

**Help & Shelter's comments and recommendations in response to "Stamp It Out" -  
Consultation Paper on strengthening protection against sexual violence and reforming the law on  
sexual offences issued by the Ministry of Labour, Human Services and Social Security**

1. Help & Shelter is a non-governmental organisation which has been working for 12 years with victims of domestic and sexual violence. This work involves counselling and the provision of court support
2. The proposed reform is strongly endorsed and Help & Shelter looks forward to early enactment of new legislation as well as the provision of the required infrastructure to ensure that the legislation can be implemented adequately.
3. The responses are organised around the structure of the document.

## **Chapter 5 – Offences**

Help & Shelter supports the proposals for the sexual offences, especially the expanded definition of rape which is gender-neutral. In addition, we strongly recommend that perpetrators who are HIV + and are aware of their status and knowingly infect any person should be charged for attempted murder/or manslaughter.

### Consent (paras 64-74)

We recommend the inclusion of a provision that consent should not be inferred from evidence of sexual arousal in the victim. Sexual arousal is a normal, involuntary physiological reaction and does not necessarily mean there was consent, that the victim wanted to be raped or sexually assaulted, or that the survivor enjoyed the traumatic experience.

### Obstructing prosecution (paras 96-98)

Police officers receiving reports of sex offences should act on these reports immediately, failing which they should be prosecuted. Persons who use their influence &/or money to stop any sexual offence from being prosecuted should likewise be prosecuted.

## **Chapter 6 – Report, Investigation and Charge**

Help & Shelter welcomes the proposed introduction of sexual assault referral centres. We hope that the commitment to establish them will translate into reality, as has not been the case with, inter alia, the domestic violence units that the police force undertook to introduce some ten years ago. Adequate provision for the establishment and operation of the centres must be made in the national budget.

We endorse the establishment of a forensic laboratory for the processing of DNA and other evidence. This will of course again require substantial budgetary provision.

### Bail

We recommend that there should be no bail for serious sexual offences, as is the case not only with murder but narcotics offences and trafficking in persons.

### Court support service

In addition to the (very good) integrated services outlined for assisting victims of sexual violence, we recommend that a nationwide court support service be established. Help & Shelter has provided this service for a number of years and our experience is that it helps not only in the prosecution of cases but also in the emotional, physical and psychological recovery of victims. Help & Shelter would be willing to provide training of persons identified to act as court support counsellors at both community and regional levels.

## **Chapter 7 -Procedures at Court –**

### Para 190 Hearings in camera

In addition to making *in camera* hearings mandatory, we recommend that the legislation specifically debar the media from access to sexual offence cases and place stringent restrictions on reporting for the following reasons:

1. There appears to be misunderstanding on the part of both media operatives and some judges and magistrates as to the meaning of *in camera*, with the result that in many instances even though courts are cleared of members of the public, media operatives are allowed to remain.
2. At present sexual offence cases are reported in the minutest detail, irrespective of whether the proceedings are being held *in camera*. This makes a mockery of and defeats the entire purpose of *in camera* proceedings as members of the public who are debarred from sitting in court can still receive all the 'juicy' details sitting in their offices, homes, or wherever. The only aspect which is not usually revealed by newspapers – and this is breached on occasions - is the identity of the victim.
3. The lurid and at times sensational reporting of sexual offence cases acts as a deterrent to reporting as it

causes intense embarrassment and further increases feelings of shame and depression in victims. Many victims refuse to report sexual offences because of the prospect of newspaper coverage.

4. To leave the media to monitor and police themselves with guidelines for responsible behaviour does not work. Restrictions on revealing the identity of victims alone are not enough.

### **Chapter 8 – Evidence**

We endorse all the proposals.

### **Chapter 9 – Sentencing**

We endorse all the proposals.

Para 288 – A repeat offender should not be granted bail (in the event that the recommendation for no bail is not accepted) and time should be added for rehabilitation. A repeat offender who is an addict should be referred to an appropriate rehabilitation centre after his release from prison. Rehabilitation should be the state's responsibility.

### **Chapter 10 – Prevention**

#### Data collection, analysis and publication (paras 315-319)

Special attention must be paid to data collection and analysis. Data collected must be not only quantitative but qualitative in order that the extent to which the services are meeting acceptable standards may be measured.

#### Local Committees for the Prevention of Sexual Violence (para 332)

We recommend that these committees also deal with domestic violence and human trafficking in view of the interrelation of these with sexual violence.

#### Register of sex offenders (paras 334-338)

We suggest that a system similar to that which applies in the UK and Trinidad & Tobago be adopted. Given the small size of Guyanese society we are of the view that the mere existence of a register would have some value as a deterrent. Pedophiles are notorious for being repeat offenders and counselling and rehabilitation of serial sexual offenders has a very limited success rate. Our experience does not support the conclusion that "a small percentage of offenders who have previous convictions".

### **General**

All other proposals are endorsed.

We do however have the following concerns:

- We are concerned that the failure to decriminalise consensual same-sex relationships will further contribute to the homophobia which prevents the reporting of sexual violence from male victims. We recommend that section 351 of the Criminal Law Offences Act be repealed as part of this reform
- We note that with increased reporting there will be a need for an increased number of remand and prison facilities with the necessary rehabilitation programmes. Provision must be made for the necessary funds.
- Substantial resources will be required to implement the new legislation. While the legislation is a first step, sufficient budgetary provision must be made to support the mechanisms that will be essential to proper implementation.