Family Law Reform in the Caribbean

As he climbs into his father’s arms – David (not his real name) turns and waves goodbye to his mother. He is off to spend several hours with his father and his other half siblings who live in a different parish. David, like most Caribbean children, does not live in the traditional nuclear family. His parents were never married and he lives in a single parent home headed by his mother.

The above scenario represents the reality of many Caribbean families. Many children, because of divorce or being born out of wedlock are raised primarily in a female-headed single parent household. This trend is not unique to the Caribbean and the reality of Caribbean family structures is only one of the reasons why many countries have begun review and reform of legislation dealing with family matters. Another reason is that countries have begun taking human rights seriously: More specifically, those taking seriously the rights of women and children. Finally, law revision and reform have taken place in an attempt to help create amicable relationships among parents after family breakdown.

Recognising realities
It is estimated that between 31 and 59 percent of Caribbean children from birth to 14, live in homes headed by women and even though some children may live in homes with two adults, they do not necessarily live with both biological parents. Sometimes even when children live with both biological parents, these parents are not married. In light of these realities, some Caribbean countries, in keeping with international trends, have begun recognising unions other than marriage. Barbados was the first of the non-OECS Caribbean countries to introduce the concept of a “union other than marriage” into its family laws. This refers to a man and a woman living together continuously for 5 years, and those who fall under this category have the same rights as married couples, as far as property, maintenance and custody of children are concerned. Trinidad & Tobago, and Guyana have also made important advances in this respect.

However, recognition of unions other than marriage in OECS countries is still limited to the protection offered to women in common law unions under the domestic violence legislation.

Ending Discrimination of Children born outside of Wedlock
A further reality of Caribbean society, is that many children are born outside of wedlock and taking note of this, countries in the region have established laws to end discrimination against these children. Several countries now have a Status of Children Act, which gives children born to unmarried couples, the same rights as those born to married couples.

Taking Human Rights Seriously
Another major reason for review and reform of legalisation, is that countries have begun to take the rights of children and woman very seriously. All countries have ratified the Convention on the Rights of the Child (CRC), the
Launch of Global Movement for Children in St. Kitts & Nevis

Joseph Mason from the Special Education Unit gives a rendition of a spiritual song. In the background (l–r) Sharain Weaver, Washington Archibald High School; Dr. Denzil Douglas, Prime Minister of St. Kitts & Nevis; Aboubacar Saibou, Representative, UNICEF/CAO (partly hidden); Hon. Rupert E. Herbert, Minister of Social Development, Community & Gender Affairs; and Shantelle Liburd, Youth Parliamentarian.

Children wearing GMC T-shirts were accompanied by teachers during the rally.

The children of the Pilgrim Holiness Pre-school delighted the audience with a well choreographed dance.

Readers are invited to contribute their views and items of news of human interest. Please send correspondence to one of the following addresses.

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“Children in Focus” is a quarterly newsletter of the UNICEF Caribbean Area office (UNICEF/CAO) covering Antigua & Barbuda, Barbados, British Virgin Islands, Commonwealth of Dominica, Grenada, Guiana, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago and Turks and Caicos Islands. It is intended as a channel for the exchange of information between this office and the field on issues related to child development and protection in the Caribbean. Opinions expressed in this publication do not necessarily reflect the views of UNICEF. Articles may be reproduced provided credit is given to “Children in Focus”.

Editorial Committee:
Aboubacar Saibou; Marashetty Seenapa; Sreelaskshmi Gururaja; Heather Stewart; Lisa McClean-Trotman; Diedre Thain.
Twelve years ago, the United Nations General Assembly adopted the Convention on the Rights of the Child (CRC), which has become the most widely ratified human rights convention. Earlier, the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) was also adopted and later, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, more commonly known as the Convention of Belem do Para all sought to address prevailing concerns of some of societies most vulnerable groups – women and children.

The need for International Human Rights instruments did not come about until the atrocities of the Second World War dawned on the international community, and against marked fluctuations in the long-term trend of human rights abuses. The rates of almost all types of interpersonal physical violence have decreased since the late middle ages.

The source of Commonwealth Caribbean law flowed from European countries, namely, England, France, Spain and The Netherlands. As a result, contemporary regional legislation has been largely modelled after English legislation and decisions of the English Court are persuasive in regional courts. With the advent of the aforementioned Conventions, there has been a genuine effort worldwide to rethink, reorganise and reform legal rules which are intended to provide guidance for families and society in respect of the treatment of women and children.

In October 2000, the Human Rights Act 1998 came into force in England and Wales, having come into force earlier in Scotland and Northern Ireland. This Act had the effect of allowing specific Convention rights to be directly enforceable by individuals in the English Court, and impacted on English domestic law. Judges and advocates are duty-bound to deliberate whether existing practices do in fact conform to human rights. It has wrought changes, not so much in the outcome of the majority of the cases, but there can be no doubt that the process of thought and language of the Courts more reflect the rights of individuals brought before them. In the field of family law, the United Kingdom is considered to be largely compliant with the relevant Articles, in particular the Children Act 1989 which was drafted with an eye on the CRC. In the words of the Rt. Hon. Dame Elizabeth Butler Sloss, DBE, the Human Rights Act has, however "illuminated some dusty corners, and there are issues that are now emerging, particularly in public family law, that require reconsideration", especially with regard to the right to respect for privacy and family life.

Some of these same issues are particularly relevant to many of our Caribbean countries. For instance, Article 8 of the CRC makes no distinction between the "legitimate" and "illegitimate" family. Such a distinction would not be consonant with the word "everyone" in Article 8 itself, and this is confirmed by Article 2 which prohibits discrimination of any form and on any basis. Some Commonwealth Caribbean countries have enacted Status of Children legislation aimed at equalising the status of all children. But there are others yet to embrace this basic human right. Issues related to of children must also be revisited. Again, while some countries have moved to reform legislation in this area, far too many still have legislation that imposes monetary limits for maintenance. Where attachment of earnings and garnishment have been introduced for obtaining monies from defaulting fathers, greater efficiency is required for this collection system. In the cases of the sexual abuse of children, a lack of clarity still exists in some countries between the offence of unlawful carnal knowledge of girls under the age of 14 years, and the offence of indecent assault for those between 14 and 16 years. The reason for the distinction between these two offences is unclear. More recent legislation has moved towards simplifying the law by removing old categories and titles and takes a gender-neutral approach to sexual offences. But this trend must be accelerated! These are but a few of the outdated areas of legislation which the Children, Family & Domestic Violence Law & Social Reform Project in the OECS seeks to remedy.

The CRC sets high standards for guaranteeing that children are not disadvantaged in any aspect of their lives. Earlier, while emphasising the rights of women, the CEDAW had, generally, endorsed equal rights for all family members. The Belem do Para specifically addresses the issue of violence against women. Together, these Conventions require participating states to not only ensure that the black letter law is established, but that adequate social services, care facilities and national procedures are made available to guarantee the efficient enforcement of these laws. Social justice for all, must be a paramount developmental goal for our societies in this millennium and UNICEF is a ready partner for all countries, in this process.

Heather Stewart
Project Officer, Child Rights
UNICEF/CAO
Students Benefit From Youth Information Support Centre

With the assistance of UNICEF Caribbean Area Office, a Youth Information & Support Centre formed part of the 10th International Conference on People Living with HIV/AIDS held in Port of Spain, Trinidad & Tobago from 27 - 31 October 2001.

The objectives of the Centre included sensitising over 600 conference delegates and approximately 400 students and 30 teachers from 20 schools by providing information and messages on 'non-discrimination', 'positive living' 'better nutrition' 'positive behaviours', 'pregnancy and HIV'. Attendees also viewed 10 basic slides on HIV, learned about counselling services as well as the benefits and limitations of 'anti-retroviral drugs'. While Glaxo-Smith Kline displayed sample drugs and supplied information on treatment, three non-governmental organisations (The Rapport, The TOCO Foundation, and the Society of Futurists) provided support through drama and discussion groups. Visiting students were provided with internet facilities and selected websites on HIV/AIDS. The Communication Division of the UNICEF CAO conducted a focus group with children who visited the display and they indicated that the information was very beneficial to them and for some of them it would make them more careful when engaging in sex. Executive Director of UNAIDS, Peter Piot, visited the centre and addressed the students.
News From The Area

ST. LUCIA

The early Childhood Education Services Unit was the force behind two children’s rallies in the Southern part of the island - one in the town of Vieux Fort, and the other in Soufriere. The theme used to celebrate St. Lucia’s children on the November 20th rallies, was “Shaping the Future with Early Childhood Education”. Also taking place on November 20th, was a special children’s programme entitled “Out of the Mouths of Babes”, which was aired during a live weekly call-in radio show. The panel comprised a pre-schooler, a primary school child, a secondary school student, and a student from a vocational/primary school. The children discussed their perspectives of the world in which they live.

SURINAME

A Child Rights Committee was recently established within the Faculty of Law of the University of Suriname. The main objective of the Committee is to promote the Convention on the Rights of the Child (CRC) and to create public awareness of the CRC. The Committee works closely with the Bureau of Child Rights and is regularly consulted on legal issues related to the CRC. The Committee is interested in setting up a CRC documentation and information centre with the Faculty, for teaching and research purposes.

ST. LUCIA

Sensitising Media on Children’s Issues

Caribbean Association for Feminist Research and Action (CAFRA) of Trinidad & Tobago held a 5-day media workshop from 29 October to 2 November as part of its Project Gender and the Rights of the Child Media Sensitisation. The objective was to train media workers in the use of the Convention on the Rights of the Child and in gender sensitivity.

Events to Mark Universal Children’s Day

The National Family Services Division of the Ministry of Community Empowerment, Sport & Consumer Affairs in collaboration with relevant divisions of the various ministries and non-governmental organisations, staged a number of events to mark Universal Children’s Day on 20 November.

Workshops, media events, a newspaper supplement on the Convention on the Rights of the Child (CRC), a training programme for adolescent mothers, and a one-day seminar were some of the activities that took place during the week of celebrations.

The aim of these events was continue to inform and educate the national community - specifically children, parents, community leaders and teachers - on the CRC, with the issue of responsibility being a key feature. Information and education was placed in the context of culture of peace, children’s obligation to accept responsibility for themselves and their actions, as well as their social responsibility.

ST. LUCIA

Seminar for Students and Educators

As part of the activities to celebrate Child Rights Week, the Ministry of Social Development, Community & Gender Affairs, in collaboration with UNICEF, organised a seminar on the topic: Tackling Sexual Abuse and Sexual Exploitation of Children – A Time to Act is Now”. The Panellists were: Karen Hughes who spoke on “Legislation: Understanding our laws in relation to Sexual Abuse and Sexual Exploitation of Children”; Dr. Patrick Martin whose topic was “Sexual Abuse and Sexual Exploitation of Children: A medical Perspective”; Michelle Blake who dealt with “Children Sexual Exploitation and Abuse: Psychological and Emotional Effects”; and Calvin Fahie who spoke on “Sexual Exploitation and Abuse: Dealing with the Perpetrator”.

Participants included school principals, students, teachers, and guidance counselors.
BIO: The Honourable Chief Justice of the Eastern Caribbean Supreme Court, Sir Charles Michael Dennis Byron, is a native of St. Kitts & Nevis. Sir Dennis was called to the Bar in 1965 at the Hon. Society of Inner Temple as Barrister-at-Law of the High Court of Justice in England. In 1966 he entered private practice as a Barrister-at-Law throughout the Leeward Islands with Chambers, in St. Kitts, Nevis and Anguilla. In 1982 he was appointed a High Court Judge of the Eastern Caribbean Supreme Court, a post which he held until 1990. During 1986 on Secondment from the Eastern Caribbean Supreme Court, Sir Dennis served as Acting Chief Justice of the Supreme Court of Grenada. From 1990 until 1996 he served as Court of Appeal Judge of the Eastern Caribbean Supreme Court and from 1996 to 1999 he was Acting Chief Justice of the Eastern Caribbean Supreme Court. From 1999 until the present time he has held the post of Chief Justice of the Eastern Caribbean Supreme Court. Since 1996 Sir Dennis has served as Chairman on the Judicial and Legal Services Commission. He was Knighted by H.R.H. Queen Elizabeth II in the year 2000.

Q: Why the need for law reform in the OECS countries?
A: The countries of the OECS were colonies of Britain. Six of these countries are now independent and three are dependent territories. However all control their internal affairs. This resulted in significant advances in the political, economic and social spheres. However, very little changes had occurred in the judicial and legal systems. The reform in OECS is not only long overdue but is necessary if we are to be able to respond to the needs of a developing society. It goes without saying that an important requirement of economic development is an efficient judiciary where disputes can be resolved promptly, efficiently and fairly. Of equal importance is the ability of the judiciary to respond to issues that are likely to arise as a result of globalization. As the OECS ventures on the international stage we must be concerned that we are equipped to deliver quality judicial services to a changing society. Additionally, there are areas of our legal system that cry out for change because those structures that were in place may have very well outlived their usefulness. Thus, as legal changes take place, the judiciary cannot remain stagnant.

Q: What prompted you to get involved in this project?
A: As a member of the judiciary since 1982, I have seen how the laws evolve and more importantly how our judiciary functions. It is innate in human development to aspire to improve upon what is there. As the judiciary faces new challenges due to a changing world it must be prepared to respond to these new needs. There has been significant advancement in our political, economic and social structures. If the judiciary is left behind the full benefit of the other areas cannot be realized. Of significance is economic development. Economic growth takes place where there is a judiciary that can respond to the inevitable disputes that arise out of commercial activities. We must therefore be prepared as the arbiter of disputes to respond to these events. The motivation then flows from a personal commitment to see excellence in our judiciary and to ensure that the people served by our judiciary are satisfied that they can get justice in our Courts. The reform project therefore is to achieve these ends.

Q: What do you foresee as some of the problems with implementing law reform?
A: I prefer to view what you are calling problems, as challenges. The challenges are no different from those associated with changes in general. Certainly the judiciary with rich traditions may very well be one of the last institutions to accept change easily. However, I do not think that there will be any significant resistance to implementing reform. In fact I must say that we have made some significant advances already and the support from government agencies, the legal community and the general public has been encouraging.

Despite this, I am mindful of the fact that people are generally skeptical about changes. As a practice, people are comfortable with what they know and have become accustomed to. Overcoming such skepticism may very well be one such challenge. And we hope to do this through mass public education. Another challenge may very well be financing reform. Our countries do not have a lot of money so that may slow down our reform effort. All of our jurisdiction however, has made tremendous financial sacrifices in advancing what we have done so far. And there is no indication that they will not continue to do so, but funding is definitely a challenge for us.

Q: What do you think needs to happen for this project to be a success?
A: I think that the reform project will be successful as long as there are clearly defined goals, that all of the stakeholders can identify the benefit; that a process of broad consultation is followed. I must tell you that the factors mentioned are in place and I am confident that as the pillars of how we operate that the project will be a success. That is not to say that the project will not have its detractors. Moreover, we have a policy of listening intently to the detractors and making them a part of the consultation process. I am satisfied that success stands a better chance when all voices with interest in the project are heard. And those with divergent ideas are allowed to participate fully.
Convention on Eradication All forms of Discrimination Against Women (CEDAW) and Belem Do Para.

In recent years, laws dealing with property and financial settlements in divorce have been revised to respond to economic disadvantages created by gender roles and hierarchies. However, in many countries, there is still gender inequity and discrimination in property and financial settlements against unmarried women. Regarding property settlement, none of the OECS countries have adequate laws to deal with persons who are unmarried. Montserrat and St. Kitts have no legislation to deal with equitable distribution of property and financial matters either for women who are married or unmarried. In Grenada and Dominica, there is no legislation dealing with matrimonial matters such as divorce, matrimonial property and financial provision on divorce and maintenance in the High Court. These are just some of the variations that exist from country to country.

Creating Amicable Relationships after Family Breakdown

In an effort to properly protect and provide for children and prevent hostility between parents in a post-relationship phase, almost every aspect of family law, including domestic violence, divorce, property and financial matters, seeks to put children’s interests first. In the Caribbean, recognition of this principle is variable, but it is almost certain that children will become increasingly the centre of concern in family law. Two ways in which the laws have been seeking to create amicable relationships after family breakdown are as follows: (1) the removal of fault in divorce, and (2) the introduction of alternative ways of settling disputes.

Introducing alternative Dispute resolution

In most of the OECS countries and Barbados, efforts are made to encourage partners seeking divorce to consider reconciliation and to undergo marriage counselling. For example, Antigua & Barbuda has introduced the concept of mediation in divorce matters on issues relating to custody of children and property. In addition, some countries have introduced a social service component to help in addressing family matters and others have introduced family courts, outside of the magistrates courts, to deal with family disputes.

Less Emphasis on Judging Behaviour in Divorce Settlements

In family law, there has been a significant movement away from judging the behaviour of family members in settlements and a focus more on the family’s needs and in cultivating harmonious relations among family members.

Need for Harmonisation

In almost all of the OECS countries, family law revision and reform have taken place to address the realities of Caribbean family structures, to comply with human rights conventions and in an effort to create amicable relationships in post-relations phases. The revision has been slower in some countries than others and the absence of certain legislation can directly or indirectly impact on children and women and they point to the need for a greater harmony within family laws throughout the eastern Caribbean.
News From The Area

ANTIGUA & BARBUDA

Rotaract Launches HIV/AIDS Campaign

The Rotaract Club of Antigua has launched a new HIV/AIDS awareness campaign. Entitled "HIV/AIDS... 20 Years Later", the project aims to eliminate complacency among the youth and make them more aware of facts relating to HIV/AIDS.

Ms. Felicity Aymer of the AIDS Secretariat welcomed the involvement of the Rotaracts. She noted that in Antigua the "environment is not conducive to discouraging early sexual activity... and it

BARBADOS

Children Illustrate Peaceful Communities

During a ceremony at the Offices of the Ministry of Education, the Director of the Division of Youth Affairs, presented winners of a poster competition with prizes of educational and art supplies. Entitled "A Peaceful Community without Violence", the children created colourful representations of an ideal peaceful community. The Ministry thanked UNICEF Caribbean Area Office for funding the reproduction of the six prize-winning posters as book covers, which were distributed to all public and private primary schools in the island.

HIV/AIDS Prevention Peer Educators Programme

Through its Youth Links, the Red Cross hopes to target the entire secondary school body of students with the introduction of its HIV/AIDS Prevention Peer Educators Programme. During the September to December 2001 term, fourth formers will be trained as peer educators by way of five Peer Educators Workshops. From the second term January to March 2002, 11 HIV/AIDS Prevention Workshops will be held for first and third formers. Sixteen facilitators who were trained in August 2001 will introduce the programme to schools and to groups in various communities.

DOMINICA

Summer Environmental Appreciation Programme Camp

With support from UNICEF/CAO, the Small Project Assistance Team Limited (SPAT), in collaboration with the Movement for Cultural Awareness, conducted the annual two-week Summer Environmental Appreciation Programme (SENAP) Camp in the villages of Grand Fond and Petite Savanne, from July 26 - August 9. Thirty children between 10 and 15 years, benefitted from exposure to a variety of life skills training, including Environmental Health/Personal Hygiene; Health and Family Life Education and Disaster preparedness/management.

Participants typically come from communities in Dominica where SPAT is implementing its Community Animation Programme, as well as from other Caribbean countries. This project was sponsored as part of the Eastern Caribbean/UNICEF support for integrated community development in selected disadvantaged communities.

GUYANA

First Draft of Children's Bill is Ready... Guyana

In March 1993, the National Commission for the Survival, Protection and development of Children was appointed in Guyana to prepare the Guyana National Plan of Action for children in the 21st Century.

The commission agreed on six programme areas that constituted the starting point for addressing the major problems affecting children in Guyana, as they relate to: Family, Health & Nutrition, Water 7 Sanitation, Basic Education & Literacy, Children in Especially difficult Circumstances, and legal & Constitutional Provision.

The kind of fundamental changes in attitudes to Children’s Rights which is required must be underpinned by the entrenchment of those rights in both law and constitution, in terms of legislation. This includes the completion of the task of bringing all the laws concerning children together on statute and giving real powers and responsibilities to institutions charged with protecting children’s rights. It was required therefore that justifiable provisions on the Rights of Child included on the constitution reforms that Guyana is undergoing. The first draft of the Children’s Bill is ready for consultation by the concerned parties in Guyana.

ST. KITTS & NEVIS

Launch of Global Movement for Children

The Global Movement for Children (GMC) was officially launched in St. Kitts & Nevis on Thursday
The Media and Children
A View from Trinidad & Tobago

Are Journalists Violating the Rights of Children?

"To be or not to be" was never the question. The question always was: "when?" So they waited with trembling fingers, their pulses racing, their faces flushed in anticipation of just the right moment, although they knew that no moment would, or could be right. The consequences had been weighed and the risks were well worth the taking. There were 'no spurs to prick the sides of their intent'. After all, what is a fine of $400.00 to TV6, TTT, Newsday, or the Guardian? Chicken feed? That was more expensive these days.

At the Expense of a Minor

So out came the cameras and they began to click away. Away with section 87(5) of the Children Act! What does it say again? "No person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before the Court, save with the permission of the Court or insofar as is required by this Act. Any person who contravenes this sub-section is liable on summary conviction to a fine of Four Hundred Dollars."

A Child has the Right to Privacy?

Forget the Convention on the Rights of the Child! What do we know of Article 40 (2) (b) (vii) of the CRC? "Every child alleged as or accused of having infringed the penal law is guaranteed the right to have his or her privacy fully respected at all stages of the proceedings."

A child has rights to privacy? You must be joking! After all, the public wanted to see the 15 year-old child charged with murder.

But what of Article 4 of the CRC which states? "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention." implementation of the rights recognized in the present Convention." In other jurisdictions, violations of children’s rights can be taken before international and regional courts. The European Court of Human Rights adjudicates on many violations of children’s rights, which fall within the European Convention on Human Rights. The African Charter on the Rights of the Child also allows for both State reporting and complaints from individuals.

We have the legislative measure, even though it is a small slap on the wrist, but what about its implementation? Who ever heard about the DPP [Director of Public Prosecution]

giving instructions to charge anybody with a violation of that law? In any case, if the Attorney–General wanted to protect children in that way, surely he would have provided for an increase in the penalty among all the amendments to the Children Act he brought to Parliament last year.

Could the Police have protected the Child?

What of the Police? Could they have protected the child from public view? Surely we recall the ridiculous lengths they went to sometime ago to prevent the media from obtaining a photo opportunity when one of their colleagues was charged before the Court? I recall a former Chief Magistrate, Beecham Maharaj, being stern with the media on the issue. What is the stance of the present Chief Magistrate?

So, I wrote about the violation of this particular law in May 1999 and the dailies and the weeklies carried my letter. The violations stopped for a while, but the temptation was too great and they’ve succumbed. Should I pray: “Father, forgive them for they know not what they do?” No way, José! Father Hezekiah, over to you, but spare the Express and the Mirror. They’ve tried their best to keep the faith, for at least they didn’t use a photo.

The preceding article was submitted by Ms. Hazel Thompson-Ahye as a letter to the Editor in the Trinidad Guardian and reprinted with her permission. Ms. Thompson-Ahye, Attorney-at-Law and Mediator is the Director of the Legal Aid Clinic, Council of Legal Education, Hugh Wooding Law School, St.Augustine in the Republic of Trinidad & Tobago. She is also the Director of the Hugh Wooding Law School Legal Aid Mediation Centre, and Board Member of the Legal Aid and Advisory Authority, the Police Complaints Authority and the St. Dominick’s Children’s Home as well as the Deputy Co-coordinator of the Women and Development Studies Group, the University of the West Indies, St. Augustine. She is also a member of the International Bar Association, the Association of Family and Conciliation Courts, the International Society of Family Law, the Association for Conflict Resolution and the National Association of Counsel for Children. She is a tireless advocate for women’s and children’s rights, for penal reform and legal aid. She has given presentations in the United States, Canada, the United Kingdom, the Netherlands, South Africa and the Caribbean in her special areas of interest.

We welcome your letters, as you seek to create awareness in the public domain of children’s issues.
Is Law Reform Really Needed?

Yes. While the Child and Young Persons Act provides a framework by which Child Care Providers can be guided, there are grey areas which are left to the discretion of individuals. This can be detrimental to the very children whom we seek to serve. By reforming those laws and others, for example those which govern juvenile institutions, there will be a more comprehensive structure by which our children can be protected. The interpretation of the law also should be less ambiguous so that its implementation by Child Care Providers could be more consistent.

Reform needs to take place in areas such as:
(a) adult responsibility towards children;
(b) fines and terms of sentence;
(c) more clearly defined parameters by which juveniles are dealt with;
(d) child custody and maintenance.

Reform will benefit our children by providing them with more protection. It will improve the areas of weakness which currently exist allowing workers to have clearly defined structures and support systems.

Ms. Beverly Povotte
Counsellor II, Boys’ Training Centre

Yes. law reform is needed. To afford better protection to children and their families through blocking existing loopholes, seeking equity, sensitisation of rights, ensuring or requiring accountability of persons in child protection, stiffer penalties for offenders, appointment of guardian ad litem, Magistracy with a knowledge of and a sensitisation on child welfare matters.

Reform is required in the following areas:
(a) Child abuse: criminal code, stiffer penalties, statute of limitation (1 year) needs review; holding parents responsible for certain categories of crimes; charging parents who conspire with offenders; charging parents for ‘arrangements’ in sexual abuse matters;
(b) Mandatory counselling/ rehabilitation for offenders;
(c) affiliation – remove distinction for children;
(d) Adoption.

Law reform will benefit children in the following ways:
(a) Reduce discrimination against children born out of wedlock, e.g. ceiling of $200.00 for maintenance as opposed to what obtains for children born within a marriage;
(b) Married mother should be able to claim maintenance from the father of her children, if he is not her husband;
(c) Status of limitation during which time a mother can take a father to court should not be limited to first year only;
(d) Facilitate achievement of CRC for all children.

Ms. Victoria Francis-Nathaniel
Family Case Worker
Division of Human Services

Yes. Existing legislation is outdated. The main piece of legislation pertaining to children was passed almost thirty years ago with no amendments. Social environment has changed tremendously, legislation therefore needs to be updated if it is to be effective.

The areas in need of change are:
- Definition of child. Legislation is not consistent with definition proposed by the United Nations Convention on the Rights of the Child;
- Maintenance. Legislation makes it difficult for married women to pursue maintenance;
- Harsher penalties required for persons found guilty of abusing children.
- Provision for rehabilitation of juvenile offenders and for mandatory services to families is required.

Law reform will benefit our children by putting in place measures to protect them and to help them grow up in more stable environments.

Ms. Karen John-Matthews
Family Case Worker
Division of Human Services

Yes. Existing legislation does not provide for adequate care and protection of children, neither does it sufficiently enforce family responsibility to do so. Existing legislation does not reflect changes in child welfare philosophy and practices, hence legal framework does not always serve best interest of children.

The areas in need of reform are: child abuse, adoption, maintenance and custody, juvenile justice.

Reform will ensure that state mechanisms are effected to provide adequate protection of children.

Ms. Constance Ann Paul-Akufo
Family Case Worker
Division of Human Services
**Up Close... continued from page 3**

Q: Can you give some non-specific examples of cases where children have been affected negatively as a result of certain laws being archaic?

A: Generally, it is not prudent to discuss potential issues that may be brought before the Court. Then again, there are a whole host of issues that potentially can come before a Court yet not necessarily need to be avoided. There are a number of legislation on the books that are indeed archaic and have a negative effect on children. You must bear in mind however, that I cannot paint the OECS with a broad brush… we have six independent states and three dependent territories. Invariably, these states may be at different levels of their law revision project. Consequently, my examples may not be applicable in every state. Let’s take for example Dominica. In Dominica a parent of an illegitimate child can get an Order of Affiliation only in the Magistrates’ Court. Child support in such a case is also restricted to that Court. Since the Magistrates’ Court has limited jurisdiction, the amount that can be awarded - irrespective of the means of the other parent - is limited. On the other hand, a legitimate child seeking support can get it in the High Court where there is no jurisdictional limitation on what can be awarded.

Another instance can be seen in guardianship laws. A child growing up in a family unit where only one parent is their biological parent could very well be taken from that unit if his/her parent becomes deceased without leaving a testamentary guardianship with the non-biological parent. Neither can custody be awarded.

Q: How will children in the OECS countries benefit from law reform?

A: Certainly, our entire society will benefit from law reform. Laws relating to children which include support, guardianship, custody, affiliation orders and inheritance, if reformed can only benefit them. Our laws coming out of a period whose standards, norms, values and mores are no longer prevalent cannot continue to serve their initial goals. Recognition that the needs of children must be addressed consistent with contemporary democratic society’s norms cannot be ignored. Law reform is one of the most effective ways to address these concerns.

**Facts about the OECS Family Law & Domestic Violence Legal & Judicial Reform Project**

**When Did the Project Begin?**
The project began in January 2001 after agreement with the partners involved and after the establishment of National Committees in each country.

**Why The Need for Reform?**
Even though countries have amended various aspects of their legislation from time to time, much more still needs to be done to bring legislation in line with the provisions of the United Nations Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), an the Inter-American Convention on the Prevention, Punishment & Eradication of Violence Against Women also known as the “Convention of Belem do Para” and to improve the conditions under which children and their families must live.

**Who are the Partners?**
Project management and coordination is being implemented through the Eastern Caribbean Supreme Court (ECSC) and the Secretariat of the Organisation of Eastern Caribbean States (OECS), in collaboration with the United Nations Economic Commission for Latin America and the Caribbean (UN ECLAC), UNICEF Caribbean Area Office, and NCH, a British based children’s charity with Offices in the Eastern Caribbean, and includes representatives from the countries of St. Lucia, Antigua & Barbuda and St. Kitts & Nevis.

**Who are the Participating Countries?**
Anguilla, Antigua & Barbuda, British Virgin Islands, Dominica, Grenada, Montserrat, St. Kitts & Nevis, St. Lucia, St. Vincent and the Grenadines, and Turks & Caicos Islands.

**What are the objectives of the Project?**
The outcomes of this project include: harmonised and reformed legislation approved by Caribbean governments on children, family law and domestic violence; the implementation of this legislation which is owned by governments as a result of their direct participation in the reform process; harmonised and restructured social services that support the full implementation of the reform legislation; and public support for the recommended changes through their participation in the public consultative sessions.

**What is the Time frame for the Project?**
It is expected that the project will take 3 years:

**Phase I:** Research into domestic violence and existing legislation was concluded in July 2001. The first draft of the legislation, is expected to be completed by December;

**Phase II:** 2002: Drafting of the legislation. This is expected to be completed by June 2002. It is also expected that adoption of the legislation will be finished by the end of 2002;

**Phase III:** 2003. There will be strategic analysis on the impact on social services infrastructure, national consultation and agreement on recommendations on impact assessment, training of relevant professional groups. Monitoring and evaluation will take place from December and onwards.
In Focus...

NCH Action for Children in the Caribbean

One of the partners in the OECS Family Law & Domestic Violence Legal Reform Project is NCH Action for Children. Formerly known as the National Children’s Home, this organisation is a charitable child-care agency headquartered in the United Kingdom. Established in 1896, it is now one of the UK’s largest child-care agencies helping thousands of vulnerable children, young persons and their families by means of more than 300 projects.

NCH Action for Children first came to the Caribbean in 1969 when the Government of Jamaica requested assistance in the establishment of a children’s home and later, a school for mentally challenged children. In 1979 at the invitation of the Barbados Child Care Board, NCH Action for Children began its involvement in Barbados. Projects were subsequently undertaken in St. Lucia, Grenada, Dominica, St. Vincent and Belize. With the exception of St. Lucia and St. Vincent, NCH Action for Children now maintains an Office in each of the aforementioned countries. The work in St. Vincent is administered through the Barbados Office.

The general aim of NCH Action for Children in the Caribbean is to enable and support the work of government departments and non-governmental organisations as well as to develop specific services and programmes for children.

OECS Secretariat

The Organisation of Eastern Caribbean States (OECS) is one of the main partners in the Family Law & Domestic Legal Reform Project. It came into being on 18 June 1981 when seven East Caribbean countries signed a treaty agreeing to cooperate with each other and promote unity and solidarity among the Members. The Treaty became known as the Treaty of Basseterre, so named in honour of the capital city of St. Kitts & Nevis where it was signed.

Following the collapse of the West Indies Federation, and prior to the signing of the Treaty of Basseterre, caretaker bodies were created: the West Indies Association States Council of Ministers (WISA) in 1966 and the Eastern Caribbean Common Market (ECCM) in 1968. As the islands gained their independence from Britain, it became evident that there was need for a more formal arrangement to assist with their development efforts. So it was that the OECS was established. The WISA Secretariat became the Central Secretariat of the OECS and the ECCM, the Economic Affairs Secretariat.

In mid-1977 as a result of the restructuring of the Organisation, the Economic Affairs Secretariat was merged and became a Division of the OECS Secretariat in St. Lucia. The OECS is now a nine member grouping comprising Antigua & Barbuda, Commonwealth of Dominica, Grenada, Montserrat, St. Kitts & Nevis, St. Lucia and St. Vincent/Grenadines. Anguilla and the British Virgin Islands are Associate Members of the OECS.

The functions of the Organisation are set out in the Treaty of Basseterre and coordinated by the Secretariat under the direction and management of the Director General. In carrying out its mission, the OECS works along with a number of sub-regional and regional agencies and institutions. These include the Eastern Caribbean Central Bank (ECCB), the Caribbean Community (CARICOM) Secretariat; the CARICOM Regional Negotiating Machinery (RNM) and the Caribbean Development Bank (CDB).