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**AN EVALUATIVE STUDY OF THE IMPLEMENTATION OF
DOMESTIC VIOLENCE LEGISLATION:
ANTIGUA AND BARBUDA, ST KITTS/NEVIS, SAINT LUCIA AND
SAINT VINCENT AND THE GRENADINES**



**ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN
Subregional Headquarters for the Caribbean
CARIBBEAN DEVELOPMENT AND COOPERATION COMMITTEE**

Preface

A central role of the Economic Commission for Latin America and the Caribbean (ECLAC) Subregional Headquarters for the Caribbean is the provision of critical thinking and information to governments to assist in policy formulation and evaluation. In meeting that role, ECLAC emphasises the research endeavour and, more particularly, research which elicits new insights and throws up practical solutions and recommendations.

This study was undertaken as a component of technical assistance to the Family Law and Domestic Violence Legislative Reform Project piloted by the Eastern Caribbean Supreme Court. This project is a far-reaching initiative which aims at the reform of family and child law, so as to meet the obligations and normative standards set out in the Convention on the Elimination of all Forms of Discrimination against Women and the Convention on the Rights of the Child. ECLAC has welcomed the opportunity to work collaboratively on this project and acknowledges the support given to the research process by the project administrators and by the Eastern Caribbean Supreme Court.

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Executive Summary

This paper is an evaluative study on the implementation of domestic violence legislation in Antigua and Barbuda, Saint Lucia, St. Kitts and Nevis and Saint Vincent and the Grenadines and forms one component of The Family Law and Domestic Legal and Judicial Reform Project piloted by the Eastern Caribbean Supreme Court (ECSC). This project has two major objectives. The first relates to the improvement in the efficiency and effectiveness of the judicial system in the countries which share the ECSC and the second is for the eradication of gender-based inequality in the content and administration of the law. The project focuses on family law, child law and domestic violence.

The methodology employed in the study was that of unstructured interviews with representatives of agencies which are central to the implementation of the Act, including magistrates, police officers, social workers, women's desks and non-governmental organizations. The interviews sought to elicit both factual information on the usage of the Act as well as opinions on the strengths and weaknesses of the legislative framework as well as the social service delivery supportive of the legislation.

The study highlights that the domestic violence legislation is an important component in State efforts to eliminate gender-based violence in the home. The new laws, which do not replace the criminal law, have given summary courts the jurisdiction to grant a range of injunctive-type relief. These powers include the jurisdiction to make interim and final protection orders, occupation orders and tenancy orders. The laws for the most part attempt to make clear that the protection of the applicant is the primary consideration for the court.

While the laws are widely accessed, the implementation of the legislation is affected by a number of substantive, administrative and cultural challenges. In relation to the content of the law, the study recommends that reform is needed in a number of areas including:

- Expansion of the category of protected persons to include, inter alia, persons in visiting or otherwise intimate relationships;
- Increase in powers to enable the court to resolve custody and maintenance disputes ancillary to the making of a protection or occupation order;
- Expansion of the range of persons with the authority to make applications for protection orders on behalf of children;
- Creation of a comprehensive definition of domestic violence to include, more clearly, threats of violence and to define emotional and psychological abuse;

- Consideration of the specification of time durations for occupation orders; and
- Consideration of a unified family court.

With regard to administrative matters, the study found a widespread legal underrepresentation of applicants and respondents in domestic violence matters. The study posits that this may well contribute to a certain denigration of such applications within the legal system and urges that bar associations be encouraged to develop and support continuing legal education programmes for attorneys.

The study also highlights the practice which has developed in Antigua and Barbuda for the inclusion of a detailed statement/affidavit in support of an application for a protection order. Such a procedure appears to have allowed for expeditious disposal of matters which come before the Antiguan magistrates' courts. The paper recommends generally the consideration of the use of affidavits, which would give the respondent full notice of the allegations as a method of not only shortening the length of trials but also reducing the adversarial nature of the proceedings.

The study found that the activism around domestic violence in the Caribbean over the last 10 years has resulted in some degree of sensitisation to the issue and to a greater commitment to meeting the needs of both applicants and respondents in domestic violence applications. Still, those interviewed as background to the study, articulated the need for ongoing training, particularly of court officials and police officers to increase understanding of the phenomenon of domestic violence. In relation to the police, it was thought that the development of response protocols would have the desirable result of standardising police action thereby limiting the discretion of police officers, which appears sometimes to be exercised in the direction not of law enforcement but of counselling.

In this regard, a recurring theme in the research is that the police plays a primary role in the implementation of the domestic violence laws as women

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