



OAS | MESECVI

REVIEW OF

LEGISLATION ON

**Gender-Based Violence against
Women including Killings of Women
*in the Caribbean***



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The **Organization of American States (OAS)** brings together the nations of the Western hemisphere to promote democracy, strengthen human rights, foster peace, security and cooperation and advance common interests. The origins of the Organization date back to 1890 when nations of the region formed the Pan American Union to forge closer hemispheric relations. This union later evolved into the OAS and in 1948, 21 nations signed its governing charter. Since then, the OAS has expanded to include the nations of the English-speaking Caribbean and Canada, and today all of the independent nations of North, Central and South America and the Caribbean make up its 35 member states.

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Review of Legislation on Gender-Based Violence against Women including Killings of Women in the Caribbean. **Approved by the Committee of Experts of the MESECVI, during its Nineteenth Meeting, held on November 12, 2022.**

Study research: Professor Barbara Bailey

Research assistance: Suzanne M. Charles

Coordination: Luz Patricia Mejía Guerrero, Technical Secretary of the MESECVI

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1889 F Street NW. Washington, DC, 20006 United States

Tel: 1-202-370-4579

Fax: 1-202-458-6094

Email: mese cvi@oas.org

Webpage: <http://www.oas.org/es/mese cvi>

<https://belemdopara.org/>

Facebook: <https://www.facebook.com/MESECVI/>

X: @MESECVI

Instagram: @mese cvi_oea

LinkedIn: MESECVI

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1. Introduction

An IDB Series of publications on Crime and Violence in the Caribbean point to the fact that gender-based violence, including femicides, is a serious issue in the majority of states that are part of the Caribbean Community (CARICOM) with significant consequences for citizen security and in all instances, women and girls are disproportionately affected by such violence. As in all societies, gender-based-violence is driven by socio-cultural gender norms that permeate these societies and reinforce unequal relations of power, based on sex and other intersecting factors resulting in male dominance and control, particularly over women and girls, in both public and private spaces.

Gender-based violence has considerable economic impacts on both individual women as well as on the State which, when combined, has a direct relationship not only on personal well-being but also on individual and national economic status. According to a UN Women brief:

The individual experiencing violence has to consider the costs of medical treatment and legal services. She may have had to take time off from work and have lost earnings. The State has to consider the costs of health care for victims of violence, costs of legal services, costs of policing and costs of incarceration, and costs of caring for displaced children¹.

A recent article in the print media pointed to the fact that the dramatic increase in crime and violence rates is now having significant impacts beyond the health sector. Tourism the number one engine of growth in many Caribbean countries is now being affected. An article headlined – **‘Sexual assault of US tourists a Caribbean problem, new investigative article²**– provide statistics reported in 2017 on rapes of US tourists to Jamaica and a second in 2018 which indicate that:

.....while statistics about American rape victims in other Caribbean countries are hard to come by, the US State Department has issued multiple warnings about sexual violence in several Caribbean countries. Some of these countries include The Bahamas, Barbados and Grenada.

While acknowledging that violence against women seems to be endemic in Caribbean countries as in most countries around the world, a 2007 UNODC Report, however, acknowledges that:

Police statistics offer only a very imperfect picture of violence against women, since the majority of these incidents are not reported to police. To get a more precise idea of prevalence rates, one must use victimization surveys that focus on violence against women³.

This Report further suggests that in the absence of such surveys that use a common methodology across the Caribbean, we are left with isolated, country-specific data on prevalence rates. In the case of this Report country-specific data are primarily drawn from two main sources: victimisation surveys carried out in Jamaica in 2016⁴ and Trinidad and Tobago in 2018⁵ respectively, under the auspices of UN Women and the Inter-American Development Bank (IDB).

2. Forms of Gender-Based Violence against Women

Article 1 of the United Nations Declaration on the Elimination of Violence Against Women⁶ states that: 'violence against women means any act of gender based-violence that results in, or is likely to result in, physical, sexual, psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life'. Article 2 identifies the main sites in which women experience such violence as the household, the general community as well as that perpetuated or condoned by the State.

Globally, women of all ages, of all social strata and of all ethnicities are subjected to many forms of harm based on the wide range of violent and abusive behaviours they experience at the hands of current or former intimate male partners as well as in non-intimate situations, sometimes involving total strangers.

All of these forms of violence occur in both the private and public domains, and, in the former case, is commonly referred to as **domestic violence** occurring as it does in households. Invariably, the physical, sexual or psychological violence that women experience involves the illegitimate exercise of coercion, force, control or exploitation. These behaviours underpin actions that include but are not limited to:

...kicking, shoving, pushing, slapping, clubbing, stabbing, shooting, or verbal and psychological terrorization of the individual concerned. As well as causing physical damage, domestic violence can lead to psychological distress and trauma, with effects possibly lasting a lifetime'. (p.54)⁷

A 2002 World Report on Violence and Health⁸ defines **sexual violence** as:

...any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work. Coercion can cover a whole spectrum of degrees of force. Apart from physical force, it may involve psychological intimidation, blackmail or other threats (p.149).

The same report informs that: a wide range of sexually violent acts can take place in different circumstances and settings. Those pertinent to women include:

- rape within marriage or dating relationships;
- rape by strangers;
- systematic rape during armed conflict;
- unwanted sexual advances or sexual harassment, including demanding sex in return for favours;
- sexual abuse of mentally or physically disabled people;
- forced marriage or cohabitation, including the marriage of children;
- denial of the right to use contraception or to adopt other measures to protect against sexually transmitted diseases;
- forced abortion;

- violent acts against the sexual integrity of women, including female genital mutilation and obligatory inspections for virginity;
- forced prostitution and trafficking of people for the purpose of sexual exploitation. (p.149-50).

At the far end of the spectrum of all the forms of violence that a woman can experience, in both the private and public domains, is murder or femicide, generally defined as the '*intentional murder of women because they are women...*'⁹ and also identified as '*aggravated homicide due to gender*'¹⁰.

The term '*femicide*' is not yet in common usage in the Caribbean. Anecdotal evidence from the print media, however, points to the fact that in Caribbean countries, murders of women are frequently associated with physical violence in intimate, domestic relationships as well as incidents of rape in public spaces, particularly in non-intimate relationships which, therefore, clearly locate these incidents as femicides.

3. Prevalence of Gender-Based Violence against Women

According to a 2013 World Health Organization (WHO) global report¹¹, some 35 percent of all women worldwide have experienced either physical and/or sexual intimate partner violence (IPV) or non-partner sexual violence at some point in their lives. The Report observes that: While there are many other forms of violence that women may be exposed to, this already represents a large proportion of the world's women. Further, globally, intimate partners commit as many as 38% of all murders of women, while someone other than a partner has sexually assaulted 7% of women.

Violence also affects a significant percentage of women and girls in the Caribbean.

The categorisation of the wide range of forms of violence directed at Caribbean women into physical, sexual, emotional etc. as well as into intimate partner and non-partner violence occurring in the private and public domains respectively, is somewhat arbitrary. In fact, it is likely that some women experience a combination of all these forms of violence at various stages of their life.

For the purposes of the organization of this report, however, prevalence of violence against Caribbean women will be discussed under three main sub-headings: domestic violence, sexual violence and homicides/femicides.

3.1 Domestic Violence

The Inter-American Commission of Human Rights (IACHR) in a report on the situation of human rights in Jamaica makes an observation that is equally applicable to all Caribbean countries. The authors note that:

Domestic violence is one of the more pervasive and common forms of violence plaguing the society. It contributes to the overall pattern of crime and violence due to its debilitating effects on the social fabric and its role in socializing the youths to violence as a means of dispute resolution. Women and children are disproportionately at risk from domestic violence. (#220) ¹²

Data for Trinidad and Tobago is derived from the Women's Health Survey carried out in 2016¹³. The authors caution, however, that it is important to note that the incidence of domestic violence in Trinidad and Tobago is in all likelihood higher than that indicated in official statistics. As an example, they point to the fact that data collected in a victimization survey on domestic violence in 2009 indicated that, at that time, the actual rate of domestic violence was 6.3 times higher than indicated in official crime data. The authors suggest that:

Cultural norms that serve to justify male domination within the family, and which encourage the tolerance of domestic violence and decrease the willingness of victims to seek the intervention of the criminal justice system, decrease the likelihood that abused women will report their abuse. (p.59)

The Report indicates that 19 078 incidents of domestic violence occurred between 2000 and 2013 were reported with the majority (50.1 per cent) of all reported cases due to assault and beatings and 28% due to threats. Breach of protection orders accounted for 5.6 per cent of cases, while woundings accounted for 3.5 per cent.

Of note is the fact that not all victims of these incidents were women. Of the 10 141 incidents that occurred between 2007 and 2012, 72.3 per cent of the victims were female, while in 27.7 per cent of the cases, the victims were male.

The Report details the prevalence of the various types of intimate-partner violence women faced in the domestic sphere:

Almost one in three women experienced physical IPV (28% lifetime and 5% current); 7 percent of ever-pregnant women experience physical IPV during a pregnancy, of which two in five experienced worse violence during that time than at other times; Emotional violence presented as the most common type of violence experienced (35% lifetime; 12% current) of which most experienced a severe act of physical IPV at least once (64%). Approximately one in 10 women experienced economic partner violence in their lifetime (11%).

A similar Women's Health Survey carried out in Jamaica in 2016¹⁴ showed that:

- One in every four Jamaican women (25.2 per cent) had experienced physical violence;
- Lifetime prevalence of physical partner violence was 25.2 per cent while current prevalence was 5.9 per cent.
- Almost three in ten (28.8 per cent) women had suffered emotional abuse, where; and,
- 8.5 per cent of Jamaican women reported experiencing economic abuse.

In both instances emotional abuse involved women being insulted, belittled, humiliated or intimidated. In Trinidad and Tobago three forms of economic partner violence were reported: male partners withholding money for household expenses (7%); prohibiting women from getting a job (7%); and, taking women's earnings and savings against their will (2%). Jamaican women have limited experience with economic abuse. Economic abuse in this study is defined as women being prevented from earning an income, having their earn-

ings taken away or being refused money by a partner on whom they were financially dependent. Only 8.5 per cent of women reported lifetime experience with economic abuse

Comparatively, these figures, derived using the same survey instrument, suggest that, generally, physical, emotional and economic violence against women are more prevalent in Trinidad and Tobago than in Jamaica.

Although comparable prevalence surveys on Women's Health were not carried out in other Caribbean countries, UNODC claims that national level prevalence studies generate surprisingly similar victimization rates. Data from nationally representative surveys undertaken in **Antigua and Barbuda** and **Barbados** in 1990 indicated that 30 percent of all women in each country had been victimized by physical violence at the hands of an intimate partner at some point in their lives.

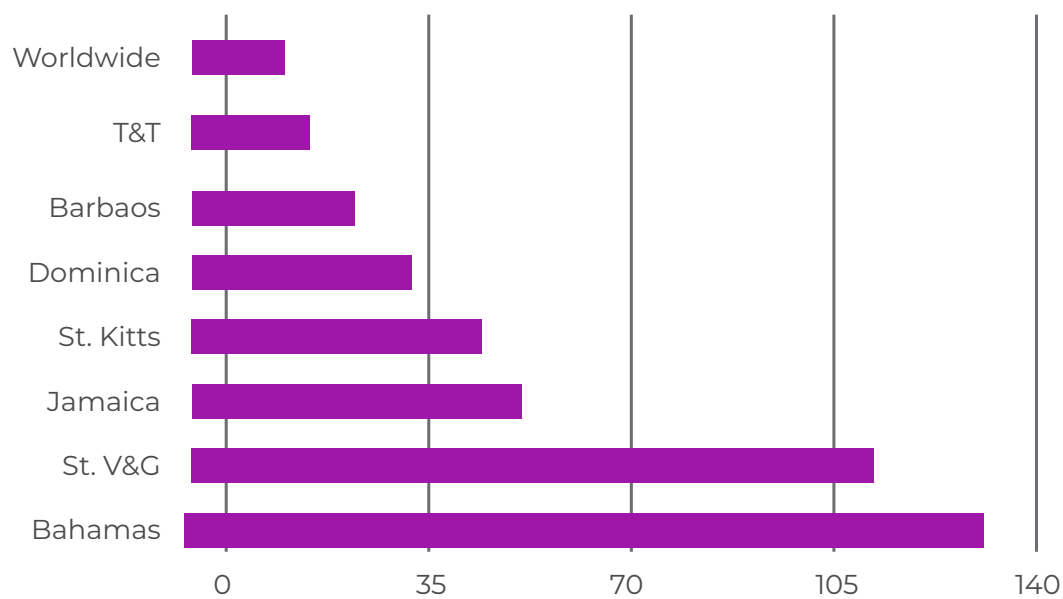
3.2 Sexual Violence

Rape, in both the public and private domains, is the most prevalent form of sexual violence in the Caribbean region that affects women throughout the entire life cycle also impacting elderly women. UNODC opines that:

Rape is greatly under-reported everywhere in the world, and relatively high recorded rape rates can actually be due to high levels of trust that reporting will result in positive outcomes for the victim. (#1.26)¹⁵

The Report also provides trends for rape rates per 100 000 of the female population extracted from crime survey trends (CTS). These data indicate that three of the top ten recorded rape rates occurred in the Caribbean, including the top-rated country, the Bahamas. Further, the seven Caribbean countries for which comparable data were available experienced a higher rate of rape than the unweighted average of 102 countries responding to the CTS which stood at 15 rapes per 100,000 (See Figure 1).

Figure 1: Reported Incidents of Rape per 100 000, Selected Countries



Source: Crime Trends Surveys – United Nations (Various Years)

The Trinidad and Tobago Women’s Health¹⁶ Survey provides prevalence data on both non-partner sexual violence (NPSV) as well as intimate partner sexual violence (IPSV). NPSV was estimated based on the experiences of all women interviewed, not only those of ever-partnered women. The prevalence of intimate partner sexual violence was determined based on the proportion of ever-partnered women who had experienced at least one pre-defined act of sexual violence perpetrated by their partner. The findings indicate that:

About one in ten of ever-partnered women living in Trinidad and Tobago experienced sexual partner violence in their lifetime, while less than 1 percent reported experiencing such violence in the 12 months prior to the survey;

Respondents most commonly reported being forced into sexual intercourse (lifetime 8%; current 1%);

Women also indicated having unwanted sexual intercourse because of fear of what their partners might do if refused (lifetime 6%; current 1%); and,

performing what they considered degrading or humiliating acts (lifetime 3%; current 0%). (p.33)

Of note is the fact that the findings indicate that NPSV was far more prevalent than IPSV sexual violence.

The prevalence of NPSV (21.3%) was almost four times higher than that of sexual IPSV (5.0%);

Seven percent (lifetime) of all respondents reported having been forced into sexual intercourse by a non-partner (1% current);

Ten percent of women indicated they were forced into intercourse at least once with a non-partner through the use of physical or verbal force (9%); and,

The majority of women reported one perpetrator, in many instances a family member or friend. The majority of such experiences (84%) were left unreported to police.

The Trinidad and Tobago survey also gathered information on sexual harassment in public places. The findings indicate that harassment (at work, on the job, public transport, and virtual spaces) was experienced by 13 percent of women, with the highest prevalence of this type of harassment taking the form of electronic messages with sexual content (8%) and being groped in a public space (7%).

The Jamaica Women's Health¹⁷ Survey Report informs that:

Lifetime prevalence of intimate partner sexual violence refers to the percentage of women who report that they have been forced to have sexual intercourse by their male partner. This includes situations where they were threatened or held down. Women who report that they have had sexual intercourse because they were afraid of what their male partner may do are also included in this definition, as are women who have been forced to engage in sexual acts they found humiliating or degrading. (p.47)

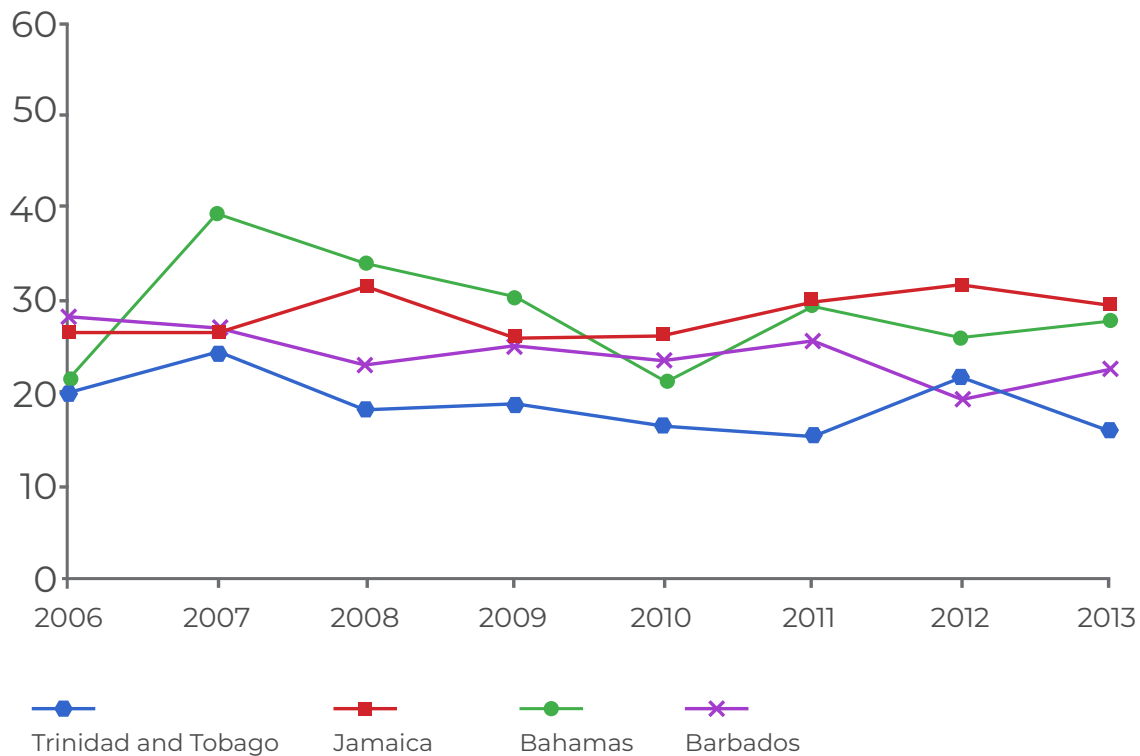
According to the UNODC Report the incidence of sexual violence is more prevalent in Jamaica than it is in Trinidad and Tobago (See Figure 1). This is confirmed by the prevalence rates stated in the Jamaica Report where the prevalence of lifetime intimate partner sexual violence was 7.7 per cent and current prevalence was 1.9 per cent. There were no differences in experiences across socio-demographic groups, with the exception of women who were early cohabiters compared with those who began cohabiting with a man when they were over 18 years old. In the former case, both lifetime and current sexual partner violence were higher than in the older age group.

The Barbados Royal Police Force (BRBF) classifies sexual crimes under the category of sex-related crimes. This category includes rape, assault with intent to rape, sex with a minor, indecent assault, serious indecency, and other sex crimes.

Data on sexual crimes for Barbados derived from the IDB Report on Crime and Violence¹⁸ indicate that since 2000, the rate of reported rape exceeded the incidence of all other sex-related offenses. Since 2011, however, reported rapes saw a decrease although the numbers again increased in 2013 and was eclipsed only by indecent assault. Between 2009 and 2013 the average rate of rape in Barbados was 22.4 per 100 000.

In the case of the Bahamas which has the highest rate of rape compared with all other Caribbean countries for which data are available, the Royal Bahamas Police Force (RBFF) as quoted in the IDB Crime and Violence Report¹⁹ states that the average reported rape rate in The Bahamas between 2009 and 2013 was approximately 27 per 100,000 population. This number was higher compared to the same five- year average for Jamaica (28), Barbados (23), and Trinidad and Tobago (17) (See Figure 2.)

Figure 2: Rape Rate per 100 000 Population in the Bahamas, Jamaica, Trinidad & Tobago and Barbados



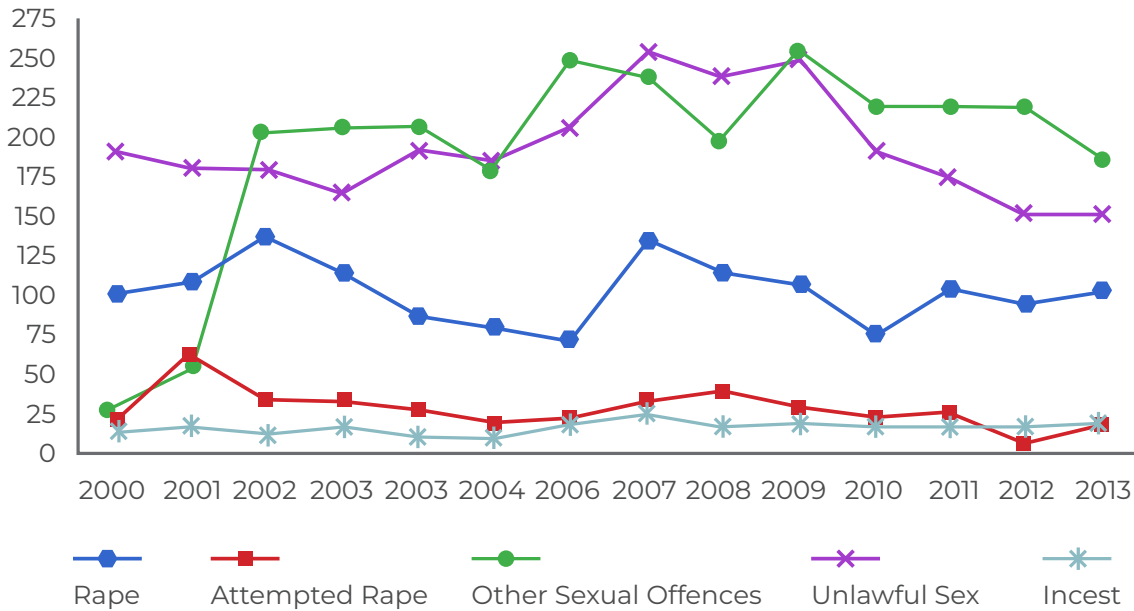
Source: Numbers of reported rape cases were provided by the Royal Bahamas Police Force Strategic Policy and Planning Unit; the Crime and Problem Analysis Branch of the Trinidad and Tobago Police Service; and the Royal Barbados Police Force. The rape rate for Jamaica was taken from UNODC (2014), Rape rates were calculated using population estimates by the United Nations Department of Economic and Social Affairs Population Division (UNDESA, 2013).

Source: Crime and Violence in the Bahamas. IDB Series. 2016. p. 36²⁰

In addition to rape, the Bahamas Police Force provides data on the prevalence of a number of other sexual crimes including attempted rape, incest, unlawful sex and other sexual offences where the victim is predominately female. (See Figure 3).

Figure 3: Cases of Sexual Violence

(Rape, Attempted Rape, Incest, Unlawful Sex and Other Sexual Offences) 2000-2013



Source: Data provided by the Royal Bahamas Police Force (RBPF).

Note: According to the RBPF, “Other Sexual Offences” includes “Buggery, Unlawful Carnal Knowledge, Attempted Unlawful Sexual Intercourse, Unnatural Sexual Intercourse, Attempted Incest, Unlawful Sex with Mentally Ill Person, Indecent Exposure”.

Source: Crime and Violence in the Bahamas. IDB Series. 2016. p. 35²¹

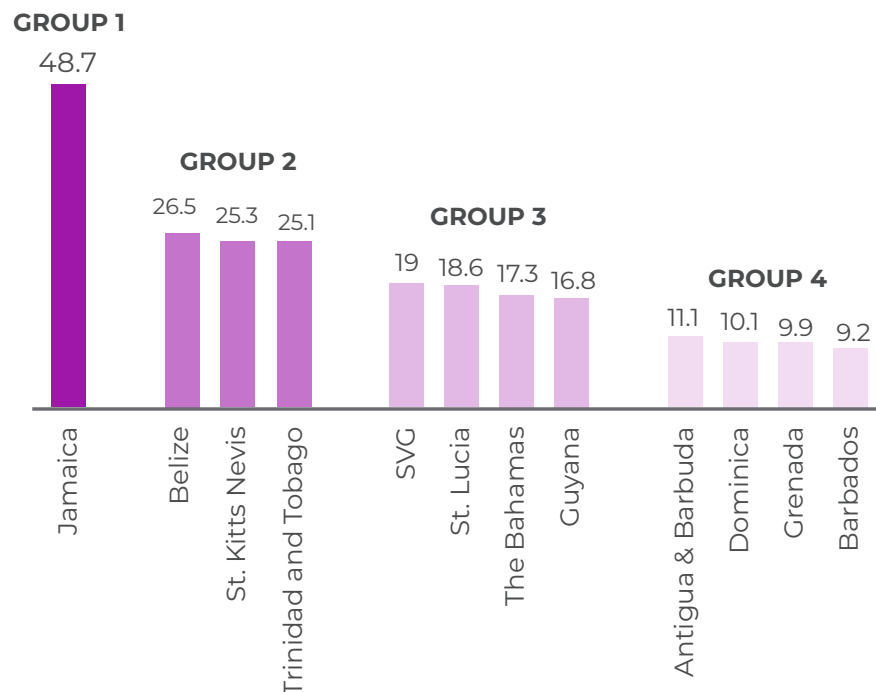
More recent data from the Research and Policy Branch of the Government of the Bahamas indicate that preliminary prevalence data on sexual violence for 2020 showed an increase of 34% (213 cases) over 158 cases in 2019. These offences included: rape (%), unlawful sexual intercourse (%) and attempted rape (%).²²

3.3 Homicides

Several sources attest to the fact that the Caribbean is an extremely violent space. Data on countries with the highest murder rates, updated in 2018, show the ranking of Caribbean countries in relation to the 25 most violent countries in the world, based on homicide rates per 100 000. Eight of these twenty-five countries are located in the English-speaking Caribbean and are ranked as follows: Dominica – 21st; St. Lucia – 19th; St. Vincent and the Grenadines – 15th; Trinidad and Tobago – 13th; The Bahamas – 12th; St. Kitts and Nevis – 9th; Jamaica – 6th; Belize – 3rd²³.

More recent data on homicides specific to the Caribbean presented in Figure 4 provided from Police Forces and Statistics Departments of the 12 English-speaking Caribbean countries, included in a previous publication²⁴, indicate that, on average for the period 2000 to 2010 murder rates ranged from a high of 48.7 per 1000 000 in Jamaica to a low of 9.2 in Barbados (See Figure 4). For ease of reference, the countries are presented in four groups with groups 2,3 and 4 including countries with similar rates in descending order.

Figure 4: Average Murder Rates for Caribbean Countries by Group, 2000-2010

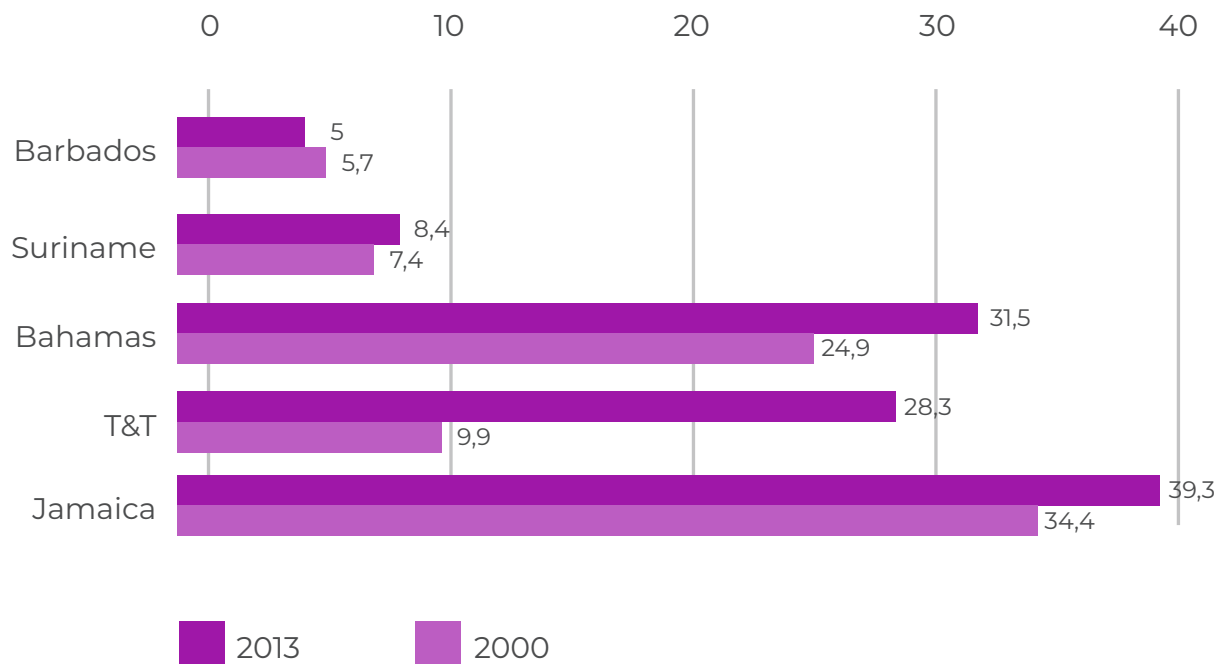


Source: Royal Antigua and Barbuda Police Force; Royal Barbados Police Force; Royal Bahamas Police Force; Belize Police Department Commonwealth of Dominica Police Force; Royal Grenada Police Force; Ministry of Home Affairs of the Government of Guyana; Statistics Department of the Jamaican Constabulary Force; Royal St. Kitts and Nevis Police Force; Royal St. Lucia Police Force; Royal St. Vincent and the Grenadines (SVG) Police Force; and the Trinidad and Tobago Police Service.

Source: Crime and Violence in Trinidad & Tobago. p.1²⁵

Data shown in Figure 5²⁶ show not only the spread of rates among Caribbean countries but also that, over time, murder rates in Caribbean countries have increased. In all but one of the five countries (Barbados), murder rates increased between 2000 and 2013.

Figure 5: Rates of Homicide (Various Countries) 2000 and 2013



The following are indicative of the crime and violence situation in the Caribbean.

Consistent with data already reported, in 2013 Jamaica had the highest murder rate – 39.3 up from 34.4% in 2000;

The only country in which the homicide rate decreased was in Barbados – 5.7 – 5%;

The largest increase in murder rates was in Trinidad and Tobago rising from 9.9 in 2000 to 28.3 in 2013;

The Bahamas had the second highest rate moving from 24.9 in 2000 to 31.5 in 2013.

3.3.1 Homicides related to GBV and Death of Women: Femicides

The homicides reported in the previous section represent overall rates for Caribbean countries. In some instances, information is available which indicates that in a fairly significant proportion of cases the murder is linked to domestic violence and the victim was sometimes a woman. Some of these murders, therefore, can be directly linked to gender-based violence against women and are femicides, which is the intentional murder of a woman because she is a woman.

Data from various sources provide an insight into the link between murders, domestic violence and death of women, which in some instances, could be labeled as femicides. (See Table 1).

Table 1: Murder Rates, percentage linked to DV and % of women murdered

Country	Year	Murder Rate per 100 000	% of all Murders resulting from DV	% F Victims/ (Femicides)
Jamaica	2009	61.6	3.8%	10
	2010	52.1	4.1%	10
	2011	39.8	8.6%	10
	2012	44.0	9.4%	10
	2013	39.3	6.3%	10
T & T	2009	38.3		7.5%
	2010	35.6		11.0%
	2011	26.5		8.5%
	2012	28.4		11.8%
	2013	30.4	5.5% (2009-13)	9.6%
Barbados	2009	6.8	21%	21.0%
	2010	11.0		32.0%
	2011	9.6		15.0%
	2012	7.4		10.0%
	2013	8.4 (RBFP)	33% (2013)	25.0%
Bahamas	2009	22		-
	2010	25		12%
	2011	35		13.3%
	2012	30		10%
	2013	31.5	14%	13%

Based on the data presented in Table 1, no definitive conclusion can be drawn about the number of femicides that occurred between 2009 and 2013 in the four countries for which data are available.

First, murder rates provided in various sources are not consistent and, as indicated previously, depends on the source of those data - police force data vis-à-vis that from victimization surveys and national reports. Secondly, in some cases data are provided on the percentage of murders that are linked to domestic violence but this is not directly correlated to the percentage of female victims. In some instances, the victim of a domestic violence incident can be male. The percentage of female victims, nonetheless, is indicative of the fact that in some cases, the death of a female is linked to gender-based violence intentionally directed at that woman because she is a woman, and, in that instance, the murder can be unequivocally classified as a femicide.

In a previous analysis of the 2013 data provided for these 4 Caribbean countries only in one instance, that of Barbados, was specific information provided that:

...more recent work has revealed that one fifth of murders committed between 2000 and 2007 in Barbados were acts of domestic violence. In all cases of murders resulting from domestic violence, the victims were women. (p.73)²⁷

In this instance all of these murders were undoubtedly femicides.

Generally, the data presented on the prevalence of domestic violence, sexual violence and homicides clearly indicate that:

Caribbean countries display high levels of hostility, a large proportion of which is directed at women. This is due largely to the fact that in spite of concerted efforts over the last three to four decades, by both governments and civil society, to create an environment for the promotion of women's human rights in the Caribbean, the axis of power between the sexes remains weighted in favour of males. This, in turn, reproduces and reinforces male domination/female subordination in the socio-cultural, economic, political and personal spheres. The net result, of continuing patriarchal ideologies and structures, is the high levels of violence that women and girls experience in both the private and public domains. (p.73)²⁸

4. Legislative Framework on GBV in the Caribbean

In response to this, CARICOM member states have signed a number of international human rights conventions and passed a number of laws to protect the human rights of women and, more specifically, to protect them from various forms of gender-based violence (GBV).

The impetus and advocacy for establishing a legal framework for protecting the human rights of women in the Caribbean Region, sprung mainly from engagement in the 3rd and 4th World Conferences on Women (WCW) held in 1985 and 1995 in Nairobi, Kenya and Beijing, China, respectively. These events raised awareness of the discrimination that Caribbean women faced and their general disadvantaged position in the social, economic and political arenas and the pervasiveness of violence in their lives. Four sources of law protect women of member states of the Caribbean Community (CARICOM) from various forms of GBV in the private and public spheres:

4.1. Legally Binding UN International Conventions

CARICOM countries have ratified/acceded to a number of United Nations Human Rights treaties, which oblige them, under international law, to prevent acts of violence against women and, when they do occur, to investigate and punish perpetrators, with due diligence. The expectation is that Acts of Parliament will incorporate these obligations into domestic legislation thereby making such obligations enforceable. Where there is ambiguity or absence of such provisions in national legislation, judges have a responsibility to invoke relevant international obligations in making judgments.

No instance was identified where a Convention was directly invoked in a case in a CARICOM member state. However, in the 'Cotton Field' case of *Gonzalez et al. v Mexico 2009*,²⁹ a signatory to the Belem do Para Convention, the Inter-American Court of Human Rights (IACHR) extensively cited information uncovered during the CEDAW Committee's inquiry into Ciudad Juárez, Mexico under the CEDAW Optional Protocol.³⁰ Information from the inquiry indicated the grave and systemic abuses suffered by women and widespread impunity for crimes of violence against women in Ciudad Juárez. The Court, therefore, determined that Mexico had violated the rights of the applicants.

Seven of the nine core United Nations human rights instruments that, in one way or another, establish standards to protect the right of women to lives free of all forms of violence, in both the private and public domains, are considered in this section:

- *Convention on the Elimination of All Forms of Racial Discrimination (CERD).*
- *Convention on Economic, Social and Cultural Rights (CESCR)*
- *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*
- *Convention on the Rights of the Child,*
- *Convention on the Rights of Migrant Workers and their Families (CRMW).*
- *Convention on the Right to Protect all Persons from Forced Disappearances.*
- *Convention of the Rights of Persons with Disabilities.*

Table 2: Ratification of UN Human Rights Instruments by OAS Caribbean States

1. Convention on the Elimination of all Forms of Racial Discrimination (ICERD) 1969

Ratifications: (12)

Antigua & Barbuda (1988); Bahamas (1969); Barbados (1975); Belize (2001); Grenada (2013); Guyana (1977); Jamaica (1971); St. Kitts & Nevis (2006); St. Lucia (1990); St. Vincent & the Grenadines (1981); Suriname (1984); Trinidad & Tobago (1984).

2. Covenant on Economic, Social and Cultural Rights (CESCR) 1976

Ratifications: (10)

Bahamas (1975); Barbados (1973); Belize (2015); Dominica (1993); Grenada (1991); Guyana (1977); Jamaica (1975); St. Vincent & the Grenadines (1981); Suriname (1976); Trinidad and Tobago (1978).

3. Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) 1981

Ratifications: (13)

Antigua & Barbuda (1989); Bahamas (1993); Barbados (1980); Belize (1990); Dominica (1980); Grenada (1990); Guyana (1980); Jamaica (1984); St. Kitts & Nevis (1985); St. Lucia (1982); St. Vincent & the Grenadines (1981); Suriname (1993); Trinidad & Tobago (1990).

4. CEDAW-OP

Ratifications: (3)

Antigua & Barbuda (2006); Belize (2002); St. Kitts & Nevis (2006).

5. Convention against Torture, Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1987

Ratifications: (5)

Antigua & Barbuda (1993); Bahamas (2018); Belize (1986); Guyana (1988); St. Vincent & the Grenadines (2001);

6. CAT-OP

Ratifications: (1)

Belize (2016)

7. OP-CRC-involvement of children in armed conflict (OP-AC) 2002

Ratifications: (8)

Bahamas (2015); Belize (2003); Dominica (2002); Grenada (2012); Guyana (2010); Jamaica (2002); St. Lucia (2014); St. Vincent & the Grenadines (2011)

8. OP-CRC- sale of children, child prostitution, child pornography (OP-CRC-SC) 2002

Ratifications: (10)

Antigua & Barbuda (2002); Bahamas (2015); Belize (2003); Dominica (2002); Grenada (2012); Guyana (2010); Jamaica (2011); St. Lucia (2013); St. Vincent & the Grenadines (2005); Suriname (2012);

9. Convention on the Rights of All Migrant Workers and their Families (2003)

Ratifications: (4)

Belize (2001); Guyana (2010); Jamaica (2008); St. Vincent & the Grenadines (2005);

10. Convention on the Right to Protect all Persons from Forced Disappearances (CRPDF) 2010

Ratifications: (1)

St. Vincent & the Grenadines (?)

11. Convention on the Rights of Persons with Disabilities (CRPD) 2008

Ratifications: (9)

Bahamas (2015); Barbados (2013); Dominica (2012); Grenada (2014); Guyana (2014); Jamaica (2007); St. Lucia (?); St. Vincent & the Grenadines (2010); Suriname (2017); Trinidad & Tobago (2015).

12. OP-CRPD

Ratifications: (2)

Dominica (2012); St. Vincent & the Grenadines (2010).

Of note, is the fact that of the seven instruments considered, CEDAW has the highest subscription with ratification by all thirteen states between 1980 (Guyana) and 1993 (Suriname). Only three states (Antigua and Barbuda, Belize and St. Kitts and Nevis), however, have ratified the Optional Protocol, which allows for complaints to be brought by individuals and or organisations for grave and systemic violations of the rights of women. Further, none of these three states have brought a case under the CEDAW-OP.

It is also noteworthy that although the Convention against Torture, Cruel, Inhuman or Degrading Treatment or Punishment protects from extreme forms of violence only one state has ratified this Convention.

4.2 Legally Binding Inter-American Multilateral Conventions

CARICOM member states are also party to Inter-American multilateral conventions that also provide for the protection of human rights of women in areas covered by some of the international treaties discussed in Section C. These include:

- *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.*
- *Inter-American Convention on Human Rights.*
- *Convention on Elimination of Discrimination against Persons with Disabilities.*
- *Inter-American Convention to Prevent and Punish Torture.*

Table 3: Ratification of Inter-American Human Rights Instruments by OAS Caribbean States

Convention on the on the Prevention, Punishment and Eradication of Violence against Women 1995

Ratifications: (13)

Antigua and Barbuda 1998; Bahamas 1995; Barbados 1995; Belize 1996; Dominica 1995; Grenada 2000; Guyana 1996; Jamaica 2005; St. Kitts & Nevis 1995; St. Lucia 1995; St. Vincent & the Grenadines 1996; Suriname 2002; Trinidad & Tobago 1996.

Convention on Human Rights 1978

Ratifications:

Barbados 1981; Grenada 1978; Jamaica 1978; Suriname 1987; Trinidad & Tobago 1991.

Convention on Elimination of Discrimination against Persons with Disabilities 1999

Signatures:

Dominica 1999; Jamaica 1999.

Convention to Prevent and Punish Torture 1985

Signature:

Suriname 1987

The Belem do Para Convention has been fully subscribed to by the thirteen states that are the focus of this report, signifying the extent to which GBV is of paramount concern in all these countries. Regrettably, however, information from the Third Hemispheric Report,³¹ which summarises information on outcomes of the Third Multilateral Evaluation Round, provides very limited information on Caribbean states, indicative of the low rate of response to the MESECVI accountability mechanisms.

4.3 National Legislative Framework

The laws providing remedy for women who are victims of gender-based violence in the Caribbean have their foundation in the Common Law, the Constitution and Acts of Parliament.

The Constitution

The Constitution is the supreme law in Commonwealth Caribbean countries, to which all other laws must conform. The duty of the State to protect victims of gender-based violence may, therefore, be interpreted from human rights provisions in the Constitution, as was the case in *Francois v Attorney General St. Lucia*, Suit 69 of 2001³² where the judge located the duty from the Bill of Rights of the Constitution.

Common Law

The Commonwealth Caribbean has a Common Law legal system inherited from England. For more than a century, the Common Law of Britain was the legislation protecting women from violence in Anglo-phone Caribbean colonies. In its earliest form it was based on societal commons and norms recognised and enforced by the judgments and decrees of the court. Over time, the 'Common Law' came to include these early customs as well as legislative enactments and the judicial decisions'.³³

In Jamaica, for example, the Offences against the Person Act (1864) was the primary legislation on the island addressing most violent and personal crimes, including gender-based violence. More offence-specific legislation and/or legislative amendments began to be passed in the 1990s.³⁴

The common law continues to be invoked in Caribbean courts in relation, for example, to cases of harassment. In the absence of enactment of legislation on harassment in many Caribbean countries, judges are drawing on the common law as a response to such cases. Such a ruling was made by the Supreme Court, Jamaica 2006 in the *Needham and Clarke v Senior HCV 0852/2006*³⁵ case, where it was held that based on precedents set in other jurisdictions that common law in Jamaica should evolve to deal with harassment issues such as those brought by these claimants. The judge ruled that 'the tort of harassment' should be recognised and be defined as also addressing 'deliberate conduct directed at a claimant resulting in damage short of physical harm, such as anxiety and distress.

A move in this direction is also contemplated in St. Vincent and the Grenadines In its 4th to 8th Periodic Report to CEDAW in 2013³⁶, it is noted that with respect to sexual harassment at the workplace that: '

Available remedies for women who are subject to Sexual Harassment are limited to Common Law Remedies under the Law of Torts. The Report further noted that: 'The Tort of Harassment is now recognized at Common Law and is defined as in the 2006 Jamaican case'. In Jamaica³⁷, a similar situation obtains. Despite introduction of a sexual harassment policy more than a decade ago, the country is still without sexual harassment legislation. Consequently, victims of workplace harassment must rely on common law, tort, and contract law remedies.

4.4 National Statutes

The pervasiveness of gender-based violence in the Caribbean demands the development of a robust legislative framework, and other measures, to give effect to legally binding international and multilateral instruments and for eliminating gender-based violence in the region. In this Section, the focus will be on the status of legislation to address violence against women with a focus on domestic violence and sexual violence. The lack of conceptual clarity, in terms of the various forms of violence against women and the sites in which these acts occur, gives rise to overlaps in the listed categories, which cannot be avoided. These distinctions and clarifications, however, need to be clearly articulated in the formulation of the legislation.

Another factor that has to be taken into account is the influence of the colonial past of these countries. The system of those belonging to the British Commonwealth is based on the British Common Law as well as statute law. In Guyana, vestiges of a Dutch legal system remain, particularly in the area of land tenure, but the common law of Britain is the main basis for their legal system. Suriname's legal system, however, is based on the Dutch Civil System. Laws are laid down in criminal, civil, and commercial codes and verdicts are based on the judge's interpretation of these codes. There is no government or political interference in the judicial system, and judges are generally considered to be impartial.³⁸

Table 4: Overview of Domestic Violence Legislation in the Caribbean

COUNTRY	LEGISLATION	
ANTIGUA & BARBUDA	Name:	Domestic Violence (Summary 1 Proceedings) Act 1999.
	Enacted:	1999
	Areas of concern: Indictable Sexual Offences include:	<ul style="list-style-type: none"> • Protection • Protection Orders • Occupancy • Tenancy Orders
	Observations:	<ul style="list-style-type: none"> - In the revised legislation: <ul style="list-style-type: none"> o the definition of domestic violence includes threats, intimidation, harassment or stalking include threats, intimidation harassment or stalking or and cyberstalking on the Internet or by electronic means. o provisions are made for the enforcement of Protection Orders and penalties, for lack of compliance, including prison terms. - The Directorate of Women’s Affairs in Antigua and Barbuda has historically assisted women who make applications for protection orders in completing the application forms and in drafting an unsworn applicant statement or an affidavit, which is annexed to the application form. These statements set out the essential data on the parties but also particularize the relationship history, duration of union and previous experience of violence and abuse. - In the absence of a protection order the police have power of arrest to protect any member of the household.
	Definitions:	<p>1999</p> <p>Any act of violence whether physical or verbal abuse perpetrated by a member of a household upon a member of the same household which causes or is likely to cause physical, mental or emotional injury or harm to the abused party or any other member of the household.</p> <p>2015</p> <p>Any controlling or abusive behaviour that harms the health, safety or well-being of the applicant or any child in the care of the applicant and includes but is not limited to: (a) physical abuse or threats of physical abuse; (b) sexual abuse or threats of sexual abuse; (c) emotional, verbal or psychological abuse; (d) economic abuse; (e) intimidation; (f) harassment; (g) stalking; (h) damage to or destruction of property; or (i) entry into the applicant’s residence without consent, where the parties do not share the same residence.</p> <p>It may also include threats, intimidation, harassment or stalking including threats, intimidation harassment or stalking or and cyberstalking on the Internet or by electronic means.</p>
	Iterations:	2015
	Source(s):	laws.gov.ag/acts/1999/a1999-3.pdf https://www.cepal.org/mujer/noticias/noticias/7/14217/lccarg659i.pdf

COUNTRY	LEGISLATION	
	Name:	Sexual Offences and Domestic Violence Act
	Enacted:	1991
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Protection Order. • Affidavit Evidence. • Notice to Respondent. • Ouster Order. • Breach of Protection Order. • Power of Arrest. • Power to Enter Domestic Premises.
	Observations:	<ul style="list-style-type: none"> - Provisions outlined in the 1991 Sexual Offences and Domestic Violence Act are limited to parties within a context of marriage and covers: matrimonial injunctions and arrest of breach of such injunctions; rights concerning the matrimonial home where one spouse has no estate/where both spouses have estate; protection orders for a spouse and arrest for breach of such orders. - The revised legislation provides both a broader definition of domestic violence; and applies to persons involved in relationships outside of marriage - The legislation makes provision for a police officer to make an arrest without warrant, upon reasonable cause for suspecting of being in breach of such a provision
BAHAMAS	Definitions:	<p>DOMESTIC VIOLENCE</p> <ul style="list-style-type: none"> - includes physical, sexual, emotional or psychological or financial abuse committed by a person against a spouse, partner, child, any other person who is a member of the household or dependant; - [where] Emotional or Psychological Abuse means a pattern of behaviour of any kind, the purpose of which is to undermine the emotional or mental well-being of a person including: <ul style="list-style-type: none"> o persistent intimidation by the use of abusive or threatening language o depriving that person of the use of his property; o (c) interfering with or damaging the property of the person; o (d) the forced confinement of the person; o (e) making unwelcome and repeated or intimidatory contact with a child or elderly relative of the person; - [where] Financial Abuse means a pattern of behaviour of a kind, the purpose of which is to exercise coercive control over, or exploit or limit a person's access to financial resources so as to ensure financial dependance; - Domestic violence also includes harassment,
	Iterations:	Domestic Violence (Protection Orders) Act 2007
	Source(s):	https://www.oas.org/dil/The_Domestic_Violence_Act_Bahamas.pdf

COUNTRY	LEGISLATION	
BARBADOS	Name:	Domestic Violence (Protection Orders) Act
	Enacted:	1992
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Protection order. • Application for protection order. • Notice to respondent. • Explaining of proposed order to respondent. • Ouster order. • Breach of protection order. • Power of arrest.
Observations:	<ul style="list-style-type: none"> - The original legislation does not explicitly define Domestic Violence. - Victims of domestic violence can make application for a Protection Order through the Magistrates Court. A protection order may, inter alia, prohibit a spouse, partner, former spouse or former partner from assaulting or harassing the complainant, from going within a specified distance of the complainant and may even in some circumstances exclude the respondent from the residence where both parties ordinarily cohabit. - The revised legislation, inter alia: <ul style="list-style-type: none"> ○ defines Domestic Violence, as the willful infliction or threat of infliction of harm by one person in a domestic relationship upon another person in that relationship and includes child abuse, emotional abuse, financial abuse, physical abuse and sexual abuse. ○ amends the definition of harassment by including methods of harassment such as persistent contacting by e-mail or publication of material relating to the victim on the internet without the victim's consent. ○ replaces the definition of "child" and restricts it to a person under 18 years of age who is not married. ○ expands the class of persons who may seek relief under the Act, including spouses, former spouses, children, dependents or other person who is considered to be relative of the perpetrator by virtue of consanguinity or affinity, including cohabitational and visiting relationships, but not same-sex relationships. ○ ensures that victims of domestic violence receive the appropriate counselling or therapy ○ facilitates the enrolment of perpetrators of domestic violence in the appropriate rehabilitative programmes ○ extends the classes of persons who may intervene in applications before the Court on behalf of victims of domestic violence ○ establish the duties and powers of members of the Police Force in relation to allegations of domestic violence, including the power to issue emergency protection orders ○ maximise the safety and protection of victims and ensure that perpetrators of domestic violence are held accountable, and for related matters. 	

BARBADOS	Definitions:	DOMESTIC VIOLENCE (2016) The wilful infliction or threat of infliction of harm by one person in a domestic relationship upon another person in that relationship and includes child abuse, emotional abuse, financial abuse, physical abuse and sexual abuse.
	Iterations	Domestic Violence (Protection Orders) (Amendment Act) 2016
	Source(s):	https://oig.cepal.org/sites/default/files/1993_brb_domesticviolence.pdf https://www.barbadosparliament.com/uploads/bill_resolution/907d022cc76d0c58b3353e80836ba3e6.pdf https://barbadosunderground.files.wordpress.com/2016/02/domesticviolence_alicianichollandfeliciabrowne.pdf

COUNTRY	LEGISLATION	
BELIZE	Name:	Domestic Violence Act
	Enacted:	2000
	Areas of concern: <i>Indictable Sexual Offences include:</i>	Parties who may apply for protection orders Protection order or undertaking Restrictions in order Matters to be taken into account Ouster order Form of application
	Observations:	<ul style="list-style-type: none"> - The revised Domestic Violence Act (2007), inter alia: <ul style="list-style-type: none"> o defines domestic violence offences more broadly; as any of the following acts or threat of any such act: (a) physical or sexual abuse; (b) economic abuse; (c) emotional, verbal or psychological abuse, including any conduct that makes another person feel constantly unhappy, humiliated, ridiculed, afraid or depressed or to feel inadequate or worthless; (d) harassment, including sexual harassment and intimidation; (e) conduct that in any way harms or may harm another person, including any omission that results in harm and either: <ul style="list-style-type: none"> endangers the safety, health or wellbeing of another person; undermines another person's privacy, integrity or security; or detracts or is likely to detract from another person's dignity or worth as a human being. o broadens the definition of victims to include 'cohabitants' who has lived with, is living with or is in a visiting relationship, a person of the opposite sex as a husband and wife although not legally recognized as a common law or legal spouse as well as legally recognized 'de facto' spouse of the opposite sex. o strengthens the powers of the legal authorities to respond to reports of domestic violence o seeks to provide greater support services and protection to victims of domestic violence.
Definitions:	<p>DOMESTIC VIOLENCE OFFENCE</p> <ul style="list-style-type: none"> - A prescribed offence committed by a person against: <ul style="list-style-type: none"> o a spouse of the person; o a child or dependent of the person or of a spouse of the person; or o a parent; "prescribed offence" includes <ul style="list-style-type: none"> o murder, or attempted murder; o manslaughter or attempted manslaughter; o rape or attempted rape; o cruelty to children; or o the use or threatened use of any other violence or physical or mental injury to a prescribed person; 	

BELIZE	Definitions:	<p>HARASSMENT</p> <p>“harassment” means a course of conduct which may include words, gestures and actions which tend to annoy, alarm or abuse another person and which causes emotional distress to another person and includes the intimidation of a person by:</p> <ul style="list-style-type: none"> ○ persistent verbal abuse; ○ threats of physical violence; ○ the malicious damage of the property of a person; or ○ any other means; ○ the persistent following about of a person from place to place; ○ the hiding of any clothes or other property owned and used by a person; or ○ the watching or besetting of the house or other place where a person resides, works, carries on business or happens to be, or the watching or besetting of a person’s place of education;
	Iterations:	<i>The Domestic Violence Act (2007)</i>
	Source(s):	http://www.belizealaw.org/web/lawadmin/PDF%20files/cap178.pdf http://www.ilo.org/dyn/natlex/docs/ELECTRON-IC/94750/111289/F-388015036/BLZ94750.pdf

COUNTRY	LEGISLATION	
DOMINICA	Name:	<i>The Protection against Domestic Violence Act</i>
	Enacted:	2001
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Protection • Occupation • Tenancy Orders • Powers of arrest
	Observations:	<ul style="list-style-type: none"> - The Protection Against Domestic Violence Act, No.22 of 2001, identifies who might be a victim of such violence, and provides redress for victims. Further, it identifies persons entitled to make application for relief and sets out the procedure for so doing. The Act affords injunctive relief in the forms of from the courts and makes provision for the breach and enforcement of Court orders. It also gives police officers wide powers of entry and arrest, where police officers are empowered to enter premises without warrants where domestic violence is suspected. - The Act identifies persons to be protected by its provisions as: <ul style="list-style-type: none"> o Spouse (meaning husband or wife) o Parties in heterosexual common law relationships. o parents (parents of a child of the household by blood, by adoption) o parent or grandparent of the spouse o parent or grandparent of a respondent o Dependent children (by birth, adoption, residential - The Act offers provisions aimed at reducing the incidences of domestic violence, including, the power of a magistrate or judge to grant: <ul style="list-style-type: none"> o a protection order that prohibits abuse and molestation, excludes the abusive person from the home or work-place etc. o an occupation order which gives a right to remain in the household residence o a tenancy order which vests the tenancy in the person who applied for the order o Other orders relating to counselling, the use of furniture and household effects, payment of rent, mortgage and utilities
	Definitions:	<p>DOMESTIC VIOLENCE</p> <p>... physical, sexual, emotional or psychological or financial abuse committed by a person against a spouse, child or any other person who is a member of the household, dependant or parent of a child of that household.</p>
	Iterations:	
Source(s):	<p>http://caribbean.unwomen.org/en/caribbean-gender-portal/caribbean-gbv-law-portal/gbv-country-resources/dominica</p> <p>http://sundominica.com/articles/domestic-violence-1-60/</p>	

COUNTRY	LEGISLATION	
GRENADA	Name:	<i>The Domestic Violence Act</i>
	Enacted:	2001
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Person entitled to apply for a protection order • Power of Court to issue interim protection order • Terms of Protection Order • Matters to be considered by Court • Seizure of firearm and dangerous weapons • Filing of affidavits
	Observations:	<p>The Domestic Violence Act (2010) replaced the Domestic Violence Act (2001) aimed at providing a civil remedy that would emphasize safety and protection as opposed to arrest and punishment.</p> <p>The revised legislation:</p> <ul style="list-style-type: none"> - Includes all forms of abuse between persons in domestic relationships, listed as physical abuse, sexual abuse, economic abuse, emotional abuse, intimidation, stalking, harassment and damage to property. - Defines domestic relationship to include spousal, common-law, engagement, visiting and dating relationships, as well as any actual or perceived romantic, intimate or sexual relationship of any duration. It also includes relationships by blood and adoption. - Details and expands the responsibilities and obligations of the Police, including their duty to respond to every complaint received, whether from the victim of the abuse or from any other person, to complete the Domestic Violence Police Report Form, and to file the appropriate criminal charge against the alleged offender in accordance with the criminal laws. - Details the rights of victims, such as the right to receive protection from the Police, to be assisted to obtain medical treatment and a place of safety, file for a protection order and receive counselling support. - Simplifies the process for seeking Protection Orders and widens the range of protections that can be provided by the Magistrate to the victim. - Mandates the police to enforce the Protection Orders and arrest respondents who breach any of the provisions. - Provides for Magistrates to make an order to attempt rehabilitation, such as counseling interventions for abusers and/or victims.
	Definitions:	<p>DOMESTIC VIOLENCE</p> <p>...abusive conduct directed towards (a) a member of the person's household; or (b) a spouse, child, parent or dependant of the person or of the person's spouse, whether or not living in the same household as the person, and includes physical abuse, sexual abuse, emotional or psychological abuse and financial abuse.</p>
	Iterations:	<i>The Domestic Violence Act 2010</i>
Source(s):	https://oig.cepal.org/sites/default/files/2010_grd_act19_0.pdf http://www.oas.org/es/mesecvi/docs/grenada-eng-respindic.pdf	

COUNTRY	LEGISLATION	
GUYANA	Name:	<i>Domestic Violence Act</i>
	Enacted:	1996
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Parties who may apply for protection orders. • Provisions in protection order. • Occupation order. • Effect of occupation order. • Variation or discharge of occupation order. • Tenancy order. • Power of court to make ancillary orders. • Provisions relating to occupation and tenancy orders. • Procedure
	Observations:	<ul style="list-style-type: none"> - The Domestic Violence Act 1996 is intended to strengthen the protection of women from domestic violence. Its scope is broad, and violence is defined to include verbal, physical, sexual and psychological abuse between members of a household. It makes provision for protection and redress of victims and survivors of domestic violence; and adequately provides for all aspects of domestic violence including for the rights of all parties affected, such as those in marriages, cohabitants or former cohabitants, persons in a sexual relationship, persons who live or have lived together in the same household, agreed to marry whether agreement terminated or not. It is designed to produce swift and definitive action. - Further to the Act of 1996, Guyana formulated a National Policy on Domestic Violence in 2008. The Policy is intended to guide interventions and all activities and programmes aimed at the prevention of domestic violence; and the provision of services to victims/survivors. To ensure the full implementation of this policy, a Domestic Violence Policy Unit has been established in the Ministry of Human Services and Social Security.
	Definitions:	<p>DOMESTIC VIOLENCE OFFENCE</p> <p>.... a prescribed offence committed by a person against a person with whom he is associated or a relevant child</p> <p>HARASSMENT</p> <p>the intimidation of a person by</p> <ul style="list-style-type: none"> ○ persistent verbal abuse; ○ threats of physical violence; ○ the malicious damage to the property of a person; ○ inducing fear of physical or psychological violence; or ○ any other means <p>Iterations:</p> <ul style="list-style-type: none"> • National Policy on Domestic Violence in 2008 • Domestic Violence Act 2010
Source(s):	<p>http://scm.oas.org/pdfs/2010/CIM02920T-1.pdf</p> <p>http://evaw-global-database.unwomen.org/fr/countries/americas/guyana/1996/domestic-violence-act-1996</p> <p>http://evaw-global-database.unwomen.org/fr/countries/americas/guyana/2008/national-policy-on-domestic-violence-2008-2013</p>	

COUNTRY	LEGISLATION	
JAMAICA	Name:	Domestic Violence Act
	Enacted:	1996
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Protection Orders • Occupation Orders • Conduct of Proceedings • Standard of Proof • Counselling
	Observations:	<ul style="list-style-type: none"> - The Domestic Violence Act (1994, amended in 2004), provides redress and protection to persons affected by domestic violence, though the Act itself, does not explicitly offering a definition of Domestic Violence, leading to uncertainty about how to interpret crime statistics. - There is no provision in the Act that distinguishes intimate partner violence from general intra-family violence. However, the Act acknowledges the sensitivity of sexual violence and seeks to preserve the dignity of victims by authorizing the judge to remove the public from the courtroom when such matters are being heard. - The 2004 amendment does, however give common-law spouses the same protections afforded to legally married persons and makes special provision for women involved in residential and non-residential relationships - The amendment of 2004, also offers greater protection for children and provides for the making of maintenance orders - Additionally, the amendment has widened the range of persons who can seek relief under the legislation; and proceedings under the Act may now be initiated by a third party on behalf of an abused woman - Through the revised legislation, a magistrate can grant: <ul style="list-style-type: none"> o protection orders that prohibit abuse and molestation o exclude the abusive person from the home or workplace etc. o occupation orders which give a right to remain in the household residence o other orders relating to counselling o the use of furniture, household effects and payment of rent mortgage utilities
	Definitions:	- NO definitions are listed in either version of the Act
	Iterations:	<p>Domestic Violence Act (Amendment) 2004</p> <p>http://japarliament.gov.jm/attachments/339_Domestic%20Violence%20Act.pdf</p> <p>http://evaw-global-database.unwomen.org/en/countries/americas/jamaica/2004/domestic-violence-act-amendment-act-2004</p> <p>Source(s):</p> <p>http://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/full%20text/americas/domestic%20violence%20act%202004/domestic%20violence%20act%202004.pdf?vs=3103</p> <p>http://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/vaw%20survey/jamaica%20womens%20health%20survey%20report%202016.pdf?vs=5406</p>

COUNTRY	LEGISLATION	
St. KITTS & NEVIS	Name:	<i>Domestic Violence Act 2000</i>
	Enacted:	Came into force April 2004
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Application for an injunction or protection order. • Application for an occupation order. • Application for tenancy order. • Grant of tenancy order. • Revesting orders. • Rehabilitation orders.
	Observations:	<ul style="list-style-type: none"> - The Act includes measures aimed at reducing the incidence of domestic violence including protection, occupation and tenancy orders. These measures include empowering a magistrate or judge to grant/make: <ul style="list-style-type: none"> ○ an interim protection order pending an inter parties hearing ○ a protection order or an injunction which prohibits the abusive person from engaging in conduct which amounts to domestic violence ○ an occupation order which gives a right to remain in the household residence and ask for the respondent to vacate specified property for a period of time ○ a tenancy order which vests the tenancy in the person who applied for the order ○ an order to seize any firearm or dangerous weapon (if mentioned) ○ other orders relating to use of furniture and household effects, payment of rent and counseling - Breach of these protection orders can result in fine and/or imprisonment - There is an added layer of protection in that police officer should respond to every domestic violence complaint, police officers have certain protocols that should be followed (completing DV report provided in the Schedule), police officers have the power to arrest without warrant in specified circumstances and police officers have a statutory duty to assist victims - Judge has the ability to issue warrant where there is reasonable grounds to suspect a person has suffered or is imminent danger of physical injury and a police officer has been refused permission to assist - The revised edition of the Domestic expands the definition of Domestic Violence to include violence that results in or is likely to result in <ul style="list-style-type: none"> ○ physical harm ○ sexual suffering ○ psychological suffering; (b) threats of violence; (c) coercion; (d) arbitrary deprivation of liberty; (e) molestation; (f) conduct of an offensive or harassing nature; (g) conduct which amounts to psychological abuse, intimidation or persecution; (h) financial abuse (i) stalking (j) damage to property, etc.

COUNTRY	LEGISLATION	
St. KITTS & NEVIS	Observations:	<p>There is an expansive definition of what constitutes a domestic relationship</p> <ul style="list-style-type: none"> - The revised Act offers protection to spouses, former spouses of legal unions as well as present or former “de facto spouses”, that is, a person of the opposite sex living as husband or wife although not legally married. - The Domestic Violence Act also specifies that existing criminal law shall apply where there is an overlap - Standard of proof for is on a balance of probabilities. <p>None of the existing legislation attempts to define violence against women or attempts to distinguish violence against women from intra family, family or domestic violence. The Domestic Violence Act, the substantive legislation and its amendment, gives examples of violence in a domestic setting.</p> <p>DOMESTIC VIOLENCE OFFENCE</p> <ul style="list-style-type: none"> - as a prescribed offence committed by a person against: (a) a spouse of the person (b) a child or dependent of the person or of a spouse of the person; or (c) a parent, It also sets out a wide range of speedy and effective remedies which are aimed at reducing the incidences of domestic violence.
	Iterations:	<i>Domestic Violence Act 2005</i>
	Source(s):	<p>www.oas.org/en/mesecvi/docs/FinalReport2012-St.KittsNevis.doc https://oig.cepal.org/sites/default/files/2005_kna_domesticviolenceact.pdf</p>

COUNTRY	LEGISLATION	
St. LUCIA	Name:	<i>Domestic Violence (Summary Proceedings) Act</i>
	Enacted:	1995
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Occupation Orders • Tenancy Orders • Conduct of Proceedings • Standard of Proof • Property rights
	Observations:	<p>- The Act contains three specific orders which will afford victims of domestic violence greater protective from their abusers. These orders are: Protection Orders; Occupation Orders; and Tenancy Orders. The persons subjected to the violence or a member of the household can obtain an order by applying to the Family Court or a Magistrate Court, through their legal representative who completes the relevant form and apply to the court on behalf of the victim. Those protected include spouses and former spouses, common-law spouses and former common-law spouses.</p>
	Definitions:	<p>DOMESTIC VIOLENCE</p> <p>....any act of violence whether physical or verbal abuse perpetrated by a member of a household upon a member of the same household which causes or is likely to cause physical, mental or emotional injury or harm to the abused party or any other member of the household</p>
	Iterations:	
Source(s):	https://oig.cepal.org/sites/default/files/1995_lca_act7.pdf	

COUNTRY	LEGISLATION	
St. VINCENT	Name:	<i>Domestic Violence (Summary Proceedings) Act 1995 Cap 228</i>
	Enacted:	1995
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Protection Orders • Occupation Orders • Tenancy Orders
	Observations:	<ul style="list-style-type: none"> - Domestic violence is not defined in the original version of the Act - The 1995 Act protects citizens against physical violence, mental injury, and harassment; and identifies persons who can seek relief under the legislation. These include: <ul style="list-style-type: none"> o persons living together as husband and wife o persons who are not married to each other but living together, and o persons who were married to each other. - The Act includes provisions through which applications can be made for an injunction, a Protection Order, a Tenancy Order, or an Occupation Order by a spouse, where domestic violence has been perpetrated - The Amended Act of 2015 includes a definition of Domestic Violence - The revised Act also expands the categories of persons for whom the Act offers protection. Protection, occupation and tenancy orders are available to applicants in the following relationships with a respondent: a) are or were married including marriage according to any law, custom or religion; b) are or were cohabitants; c) are or were in an engagement, dating or visiting relationship which includes but is not limited to an actual or perceived romantic, intimate or sexual relationship of any duration; they share or shared the same household or residence
	Definitions:	<p>DOMESTIC VIOLENCE (2015)</p> <p>any controlling or abusive behaviour that harms the health, safety or well-being of a person or any child and includes but is not limited to:</p> <ul style="list-style-type: none"> o physical abuse or threats of physical abuse o sexual abuse or threats of sexual abuse o emotional, verbal or psychological abuse o economic abuse o intimidation o harassment / stalking o damage to or destruction of property o entry into applicant's residence without consent where the parties do not share the same residence.
	Iterations:	<i>Domestic Violence (Summary Proceedings) Act 1995 amended in 2015.</i>
Source(s):	https://oig.cepal.org/sites/default/files/1995_vct_act13.pdf http://caribbean.unwomen.org/en/caribbean-gender-portal/st-vincent-and-grenadines	

COUNTRY	LEGISLATION	
SURINAME	Name:	<i>Domestic Violence Law 2009</i>
	Enacted:	Adopted 2 June 2009
	Areas of concern: <i>Indictable Sexual Offences include:</i>	
	Observations:	<ul style="list-style-type: none"> - The Penal Code (1911) amended 2009 does not recognise Domestic Violence as a crime, however, penalises and act of violence, including that perpetrated by State agencies. - In this law protection measures are also included
	Definitions:	<p>DOMESTIC VIOLENCE</p> <p>....each form of physical, sexual, psychological and financial violence which is perpetrated by a person against a partner, child, parent, member of the family or destitute no matter where the violence takes place.</p>
	Iterations:	
	Source(s):	Online sources appear in Dutch

COUNTRY	LEGISLATION	
TRINIDAD & TOBAGO	Name:	<i>Domestic Violence Act</i>
	Enacted:	1999
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Persons entitled to apply. • Power to make a Protection Order. • Terms of Protection Order. • Police powers of entry and arrest without warrant.
	Observations:	<ul style="list-style-type: none"> - The law provides for Protection Orders applicable to: spouses or former spouses, cohabitants or former cohabitants as well as visiting relationships meaning a non-cohabitational relationship which is otherwise similar to the relationship between husband and wife. Police have the power to enter and arrest without a warrant in cases of physical violence where failure to act immediately may result in serious physical injury or death.
	Definitions:	<p>DOMESTIC VIOLENCE</p> <p>... includes physical, sexual, emotional, or psychological or financial abuse committed by a person against a spouse, child, parent, any other person who is a member of the household or a dependant.</p> <p>EMOTIONAL OR PSYCHOLOGICAL ABUSE</p> <p>a pattern of behavior of any kind, the purpose of which is to undermine the emotional or mental well-being of a person including:</p> <ul style="list-style-type: none"> ○ persistent intimidation by the use of abusive or threatening language ○ persistent following of the person from place to place ○ depriving that person of the use of his property ○ the watching or besetting of the place where the person resides, works, carries on business or happens to be ○ interfering with or damaging the property of the person ○ the forced confinement of the person ○ persistent telephoning of the person at the person's place of residence or work ○ making unwelcome and repeated or intimidatory contact with a child or elderly relative of the person
	Iterations:	<i>Domestic Violence Amended Act 8 2009</i>
	Source(s):	https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/45.56.pdf

Table 5: Overview of Legislation on Violence Against Women in the Caribbean

COUNTRY	LEGISLATION	
ANTIGUA & BARBUDA	Name:	The Sexual Offences Act
	Enacted:	1995
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Rape • Sexual Assault by a Husband in certain Circumstances • Incest • Sex with a minor <ul style="list-style-type: none"> · <i>Sexual intercourse with a female under 14</i> · <i>Sexual intercourse with a female between 14 and 16</i> · <i>Sexual intercourse with a male under 16</i> • Sex with a mentally subnormal person • Buggery • Bestiality • Indecent Assault
	Observations:	<ul style="list-style-type: none"> - Rape defined as only capable by men - The term <i>Marital Rape</i> is excluded. Instead the term <i>Sexual Assault by a Husband in certain Circumstances</i> is used to describe the situation of assault within the context of the dissolution of marriage by divorce, separation or legal protection order. - <i>Indecent Assault</i> is defined independently of <i>Rape</i>, as <i>an act, other than sexual intercourse (whether natural or unnatural), by a person involving the use of the genital organ for the purpose of arousing or gratifying sexual desire.</i> - <i>Sex with a minor</i> considered under 14 for females, but under 16 for males
	Definitions:	<p>RAPE:</p> <p>A male person commits the offence of rape when he has sexual intercourse with a female person who is not his wife either:</p> <ul style="list-style-type: none"> o without her consent where he knows that she does not consent to the intercourse or he is reckless as to whether she consents to it; or o with her consent where the consent <ul style="list-style-type: none"> · <i>is extorted by threats or fear of bodily harm to her or to another;</i> · <i>is obtained by impersonating her husband;</i> · <i>is obtained by false and fraudulent representations as to the nature of the act.</i> <p>SEXUAL ASSAULT BY A HUSBAND:</p> <p>A husband commits the offence of sexual assault when he has sexual intercourse with his wife without her consent by force or fear where there is in existence in relation to them -</p> <ul style="list-style-type: none"> · <i>a decree nisi of divorce;</i> · <i>a decree of judicial separation;</i> · <i>a separation agreement; or</i> · <i>an order for the husband not to molest his wife or have sexual intercourse with her.</i>
	Iterations:	1995
Source(s):	http://laws.gov.ag/acts/1995/a1995-9.pdf	

COUNTRY	LEGISLATION	
BAHAMAS	Name:	Sexual Offences and Domestic Violence Act
	Enacted:	1991
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Rape. • Procuration. • Prostitution and disclosure of AIDS. • Sexual intercourse with a person suffering from a mental disorder. • Sexual assault by spouse. • Indecent assault. • Forcible taking or detaining of person with intent. • Unlawful detention with intent to have sexual intercourse. • Sexual harassment.
	Observations:	<ul style="list-style-type: none"> - The Acts: <ul style="list-style-type: none"> a. define Rape irrespective of sex (Gender Neutral) b. establish the age of criminal responsibility as over 14 - The term <i>Marital Rape</i> is excluded. Instead the term <i>Sexual Assault by Spouse</i> is used to describe the situation of assault within the context of the dissolution of marriage by divorce, separation or legal protection order. - The original Act indicates that rapes is liable for imprisonment for life - The Amendment of 2011, however introduces specific contexts within which rape is liable for imprisonment for life <ul style="list-style-type: none"> <i>subject to, on a first conviction for the offence, a term of imprisonment of</i> <i>seven years and, in the case of a second or subsequent conviction for the offence, a term of imprisonment of fourteen years.</i> - A Sex Offender Register and Registry is introduced with the Amendment of 2014 - Attorney General of the Bahamas, Carl Bethel, revealed in January 2018 that The Bahamas government intends to criminalize marital rape; and noted that the government has drafted an amendment to the Sexual Offences Act to provide for Aggravated Spousal Sexual Abuse
	Definitions:	<p>RAPE:</p> <p>Rape is the act of any person not under fourteen years of age having sexual intercourse with another person who is not his spouse</p> <ul style="list-style-type: none"> o without the consent of that other person; o with consent which has been <ul style="list-style-type: none"> • extorted by threats or fear of bodily harm; • obtained by personating the spouse of that other person; • obtained by false and fraudulent representations as to the nature and quality of the act.
Iterations:	<p>The Sexual Offences (Amendment) Act, 2008</p> <p>The Sexual Offences (Amendment) Act, 2011 (No. 42 of 2011)</p> <p>The Sexual Offences (Amendment) Act, 2014 (No. 7 of 2014)</p> <p>http://laws.bahamas.gov.bs/cms/au/legislation/laws/by-title.html?view=acts_alpha</p> <p>http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1991/1991-0009/SexualOffencesAct_1.pdf</p> <p>Source(s):</p> <p>http://laws.bahamas.gov.bs/cms/images/LEGISLATION/AMENDING/2011/2011-0042/SexualOffencesAmendmentAct2011.pdf</p> <p>https://www.oas.org/dil/Sexual_Offences_and_Domestic_Violence_Act_Bahamas.pdf</p> <p>https://thenassauguardian.com/2018/01/18/marital-rape-to-be-criminalized/</p>	

COUNTRY	LEGISLATION	
BARBADOS	Name:	Sexual Offences Act (Chapter 154)
	Enacted:	1992
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Rape • Buggery • Bestiality • Indecent assault • Serious indecency • Procuration • Procuring defilement of a person • Detention of a person • Abduction • Suppression of brothels • Person living on earnings of prostitution • Person aiding prostitution
	Observations:	<ul style="list-style-type: none"> - The Act defines Rape irrespective of sex (Gender Neutral) - The term <i>Marital Rape</i> is excluded from the original Act. Instead the term <i>Sexual Assault by Spouse</i> is used to describe the situation of assault within the context of the dissolution of marriage by divorce, separation or legal protection order. - The 2016 Amendment, eliminates the specific circumstances in which marital rape is considered to occur; and notes that <ul style="list-style-type: none"> o <i>A husband commits the offence of rape where he has sexual intercourse with his wife without her consent by force or fear, where he knows that she does not consent to the intercourse or is reckless as to whether she consents to the intercourse</i> - Both the original Act and the Amendment establish that marital rape can only be committed by a husband. - Barbados launched Model Guidelines for Sexual Offence Cases on Tuesday October 17, 2017 (The Guidelines provide internationally accepted best practices for the management of sexual offence cases, and offer a rights-based approach to the treatment of complainants and vulnerable witnesses, including children, involved in sexual assault cases.)
	Definitions:	<p>RAPE:</p> <p>Any person who has sexual intercourse with another person without the consent of the other person and who knows that the other person does not consent to the intercourse or is reckless as to whether the other person consents to the intercourse is guilty of the offence of rape and is liable on conviction on indictment to imprisonment for life.</p>
	Iterations:	Sexual Offences (Amendment) Act, 2016
Source(s):	<p>http://208.109.177.6/en/ShowPdf/154.pdf</p> <p>https://www.barbadosparliament.com/uploads/bill_resolution/b9be745b04ef7b2dacd94bdf4c98a76c.pdf</p> <p>http://www.juristproject.org/images/publications/model_guidelines/Model_Guidelines_for_Sexual_Offence_Cases_in_the_Caribbean_Region_-_For_website.compressed.pdf</p>	

COUNTRY	LEGISLATION	
BELIZE	Name:	Criminal Code (Chapter 101)
	Enacted:	Ongoing. Last revised 2000
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Common assault • Aggravated assault • Rape • Mandatory life sentence for habitual sex offenders • Procuration • Procuring defilement of female by threats or fraud or administration of drugs • Unnatural crime • Abduction • Forcible Abduction • Special provisions for treatment and reporting of sex offenders
	Observations:	<ul style="list-style-type: none"> - Legislation around sexual offences is subsumed into the broader Criminal Code, appearing under the section on <i>Criminal Force to the Person</i>, and is not a discrete piece of legislation - Rape defined as only capable by men; and only against women - While the term <i>Marital Rape</i> is used in the legislation, it is considered to occur only within the context of the dissolution of marriage by divorce, separation or legal protection order. - The Criminal Code establishes a Sex Offenders registry, where <ul style="list-style-type: none"> o ... a person is convicted on more than one occasion of a sexual offence as shall not change his residence without prior notification to the Commissioner of Police and to the Director of Human Development in the Ministry responsible for Human Development, Women and Youth, and shall comply with such other requirements as the Commissioner of Police may specify for the protection of the public - Belize launched Model Guidelines for Sexual Offence Cases in the on Thursday October 26, 2017.
	Definitions:	<p>RAPE:</p> <p>Rape is the carnal knowledge of a female of any age without her consent....</p> <p>It is hereby declared that if at a trial for rape the jury has to consider whether a man believed that a woman was consenting to carnal knowledge</p>
Iterations:		
Source(s):	<p>http://www.belize-law.org/web/lawadmin/PDF%20files/cap101.pdf</p> <p>http://www.humandevlopment.gov.bz/wp-content/uploads/2013/03/Sexual-Violence-handbook.pdf</p>	

COUNTRY	LEGISLATION	
DOMINICA	Name:	Sexual Offences Act, Chapter 10:36
	Enacted:	1998
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Rape • Unlawful Sexual connection • Inducing sexual intercourse or sexual connection by force, duress, etc. • Incest • Indecent Assault • Gross indecency • Indecency between a woman and a girl • Buggery • Bestiality
	Observations:	<ul style="list-style-type: none"> - The Act defines Rape irrespective of sex (Gender Neutral) - Though the term <i>Marital Rape</i> does not appear in the legislation, the Act includes the description of marital rape under the heading of <i>Rape</i>. However, the act of rape within a marriage is considered to take place only within the context of the dissolution of marriage by divorce, separation or legal protection order. - The 2016 Amendment, eliminates the specific circumstances in which marital rape is considered to occur; and notes that <ul style="list-style-type: none"> o <i>A husband is guilty of the offence of rape where he has sexual intercourse with his wife without her consent by force, fear or the use of a drug or thing with intent to stupefy or overpower her.</i> - Of note, the Amendment establishes that <ul style="list-style-type: none"> o <i>The provisions apply mutatis mutandis to a wife who is guilty of the offence of rape...[where] A husband or wife who is guilty of the offence of rape is liable on conviction to imprisonment for fourteen years.</i> - While the Act is the only one under consideration to specifically list as an offence <i>Indecency between a woman and a girl</i>; there is a disparity between the punishment for such an offence (seven years) and the punishment for <i>Buggery</i> if committed by an adult on a minor (twenty-five years)
	Definitions:	<p>RAPE:</p> <p>Any person who has sexual intercourse with another</p> <ul style="list-style-type: none"> o Without the consent of the other person o Without believing that the other person consents to such intercourse or is reckless as to whether the other person consents or not <p>is guilty of the offence of rape and liable on conviction for twenty-five years.</p>
Iterations:	Sexual Offences (Amendment) Act 2016 (Act 9 of 2016).	
Source(s):	http://www.dominica.gov.dm/laws/chapters/chap10-36.pdf http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/49696/87821/F1766139650/DMA49696.pdf http://www.dominica.gov.dm/laws/2016/Sexual%20Offences%20(Amendment)%20Act%202016.pdf	

COUNTRY	LEGISLATION	
GRENADA	Name:	Criminal Code (Amendment) Act, 1993 (No. 16 of 1993)
	Enacted:	Ongoing
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Assault • Rape • Kidnapping • Abduction • Prostitution
	Observations:	<ul style="list-style-type: none"> - Rape is originally defined in the Criminal Code as only capable by men; and only against women. - The 2011 National Domestic Violence and Sexual Abuse Protocol for Grenada (which provides guidelines to responders in their interventions to address incidents and manage cases of Domestic and Sexual Violence) notes that <i>men, women and children [can be] raped</i> - The Protocol establishes that: <ul style="list-style-type: none"> o Persons have the right to live a life free from abuse. o Domestic Violence and Sexual Assault are serious social problems and should be treated seriously, which requires a multidisciplinary response in relation to treatment and support for victims and their families as well as offenders. - Amendments to the Criminal Code 2012 makes the following provisions: <ul style="list-style-type: none"> o Wider definition of rape to include anal penetration o Recognition of marital rape, without reservations o Increased penalties for sexual offences, for example, the crimes of rape and sexual intercourse with a minor carry a penalty of thirty (30) years in prison, a move from 15 years o Faster access to justice by introducing summary offences for crimes such as assault - Despite the revised definition of rape in the Criminal Code, it is still considered as capable by men
	Definitions:	<p>RAPE (Original)</p> <p>Rape is the carnal knowledge of a female of any age without her consent.</p> <p>(Revised)</p> <p><i>Penetration of the genital organs, including anus, with the genital organs of another without consent.</i></p>
	Iterations:	<p>The Domestic Violence Act, No. 19 of 2010 (Cap. 84) (Implemented May 2011)</p> <p>The National Domestic Violence and Sexual Abuse Protocol for Grenada (2011)</p> <p>The Criminal Code Amendment Act 29 (2012)</p>
Source(s):	<p>http://www.oas.org/es/mesecvi/docs/grenada-eng-respindic.pdf</p> <p>https://www.gov.gd/egov/docs/publications/domestic-violence-sexual-abuse-protocol-grenada.pdf</p> <p>https://www.oas.org/es/mesecvi/docs/MESECVI-I-CE-doc.20.ing.Grenada%20Report.pdf</p>	

COUNTRY	LEGISLATION	
JAMAICA	Name:	Sexual Offences Act
	Enacted:	2010
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Rape. • Sexual Assault. • Consent not inferred. • Belief in consent. • Non-consent offences. • Family relationships.
	Observations:	<ul style="list-style-type: none"> - The Act defines Rape irrespective of sex (Gender Neutral) - The Act also defines <i>Consent</i> - The Act appears the most comprehensive in the region, incorporating provisions relating to sexual offences, response, investigation of offences, procedure at court, evidence, bail and sentencing. - The Act also addresses the challenge of poor data collection by providing guidelines in this regard. - The Act also mandates the establishment of a National Task Force for the Prevention of Sexual Violence which will be primarily responsible for developing and implementing a national plan for the prevention of sexual violence. - The robust framework of the Act is now supported by the recently (2018) installed Court Six of the Georgetown Supreme Court, which has been designated to deal only with sexual offences matters. - Despite the breadth of the Act, it maintains the tradition definition of rape, which focuses on male penetration - Though the Act does not speak specifically of a context of <i>Marital Rape</i>, it notes that: <ul style="list-style-type: none"> o <i>Unless where specifically stated in this Act, a marital or other relationship, previous or existing, is not a defence to a charge of any offence under this Act.</i>
	Definitions:	<p>RAPE:</p> <p>A person (“the accused”) commits the offence of rape if</p> <ul style="list-style-type: none"> o the accused engages in sexual penetration with another person or (ii) causes the complainant to engage in sexual penetration with a third person; o the complainant does not consent to the penetration; and o the accused does not reasonably believe that the complainant consents. <p>CONSENT</p> <p>Is defined as words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or other sexual contact</p>
Iterations:		
Source(s):	<p>https://www.kaieteurnewsonline.com/2018/03/05/new-sexual-offences-court-enables-successful-prosecution-of-rape-cases/</p> <p>http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/99460/118739/F331151140/GUY99460.pdf</p>	

COUNTRY	LEGISLATION	
	Name:	Criminal Code (Chapter 3.01)
SAINT LUCIA	Enacted:	2005
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Rape • Unlawful sexual connection • Indecent assault • Indecent act • Gross indecency • Buggery • Sex trafficking/procurement • Soliciting sexual favours in the workplace • Transmission of HIV • Trading in prostitution by female • Soliciting prostitution • Defilement of male or female suffering from mental disorder
	Observations:	<ul style="list-style-type: none"> - The Act defines Rape irrespective of sex (Gender Neutral) - The term Marital Rape is excluded from the original Act. A husband is considered, however to have committed the offence of rape where he has sexual intercourse with his wife without her consent by force within the context of the dissolution of marriage by divorce, separation or legal protection order. - No provisions have been made to date to define violence against women in national law as distinct from intra-family, family or domestic violence. (The United Nations Sub-regional Team Universal Periodic Review of St. Lucia, 2015)
	Definitions:	<p>RAPE</p> <p>Any person who has sexual intercourse with another</p> <ul style="list-style-type: none"> o without the consent of that other; or o without believing that the other consents to such intercourse or is reckless as to whether the other person consents or not, commits the offence of rape and is liable on conviction on indictment to imprisonment for life.
	Iterations:	
	Source(s):	<p>http://www.govt.lc/www/legislation/Criminal%20Code.pdf</p> <p>https://www.state.gov/documents/organization/186751.pdf</p> <p>https://www.upr-info.org/sites/default/files/document/saint_lucia/session_23_-_november_2015/unst_barbadosoecs_upr23_lca_e_main.pdf</p>

COUNTRY	LEGISLATION	
ST KITTS & NEVIS	Name:	Criminal Code St Christopher and Nevis Offences Against the Person Act (Chapter 4:21, 2002)
	Enacted:	2002
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • CRIMINAL CODE <ul style="list-style-type: none"> • Rape • Assault by penetration • Sexual assault • Causing a person to engage in sexual activity without consent • Sexual activity with a person with a mental disorder impeding choice • Prostitution • Sexual Trafficking • Gross indecency • OFFENCES against the PERSON <ul style="list-style-type: none"> • Rape • Indecent assault • Abduction of a woman against her will from motives of lucre • Forcible abduction of any woman with intent to marry her
	Observations:	<ul style="list-style-type: none"> - Rape is defined (in the Criminal Code) as only capable by men; though victims may be of either sex. - Marital rape is not addressed in any of the legislation - While the Offences Against the Person Act notes that <i>...any person who is convicted of the crime of rape, shall be guilty of a felony, and, on conviction, shall be liable, at the discretion of the court, to life imprisonment, with or without hard labour.</i> it does not define the act.
	Definitions:	<p>RAPE (Criminal Code)</p> <p>A person who intentionally penetrates the vagina, anus or mouth of another person with his penis</p> <ul style="list-style-type: none"> o without the consent of the other person; and o without reasonably believing that the other person consents, <p>commits an offence and is liable on conviction on indictment, to imprisonment for life.</p>
	Iterations:	
	Source(s):	<p>http://www.easterncaribbeanlaw.com/wp-content/uploads/2014/08/Criminal-Code-Draft-1.pdf</p> <p>https://www.state.gov/documents/organization/265822.pdf</p> <p>https://srhr.org/abortion-policies/documents/countries/01-St-Kitts-and-Nevis-Offences-Against-the-Person-Act-2002.pdf</p>

COUNTRY	LEGISLATION	
ST VINCENT & THE GRENADINES	Name:	St. Vincent and the Grenadines Criminal Code
	Enacted:	1990
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Rape • Indecent assault • ss indecency • Buggery • Sex trafficking/procuration • Sexual offences in relation to persons with mental impairment
	Observations:	<ul style="list-style-type: none"> - Legislation around sexual offences is subsumed into the broader Criminal Code (Cap 124) and is not a discrete piece of legislation
	Definitions:	
	Iterations:	
	Source(s):	
SURINAME	Name:	Penal Code (Moral Law) Law on Combating Domestic Violence / Domestic Violence Act
	Enacted:	2009
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Rape • Rape within marriage • Forced prostitution
	Observations:	<ul style="list-style-type: none"> - Legislation around sexual offences is subsumed into the Domestic Violence Act of 2009. - The law criminalizes rape, including spousal rape, and prescribes penalties for rape or forcible sexual assault of between 12 and 15 years' imprisonment and fines up to 100,000 Surinamese dollars - Though Suriname has adopted the Penal Code (Moral Law) which came into force in 1911 and was revised in 2009 and the Law on Combating Domestic Violence adopted in June 2009, there exist no specific provisions of the law that define <i>violence against women</i>. the Law on Combating Domestic Violence is gender neutral and there are no components of the law relating to women, specifically - Under the revision of the Penal Code in 2006, forced prostitution is punishable under the terms of trafficking in persons. - The Penal Code (Moral Law), which was revised in July 2009 now makes provision for marital rape; and rape within marriage as well as common-law unions has been criminalized through article 295
	Definitions:	None available online in English
	Iterations:	
	Source(s):	https://www.oas.org/en/mesecvi/docs/FinalReport2012-Suriname.doc https://www.state.gov/documents/organization/265828.pdf

COUNTRY	LEGISLATION	
TRINIDAD and TOBAGO	Name:	Sexual Offences Act (Chapter 11:28)
	Enacted:	1986
	Areas of concern: <i>Indictable Sexual Offences include:</i>	<ul style="list-style-type: none"> • Rape. • Grievous sexual assault. • Incest. • Sexual intercourse with mentally subnormal person. • Buggery. • Bestiality. • Indecent assault. • Serious indecency. • Procuration. • Procuring defilement of a person. • Detention of a person. • Abduction of a female.
	Observations:	<ul style="list-style-type: none"> - Rape defined as only capable by men - Rape includes marital rape - Grievous Sexual Assault is defined independently of Rape
	Definitions:	<p>RAPE:</p> <ul style="list-style-type: none"> - ... in the instance where he has sexual intercourse with another person ("the complainant"): <ul style="list-style-type: none"> o without the consent of the complainant where he knows that the complainant does not consent to the intercourse or he is reckless as to whether the complainant consents; or o with the consent of the complainant where the consent is <ul style="list-style-type: none"> • extorted by threat or fear of bodily harm • obtained by personating someone else; • obtained by false or fraudulent representations as to the nature of the • intercourse; • obtained by unlawfully detaining the complainant. <p>MARITAL RAPE:</p> <ul style="list-style-type: none"> - ...the commission of the offence of rape on his wife. - (6) In subsection (5) "husband" or "wife" includes a - cohabitant within the meaning of the Cohabitational Relationships Act.
	Iterations:	The original law was amended by: 20 of 1994 31 of 2000 12 of 2012
Source(s):	http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/11.28.pdf	

4.5 Summary

All of the English-speaking countries in the Caribbean have enacted legislation around Domestic Violence and Violence against Women. Beginning in the 1990's there was what has been referred to as '*first generation*' legislation beginning with Trinidad and Tobago, which was the first CARICOM country to enact Domestic Violence legislation in 1991. This was followed immediately by Barbados, Belize, Guyana, Jamaica.

While these laws presented an opportunity for women to seek protection and redress in situations of violence, many of the Acts themselves were fundamentally flawed; as they:

1. provided no definition of domestic violence
2. presented a limited scope of persons who could seek relief; notably offering no protection to persons in same-sex relationships or persons not in domestic or co-habiting relationships.
3. defined sexual violence/abuse in gendered terms, where only sex was capable of violence, which was both indicative of and reinforced the structures of power from which such violence stemmed.

By 1997 the CARICOM Model legislation on domestic violence was developed, which was very influential in the development of legislation across the region; and allowed for the making of protection orders, occupation orders and tenancy orders.

However, like the legislation before it, the model legislation also failed in important ways, most notably in not providing a discrete definition of domestic violence.

By 1999, however re-iterations of country legislation ('*second generation*' legislation), sought to improve upon the CARICOM model legislation by both providing a definition of domestic violence and by expanding the range of persons who were eligible to seek relief under its aegis.

In 1999, Trinidad and Tobago took the lead in providing a comprehensive definition of domestic violence to include physical violence, sexual violence, psychological abuse and financial abuse. Recognizing that psychological abuse may be very difficult to prove, the legislation also expressly provided examples of the type of conduct which could be considered to amount to psychological abuse.

Second generation laws broadened definitions of violence to include *any controlling or abusive behaviour that harms the health, safety or well-being of the applicant or any child in the care of the applicant and includes but is not limited to: (a) physical abuse or threats of physical abuse; (b) sexual abuse or threats of sexual abuse; (c) emotional, verbal or psychological abuse; (d) economic abuse; (e) intimidation; (f) harassment; (g) stalking; (h) damage to or destruction of property; or (i) entry into the applicant's residence without consent, where the parties do not share the same residence.*

Additionally, the definition of rape has been widened to include:

- forced anal sex (Barbados, The Bahamas);
- forced oral sex (The Bahamas);
- husband forcing his wife to have sexual intercourse with him while he is suffering from a sexually transmitted infection (Jamaica)

An important development observed with second generation legislation was that while first generation legislation protected persons, who are or were formerly married; as well as men and women living together as husband and wife although not married to each other, second generation legislation included persons in an intimate relationship although not living together as husband and wife (non-cohabiting relationships) to seek relief.

Moreover, whereas terms such as *Sexual Assault by Spouse* were used in first generation legislation, *Marital Rape* is seen in second generation legislation. Additionally, whereas *Sexual Assault by spouse* was considered only to occur within the context of the dissolution of marriage by divorce, separation or legal protection order; in countries such as Barbados, Grenada and Dominica re-iterations of original legislation recognize marital rape, without conditions.

In Barbados, through its 2016 Amendment, these specific circumstances in which marital rape is considered to occur are eliminated. The Legislation notes that

A husband commits the offence of rape where he has sexual intercourse with his wife without her consent by force or fear, where he knows that she does not consent to the intercourse or is reckless as to whether she consents to the intercourse³⁹

While not yet written into Legislation, the Attorney General of the Bahamas, Carl Bethel, revealed in January 2018 that The Bahamas government intends to criminalize marital rape; and noted that the government has drafted an amendment to the Sexual Offences Act to provide for Aggravated Spousal Sexual Abuse. This 1991 amendment still does consider marital rape as a crime but as sexual assault between spouses which is punishable but only if the couple is legally separated or divorced or if a non-molestation or non-habitation order has been issued and such prosecutions are subject to the consent of the Attorney General.

Of note, persons involved in same-sex relationships continue to be excluded from those who can seek relief under domestic violence legislation. Some countries have, in fact, limited the reach of the legislation by expressly providing that the relationship must be one “with a person of the opposite sex”.

Only legislation in Barbados, Dominica, Guyana and St. Lucia define *Rape* as irrespective of sex (Gender Neutral). Legislation from other countries define rape as only capable by men; and only against women.

Some countries have provisions in the legislation which are geared towards the abusive person’s behaviour change. Counselling is mandatory in a few countries. In The Bahamas and Barbados for example, whenever the court makes a protection order it must also instruct the parties to receive counselling. In other countries such as Belize and Trinidad and Tobago, it is left to the discretion of the court whether any of the parties should be directed to receive counselling.

Belize and St Kitts – Nevis allow for the making of rehabilitation orders. Where a person is convicted of committing an offence under the domestic violence legislation, the court may make a rehabilitation order instead of sentencing the person to imprisonment or imposing a fine. It is only in limited circumstances that the court may make a rehabilitation order. The court must also consider the submissions of the abused person on the matter and may impose certain conditions on the rehabilitation order.

Second Generation Laws, also speak to the mandatory response obligations of the police, where the police are under a duty to respond to every report of domestic violence. Upon responding, they are to take all reasonable measures to assist the person being abused and should thereafter complete a domestic violence report.

Additionally, police officers are authorized to enter any premises where they reasonably suspect that a person has suffered physical injury or is in imminent danger of physical injury. The police are further authorized to assist the victim and arrest the abusive person.

However, while most Caribbean countries still place restrictions on the circumstances under which marital rape or sexual assault by a spouse is considered to have been committed. However, penalties for sexual offences have been strengthened in a few countries. Trinidad and Tobago increased penalties generally, especially for those sexual offences involving children and with respect to repeat sex offenders. Belize now mandates a sentence of life imprisonment for certain repeat sex offenders.

4.6 Persistent Gaps in Caribbean GBV Legislation

Despite improvements in language and efforts to ensure that second generation laws in the Caribbean are responsive to a wider scope of the needs of women and girls in situations where instances of gender-based violence can occur, to date, eleven Caribbean States maintain laws which criminalise consensual **sexual relations between LGBT adults** in private settings. This includes: Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines. While many of these laws originate from the colonial era, they have yet to be repealed to ensure that the rights of women in such situations are protected.

A 2022 publication issued by the House of Commons⁴⁰ notes that ‘societal pulls against repealing such legislation are linked to religious beliefs, and, although challenging these beliefs is not easy, attempts to reform legislation have increased in recent years. For example, these authors indicate that in:

.....in a landmark ruling in 2018, Trinidad and Tobago...determined that sections of its Sexual Offences Act which criminalized consensual same sex between adults were unconstitutional. (p.4)⁴¹

The same Report indicates that similarly, in 2019, Dominica launched a legal challenge against laws which ban same sex sexual activity and punish same sex relations but, at the time of writing, the case was still ongoing.

According to a Human Rights Watch Report:

The fact that buggery and gross indecency laws are still on the books in Caribbean

States is in stark contrast with recent developments in Latin America, where countries including Bolivia, Chile, Ecuador, Mexico, and Uruguay have been progressive in enacting non-discrimination policies and anti-bias legislation. Latin American countries, including Argentina, Brazil, and Chile have taken an international lead advocating for the rights of LGBT people at the United Nations.⁴²

Human Rights Watch and ECADE point out that discrimination and stigma against LGBT people seeps into everyday activities, including access to services such as health care, school, public transportation, or social activities such as going to the movies or shopping. Some said they had changed their lifestyle and behaviour to avoid contact with hostile members of their family, church, or community. Some opted to socialize only with a few trusted friends in the safety of their homes.

In 2000, the UK Government intervened on LGBT+ rights, issuing the Caribbean Territories (Criminal Law) Order 2000, which decriminalized consensual homosexual acts between adults in private in five British Overseas Territories: Anguilla, the British Virgin Islands, the Cayman Islands, Montserrat, and the Turks and Caicos Islands.

LGBT Rights in the Caribbean - Wikipedia

Country	Laws regarding same-sex behavior	Laws regarding being transgender or non-binary
Antigua and Barbuda	Sexual acts among consenting adults of the same sex became legal in 2022. ^[9] Same-sex marriage is illegal. ^[10]	Transgender rights and protections are not recognized.
Bahamas	Sexual acts among consenting adults of the same sex became legal in 1991. ^[11] Same-sex marriage is illegal as the Matrimonial Causes Act does not recognize them. ^[13]	Transgender rights and protections are not recognized.
Barbados	Sexual acts among same-sex individuals became legal since 2022. ^[14] Same-sex marriage is unrecognized. ^[15] Employment discrimination on the basis of sexual orientation is illegal. ^[16]	Legal gender changes not allowed; no protective laws; third genders not recognized. ^[17]
Dominica	Sexual acts among consenting adults of the same sex became legal in 2024. ^[26] Same-sex marriage is illegal. ^[11]	Transgender rights and protections are not recognized.
Grenada	Sexual acts among same-sex individuals is illegal. ^[28] Same-sex marriage is illegal. ^[11]	Transgender rights and protections are not recognized.
Haiti	Sexual acts among consenting adults of the same sex became legal in 1791. ^[11] Same-sex marriage is illegal. ^[11]	Transgender rights and protections are not recognized.
Jamaica	Sexual acts among same-sex individuals is illegal. ^{[11][31]} Same-sex marriage is illegal. ^[11]	Transgender rights and protections are not recognized.
Saint Kitts and Nevis	Sexual acts among consenting adults of the same sex became legal in 2022 after a law was overturned. ^{[35][36]} Same-sex marriage is illegal. ^[11]	Transgender rights and protections are not recognized.
Saint Lucia	Sexual acts among same-sex individuals is illegal. ^[11] Same-sex marriage is illegal. ^[11]	Transgender rights and protections are not recognized.
Saint Vincent and the Grenadines	Sexual acts among same-sex individuals is illegal. ^{[11][38]} Same-sex marriage is illegal. ^[11]	Transgender rights and protections are not recognized.
Trinidad and Tobago	Sexual acts among consenting adults of the same sex became legal in 2018 when a law was overturned. ^[39] However, in March 2025, the Court of Appeal overturned this decision, making these acts once again illegal. ^[40] Same-sex marriage is illegal. ^[11]	Transgender rights and protections are not recognized.

5. Robust de jure equality Framework, Limited de facto Equality

The foregoing account indicates that, in relation to gender-based violence against women, through the ratification of international and regional human rights instruments and reform of existing national legislation as well as enactment of new laws, the Caribbean has made significant progress towards *de jure* equality. This, however, has not translated into *de facto* equality for women and protection of their right for a life free of violence, largely due to low State compliance with obligations under international and regional commitments and inadequate resources for enforcement of national legislation.

5.1 Compliance with International Conventions

5.1.1 The CEDAW Convention

In the case of the CEDAW Convention, after an initial report to the Monitoring Body, states are expected to produce periodic reports, at given intervals, based on progress of implementation of recommendations issued as Concluding Observations ensuing from the previous Constructive Dialogue. For many CARICOM states accountability under these arrangements has been less than robust in terms of meeting these accountability obligations.

Two common concerns, particularly in relation to State obligation to implement provisions laid out in the CEDAW that has direct relevance for reducing gender-based violence against women, are the:

1. failure of States to incorporate a definition of discrimination on the basis of sex, in the constitution and/or appropriate legislation, that addresses both direct and indirect discrimination by private and public actors; and,
2. need to give effect to the Convention by incorporating obligations into national legislative provisions, particularly where the State party adheres to the dualist doctrine of international law, such that treaties must be incorporated into national law for them to be applicable, as in the case of Trinidad and Tobago.

5.1.2 The Belem Do Para Convention

To date, three Multilateral Evaluation Rounds (REM) have been conducted under the Follow-up Mechanism to the Belem do Para Convention (MESECVI) to monitor compliance with State obligation to prevent, investigate and punish violence against women. The Third Round conducted in October 2015 is of particular relevance to this discussion. Its main objective was to analyse implementation specifically with respect to guarantee the obligation to prevent violence. Twenty-four National Competent Authorities (ANC) responded, of which eight were from the thirteen Caribbean states that are party to the Convention (#28). Of particular note is that two of these states (St. Kitts and Nevis and Suriname) indicated that:

.....there were no existing laws and/or public policies directed at the prevention or eradication of discriminatory behavior or cultural practices based on the subordination or inferiority of women. (#108)⁴³

Given that the presence of discriminatory behaviours and cultural practices that reinforce the subordination and inferiority of women lie at the core of the pervasiveness of violence against women in the Caribbean, the lack of action in this regard seems indicative of little political will to address the root cause of the problem.

5.3 Enforcement of National Legislation

Despite the fairly robust legislative framework and the adoption of Strategic Plans to End Violence against Women by many Caribbean states, the problem appears to be escalating rather than subsiding. An important link in the prevention chain is the role of law enforcement officers in their role as first responders. There is, however, a generally accepted opinion that, in many instances, their attitude to victims exacerbates rather than contributes to reducing the problem.

In many situations, victims of domestic violence are reluctant to make complaints to the police, as they find them unwilling to get involved in what is perceived as a 'private' or 'domestic issue'. On the other hand, police are also frustrated because many women do not want to take action against their

abusers, particularly when they are the sole breadwinner in the family. The result is that, in many instances, by the time the police are ready to prosecute, the woman indicates unwillingness to engage in the process and the complaint is withdrawn. In many Caribbean countries, these problems have been addressed through amendments to domestic violence legislation which gives power to the police to enter and arrest without a warrant; particularly in instances where it is evident that if immediate action is not taken the infringement could end in serious physical injury or death.

Several other factors contribute to a low clearance rate of incidents of violence against women and low conviction rates leading to a culture of impunity which further emboldens perpetrators. These include: gender stereotyping by actors at all stages of the process, law enforcement, prosecutors, the judiciary and the victims themselves; inadequate resources to deal with the judicial backlog in terms of adequate provision of courts and judges; and, the absolute bureaucracy involved at all stages of the process especially for vulnerable women and women from rural areas and ethnic minorities, all of which retard access to justice

The Belem do Para Convention imposes on States parties the obligation to legally protect women victims of violence, as equals and free from all forms of discrimination. States are charged to combat ineffectiveness and impunity in cases of violence against women in the system of administration of justice by all possible means and without delay as well as ensure that crimes of violence are duly investigated and punished, and necessary measures adopted for the reparation of the victims.⁴⁴ These obligations, however, in many instances remain unmet, impunity pervades and women's human rights are undermined.

6.Femicide Legislation: A Legislative Gap in the Caribbean

The offence of femicide is defined as:

....the murder of women because they are women, whether it is committed within the family, a domestic partnership or any other interpersonal relationship or by anyone in the community whether it is perpetrated by the state or its agents. (#2)⁴⁵

In spite of the fact that information from various sources that report on the prevalence of gender-based violence in Caribbean countries, confirm that deaths of women result from such incidents, legislation that specifically addresses femicides does not exist in these countries. This is confirmed in the 2nd Hemispheric Report of the MESECVI⁴⁶ which states that:

.....femicide does not appear in the laws of the Caribbean countries, so that murders of women are prosecuted as aggravated homicide and murder. (p.32)

Table 6: Approach to cases involving murder of women in the Caribbean

COUNTRY	CLASIFICATION
Antigua and Barbuda	It is prosecuted as murder.
Bahamas	It is prosecuted as murder and/or manslaughter.
Barbados	It is prosecuted as manslaughter.
Belize	It is prosecuted as manslaughter.
Guyana	None
Jamaica	It is prosecuted as manslaughter.
Saint Kitts and Nevis	No
Saint Lucia	No
Saint Vincent and the Grenadines	It is prosecuted as Murder.
Suriname	It is prosecuted as manslaughter or as assault causing death.
Trinidad and Tobago	It would be prosecuted as murder or manslaughter.

Source: 2nd Hemispheric Report

In direct opposition to the position taken in the MESECVI report, the femicide page of the Gender Equality Observatory for Latin America and the Caribbean⁴⁷ indicates 2017 rates of femicide for Belize 4.7, St. Lucia 4.4, Trinidad and Tobago 3.0, Barbados 1.4 and for Suriname as 0.6 in 2016. The site further states that these rates correspond to the total number of homicides as women 15 years of age and over killed by gender violence. The account further states that:

*According to national laws it is called femicide, feminicide or **aggravated homicide due to gender.***

A review of legislation governing homicides in the countries for which data were provided by the Gender Equality Observatory does not give credence to this statement because in no instance were the terms ‘femicide/feminicide’ or ‘homicide due to gender’ identified in the legislation.

In the Belize Criminal Code⁴⁸ murder is defined as ‘Every person who intentionally causes the death of another person by any unlawful harm is guilty of murder, unless his crime is reduced to manslaughter by reason of such extreme provocation, or other matter of partial excuse (#117). The following matters may amount to extreme provocation to one person to cause the death of another person, namely: an act of adultery committed with or by the wife or husband of the accused person, or the crime of unnatural carnal knowledge committed upon the accused person’s wife or child (120 c); a violent assault or battery, or any sexual offence, committed upon the accused person’s wife, husband, child or parent, or upon any other person in the care or charge of the accused person (120 d). Where the victim is the wife of the accused or a female member of the household it may be regarded as a femicide but as indicated by the legislation and confirmed by the MESECVI report, the charge would be reduced to manslaughter. Also of note is that the language of these provisions restrict their application to women in marriage relationships or in an intrafamily setting.

The Criminal Code 2005 of St. Lucia⁴⁹ includes in Section 86 circumstances under which murder is regarded as a capital offence including: d) iv) a murder committed by a person in the furtherance of any sexual offence. Presumably offences such as rape followed by murder of the victim would be prosecuted under this clause and would, in fact, be a femicide offence.

Two types of murder are identified in the Trinidad and Tobago Offences Against the Person Act (Amendment) 2000⁵⁰ where only certain types of aggravated murder, known as Murder 1, require a death sentence.

In this category, there are two circumstances which could possibly relate to a femicide including 'murder committed in furtherance of another violent crime', and murder manifesting 'exceptional depravity' (Section E 1 c), f). Also, included in the aggravating circumstances identified is murder committed because of the 'victim's race, religion or nationality (Section E 1 g). Of note, however, is the fact that sex/gender is not included as one of the intersecting axes of inequality that undergird unequal power in relations of gender and which, therefore, increases women's vulnerability as victims of murder in these relations.

The Offences Against the Person (Amended) Act, 2014⁵¹ of Barbados was passed by parliament to abolish the mandatory imposition of the penalty of death for the offence of murder. In this regard Section 2 (1) was amended to state that: A person who is convicted of murder shall be sentenced to (a) death; or (b) imprisonment for life under circumstances including where, *inter alia*: 2(a) the murder was committed with a high level of brutality, cruelty, depravity, or callousness; 2 (e) the deceased was a member of a group of persons who have a common characteristic such as race, nationality, ethnicity.

Presumably crimes such as rape coupled with murder or murder resulting from intrafamily conflict or IPV could be included under 2(a) but, as in the instance of Trinidad and Tobago, sex/gender is not included in 2 (e) as a basis of discrimination which could result in violent incidents as well as murder of a woman.

Of further concern in relation to femicides, is the inclusion of article 3(1) in the 1995 version of the Barbados Offences Against the Person Act⁵² which abolishes the 'Construction of Malice' which states that:

Where a person kills another in the course or furtherance of some other offence, the killing shall not amount to murder unless done with the same malice aforethought, expressed or implied, as is required for a killing to amount to murder when not done in the course or furtherance of another offence.

This could have implications for categorizing a murder as a femicide and establishing 'malice aforethought' given that these murders often occur in furtherance of other types of gender-based violence against women, including sexual offences, as in a rape/murder of an elderly woman or adolescent girl.

7. Introducing Femicide Legislation

The review of gender-based violence in the Caribbean provides clear grounds for recognizing that femicides occur in many Caribbean states. In spite of this reality, use of the term femicide to describe 'the murder of women because she is a woman', which is the delineating feature of all forms of gender-based violence against women, is only now beginning to be part of the lexicon of the human rights discourse in the Caribbean. On the other hand, the concept is well established in the Latin American women's rights discourse, and, more specifically, in the legislative framework of member countries of the Organisation of American States (OAS) in South and Central America.

The MESECVI Secretariat, along with support from UN Women Regional Office for the Americas and the Caribbean, has spearheaded a series of activities to bring the Caribbean OAS member states in line with their Latin American counterparts in terms of introducing Model legislation to facilitate the enactment of femicide legislation in these countries.

Under the Chapter on 'General Provisions' of the Inter-American Model Law⁵³ it the first Article it is stated that the intended purpose of the law is to:

...criminalise femicide/feminicide as well as to strengthen prevention, protection, care, investigation, prosecution, judgment, effective punishment and comprehensive reparation to guarantee the right of women to a life free of violence and stereotyped patterns of behavior in accordance with international human rights obligations. (p.24)

This purpose is entirely consistent with articles of the Belem do Para Convention which lay out the role of the state in ensuring the protection of women's right to a life free of violence (Article 3) as well as the duty of the state to 'apply due diligence to prevent, investigate and impose penalties for violence against women' (Article 7b).

The protection of women against loss of life is further guaranteed by the wide-ranging situations in which the law would be applicable as set out in Article 4 of the General Provisions of the Model Law which states that:

This law is applicable to any femicidal/femicidal behavior, by commission or omission, consummated or attempted, as well as preparatory offences, conspiracy to commit the offence and threats which are also punishable, whether that takes place:

- *Within the family or domestic unit or within any other interpersonal relationship, whether or not the aggressor shares or has shared the same residence with the woman*
- *In any area of the community, including the workplace, educational institutions, health facilities, or any other place.*
- *In the public sphere, including the behavior perpetrated or condoned by the state or its agents regardless of where it occurs.⁵⁴*

The Model Legislation also protects women in the full gamut of gender relationships in which they might be engaged: with or without cohabitation; within immediate or extended family relationships; in instances where other acts of gender-based violence occurred even if not reported; for alleged reasons of honour or family reputation; as an outcome of organised criminal activity; in political situations; engagement in stigmatised occupations such as prostitution and trafficking; in situations of conflict; and, in situations where unequal power is exercised against women.

Provisions are also provided for persons impacted by femicides and ‘victim’ is broadly defined in the Model legislation as:

... any person who, individually or collectively, has suffered damage, whether physical, psychological, emotional, economic, patrimonial or substantial impairment of their fundamental rights, as a result of femicidal actions or omissions. The term “victim” will also include the immediate family, dependents of the direct victim and persons who have suffered damage when intervening to provide assistance to victims in danger or to prevent victimization. A person will be considered a victim regardless of whether the aggressor has been identified, apprehended, tried or convicted and with no regard for the family relationship that may exist between the aggressor and the victim. (Article 3d)

Further, provisions in the Model law also take into account family matters such as: parental rights, guardianship and custody of children of both victim and aggressor (Article 11); preventive detention and other precautionary measures to ensure the protection of women and their family from the aggressor (Article 20); as well as the right of women victims of gender-based violence and their families to an early assessment of the risk of femicide (Article 2).

Concluding Comment

Given the extent of the problem of gender-based violence in general, and, more specifically the murder of women resulting from domestic violence and incidents of sexual violence in the home and the wider community, Caribbean states would be well advised to give serious consideration to adopting and enacting the model legislation on Femicide as a means of offering further targeted protection to women for the most extreme form of gender violence that women experience, death.

Further consideration of enactment of the Model Legislation is encouraged based on the comprehensive nature of the proposed legislation recognizing, however, that it is a model law, which each country will need to tweak to ensure congruence with existing complementary legislation. This caution applies particularly to Articles 8 (Omission of therapeutic abortion), Article 12

(Obstruction of access to justice) and Article 13 (Obstruction of access to justice by public officials) where penalties are linked to existing national legislation related to these offences.

Other potential areas of that would need to be flagged and discussed to include the prohibition of conciliation and mediation, sentencing conditions as well as preventive detention (Article 20) which would need to be consistent with existing legislation on Bail or amendment of such legislation.

In spite of these possible hurdles which are not insurmountable, all Caribbean countries should be encouraged to initiate the process of review of the Model legislation and thereafter its passage through the appropriate process in preparation for final enactment by their respective Parliaments.

Notas

- 1 http://caribbean.unwomen.org/en/caribbean-gender-portal/caribbean-gov-law-portal-in-the-caribbean#_fin12
- 2 See Jamaica Daily Gleaner, November 1, 2018. Jodi-Ann, Gleaner Writer. <http://jamaica-gleaner.com/article/lead-stories/20181101/sexual-us-tourists-caribbean-proble,0new-investigative-article>
- 3 Crime, Violence and Development: Trends Cost and Policy Options. Joint Report of the United Nations Office on Drugs and Crime (UNDOC) and the Latin America and Caribbean Region of the World Bank. March 2007.
- 4 UN General Assembly. Declaration on the Elimination of Violence against Women. A/RES/48/104. 85th plenary meeting. December 20, 1993. <http://www.un.org/documents/ga/res/48/a48r194.htm>
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