



Pan Caribbean Partnership against HIV and AIDS (PANCAP)

**Policy Brief advocating for Law reform in the Republic of
Trinidad and Tobago to Respond
to Gender-Based Violence, Stigma and Discrimination**

Law reform in Trinidad and Tobago to Respond to Gender-Based Violence and Stigma and Discrimination

I. Summary

Incidence of gender-based violence (GBV) is high on a global scale. GBV cuts across geographical and socioeconomic boundaries. Data shows that, globally, 1 in every 3 ever-partnered women will experience intimate partner violence ('IPV') in their lifetime.

In the "Women's Health and Life Experiences in Trinidad and Tobago" Survey Report for 2019, the first comprehensive study analysing the situation of GBV in Trinidad and Tobago ('TnT'), the data reflects the global figure of GBV with 1 in every 3 ever-partnered women in Trinidad and Tobago experiencing intimate partner violence. The Survey also showed that young age, early cohabitation with male partner, lower level of education, pregnancy, experience of childhood violence, and alcohol abuse by male partner constitute the main risk factors for IPV. Women in TnT are also affected by non-partners violence, in particular sexual violence.

Trinidad and Tobago has enacted several laws to address GBV. Gaps in these laws, however, leave groups such as persons in same sex relationships largely without protection. Sexual orientation and gender identity are not protected grounds under the Equal Opportunity Act. Likewise, victims of domestic violence in the context of a same sex relationship are not covered by the Domestic Violence Act. Additionally, the social and cultural underpinnings of gender inequality that result in GBV continue to be upheld. These norms hinder the effectiveness of the existing legal framework by discouraging victims from seeking help and resorting to the formal mechanisms. They

also adversely impact the response, or lack thereof, from authorities as women who resort to the formal mechanism report inconsistent responses from authorities. The response varies depending on the authority's personal views of domestic violence and gender roles. Legal and policy reform is, therefore, urgently needed to remove the legal, social and institutional barriers to GBV prevention and response.

II. Introduction

GBV is one of the most prevalent human rights violations in the world. Evidence shows that women and girls are disproportionately affected by GBV, with intimate partner violence (IPV) being the most common form. The data suggests that 1 in every 3 ever-partnered women will experience IPV in their lifetime. It is well documented that the effects of GBV permeate the individual, his or her relationships and society as a whole.

In 2018, Trinidad and Tobago published its first comprehensive study on GBV in the country. The Survey titled "Women's Health and Life Experiences in Trinidad and Tobago Survey Report of 2018" provides a qualitative and quantitative assessment of the nature and prevalence of GBV in TnT. Civil society organizations ('CSOs'), such as Caribbean Vulnerable Communities Coalition, WOMANTRA and Trinidad and Tobago Community of Positive Women, have also been gathering and collating information on the incidence of GBV. Through the Global Fund supported Shared Incidents Database ('SID'), civil society organizations throughout the region are enhancing the quantity and quality of the

available data on the prevalence of GBV in the Caribbean.

This brief is based on the 2018 Survey, as well as reports from civil society organizations in relation to GBV. The brief will describe the situation of GBV in TnT and propose much needed legal and policy reforms to enhance the effectiveness of the country's response to GBV.

III. Prevalence of GBV in Trinidad and Tobago

Trinidad and Tobago, like the rest of the Caribbean region, has long wrestled with the incidence of GBV and its corrosive consequences. GBV is recognized as one of the most widespread forms of violence impacting citizen security, in particular that of women and girls, and national development as a whole. The 2018 Survey confirmed that women and girls in TnT are vulnerable to both partner and non-partner forms of violence. According to the study, 30% of ever-partnered women experienced physical and/or sexual violence by an intimate partner in their lifetime and 19% of women experience sexual violence from non-partners.

In analysing the nature of GBV in TnT, the study identified specific risk factors which increase the likelihood of GBV. These factors include age, early partnership, geography, pregnancy, experience of childhood violence, substance abuse, and lower level of education. In looking age, the study showed that younger women experiencing higher levels of GBV. Also, women who entered into a relationship early in their life experience higher levels of GBV. Geography also plays a significant role as rural communities reported higher incidence of physical partner violence than in the urban communities. Pregnant women also appear to experience particular vulnerability to

physical GBV with 7 % of ever-pregnant women reported experiencing physical violence at least once during pregnancy. Over 90% of the most recent incidents of violence experienced in pregnancy were perpetrated by the father of the unborn child. In addition, lower levels of education similarly increase the likelihood of GBV as women with no education or primary school education reported experiencing the highest level of lifetime physical partner violence. Lastly, male substance abuse was identified as a significant IPV trigger.

Social and cultural attitudes sustain and foster the environment in which GBV festers. Rigidly defined gender roles reinforce a concept of masculinity that is linked to toughness, male honour or dominance. Attitudes towards the role of men and women at the home endorse the idea of men as the head of the house. GBV is deeply rooted in these notions of gender inequality. It is a manifestation of this inequality. Under this societal order, women are discouraged from seeking help. As highlighted in the survey, about 69% of women do not seek help from any organisation or support agency.

IV. Legal and Regulatory Response

TnT is a party to the main human rights conventions, including the Convention on the Elimination of All Forms of Discrimination against Women, and the International Covenant on Civil and Political Rights. Under these treaties, TnT has an obligation to take steps to ensure that rights are protected, respected and fulfilled within its jurisdiction. In so doing, the country enacted the following gender related legislation.

a) Domestic Violence Act ('DVA')

The DVA is the principal legislative enactment governing domestic violence in TnT. As recent as this year 2020, after

consistent pressure from CSOs, the Government of TnT, amended the DVA to provide greater protections and institutional support to victims of domestic violence. For instance, domestic violence is now given a broad definition to include physical, sexual, emotional, psychology and/or financial abuse. Further, a wider range of persons may now apply for protections under the Act. These now include persons in visiting and dating relationships, a child over the age of 16, and the Children's Authority may apply on behalf of a child. Persons in relationships no longer need to establish a relationship of twelve months in order to obtain protection under the DVA. Similarly, the Court no longer needs to take into account the need to preserve the institution of marriage when determining applications for Protection Orders. Under the Act, it is also mandatory to report where there is reasonable cause to believe that domestic violence is being perpetrated against a range of vulnerable persons. TnT also broke new ground in the Caribbean with the inclusion of emergency orders. These are orders which may be obtained, on an urgent basis, by telephone or other appropriate electronic means. The time limits for obtaining interim orders have also been removed. It is clear that the amendments significantly enhanced the legal protections afforded to persons affected by domestic violence.

b) *Sexual Offences Act*

The Sexual Offences Act is another piece of legislation which provides GBV related protections. Notably, the Act recognizes a wide range of offences and provides greater protection to children and persons with mental illness. The Act includes procedural safeguards which protect victims from being revictimized during the court proceedings by disallowing their sexual history to be used as a means to discredit their testimony. The Act also adopts a gender-neutral definition of

rape so that both men and women are capable of being recognized as victims of rape. Lastly, the Act criminalises marital rape without the conditions imposed in other Caribbean jurisdictions.

c) *The Children Act*

The Children Act, 2012 covers sexual violence in general against girls and boys under age 18. Under the Act, sexual crimes perpetuated against children attract higher penalties.

d) *The Marriage Act*

The Marriage Act governs marriages in TnT. In 2017, the Act was amended to increase the age of marriage to 18 in order to eradicate child marriages in TnT.

e) *The Offences Against the Person Act*

The OAPA criminalizes violent acts, such as assault and battery, and murder. Importantly, the Act also makes harassment a criminal offence.

f) *Equal Opportunity Act*

The Equal Opportunity Act was enacted to prohibit certain kinds of discrimination in the areas of employment, education, the provision of goods and services and accommodation. The Act establishes a Commission to hear and determine complaints of discrimination.

In 2018, Trinidad and Tobago also adopted a National Policy on Gender and Development and, in 2020, the Gender Based Violence Unit was created within the Trinidad and Tobago Police Service.

V. **Gaps and Challenges**

Despite the laudable advances strengthening the protections offered under the national laws, gaps and challenges in implementation continue to stifle the full progress which the spirit of these laws set out to activate. As

documented in the Survey, there have been failures in the response from social services, the police and the justice system when dealing with GBV complaints. This deters persons from utilizing the laws and institutions which have been established to address GBV in the country. Indeed, the Institute for Gender and Development Studies at the University of the West Indies, notes that the state-funded or managed resources available to victims are ‘woefully inadequate’. Especially in the COVID pandemic, government agencies have turned to CSOs to cover its shortage in state managed shelters and psychological support.

Gaps also remain in the laws themselves. Though vastly improved, the DVA still does not provide protection for GBV in same sex relationships. In addition, the EOA similarly does not include sexual orientation or gender identity as prohibited grounds on of discrimination. Then, while sexual harassment has been criminalized, there is no Act comprehensively dealing with sexual harassment in the workplace.

VI. Recommendations

Noting the inter-connections between GBV and HIV, as both a root cause and consequence of HIV, PANCAP urges the State to implement the following to reduce the incidence of GBV in TnT:-

Legal Reform

- a) Amend the EOA to include sexual orientation and gender identity as protected grounds against discrimination;
- b) Amend the DVA to explicitly include protections for persons in a same sex relationship;

- c) Enact comprehensive sexual harassment legislation to prohibit sexual harassment in the workplace and provide remedies for victims of sexual harassment;
- d) Impose court-mandated drug rehabilitation programs where substance abuse is found to have been a factor in GBV.

Policy Reform

- e) Support CSOs work with communities and advocate for the use of the SID in order to fill the evidence gap and link victims to support mechanisms;
- f) Considering the important role which CSOs play in addressing Abbot in evidence gathering and provision of services to survivors, ensure that CSOs are included in GBV related policymaking;
- g) Develop standardized operational guidelines for addressing IPV for employers, teachers, police and medical professionals, with monitoring and evaluation mechanisms;
- h) Ensure adequate allocation of funds and human resources to the Domestic Violence Unit in order for the Unit to achieve its mandate and effectively oversee the Central Registry on domestic violence;
- i) Include in the Ministry of Gender Youth and Child Development’s strategic plan provisions for transitional housing for survivors,

strategic plan provisions for transitional housing for survivors, with special attention to the Southern Division;

- j) Support substance rehabilitation facilities for persons struggling with substance, in particular alcohol, abuse;
- k) Implement positive parenting programmes, which address conflict resolution, anger management and communication skills to end generational cycles of abuse in the

lives of both perpetrators and survivors;

- l) Support substance rehabilitation facilities for persons struggling with substance, in particular alcohol, abuse; and
- m) Widely promote information about available GBV-related services including hotlines, because many women and potential networks of support lack knowledge on how and where to begin to seek help;