

A Situational Analysis of Unsafe Abortion in Trinidad and Tobago



Our Mission:

To advance sexual and reproductive health and rights, through advocacy and the provision of quality services to men, women, and young people in Trinidad and Tobago.

FPATT has chosen to focus on five priority areas adopted from IPPF

We call these our FIVE A's

- ADOLESCENTS
- HIV/AIDS
- ABORTION
- ACCESS
- ADVOCACY

ACKNOWLEDGEMENTS

In 2007 the International Federation of Gynecology and Obstetrics (FIGO), in its efforts to reduce maternal mortality and morbidity, determined as one of its priorities to reduce the incidence of unsafe abortion and its consequences. Among other initiatives, the FIGO Board called for a situational analysis of unsafe abortion in each country with FIGO affiliated societies.

Dr. Gill Greer, Director General of the International Planned Parenthood Federation wrote to its Member Associations encouraging them to participate in this initiative. Although the Gynecological/Obstetrics Society Trinidad and Tobago (GOSTT) was not affiliated with FIGO, the Family Planning Association of Trinidad and Tobago (FPATT) saw the value of such an exercise, and invited a number of local partners to an inaugural meeting to discuss the national level input.

FPATT is appreciative of the following organizations and individuals who responded to its call to form a committee to identify existing data and to lend their support in collecting information for the compilation of this report:

- Dr. Carol Boyd-Scobie, PAHO/WHO
- Ms. Leah-Mari Richards, UNFPA
- Dr. Mentor Melville, County Medical Officer Health, Tobago
- Dr. Ajodha Rajnarinesingh, County Medical Officer Health, County of Victoria
- Dr. Eric Richards. Gynaecological and Obstetric Society of Trinidad and Tobago
- Mrs. Glennis Hyacenth, ASPIRE
- Mr. Ralph Francois, Acting Director, Population Programme
- Mrs. Janice Noel-Archer, Office of the County Medical Officer of Health, North West Regional Health Authority
- Representatives from FPATT were Dr. Jacqueline Sharpe, President FPATT and Chair of the Committee, Mrs. Dona Da Costa Martinez, Executive Director FPATT and Ms. Maureen Searles, Project Coordinator.

We extend special thanks to International Planned Parenthood Federation/ Western Hemisphere Region (IPPF/WHR) for its support of this meeting through representation from Ms. Carrie Tatum and Ms. Jennifer Friedman.

We are grateful to Maureen Searles for her role in compiling this report, with support from Jaime Lee Loy.

Finally, we thank Jennifer Friedman, Giselle Carino, and other reviewers, whose valuable and insightful comments enabled us to improve this document.

Dona Da Costa Martinez

Executive Director

Family Planning Association of Trinidad and Tobago

INTRODUCTION

In 2007, the International Federation of Gynecology and Obstetrics (FIGO) initiated a project to conduct situational analyses of unsafe abortion in each country or territory with FIGO affiliated societies; this initiative represents a notable step in the formulation of a global public health response to the issue of Unsafe Abortion and Maternal Mortality. There was a stipulation that no new research should be done, but country groups should collect available information.

A core list of items to be included in the situational analysis of every country was defined, as well as a longer list of items to be collected whenever possible. These form the headings for the various sections of this document.

Furthermore, the FIGO project calls upon health professionals and governments to examine these pressing issues and generate solutions to address the needs of women facing an unwanted pregnancy from a social justice and human rights perspective. The situational analysis conducted in Trinidad and Tobago demonstrates an impressive effort by a range of key organizations and local actors to gather and analyze the available country data on unwanted pregnancy and unsafe abortion.

OVERVIEW

The performance of abortions is generally illegal in Trinidad and Tobago under the Offences Against the Person Act of 3 April 1925, as amended. Any person who, with intent to procure the miscarriage of a woman, unlawfully administers to her any noxious thing or unlawfully uses any means is subject to four years imprisonment. A woman who undertakes the same act with respect to herself is subject to the same penalty. Any person who unlawfully supplies means to procure an abortion knowing that it is intended for that purpose is subject to two years' imprisonment.

Nonetheless, under general criminal law principles of necessity, an abortion can be legally performed to save the life of a pregnant woman. Moreover, Trinidad and Tobago, like a number of Commonwealth countries whose legal systems are based on the English common law, follows the holding of the 1938 English *Rex v. Bourne* decision in determining whether an abortion performed for health reasons is lawful. In the *Bourne* decision, a physician was acquitted of the offence of performing an abortion in the case of a woman who had been raped. The court ruled that the abortion was lawful because it had been performed to prevent the woman from becoming a "physical and mental wreck" thus setting a precedent for future abortion cases performed on the grounds of preserving the pregnant woman's physical and mental health.

The Government of the newly independent Trinidad and Tobago (T&T) considered the rates of fertility and population growth to be too high. Government's Population Policy since the late 1960s has consisted primarily of a National Family Planning Programme, designed to lower fertility, reduce excessive pressure on natural resources and ease the resulting problems of housing, unemployment and unequal income distribution. The National Family Planning Programme has focused on integrating maternal and child health information and education programmes at the community level. Through the Health Sector Reform Programme, the national health system in Trinidad and Tobago has been further decentralized. As a result, well over 100 government health centres offer family planning as a part of their maternal and child health care programme.

The Family Planning Association of Trinidad and Tobago (FPATT) has been providing family planning services since 1956 and has been an arm of the National Family Planning Programme from its inception. FPATT was represented on the council at that time when family planning was recommended to the Ministry of Health.

In 1987 the Trinidad and Tobago Demographic and Health Survey (TTDHS) was designed to provide program planners, policy makers, and researchers with information about fertility, family planning, and child health. The survey was conducted by the Family Planning Association of Trinidad and Tobago (FPATT), with the cooperation of numerous governmental and private organizations. A total of 3,806 women aged 15 to 49 were interviewed.

According to the TTDHS, knowledge of modern methods of contraception is nearly universal, with 83 per cent of women in a union having used a method at some time and 44 per cent practising modern contraception. Oral contraceptives, the condom and female sterilization are the most widely used methods of contraception among

couples in Trinidad and Tobago. However, a decline in modern contraception utilization was recorded in local government clinics during the 1990s. This decline is presumably related to the limited range of available methods, to supply problems, or to the increasing availability of over-the-counter contraceptives. The total fertility rate for the period 1995-2000 was 1.7 children per woman.

In 1989 the Government reconstituted its National Population Council, and after the 1994 International Conference on Population and Development (ICPD) in Cairo, Trinidad and Tobago adopted a National Population Policy in 1996. More recently, the Population Programme Unit of the Ministry of Health completed a nation-wide training programme for nurses to improve the quality of reproductive health care. Adolescent pregnancy and adolescent HIV/AIDS have evolved into major concerns of the Government.

Precise data about the extent of the problem of abortion in Trinidad and Tobago are unarguably difficult to obtain, but the practice is believed to be widespread. Abortion is a major cause of maternal mortality and hospital admissions, evidenced by the fact that all public hospitals have at least one ward reserved for women who present with incomplete abortions. A few individuals and organizations have however done some research in areas relevant to this situational analysis which highlights the current situation regarding unsafe abortion in Trinidad and Tobago.

At the Commonwealth Caribbean Medical Research Council's 35th Scientific Meeting held in St. John's in April 1990 Drs. Gordon Naraynsingh, S. Gardener, P. Mohammed, and N. Pounder presented an abstract on Maternal attitudes towards their pregnancies. The aim of this study was to determine the feelings and other related information of pregnant women toward their pregnancies. The subjects were 322 women attending ante-natal clinic during the period November 14 – 23 1988, and ranging in age from 12 – 44 years.

A study by Drs. W. Kissoon; Gordon V. Narayansingh; and Samuel S .Ramsewak, titled The tragedy of maternal deaths in South Trinidad: an 18-month prospective study was presented at the Commonwealth Caribbean Medical Research Council 38th Scientific Meeting, Port of Spain, 21 - 24 April 1993.

At the Commonwealth Caribbean Medical Research Council's 39th Scientific Meeting held in Jamaica in April 1994, Drs. Gordon Naraynsingh, W. Kissoon and Samuel Ramsewak presented an abstract on Induced abortion: the unrecognized epidemic. A survey was conducted on 526 pregnant women attending 2 major general hospitals in Trinidad during late 1992 to early 1993 to determine the incidence of attempted termination of pregnancy, the popularity of the methods, the sources and agents, as well as the immediate outcome following the attempts.

In 2000 a Non-Governmental Organization (NGO), Advocates for Safe Parenthood: Improving Reproductive Equity (ASPIRE), reviewed over 4,000 records for 1999 from public hospitals and health centres in Trinidad and Tobago. They also examined the Annual Reports of the Ministry of Health.

In 2006, Development Alternatives with Women for a New Era (DAWN) produced Sexual and Reproductive Health and Rights in the English-speaking Caribbean – A study of maternal mortality, abortion, and Health Sector Reform in Barbados, Jamaica, Suriname, and Trinidad and Tobago.

UNWANTED PREGNANCIES

In the study conducted by Drs. Gordon Naraynsingh, S. Gardener, P. Mohammed, and N. Pounder, women were classified into social classes I (highest) to V (lowest) based on socio-economic factors. Information was obtained through interviews by 3 final year medical students. Subjects were 322 women attending antenatal clinic during the period November 14 - 23, 1988, and ranged in age from 12 - 44 years. The majority (71 per cent) were in social classes IV and V. Unplanned pregnancies (221 or 67 per cent) were the highest among teenagers (41/49 or 84 per cent) and women over 35 years (23/31 or 74 per cent), and the percentage increased with increasing parity and decreasing social class. Overall, 29 per cent of women with unplanned pregnancies considered having an abortion. Virtually all (99 per cent) women whose pregnancies were planned considered them favourably and 82 per cent of women with unplanned pregnancies had a similar positive attitude. Negative or ambivalent feelings toward their pregnancies were more common among grand multiparae (33 per cent) than among primiparae (8 per cent) and teenagers (12 per cent). Such negative attitudes were also more frequent in women in social classes IV and V (13 per cent) than those in social classes I to III (3 per cent). Women who considered an abortion were more likely to have an unfavourable attitude to their pregnancies (29 per cent) than those who did not (8 per cent).

In the year before the TTDHS survey over 40% of births were either unwanted or mistimed. 16% of all births occurring in the 5 years prior to 1987 were unwanted. An additional 20% were wanted but at a later time.

INTERVENTIONS TO PREVENT UNWANTED PREGNANCIES AND INDUCED ABORTIONS

TTDHS - METHODS USED 1987

METHOD	%
PILL	14.0
CONDOM	11.8
FEMALE STERILIZATION	8.2
WITHDRAWAL	5.3
VAGINAL	5.0
IUD	4.4
SAFE PERIOD	2.6
INJECTION	0.8
MALE STERILIZATION	0.2
OTHER METHODS	0.3
NOT USING	47.3

Contraceptive information and services including Emergency Contraception

Virtually all the women interviewed in the TTDHS by FPATT in 1987, knew of at least one method of contraception. More than 80% of women in union used a method of contraception at some time, while 53% were at that time using a method.

In 1987 contraception was widely available in Trinidad and Tobago and more than 90% of women who had heard of a specific method of contraception knew where to obtain the method if they wanted to use it. Government health centres and private pharmacies provided services to 75% of the users while FPATT provided methods to an additional 15%, and private sources served 9%.

Today, oral contraceptives, IUDs and male condoms are available at no cost at all public health facilities through the Government's Population Program.

FPATT offers both single and combined oral contraceptives, male and female condoms, 3 month injectables, diaphragms, IUDs, Emergency Contraception, and foaming tablets at a subsidized cost. In addition, private institutions offer the contraceptive patch, 1 month injectables, jellies, foams and creams.

The only local initiative that specifically targets young persons regarding Sexual and Reproductive Health including contraceptive services is FPATT's adolescent Centre "De Living Room" where all the above-mentioned FPATT products are available.

To access the Government's family planning service a woman must be over 16 years of age.

Comprehensive Sexuality Education

According to the TTDHS, in 1987, only 18% of women correctly identified the middle of the cycle as the fertile period, knowledge which is useful for the successful practice of contraception.

At present the Ministry of Education has a formal Health and Family Life Education program for primary schools that includes modules on Sex and Sexuality. Teachers are currently being trained, to deliver this programme in schools.

The Ministry is also in the process of developing a program for Secondary schools which will include a peer education prevention component that will specifically target HIV and AIDS prevention. This will expand the current peer education program which exists in many schools as Abstinence Clubs.

FPATT and other NGOs provide Sexual and Reproductive Health (SRH) information and education to the general public upon request.

Social protection of pregnant women and mothers of small children

In 1998, a Maternity Protection Act was passed that is considered a watershed in female labour rights struggles. It entitles all women, except female members of parliament, to 13 weeks of paid leave every two years. Payments are the responsibility of the employer and the National Insurance Scheme, thereby ensuring no loss of earnings for pregnant women and recent mothers. Though termination because of pregnancy is illegal, there are cases recorded of dismissal of pregnant women, especially of temporary and casual workers, proof of the difficulty in uniform application and implementation of the law. By this law fathers are also permitted three days leave of absence from work at the birth of their children.

The Occupational Safety and Health (No. 2) Bill, 1999 proposes provisions for pregnant employees by ensuring that the employer shall "...after being notified by a female employee that she is pregnant and upon production of a medical certificate to that effect, adapt the working conditions of the female employee..".

The Adolescent Mothers Programme, a collaborative effort between the Ministry of Social Development and The

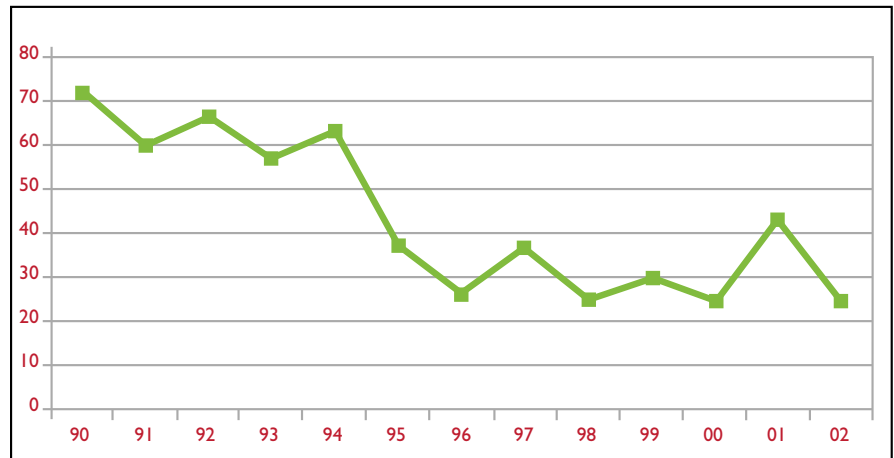
Child Welfare League of Trinidad and Tobago, targets pregnant adolescents and teenage mothers, their children, and partners. It provides individual and group counselling, remedial/continuing education, day care services and training in pre and post-natal childcare at three established centres. This programme is intended to decrease the number of repeat pregnancies among young women and to break the cycle of inter-generational poverty that may emerge among the target groups due to early pregnancy.

At present there is no accreditation process for nurseries although this process has begun for preschools. Onsite nurseries and nurseries that provide services at night are rare.

Adoption

The Adoption Board of the Ministry of Social Development uses a stringent assessment process to ensure that children are placed with adoptive parents who meet the Board's criteria. Prospective adoptive parents are investigated and evaluated before they are approved as suitable candidates for adoption to ensure that children will be safe, loved and nurtured. The identities of both the birth parents and the adopters remain confidential. However, when the child reaches the age of 18, the Court may be approached to release any information that is available.

ADOPTION BY YEAR 1990 - 2002 (Compiled by ASPIRE)



1990 - 72	1994 - 63	1998 - 25	2002 - 25
1991 - 60	1995 - 37	1999 - 30	
1992 - 66	1996 - 26	2000 - 25	
1993 - 57	1997 - 37	2001 - 43	

ABORTION

Data from the Family Planning Association of Trinidad and Tobago, indicates that almost 20% of a sample of female clients (1162) reported that their last pregnancy ended as result of an induced abortion.

UNSAFE ABORTION

Of the five hundred and twenty six (526) women in the survey by Drs. Gordon V Narayansingh, W. Kissoon, and Samuel Ramsewak in 1993 – 1994, five hundred and six (96.0 percent) had unplanned pregnancies, and 168 (31.9

percent) had made an attempt to terminate the pregnancy. Chemical methods were twice as popular but physical methods were more successful (41.0 percent vs. 34.8 percent); 25/56 physical attempts were made as backyard abortions with a failure rate of 88.0 percent. Medical practitioners were more likely to be successful (66.0 percent). Four women (7.1 percent) used self-administered physical methods. The pharmacist was the most popular source to offer chemical agents (32.1 percent) followed by the patient acting on her own (22.3 percent), a friend (19.6 percent) and the doctor (18.7 percent). The main agents offered were unknown while tablets (35.7 percent), herbs and bush (23.2 percent), misoprostol (22.3 percent), hormones (25.8 percent) and aloes (5.3 percent) were identified. Misoprostol and hormones were offered mainly by the pharmacist and had a success rate of 56.0 percent and 44.8 percent, respectively. Herbs and bushes offered by lay persons were generally unsuccessful.

The researchers theorized that the high level of unplanned pregnancies and attempted terminations was a major public health issue and suggested that unless the relevant authorities were sensitized to the magnitude of the problem, induced abortion would remain an unrecognized epidemic.

Ministry of Health: ABORTIONS BY TYPE 1994 - 2004

TYPE OF ABORTION	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SPONTANEOUS	23	50	39	11	35	299	188	157	169	225	333
MEDICAL	0	0	9	1	4	6	4	4	1	1	5
LEGALLY INDUCED	4	7	0	0	0	0	0	0	0	0	0
ILLEGALLY INDUCED	0	18	0	0	0	0	0	0	0	0	0
UNSPECIFIED	4226	4006	4103	3672	3622	3812	3502	3029	2268	2190	1516
TOTAL	4253	4081	4151	3684	3661	4117	3694	3190	2438	2416	1854

SOURCE: Hospitals' Annual Basic List Tabulations, Ministry of Health

Quality of the care of women consulting for complications of abortion

All of the local public hospitals provide services for women who present with incomplete abortions or complications from unsafe abortions. The hospitals all use the Dilation and Curettage (D&C) method to treat incomplete abortions, and women frequently remain in the hospital for up to 5 days. In general, the hospitals do not provide post-abortion counselling and patients are referred to Health Centres for contraceptive services. There is no charge to patients for these services.

Consequences of Unsafe Abortion

In this prospective study of maternal mortality conducted by Drs. W. Kissoon, Gordon V. Narayansingh, and Samuel S. Ramsewak, every maternal death occurring at the San Fernando General Hospital from May 1, 1991 to October 31, 1992 was noted, and pertinent data were collected shortly after death, using a specially designed form. Maternal death was defined as the death of a woman while pregnant or within 42 days of the termination of her pregnancy from any cause related to, or aggravated by, the pregnancy or its management, but not from accidental or incidental causes. During the 18-month period there were 14 maternal deaths and 8,922 births to give a maternal mortality rate of 157 per 100,000 total births. This rate was 20.7 times that of the United Kingdom for 1985 - 87 and significantly higher than the rate of 33.3 per 100,000 live births reported in East Trinidad. The major causes of death were haemorrhage, (6) (43 per cent), criminal abortion and hypertensive disorders of pregnancy, (3 each) (21 per cent). The researchers concluded that the first 2 causes of death were preventable. This pattern had been prevalent in the U.K. during the early 20th century. They suggested that there was a need for improved blood bank services and emergency laboratory facilities in South Trinidad and that Trinidad and Tobago needed to properly address the issue of induced abortions. They further indicated the need for a national prospective survey of maternal mortality to determine national and regional rates and causes of maternal deaths.

YEAR	MATERNAL MORTALITY
1991	49.18
1992	60.7
1993	66.4
1994	76.2
1995	67.5
1996	38.9
1997	70.4
1998	44.7
1999	38.2
2001	70.4

Source: Adapted from Republic of Trinidad and Tobago, Central Statistical Office, Population and Vital Statistics Report, 1999 and CEDAW Report, p. 91

Maternal Mortality Rates, 1991-2001, Trinidad and Tobago

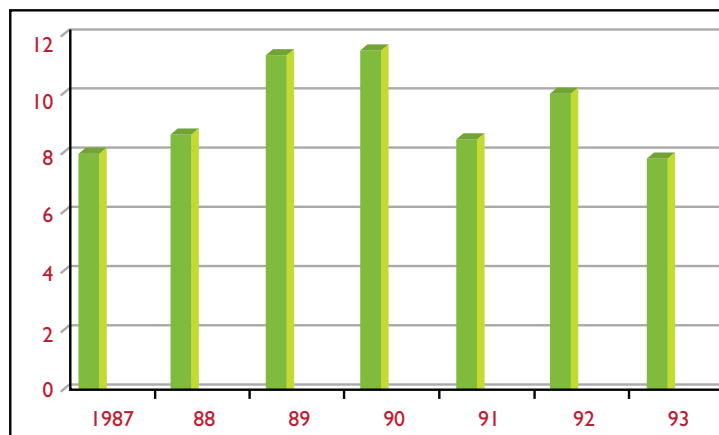
The 'Policy for the Reorganization of the Population Programme Unit to establish Sexual and Reproductive Health Services in Primary Health Care' has as one of its broad objectives to reduce levels of maternal mortality. There however has been no established national level mechanism for monitoring and evaluation of maternal mortality and morbidity resulting from unsafe abortion.

According to research done by ASPIRE

- **1944, 11 maternal deaths septic abortion**
- **1947, 14 maternal deaths including abortion**
- **1951, 10 deaths, including abortion**
- **1955, 16 deaths including septic abortion**
- **1960, 7 deaths, at least 5 from abortion**

ASPIRE further theorizes that the number of days women with complications from unsafe abortions spend in the hospital can be used to estimate the cost to the health system. They estimate that in 1993 it cost the government almost \$8.0 million to treat cases of complications due to unsafe abortion that enter the hospitals.

Cost of Treating Unsafe Abortions (TT\$M)
(Calculated from MOH Annual Reports) - ASPIRE



LEGAL SITUATION OF ABORTION AND REGULATORY FRAMEWORK

In Trinidad and Tobago Sections 56 and 57 of the Offences Against the Person Act Chap 12:01 are the only legal provisions which are relevant to the issue of abortion. They provide as follows:

56. Every woman, being with child, who, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, and any person who, with intent to procure the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, is liable to imprisonment for four years.
57. Any person who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child, is liable to imprisonment for two years.

Provision of legal abortion services

Doctors have told of instances where they have recommended their patients to the public hospitals for terminations and these have been done. In these instances, the pregnancy would have been hazardous to the woman's mental or physical health.

In situations of restrictive laws

Although women present at the public hospitals with incomplete abortions they are not prosecuted or jailed.

There are no reports of providers or facilities breaching the ethical principle of confidentiality with regard to health records of women who have had induced abortions.

The fact that all abortions are deemed to be criminal, except for abortions performed to preserve the life of the woman, also means that health-care providers generally do not receive official, structured guidance on providing abortion services. In addition, their services are not regulated by the Government in any way, and therefore any abuses or instances of malpractice that occur may at times not be remedied.

In September 2006, the Minister of Public Administration and Energy, in response to questions posed by two Opposition Senators, said that “changing the law that bans abortions is not, at this time, the best way to deal with backyard abortions”. He further suggested that the solution to this problem was not legislative, but rather, effective policing of medical practitioners - the responsibility of the Police Service, and the Medical Board. When questioned by an Independent Senator on the State’s responsibility to the 10,000 women who have abortions annually, he reiterated that it was not the intention of his administration to amend the laws but that it was an issue of enforcement of the existing law.

CONCLUSION

The data as presented in this report leaves no doubt that there is need for an urgent response at the service provision, research, and policy levels. It is clear from the available data that Trinidad & Tobago continues to face an unacceptably high incidence of unsafe abortion, high numbers of unwanted pregnancy, and gaps in women’s access to accurate information and sexual and reproductive health services. In order to improve women’s health outcomes and ultimately reduce the number of unwanted pregnancies and the overall number of abortions, the Government, NGOs, and the community must work together to ensure the provision of comprehensive health services that at a minimum, include two basic components: promotion and implementation of comprehensive sexuality education and universal access to a full range of modern contraceptive methods; and the promotion of and respect for women’s right to make autonomous, informed and responsible decisions about their lives.

This important document also highlights a number of areas in which there is a tremendous need for updated data and more country-specific research, including a new national Demographic and Health survey, increased national level mechanisms for monitoring maternal mortality statistics, and additional information on the social and public health costs of unsafe abortion and maternal mortality/morbidity.

The fact that thousands of women in Trinidad and Tobago risk their health and lives when faced with an unwanted pregnancy demonstrates the ineffectiveness of restrictive abortion laws. As seen in Appendix 1 of this document,

recent interpretations of the current abortion law call for a broader reading of the circumstances in which abortion may be practiced legally in the country. Such efforts, along with the work conducted for this analysis, point the way for various constituencies to come together to find common ground for an effective policy response to unwanted pregnancy and unsafe abortion. The right to the highest attainable standard of health is a fundamental human right, and the citizens of Trinidad deserve a comprehensive Sexual and Reproductive Health Policy that responds to the reality of their lives. To this end, the situational analysis presented here should serve as a call to action to move Trinidad and Tobago forward in improving the health of its citizens, meeting the Millennium Development Goals (MDGs) and realizing Vision 2020.

REFERENCES

1. Central Statistical Office. (2000) *Annual Statistical Digest*. Port of Spain, Trinidad and Tobago, Central Statistical Office.
2. Ministry of Health. (1994) *Annual Report*. Trinidad and Tobago. Ministry of Health.
3. Ministry of Health. (1995) *Annual Report*. Trinidad and Tobago. Ministry of Health.
4. Ministry of Health. (1996) *Annual Report*. Trinidad and Tobago. Ministry of Health.
5. Ministry of Health. (1997) *Annual Report*. Trinidad and Tobago. Ministry of Health.
6. Ministry of Health. (1998) *Annual Report*. Trinidad and Tobago. Ministry of Health.
7. Ministry of Health. (1999) *Annual Report*. Trinidad and Tobago. Ministry of Health.
8. Ministry of Health. (2000) *Annual Report*. Trinidad and Tobago. Ministry of Health.
9. Ministry of Health. (2001) *Annual Report*. Trinidad and Tobago. Ministry of Health.
10. Ministry of Health. (2002) *Annual Report*. Trinidad and Tobago. Ministry of Health.
11. Ministry of Health. (2003) *Annual Report*. Trinidad and Tobago. Ministry of Health.
12. Ministry of Health. (2004) *Annual Report*. Trinidad and Tobago. Ministry of Health.
13. Development Alternatives With Women For A New Era (DAWN). (2006) *Sexual and Reproductive Health and Rights in the English-Speaking Caribbean – A Study of Abortion, Maternal Mortality and Health Sector Reform in Barbados, Jamaica, Suriname and Trinidad and Tobago*. Trinidad and Tobago.
Development Alternatives With Women For A New Era (DAWN).
14. The Family Planning Association of Trinidad and Tobago (FPATT). (1987) *Trinidad and Tobago Demographic and Health Survey – Summary Report*. Trinidad and Tobago. The Family Planning Association of Trinidad and Tobago (FPATT).
15. UN (2005) 'Abortion Policy'. Available at:
<http://www.un.org/esa/population/publications/abortion/doc/trinidad.doc>
(Accessed 20 April 2008).
16. Country Studies. ' Trinidad and Tobago Population'. Available at:
<http://www.country-studies.com/caribbean-islands/trinidad-and-tobago--- population.html>
(Accessed 20 April 2008)

17. Advocates for Safe Parenthood: Improving Reproductive Equity (ASPIRE).
'Brief Notes of Abortion Research'. Available at:
<http://www.aspire.org.tt/new/web/abortion.php>
(Accessed 20 November 2007)
18. Narayansingh, Gordon V; Kisooson, W; Ramsewak, Samuel S (1994).
'Induced abortion: the unrecognized epidemic'. Available at:
[http://bases.bireme.br/cgi-bin/wxislind.exe/iah/online/?IsisScript=iah/iah.xis&src=google&base=MedCarib
&lang=p&nextAction=Ink&exprSearch=5392&indexSearch=ID](http://bases.bireme.br/cgi-bin/wxislind.exe/iah/online/?IsisScript=iah/iah.xis&src=google&base=MedCarib&lang=p&nextAction=Ink&exprSearch=5392&indexSearch=ID)
(Accessed 20 November 2007)
19. Narayansingh, Gordon V; Gardener, S; Mohammed, P; Pounder, N (1990).
'Maternal attitudes towards their pregnancies'. Available at:
[http://bases.bireme.br/cgi-bin/wxislind.exe/iah/online/?IsisScript=iah/iah.xis&src=google&base=MedCarib
&lang=p&nextAction=Ink&exprSearch=5313&indexSearch=ID](http://bases.bireme.br/cgi-bin/wxislind.exe/iah/online/?IsisScript=iah/iah.xis&src=google&base=MedCarib&lang=p&nextAction=Ink&exprSearch=5313&indexSearch=ID)
(Accessed 20 November 2007)
20. Kisooson, W; Narayansingh, Gordon V; Ramsewak, Samuel S. (1993).
'The tragedy of maternal deaths in South Trinidad: an 18-month prospective study'. Available at:
[http://bases.bireme.br/cgi-bin/wxislind.exe/iah/online/?IsisScript=iah/iah.xis&src=google&base=MedCarib
&lang=p&nextAction=Ink&exprSearch=5169&indexSearch=ID](http://bases.bireme.br/cgi-bin/wxislind.exe/iah/online/?IsisScript=iah/iah.xis&src=google&base=MedCarib&lang=p&nextAction=Ink&exprSearch=5169&indexSearch=ID)
(Accessed 20 November 2007)

SOME USEFUL WEBSITES FOR FURTHER REFERENCE

ENGENDERHEALTH

<http://www.engenderhealth.org>

EngenderHealth is a leading international reproductive health organization working to improve the quality of health care in the world's poorest communities. EngenderHealth empowers people to make informed choices about contraception, trains health providers to make motherhood safer, promotes gender equity, enhances the quality of HIV and AIDS services, and advocates for positive policy change. The non-profit organization works in partnership with governments, institutions, communities, and health care professionals in more than 40 countries around the world.

FIGO (The International Federation of Gynecology and Obstetrics)

<http://www.figo.org>

FIGO is the only organization that brings professional societies of obstetricians and gynecologists together on a global basis. Currently there are 113 member societies in countries or territories. They promote the well-being of women and their children and aim to raise the standard of practice in obstetrics and gynecology around the world.

Gynuity

<http://www.gynuity.org>

Gynuity Health Projects is a research and technical assistance organization dedicated to the idea that all people should have access to the fruits of medical science and technology development. Gynuity works globally to ensure that reproductive health technologies are widely available at reasonable cost, provided in the context of high-quality services, and offered in a way that recognizes the dignity and autonomy of each individual. Their efforts are focused particularly on resource-poor environments, underserved populations, and challenging subject matter.

ICM (International Confederation of Midwives)

<http://www.internationalmidwives.org>

ICM supports, represents and works to strengthen professional associations of midwives on a global basis. At present ICM has over 90 member associations in more than 70 countries. The ICM works with midwives and midwifery associations globally to secure women's right and access to midwifery care before, during and after childbirth.

IPAS

<http://ipas.org>

Ipas is an international organization that works around the world to increase women's ability to exercise their sexual and reproductive rights, and to reduce abortion-related deaths and injuries.

IPPF (INTERNATIONAL PLANNED PARENTHOOD FEDERATION)

<http://www.ippf.org>

IPPF is a global service provider and a leading advocate of sexual and reproductive health and rights for all. IPPF has six Regional Offices. They are a global network of Member Associations, working in around 180 countries - providing and campaigning for sexual and reproductive health care and rights.

IPPF believes that sexual and reproductive rights should be internationally recognized as human rights and therefore guaranteed for everyone. They encourage individuals, women in particular, to take control of their reproductive lives, and they promote equality between men and women, aiming to eliminate gender biases, especially those that threaten the well-being of women and girls.

MSI (Marie Stopes International)

<http://www.mariestopes.org.uk>

Marie Stopes International (MSI) is the UK's leading provider of sexual and reproductive healthcare services. Their nationwide network of sexual health clinics see over 100,000 men and women each year who come to us for information, advice and professional care.

Their services include: contraception, unplanned pregnancy counselling, abortion information and advice, help for women needing abortions, abortion pill and other abortion treatment options, vasectomy information and vasectomy procedure, female sterilisation, health screening for men and women, and company health screening.

The Center for Reproductive Rights

<http://www.reproductiverights.org>

The Center for Reproductive Rights (formerly the Center for Reproductive Law and Policy) is a non-profit legal advocacy organization dedicated to promoting and defending women's reproductive rights worldwide.

WHO (World Health Organization)

<http://www.who.int>

WHO is the directing and coordinating authority for health within the United Nations system. It is responsible for providing leadership on global health matters, shaping the health research agenda, setting norms and standards, articulating evidence-based policy options, providing technical support to countries and monitoring and assessing health trends.

ANNEX 1

A Legal Interpretation of The Trinidad and Tobago Abortion Law

by Douglas Mendes S.C

and commissioned by

The Family Planning Association of Trinidad and Tobago 2008.

In re: **Law on abortion in Trinidad and Tobago**

1. I am asked to provide an update on the interpretation of the law as it relates to abortion in Trinidad and Tobago.
2. Sections 56 and 57 of the Offences Against the Person Act Chap 12:01 are the only provisions which are relevant. They provide as follows:
 56. Every woman, being with child, who, with intent to procure her own miscarriage, **unlawfully** administers to herself any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent, and any person who, with intent to procure the miscarriage of any woman, whether she is or is not with child, **unlawfully** administers to her or causes to be taken by her any poison or other noxious thing, or **unlawfully** uses any instrument or other means whatsoever with the like intent, is liable to imprisonment for four years.
 57. Any person who **unlawfully** supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be **unlawfully** used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child, is liable to imprisonment for two years. (Emphasis added)
3. Section 56 criminalises the acts of a woman who, being pregnant and intending to procure her own miscarriage, either **unlawfully** administers to herself a poison or other noxious thing or **unlawfully** uses any instrument or other means whatsoever. The offence is committed even though she may not have been successful in procuring her miscarriage. Section 56 also criminalises the acts of any person who, intending to procure the miscarriage of a woman, **unlawfully** administers or causes to be administered a poison or noxious thing to the woman or **unlawfully** uses any instrument or other means whatsoever on the woman. Again, the offence is committed even if the person does not succeed in carrying out his or her intention, but even more, it is committed even if the woman is in fact not pregnant. Where an abortion is carried out on a woman by a third party, it is nevertheless possible that the woman herself may be guilty of aiding or abetting the commission of the offence by that third party.
4. Section 57 criminalises the acts of a person who **unlawfully** supplies or procures the poison or other noxious thing or the instrument or other means, whether or not the woman is in fact pregnant, but the person must know that the poison etc. is intended to be used or employed **unlawfully** with intent to procure the miscarriage.
5. Each offence requires that the poison, noxious thing, instrument or other means be administered, used, supplied or procured, as the case may be, **unlawfully**. This naturally suggests that there may be circumstances in which it would be lawful to bring about an abortion.

THE POSITION IN ENGLAND

6. In England, from which our statutory provisions are copied, it had been generally accepted ever since the enactment of their legislation in 1861 that an abortion would be lawful where it was necessary to save a woman's life. But the precise effect of the use of the qualifying word "unlawfully" was not examined until the case of *R v Bourne* [1939] 1 KB 687. In that case, the defendant was an obstetrician who was charged with having procured the miscarriage of a 14-year-old girl contrary to section 58 of the 1861 Act. The girl was pregnant as a result of a rape of great violence in circumstances which would have been most terrifying to any woman, let alone a child of fourteen, by a man who was in due course convicted of the crime. The defendant gave evidence that, having examined the girl, it was his opinion that the continuance of the pregnancy would probably cause serious injury to her. An expert witness called on his behalf gave evidence that, if the girl gave birth to a child, the consequence was likely to be that she would become a mental wreck. In the course of his charge to the jury, MacNaghten J referred to section 1 (1) of the Infant Life (Preservation) Act, 1929 which made it an offence to cause a child capable of being born to die before it has an existence independent of its mother, subject to the proviso that "no person shall be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother." He pointed out that the proviso did not in fact appear in section 58. He went on to say this, however (at p. 691):

"... but the words of that section [i.e. section 58 of the 1861 Act] are that any person who "unlawfully" uses an instrument with intent to procure miscarriage shall be guilty of felony. In my opinion the word "unlawfully" is not, in that section, a meaningless word. I think it imports the meaning expressed by the proviso in s. 1, sub-s. 1, of the Infant Life (Preservation) Act, 1929, and that s. 58 of the Offences Against the Person Act, 1861, must be read as if the words making it an offence to use an instrument with intent to procure a miscarriage were qualified by a similar proviso."

In other words, a person who procures an abortion in good faith for the purpose of preserving the life of the mother is not guilty of an offence. On the issue of what is meant by "preserving the life of the mother" the judge said this to the jury (at p. 693-694): -

"... those words ought to be construed in a reasonable sense, and, if the doctor is of opinion, on reasonable grounds and with adequate knowledge, that the probable consequence of the continuance of the pregnancy will be to make the woman a physical or mental wreck, the jury are quite entitled to take the view that the doctor who, under those circumstances and in that honest belief, operates, is operating for the purpose of preserving the life of the mother."

7. So stated, the law did not prohibit abortions in all circumstances, nor did it permit abortion on demand. The judge continued (at p.693):

Some there may be, for all I know, who hold the view that the fact that a woman desires the operation to be performed is a sufficient justification for it. Well, that is not the law: the desire of a woman to be relieved of her pregnancy is no justification at all for performing the operation. On the other hand there are people who, from what are said to be religious reasons, object to the operation being performed under any circumstances. That is not the law either. On the contrary, a person who holds such an opinion ought not to be an obstetrical surgeon, for if a case arose where the life of the woman could be saved by performing the operation and the doctor refused to perform it because of his religious opinions and the woman died, he would be in grave peril of being brought before this Court on a charge of manslaughter by negligence I mention these two extreme views merely to show that the law lies between them. It permits the termination of pregnancy for the purpose of preserving the life of the mother.

8. In the circumstances, the judge left the jury with the following direction (at p. 691):

...the burden rests on the Crown to satisfy you beyond reasonable doubt that the defendant did not procure the miscarriage of the girl in good faith for the purpose only of preserving her life. If the Crown fails to satisfy you of that, the defendant is entitled by the law of this land to a verdict of acquittal. If, on the other hand, you are satisfied that what the defendant did was not done by him in good faith for the purpose only of preserving the life of the girl, it is your duty to find him guilty.

Mr Bourne was duly acquitted.

9. The *Bourne* approach was later applied in *R v Newton and Stungo* [1958] Crim LR 469 where the law was stated to be as follows:

The law about the use of instruments to procure miscarriage is this: 'Such use of an instrument is unlawful unless the use is made in good faith for the purpose of preserving the life or health of the woman.' When I say health I mean not only her physical health but also her mental health. But although I have said that 'it is unlawful unless,' I must emphasise and add that the burden of proving that it was not used in good faith is on the Crown.

10. The legal principles established by these cases were applied in England and Wales until the enactment of the Abortion Act 1967.¹ Because that Act governed all the circumstances in which an abortion could be lawfully carried out, there have not been any further developments in the England and Wales on the application of the provisions of the Offences Against the Person Act. However, similar legislation continues to exist in Northern Ireland and Australia and it would be instructive to examine developments in those countries.

¹ See *Royal College of Nursing v Department of Health and Social Services* (1981) A.C. 800.

THE POSITION IN NORTHERN IRELAND

11. Sections 58 and 59 of the Northern Ireland Offences Against the Person Act 1861 are almost identical in terms to the corresponding provisions in Trinidad and Tobago. But in Northern Ireland there is also section 25(1) of the Criminal Justice Act (Northern Ireland) 1945 which is relevant. It provides that“:

... Any person who, with intent to destroy the life of a child incapable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, shall be guilty of felony, to wit, of child destruction, and shall be liable on conviction thereof on indictment to penal servitude for life. Provided that no person shall be found guilty of an offence under this section ***unless it is proved that the act which caused the death of a child was no done in good faith for the purpose only of preserving the life of the mother.*** (Emphasis added)

12. The Courts in Northern Ireland have generally followed ***Bourne*** and ***Newton and Stungo*** but there have been subtle refinements of the principles in those cases.
13. In Northern Health and Social Services Board v F and G [1993] NI 268, K (a minor) was made a ward of court on the application of the Northern Health and Social Services Board when she was found to be thirteen weeks pregnant. She had a number of consultations with her psychiatrist in which she repeatedly stated that she would kill either herself or the baby unless she could have the pregnancy terminated. The psychiatrist concluded that the physical and mental risks to the minor if the pregnancy was continued were greater than those that would follow its termination. It was held that the established law in Northern Ireland in respect of termination of pregnancies was that such operations were unlawful unless performed in good faith for the purpose of preserving the life or health of the woman. The health of a woman constituted not only her physical health but also her mental well-being. Sheil J quoted with approval the passage from the direction of Ashworth J to a jury in ***Newton and Stungo*** which is quoted in paragraph 9 above.
14. In ***Northern Ireland Health and Social Services Board v A and Others*** [1994] NIJB1, a severely mentally handicapped woman was in the tenth week of a pregnancy that she wished to have terminated. The Board made an application for a declaration that it would be lawful to terminate the pregnancy. MacDermott LJ granted the declaration. In discussing the phrase ‘for the purpose only of preserving the life of the mother’ that appears in section 25(1) of the 1945 Act he said (at p. 5):-

“I am satisfied that the statutory phrase, ‘for the purpose only of preserving the life of the mother’ does not relate only to some life-threatening situation. Life in this context means that physical or mental health ***or well-being*** of the mother and the doctor’s act is lawful where the continuance of the pregnancy would adversely affect the mental or physical health of the mother. The adverse effect must

however be *a real and serious one and there will always be a question of fact and degree whether the perceived effect of non-termination is sufficiently grave to warrant terminating the unborn child.*" (Emphasis added)

15. MacDermott LJ's determination was significant because it appeared that he was extending the exception to cases where it was thought that the well-being only of the woman would be affected if the pregnancy continued, as opposed to her physical or mental health. He also explained that the adverse effect to the woman's physical or mental health had to be real and serious.
16. These points were addressed in *Western Health and Social Services Board v CMB and the Official Solicitor* (1995, unreported). In that case, Pringle J made a declaration that the termination of the pregnancy of a mentally handicapped 17 year old was lawful. Pringle J discussed the passage from the decision of MacDermott LJ cited above:

I consider that MacDermott LJ did not intend to mean by 'or well-being' to indicate that 'life' meant something more than physical and mental health such as happiness and these words could have been omitted by him without detracting from what was being said; I would point out that these words were omitted at the end of the same sentence when he again referred to the mental health and physical health of the mother. I also accept that the adverse effect must be permanent or long-term and cannot be short term; I consider that this is what MacDermott LJ was indicating when he spoke of the real and serious adverse effect which was sufficiently grave to warrant termination. Mr Weatherup further submitted that the adverse effect must be a probable rather than a possible risk if the pregnancy is not terminated; Mr Toner took much the same approach when he submitted that there must be a serious risk of a long-term adverse effect. I consider that, as indicated by MacDermott LJ, the seriousness of the perceived adverse effect cannot be separated from the chance of that effect occurring; in most cases the adverse effect would need to be a probable risk of non-termination but a possible risk might be sufficient if the imminent death of the mother was a risk in question.

17. These developments were more recently considered by the Northern Ireland Court of Appeal in *Family Planning Association of Northern Ireland v Minister for Health, Social Services and Public Safety* [2004] NICA 39. The Court held that the law as it then stood was that "it is unlawful to procure a miscarriage where the foetus is abnormal but viable, unless there is a risk that the mother may die or is likely to suffer long-term harm, which is serious, to her physical or mental health." In terms of the criminal law, the Court stated the law as follows (at para 75):

Procurement of a miscarriage (or abortion) is a criminal offence punishable by a maximum sentence of life imprisonment if the prosecution proves beyond any reasonable doubt to the satisfaction of a jury:-

- (1) that the person who procured the miscarriage did not believe that there was a risk that the mother might die if the pregnancy was continued; or
- (2) did not believe that the mother would probably suffer serious long-term harm to her physical or mental health; or
- (3) did not believe that the mother would probably suffer serious long-term harm to her physical or mental health if she gave birth to an abnormal child.....
- (4) a person who is a secondary party to the commission of the criminal offence referred to above is liable on conviction to the same penalty as the principal.
- (5) it follows that an abortion will be lawful if a jury considers that the continuance of the pregnancy would have created a risk to the life of the mother or would have caused serious and long-term harm to her physical or mental health.

18. There are some significant re-formulations of the test applied in **Bourne** which should be noted:

- i) Whereas in **Bourne** the burden is on the prosecution to establish that the person performing the abortion did not do so in good faith for the purpose only of preserving the mother's life (interpreted to include her physical and mental health), the Northern Ireland test requires the prosecution to prove that the defendant either did not believe that there was a risk that the mother might die if the pregnancy was continued, or did not believe that the mother would probably suffer serious long-term harm to her physical or mental health, or did not believe that the mother would probably suffer serious long-term harm to her physical or mental health if she gave birth to an abnormal child. Apart from stating the test in the alternative, there is probably little difference between not performing the abortion in good faith for the stated purpose and not believing the stated dangers. A person could not be performing an abortion in good faith if he or she did not believe that it was necessary to avoid the risk of death or the probability of serious long-term harm to physical or mental health. Nevertheless, the re-formulation is significant because it would be a defence to a charge of procuring an abortion that the defendant had the necessary belief, even though it may be established as a matter of fact that there was no risk of death and no threat of a serious nature to long-term physical and mental health. Of course, it would be for the jury to decide whether the defendant did in fact harbour the required belief despite the absence of the evidence supporting that belief. Conversely, where the jury considers that as a matter of fact the continuance of the pregnancy would have created a risk to the life of the mother or would have caused serious and long-term harm to her physical or mental health, it would more than likely also find that the defendant believed that the continuance of the pregnancy would have those consequences. But it is theoretically possible that such a belief could be found to be absent even in the face of compelling evidence of such risk and probabilities.

- ii) The Northern Ireland test makes a distinction between the risk of death, on the one hand, and the probability of long-term harm to physical or mental health. No such distinction is made in the *Bourne* test.

THE POSITION IN AUSTRALIA

19. *R v Wald* (1971) 3 NSWDCR 25 is considered to be the leading case in Australia on the subject. In relation to provisions once again almost identical to ours, Levine DCJ formulated the following test (at p. 29):

...for the operation to have been lawful ... the accused must have had an honest belief on reasonable grounds that what they did was necessary to preserve the women involved from serious danger to their life, or physical or mental health which the continuance of the pregnancy would entail, not merely the normal dangers of pregnancy and childbirth; and that in the circumstances the danger of the operation was not out of proportion to the danger intended to be averted.....

It may be that an honest belief be held that the woman's mental health was in serious danger as at the very time when she was interviewed by a doctor, or that her mental health, although not then in serious danger, could reasonably be expected to be seriously endangered at some time during the currency of the pregnancy if uninterrupted. In either case such a conscientious belief on reasonable grounds would have to be negated before an offence under s83 of the Act could be proved.

20. This test is not too far different from the one earlier formulated by Menhennitt J in *R v Davidson* (1969) VR 667, at 672:

... the Crown must establish either (a) that the accused did not honestly believe on reasonable grounds that the act done by him was necessary to preserve the woman from a serious danger to her life or her physical or mental health (not being merely the normal dangers of pregnancy and childbirth) which the continuance of the pregnancy would entail; or (b) that the accused did not honestly believe on reasonable grounds that the act done by him was in the circumstances proportionate to the need to preserve the woman from a serious danger to her life or her physical or mental health (not being merely the normal dangers of pregnancy and childbirth) which the continuance of the pregnancy would entail.

21. More recently, in *R v Sood* [2006] NSWSC 1141 (31 October 2006), Simpson J, applying *Wald*, stated the test as follows (at para 17):

Unlawfulness is thus established if the Crown proves, beyond reasonable doubt, one or more of the following:

- (i) that the accused person did not honestly and genuinely hold the requisite belief (i.e. that termination of pregnancy was necessary in order to protect the mother from serious danger to her life or health, whether physical or mental); or
- (ii) that, if and to the extent that, such a belief were held, it was not based upon reasonable grounds; or
- (iii) that a reasonable person in the position of the accused would have considered that the risk of termination was out of proportion to the risk to the mother of the continuation of the pregnancy.

22. There are again significant differences between the test as formulated in Australia and that in both England and Northern Ireland. The major difference is that in Australia even an honest and genuine belief in the requisite consequences of not performing the abortion would not be sufficient if the belief was not based on reasonable grounds. In other words, it appears that the test in Australia has an objective element not present in Northern Ireland.

23. Of significance also are the factors which a jury is allowed to take into account in deciding whether there are grounds for the requisite belief. These are not limited to medical factors but include economic and social considerations. In *Wald* Levine DCJ said (at p. 29):

It would be for the jury to decide whether there existed in the case of each woman any economic, social or medical ground or reason which in their view could constitute reasonable grounds upon which an accused could honestly and reasonably believe there would result a serious danger to her physical or mental health.

24. It is noteworthy that such an approach received the expressed approval of Kirby P in the Court of Appeal of New South Wales in *CES v Superclinics (Australia) Pty Limited* (unreported, 27th October 1995). Moreover, Kirby P. was careful to point out that the harmful effects to a woman's health which were relevant were not limited to those becoming apparent during the pregnancy alone but included harmful effects after the child was born as well. He said (at para 60):

The test espoused by Levine DCJ (in *Wald*) seems to assert that the danger being posed to the woman's mental health may not necessarily arise at the time of consultation with the medical practitioner, but that a practitioner's honest belief may go to a reasonable expectation that that danger may arise "at some time during the currency of the pregnancy, if uninterrupted" (emphasis added). There seems to be no logical basis for limiting the honest' and reasonable expectation of such a danger to the mother's psychological health to the period of the currency of the pregnancy alone. Having

acknowledged the relevance of other economic or social grounds which may give rise to such a belief, *it is illogical to exclude from consideration, as a relevant factor, the possibility that the patient's psychological state might be threatened after the birth of the child, e.g. due to the very economic and social circumstances in which she will then probably find herself.* Such considerations, when combined with an unexpected and unwanted pregnancy, would, in fact be most likely to result in a threat to a mother's psychological health after the child was born when those circumstances might be expected to take their toll. (Emphasis added)

THE POSITION IN TRINIDAD AND TOBAGO

25. It can be asserted with confidence that, when a case does come to be considered by the courts of Trinidad and Tobago, a defence along the lines of *Bourne* will be accepted as part of our law. The defence developed on the basis of the use of the word "unlawfully" in England and Wales, Northern Ireland and Australia is now too firmly entrenched to be ignored. It is therefore clear that it is lawful in Trinidad and Tobago to carry out an abortion in the honest belief that it is necessary to protect the woman involved from danger to her life, or physical or mental health. What is not clear at this stage is whether any of the refinements which have taken place elsewhere will be adopted here. The most that can be said is that, like all cases from other common law jurisdictions, the views expressed in Northern Ireland and Australia will be given due consideration and will only be departed from with good reason.

And I so advise.



Douglas L Mendes S.C.

20th August 2007

contents

- 1 Acknowledgements
- 2 Introduction
- 3 Overview:
A Situational Analysis of Unsafe Abortion in Trinidad and Tobago
- 13 References
- 15 Some useful websites for further reference
- 17 Appendix:
*A Legal Interpretation of the Trinidad and Tobago Abortion Law
by Douglas Mendes S.C.*
- 28 Acronyms

Published in October 2008
By The Family Planning Association of Trinidad and Tobago
79 Oxford Street
Port of Spain

Tel: 623 5169/ 4764
Fax: 625 2256
Email: fpattrep@ttfpa.org
web: <http://www.ttfpa.org>

Funded by



© 2008, *The Family Planning Association of Trinidad and Tobago.*
Design and Print Production: Design Workshop
Produced by The Family Planning Association of Trinidad and Tobago

ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
ASPIRE	Advocates for Safe Parenthood: Improving Reproductive Equity
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
DAWN	Development Alternatives with Women for a New Era
D & C	Dilation and Curettage
DHS	Demographic Health Survey
EC	Emergency Contraception
FIGO	International Federation of Gynaecology and Obstetrics
FPATT	Family Planning Association of Trinidad and Tobago
GOSTT	Gynecological/Obstetrical Society of Trinidad and Tobago
HIV	Human Immunodeficiency Virus
IPPF	International Planned Parenthood Federation
IPPF/WHR	International Planned Parenthood Federation / Western Hemisphere Region
IUD	Intra Uterine Device
MDGs	Millennium Development Goals
MOH	Ministry of Health
NGO	Non-Governmental Organization
PAHO/WHO	Pan-American Health Organization/World Health Organization
SRH	Sexual and Reproductive Health
TTDHS	Trinidad and Tobago Demographic Health Survey
UNFPA	United Nations Population Fund



The Family Planning Association
of Trinidad and Tobago
79 Oxford Street
Port of Spain

Tel: 623 5169/ 4784
Fax: 625 2256
Email: fpattrep@ttfpa.org
Web: <http://www.ttfpa.org>