

**The Silent Scream Domestic Violence  
against Women - a New Slant on  
Transnational Racism?**

**by**

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## **Rationale for Writing the Paper**

The University Women's Group is the activist branch of the Centre for Gender and Development Studies at the University- the latter being primarily concerned with the formulation of policy, teaching at both graduate and undergraduate levels and research. Both Units work closely together in order to fulfill their shared mission- gender sensitization across all disciplines and active participation in bringing this about. It was the University Women's Group that took the initial move to introduce courses on campus. It is the University Women's Group that continues its activist role. The Group actively seeks membership from interested persons off campus, attends meetings of other similar groups, and was instrumental in the formation of AWOJA (Association for Women's Organizations in Jamaica)- an umbrella organization which besides lobbying, seeks to keep all interested parties in touch. One of the most recent issues that the organization sought support from its members was an appeal from a women's Group in the United States for support for the case of a nineteen year old African woman who was facing deportation and definite genital mutilation by her mother's family in order to make her marriageable material on her return. Her father, incidentally had prevented this from happening at an earlier age, but he had since died, hence her running away and eventually finding herself in the United States. This is not the first time that we have responded to

such appeals and like on other occasions I am concerned with the fact that not only is this an appeal made on humanitarian grounds, in support of the proclamation made last summer in Beijing against genital mutilation ,but also it can be regarded as a racial issue. The question is hypothetical but would a Northern European woman stand a better chance of gaining asylum with a parallel (or even lesser threat that a woman of colour?) Last year the Women's Group was approached by a Jamaican colleague in Canada to write a position paper on domestic violence in Jamaica, with specific regard to steps that were being taken to prevent, minimize, shelter and rehabilitate victims of domestic violence.

The purpose of this paper is twofold; to outline Jamaica's position on the issue of domestic violence, and to bring to the attention of members of the Caribbean Studies yet another example of insidious racism practiced by the one third on the Two Thirds World.

### **Jamaica's Position on Domestic Violence**

The Prime-Minister of Jamaica— P.J. Patterson announced that the CARICOM model legislation on domestic violence and sexual offences would be adopted by Jamaica, with some modification, and this is at the moment in the process of becoming law. When the first announcement was made in March

1994, this was quickly cited by Government officials to prove the government's genuine concern for the issue. In 1992, Prime Minister Patterson, committed himself to reforming the rape and incest laws this is also in the process of becoming law. There has been considerable reaction and input from all the respective women's organizations on both these legislations, however it must still be said that the state in Jamaica is "male". (McKinnon, 1983).

In 1987, the Government of Jamaica officially issued a *National Policy Statement on Women*. The sixth goal of the Statement states that;

"Recognizing the evidence of physical and sexual abuse within families and society is increasing, the Government will pursue means of providing adequate protection and means of redress to women and children who are victims of family violence, incest, rape and sexual harassment".

It recognized that males must be key actors in educating other males about their responsibilities and about violence against women. The second major target group is schoolchildren as it is felt that the value system acquired by each child can be influenced at this level. (Programmes are organized in some schools in depressed communities to give the children strategies to use to combat violence and solve conflicts - PALS, but domestic violence as a separate issue is not addressed) Both men and schoolchildren are target groups for many of the organizations functioning in Jamaica under AWOJA

Hermoine McKenzie, Senior Lecturer in Sociology, UWI and member of National Advisory Committee on women that put together the statement has cautioned against an enthusiastic embrace of this statement. her conception of the statement parallels the notion of *symbolic policy*, it was not meant to do much. For her, the policy is almost a substitute for action. The government can point to this policy as 'proof' that it is doing something. It is in Jamaican parlance a *facecard*. (McKenzie, 1994)

The Jamaica Government in further support of this policy goal has established a specially trained arm to the police force, the Rape Unit to deal with the victims of rape and handle investigations relating to these cases. This has done much to ease the distress of the victims who report the crime- but it is just the tip of the iceberg. In rural communities it is business as usual and maybe no female police officer is available to deal with the ever increasing number of cases.

### **State Documents- Women And The Law.**

The present Constitution of Jamaica , constructed with extreme sensitivity to racial characteristics, to the diversity of religious denominations and intense political rivalries, contains no provision against discrimination based on sex. It is therefore not unconstitutional to deny women rights! (Dodd, 1993)

Another glaring flaw in the Law is the lack of recognition of Common Law Status (except for under the Intestate Estates and Property Charges).

Dodd also informs us that Section 3 of the Maintenance Act (which is section 2 required men to maintain their children) clarifies that "the legislation understood the mentality of some Jamaican males in regards to supporting children", in that it states;

"Every woman having any children...is hereby required to maintain such children in the event of such a man failing to perform his obligation.."

Nationality and domicile legally follow the husband, therefore a Jamaican woman who marries a man who is domiciled elsewhere is considered to be domiciled where her husband is, and applies even if the wife has never left the jurisdiction of Jamaica.- this can be understood as up to 1975 and passage of *Matrimonial Property Law*, women were considered to be Property of their husbands. The above section though not dealing specifically with violence nevertheless is included to show the male mindset of the State. This general demeanor has spilled over into the cases of violence against women also.

### **State Documents of Violence Against Women.**

- Violence against women is not recognized as a special case in Jamaica. Laws that can be applied come under *Offences Against the Person Act*. However, on domestic violence, the *Bacon Abridgments in the 19th Century* give the background to the state's official views. It stated that the

'husband hath by law, power and dominion over his wife and may keep her by force within the bounds of duty; and may beat her, but not in a violent or cruel manner'.

- In Jamaica there is also no Law against Sexual Harrassment.
- There is no law that separates domestic violence from common assault. This seems to follow from the specifically male view that the home is a safe place of rest and haven. For women the home can be a place of unending work, and at times danger. Indeed a woman is more likely to be raped in her home or yard that outside of it. The lack of legal distinction of domestic violence results in battered women having to report the matter to the police and participating in a standard trial. It ignores the fact that the abused woman may have no where to go and no alternatives due to financial dependence. The current law was not contemplated to deal with such interpersonal assaults.(Dodd,1993)

Married women do have opportunity through *Matrimonial Clauses Act* to seek an injunction for personal protection of a party to the marriage or of any relevant child; restraining a party of the marriage from entering the place of work or the place of education of any relevant child; in relation to a property of a party to the marriage; or, relating to the use of occupancy of the matrimonial home (Nicholson And MacCaulay, 1993)

Unmarried women (the majority of unions in Jamaica are Common-law) only have the opportunity to seek injunctions in association with a claim for damages or other remedy for trespass, the abuser could still stay in the house but injunctions in these cases of life and death take unduly long to process and are expensive, especially for rural women (Nicholson and MacCaulay, 1993). This has restricted it to an upper class privilege (Dodd, 1993). Another alternative is escape. In the last year I have become aware of two cases of middle class women leaving the country. Both women were victims of prolonged psychological and physical abuse. One was married to a prominent physician, the other to a prominent lawyer.

### **Economic Considerations**

These sometimes amplify the State's insensitivity to women's problems. Outside of Kingston ( the only place with a Family Court) family matters must



be taken to the Resident Magistrate courts (which may sit only twice a month) and be heard amid trials for crimes, civil suits, and landlord and tenant disputes. The Family Court, though dealing specifically with issues involving children, will handle domestic violence. Data indicates that most cases of child abuse also involve abuse to the female partner. The Family Court in Kingston sees approximately 50 walk-in cases daily. There is also now a branch in Montego Bay and one in Lucia for Western Jamaica. The mothers often evade the issue of their own abuse in seeking help for their children as they put their chances of child support in jeopardy. (Cases often involve abuse of children, or eviction of the mother and her children from the Common-Law home by the partner). The Family Court directs women who are obvious victims of domestic violence to the Crisis Centre. ((McTaggart, 1994)

In husband-wife issues' police react in a manner that discourages women from prosecuting (Dodd,1993). With some justification police often see these matters as lacking seriousness, i.e. wives have been known to use police officers to discipline and frighten spouse, not expecting anything else to come of it. But, most importantly the sphere of the home is seen as the man's domain, and both state and police allow men to do what they want there. In all fairness some police do react sensitively to the issue, conversation with the Principal at the Twickhenham Park Police Training Institution revealed that the particular

officer had on several occasions prevented serious violence from being done to a spouse by talking and counseling the man. This does not solve the root cause of the problem but does indicate a certain sensitivity. The same individual had approached Woman Inc. to conduct workshops on Domestic Violence and Rape for Police Officers island wide. However, with gun and drug related crimes on the increase the police are short-strapped not only for cash but also for personnel.

#### **Women's Crisis Centre.**

This organization is the only one that has a shelter for women. It provides 24hr. telephone counseling as well as walk-in counseling during office hours. Most of the counsellors have been trained by the University, and all the telephone hot-line counsellors. The shelter can only accommodate eight women at a time (and usually each woman has a small child/children who have to accompany her). However, as the statistics show, domestic violence is on the increase. In 1995, the Crisis Centre dealt with 268 cases of domestic violence - either by telephone counseling or walk-in office visits. So far (up to April 1996) it has dealt with over 120 cases. However, violence tends to increase at stressful times and we have two major holidays to contend with this year, these times are

known to be highly stressful for most, especially those who are financially constrained, and we get an influx of reported cases at holidays.

of the cases dealt with are women who live in the Greater Kingston and St. Andrew as well as neighbouring St. Catherine (the largest parish, and the one with the highest incidence of violence against women and child molestation charges). There is a small Crisis Centre operating out of Montego Bay. It provides walk-in counseling but has no shelter facilities.

The Crisis Centre gets referrals from the Family Court, as well as from the police, private doctors and psychiatrists. One prominent psychiatrist stated that he refers cases to the Crisis Centre and that;

"I know that at least 85% of my patients (suffering from depressions and other psychiatric complaints) have been sexual abused at some time in their lives, some repeatedly. I would also state that 90% of my patients who have been in a relationship for more than two years have been subjected to domestic abuse, either psychological or physical. Many are the typically abused personalities, they have come to expect it and do nothing about it" (Irons, 1994)

### **The Situation in a Nutshell.**

Jamaica possesses a vibrant and conscious women's organization that exists in a state system ( government and judicial) that is essentially male in

outlook. Changes are slowly being made in both, but the services that provide for victims of domestic violence are woefully inadequate. The Crisis Centre cannot even provide ongoing therapeutic services for its clients - such as group therapy, or support groups because it is a voluntary organization that relies on donations and its annual trade fair for funding of its operations. Legal services are also expensive, women are more likely to consult the legal aid clinics to seek legal help for other types of dispute- landlord-tenant etc. But usually the women at the Legal Aid clinics ARE THERE TO GET HELP FOR THEIR MAN ( who has been crimminally charged) and not for themselves. They attend the Family Court for the collection of child support, or if their child is a victim of abuse.

#### Concluding Remarks

It was against this background, that a Jamaican woman was deported back to Jamaica, having fled her common-law spouse a few years ago- she was so brutalized by him on her return that her kidney was irreparably damaged, and she subsequently died. There are many other cases pending in Canadian courts - neither of our larger neighbours to the North are enchanted with Jamaicans, especially those that are considered to be wrongdoers - (a Jamaican male was deported last week, he left Jamaica at 17months, has no close relatives here, and is a product of the Canadian Child care system not Jamaica). Women of

colour, I argue are treated no better (the officers who body-searched a Jamaican woman at a street corner were exonerated). We have to be alert to the fact that many of these women have left their homes because of domestic violence, exacerbated by the prevailing conditions of poverty, they can, and do, however, make substantial contribution to the North American labour force, and should be assisted so far as it is possible, but more importantly, given a right to be heard- to not be dismissed as being trivial. We ourselves will continue to do all we can to build back the hopes and shattered self-esteems of our victims within our shores- but it takes cash (and time) to care.

## Appendix 1. -Some Groups Helping Women in Jamaica

Food Aid (Government)  
 United Way of Jamaica (Aid and Skills)  
 Women's Media Watch (Education)  
 Sistren Theatre Collective (Education)  
 Y.W.C.A.(Education and skills)  
 AWOJA (Association of Women's Organizations in Jamaica- Umbrella  
 organization- lobbying, education etc.)  
 Bureau Of Women's Affairs (Government)  
 National Household Worker's Association (Rights)  
 Women's Centres for Pregnant Teen-agers  
 Women's Crisis Centre.(Counseling, education, shelter)

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