problem of child sexual abuse. He stated "as campaigns in the past have emphasized, children must be taught to say no, but they must also be taught what they are saying no to. The child's right to education is universally accepted but his or her right to a sex education is still questioned...if we really care about sexual abuse we will commit ourselves to teaching children what sex is all about".<sup>56</sup>

After the murders of Sean Luke and Amy, there were numerous articles in the Express and Guardian newspapers which emphasized the need for sex education and particularly the need for sex education to begin at home where parents have the responsibility of teaching children the art of saying no if they felt sensitive about the manner in which they were touched by any adult even if that adult was someone they trust. According to one psychologist, "by parents not inhibiting children when they say no even to aunts or uncles or persons they trust, this would instill confidence in the child since the child would be encouraged not to be afraid to say no to a situation with which they feel uncomfortable." Other techniques include not taking lifts from strangers or even trusted friends unless the parents are aware that the child may be taking a ride with the friend. According to the psychologist, the child should be encouraged by his parents to tell such persons "I would have to talk to my parents first before taking a lift with you..." This would diminish the conflict which the child may feel between the need to be polite to their elders while still being cautious.

Implementation of sex education at the primary school level is another area of work for legislators when it comes to protecting children against child sexual abuse. It is clear that many parents may feel intimidated by speaking to their children about sex and therefore if parents fail in their duty to teach children, the school must provide children with education as this is the child's right under the Convention on the Rights of the Child. It is

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<sup>56</sup> Michael Freeman, *The Moral Status of Children* (Martinus Nijhoff Publishers 1997) p.291-292

because of a lack of education or awareness about sex that children fall prey to predators therefore the law needs to take account of making sex education a compulsory requirement at the primary and secondary school levels as part of child care and protection.

Finally none of these methods would be effective if children who undergo sexual abuse do not receive adequate psychological counseling to help them cope with their emotional pain or trauma. The disastrous effects that abuse of any kind can have on children is seen in the conduct disorders and deviant behaviours which such children and adults perpetrate against society which is a reflection of the rage and frustration which many children who are sexually abused feel. Such frustration as suggested by clinical psychologists find outlet in crimes such as rape, theft, murders, prostitution and the list goes on. No law therefore could be complete without providing the most essential tool in dealing with child sexual abuse, the need to provide children whether male or female with therapeutic counseling to help children to find a catharsis for the internal turmoil with which many of them struggle. The Child Care Board of Barbados provides counseling for sexually abused children and seeks to rehabilitate them, Trinidad and Tobago should follow this pattern in providing counseling agencies to deal specifically with abuse and it is suggested that such agencies be included in legislation pertaining to child care and protection.

In conclusion, Trinidad and Tobago should take example from countries such as Jamaica, Barbados and the United States in the areas of reforming the law to give effect to the best interests of children. In this respect, it first has to consider revising the law by placing all matters pertaining to children under one comprehensive Act. Apart from this there also needs to be a revision of the law in terms of the number of persons who can bring reports on behalf of children, the principle "it takes a village" employed by the Jamaican legislation is certainly praiseworthy since it embraces the concept that all persons are responsible for the care and protection of children. In this respect where such persons do not report incidences of child abuse or child sexual abuse against children, the law may place mandatory sanctions or penalties against such persons who had knowledge of the

harm placed on children. In examining jurisdictions such as America, it is also clear that such jurisdictions also give credence to the testimonies of children themselves and employ numerous interviewing techniques in order to allow children to testify of their experiences among which is the use of the anatomically detailed doll. In an effort to curb child sexual abuse, Trinidad and Tobago may wish to examine such techniques to assess the value of such techniques in helping children to speak about their experiences. The option of adoption should also be considered as a method of dealing with the problem of child sexual abuse and in this respect, Trinidad should look at the pattern of Jamaica and Barbados who have systems in place for adoption of children who are abused, there is also the need for counseling and providing children with sex education and awareness and as such the legislators need to take account of these factors in reforming the law to provide or afford greater protection to children.

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