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American States



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BELÉM DO PARÁ CONVENTION (MESECVI)
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BELEM DO PARA CONVENTION**
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**Second Follow-up Report on the Recommendations of the
Committee of Experts of the MESECVI
(Unrevised version)**

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Introduction

- 1 The duty to proceed with due diligence to prevent, investigate, and punish all forms of violence against women, whether perpetrated in the home, community, or the public sphere, and in public policies to eradicate them, characterizes the approach taken in the work of the Mechanism to Follow Up on the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (MESECVI).
- 2 Now 20 years since entry into force of the Belém do Pará Convention, the due diligence principle, in conjunction with the norms of the American Convention on Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the other international human rights legislation, form a large legislative and political framework in which are developed the obligations of the States Parties to respect and guarantee each right enshrined in the Conventions, provide effective judicial guarantees for its due protection, and ensure that the necessary positive steps are taken to guarantee the right of women and girls to a life free from violence and to develop free from stereotypical patterns.
- 3 Since the first Hemispheric Report (2007), the MESECVI has emphasized that with the adoption of the Convention, “[m]ajor achievements in the prevention and punishment of violence against women have been attained,” and there is greater awareness on the part of the States on the need to address this issue.” Nonetheless, “much still needs to be done to make effective the right of women to a life free of violence.”¹
- 4 This report is one of the efforts made by the Mechanism as a multilateral entity to further the achievements and narrow existing gaps between formal recognition of rights and their effective exercise by women and girls in the region, and constitutes an essential effort to identify the complex factors and judicial, political, and social obstacles persisting in our cultures that enable violence and discrimination to continue to impact the daily lives of women in the region.
- 5 The MESECVI is aware of the complexity of the task set and the lack of systematized information on the situation of women’s human rights in the region, as well as the uneven development of legal standards in this area and the diverse dynamics of women’s participation in the evaluation, follow-up, and public policy decision-making processes themselves. Therefore, the MESECVI wishes to recognize especially the 19 States in this report that provided official information and, often, developed information that until then had not been systematized.
- 6 The preparation of this Report posed a major challenge for the Committee of Experts of the MESECVI (CEVI) which, with support from the States Parties and a large number of organizations working for women’s human rights, made it possible to fill these pages with content and provide a regional overview of the most important advances in this area and of challenges still confronted by the region.

¹ MESECVI (2008). First Hemispheric Report. P. 3.
<http://www.oas.org/es/mesecvi/docs/InformeHemisferico2008-SP.pdf>

MESECVI

1. MESECVI: Creation and operation of the Mechanism to Follow Up on the Belém do Pará Convention (MESECVI)

- 7 Latin America and the Caribbean is the region that has made the most progress with formal recognition of women's rights.² In fact, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, also known as the "Belém do Pará Convention," was a groundbreaking instrument in that it put violence against women on the international public agenda and recognized it as a human rights violation.
- 8 Moreover, the Convention imposes positive obligations on the States to prevent, address, and punish violence against women. The Belém do Pará Convention has also served as inspiration and reference for the modernization of legislative frameworks in the region and, recently, as a source of inspiration for the Council of Europe, whose Istanbul Convention³ recognizes violence against women as a violation of their human rights.
- 9 Since 1994, the Belém do Pará Convention has been the most widely-ratified Inter-American convention.⁴ Five years after its entry into force, the Inter-American Commission of Women (CIM) conducted research that showed that the objectives of the Convention were not being implemented.⁵ Ten years later, in response to the growing demand from women for this to be addressed, in October 2004⁶, the Conference of States Parties of the Convention adopted the Statute of the Mechanism to Follow Up on the Violence Convention (MESECVI).
- 10 The creation of the MESECVI constituted the institutionalization of the political intent of the States to obtain a consensus-based and independent system for the evaluation of their progress in implementing the Convention through the implementation of the

² Organization for Economic Co-operation and Development (OECD): *Atlas of Gender and Development: How Social Norms affect Gender Equality in non-OECD Countries* (Paris, 2010), p. 92,

http://www.oecd.org/document/50/0,3746,en_2649_33935_44810034_1_1_1_1,00.html

³ Council of Europe (2011): Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

<http://www.coe.int/t/dghl/standardsetting/convention-violence/convention/Convention%20210%20English.pdf>

⁴ Only Canada and United States are not Parties to it, for which reason, they did not participate in the Mechanism to Follow Up.

⁵ Inter-American Commission of Women (2001) *Violencia en las Américas - Un Análisis Regional*. http://www.oas.org/es/cim/docs/Violence_in_the_Americas-SP.pdf

⁶ The OAS General Assembly has adopted the following resolutions on the MESECVI: (1) AG/RES. 1942 (XXXII-O/03), in which it receives the biennial report on fulfillment of the Belém do Pará Convention and urges the Secretary General to convene, in coordination with the CIM, a conference of states parties to the Convention of Belém do Pará to decide on the most appropriate way to follow up on the Convention; (2) AG/RES. 2012 (XXXIV-O/04), in which it urges member states to continue supporting the efforts of the CIM in the process of creating and implementing the MESECVI; and (3) AG/RES. 2138 (XXXV-O/05), in which it urges member states, inter alia, to continue to move forward with the implementation of the MESECVI. The Inter-American Commission adopted the following resolutions in implementation of the General Assembly resolutions: CIM/RES. 224/02 (XXXI-O/02) and CIM/REMIM-II/RES. 6/04.

recommendations arising from the Mechanism itself⁷ and from the inter-American standards of the treaty oversight bodies.

- 11 Article 1 of the Statute of the Mechanism indicates that in addition to following up on the commitments assumed by the States Party of the Belém do Pará Convention, a purpose of the MESECVI is to promote the implementation of the Convention and contribute to achievement of the objectives established therein and to establish a system of technical cooperation among the states parties, which shall be open to other member states and permanent observer states.⁸ To serve these purposes, the Mechanism is designed with two fundamental components: the Conference of States Parties and the Committee of Experts (CEVI).
- 12 • The **Conference of States Parties** is composed of the 32 member states of the Organization of American States (OAS) that signed, ratified, or acceded to the Belém do Pará Convention, and its main responsibilities are: (i) establish guidelines for the work of the CEVI; (ii) receive, analyze, and evaluate the reports and recommendations of the CEVI; and (iii) publish and disseminate the Hemispheric Report of the MESECVI. The Conference meets every two years.
- 13 • The **Committee of Experts** is composed of national experts in the matters encompassed by the Convention, appointed by their respective States Parties to serve the MESECVI in an individual capacity. Its main functions include: (i) draft its working methods and establish a work schedule; ii) receive and evaluate the reports of the states parties and issue its recommendations; (iii) present its reports to the Conference of States Parties.

2. System for Evaluation and Follow up to the Implementation of the Convention

- 14 The MESECVI functions through Multilateral Evaluation Rounds, which have two stages:
 - **Evaluation:** during which the CEVI analyzes the implementation of the Belém do Pará Convention based on questionnaires completed by the States Parties, and prepares recommendations for them;
 - **Follow-up:** during which the CEVI distributes an additional questionnaire to the States Parties on the implementation of its specific recommendations, and prepares a Hemispheric Report.

⁷ Report of the Technical Secretariat of the Follow-Up Mechanism to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, *Convention of Belém do Pará*, to the XXXIII Assembly of Delegates of the CIM. OEA/Ser.L/II.2.33 CIM/doc.10/06 23 October 2006. See: <http://www.ramajudicial.gov.co/csj/downloads/UserFiles/File/ALTAS%20CORTES/CONSEJO%20SUPERIOR/ARC%20HIVOS%20CONTENIDO/INFORME%20DE%20LA%20SECRETARIA.pdf>

⁸ Article 1 Purposes/objectives

1.1 The purposes of the Mechanism shall be: a) To follow up on the commitments undertaken by the states parties to the Convention and review how they are being implemented; b) To promote the implementation of the Convention and contribute to achievement of the objectives established therein;

- 15 During the **evaluation stage**, the reports are presented to the Conference of States Parties and published and disseminated at the regional and national levels. As of the date of this publication, 56 country reports, of the States that participated in the two Multilateral Evaluation Rounds,⁹ have been published, as have two Hemispheric Reports on the implementation of the Belém do Pará Convention (2008 and 2012).
- 16 At the **follow-up stage**, the Committee of Experts establishes a series of indicators to be used in analyzing the implementation of the recommendations that arose from the evaluation stage. Based on the information provided by the States, the Committee prepares a follow-up report on the recommendations, which is subsequently referred to the Conference of States Parties for adoption.¹⁰ Thus far, one follow-up report has been published¹¹ (2011), and this document constitutes the second hemispheric follow-up report on the recommendations of the CEVI.
- 17 From its inception, the MESECVI has sought, in each of its Rounds, to support or strengthen the approach necessary to provide more detailed information on the situation of woman and girls, Afro-descendant women, indigenous women, women farmers, Lesbians, transsexuals and intersexuals, and victims of different factors of discrimination. The Mechanism has also been instrumental in pointing especially to efforts to protect women in the context of armed conflicts and natural disasters.

a) Mandate to Follow-up on the Implementation of the Recommendations

- 18 In July 2013, the MESECVI launched the Second Follow-up Round, pursuant to Article 25 of the Rules of Procedure of the Committee of Experts.¹² During this process, the Technical Secretariat of the Mechanism, in accordance with Articles 25 and 27 of the Rules of Procedure,¹³ sent to the States Parties to the Convention, and to civil society organizations duly accredited to the OAS, the *Progress Indicators for Measuring the Implementation of the Inter-American Convention on the Prevention, Punishment and*

⁹In the first Evaluation Round, 28 reports were published, corresponding to the states of Argentina, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Saint Lucia, Suriname, Trinidad and Tobago, Uruguay, and Venezuela.

¹⁰ Article 25. Follow-Up. (...) The draft project on the implementation of the recommendations must be submitted to the approval of the Conference, and upon its approval, it will be passed to the Delegate Assembly of the CIM, and of the General Assembly of the OAS. The regulation of the Committee of Experts of the Follow-Up Mechanism of the Implementation of the Inter-American Convention to prevent, sanction, and eradicate violence against women “Convention of Belém do Pará” (Approved in the first meeting of the Committee of Experts, celebrated in Washington D.C. on August 22nd to 24th, 2005)

¹¹ MESECVI (2011). Follow-Up Report on the Recommendations Made by the CEVI in the Evaluation Stage of the First Multilateral Evaluation Round. MESECVI-III/doc.57/11. <http://www.oas.org/es/mesecvi/biblioteca.asp>

¹² CEVI (2005). “Article 25. Follow-Up. (...) The MESECVI Secretariat shall send each *State Party* the form approved by the *Committee* for follow-up on implementation of recommendations to countries in order for them to describe progress in implementation of such recommendations on the date set by the *Committee*, in accordance with the provisions of Article 7.o of these *Rules*.” Rules of Procedure of the Committee of Experts of the Mechanism to Follow Up on the Implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women “Convention of Belém do Pará” (Adopted at the First Meeting of the Committee of Experts (CVI), held in Washington, D.C., on August 22-24, 2005). <http://www.oas.org/en/mesecvi/process.asp>

¹³ *Ibid.*

*Eradication of Violence against Women “Belém do Pará Convention,”*¹⁴ adopted by the Committee of Experts in May 2013.¹⁵

- 19 At the request of several countries, the Secretariat of the MESECVI extended the periods for receipt of replies from the States to these progress indicators until June 9, 2014. Of the 32 countries party to the Belém do Pará Convention, 19 provided information utilizing the system of indicators.
- 20 Contributions to this Report were also received from seven civil society organizations registered with the OAS,¹⁶ and the Experts also consulted different information sources. The Report does not contain information on or the status of implementation of the recommendations by the States that did not provide information utilizing the system of indicators, since this Report is part of the mechanism for multilateral exchange, for which active participation by the States is required. However, for purposes of evaluating legislative development in the region, the legislation of the 32 States Parties to the Convention was analyzed.
- 21 In its capacity as the Technical Secretariat of the MESECVI, the CIM has identified as a major challenge the approach, from a perspective of technical monitoring and exchange of best practices,¹⁷ to the different information compilation processes now implemented in a large number of English-speaking Caribbean countries. However, those efforts are still being refined, so that we understand the low level of participation by the CARICOM States.¹⁸ Nonetheless, the Report compiles available public information on some of the areas analyzed, such as legislation and national plans. In the cases of Haiti, Honduras, and Nicaragua¹⁹, the Mechanism is continuing its efforts to obtain their more effective participation in the exchange mechanism.

¹⁴ CEVI (2013): Progress Indicators for Measuring the Implementation of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Belém do Pará Convention” (Adopted by the Committee of Experts (CEVI) on 21st May 2013). MESECVI/CEVI/doc.188 /13 rev.1.

¹⁵ *Ibid.*

¹⁶ CLADEM (Regional and national reports: Brazil, Colombia, El Salvador, Nicaragua, Paraguay, Perú, República Dominicana y Uruguay); Foro Mujeres MERCOSUR (Argentina); ORMUSA and CEJIL (El Salvador); Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C. – CMDPDH (México); Coalición Regional Contra el Tráfico de Mujeres y Niñas en América Latina y el Caribe (México); Women’s Global Network for Reproductive Rights – WGNRR et al (República Dominicana); y Fundación Construir (Bolivia).

¹⁷ The Inter-American Commission of Women has developed a platform on best practices to address violence against women, accessible at: www.belemdopara.org

¹⁸ Caribbean Community (CARICOM)

¹⁹ Nicaragua informed to the MESECVI on October 8th that the State does not approve the Second Follow-up Report on the Implementation of the Recommendations by the Committee of Experts (CEVI) of the MESECVI, given that the country was not part of the preparation of the cited report.

Table No. 1: Countries that replied during the follow-up stage of the Second Multilateral Evaluation Round.

Countries that provided a report	Countries that did not provide a report
Argentina	Antigua and Barbuda
Barbados	Bahamas
Bolivia	Belize
Brazil	Dominica
Chile	Guyana
Colombia	Haiti
Costa Rica	Honduras
Dominican Republic	Jamaica
Ecuador	Nicaragua
El Salvador	Saint Kitts and Nevis
Grenada	Saint Vincent and the Grenadines
Guatemala	Saint Lucia
Mexico	Trinidad and Tobago
Panama	
Paraguay	
Peru	
Suriname	
Uruguay	
Venezuela	
Total: 19	Total: 13

II. Follow-up of the Recommendations

1. General Recommendations of the Hemispheric Report

- 22 In its Second Hemispheric Report (MESECVI, 2012), the Committee issued a total of 42 recommendations,²⁰ grouped in six areas: legislation; national plans; access to justice; specialized services; budget; and information and statistics. Those areas resulted from the Mechanism's first consultation round, and the areas, in turn, served as the basis for the launch of the Second Evaluation and Follow-up Round. The first Hemispheric Report provided, based on those areas, a general assessment of the conditions in which the region's women exercised the rights enshrined in the Convention, and the Second Hemispheric Report analyzes regional progress based on those 42 recommendations.

Table No. 2: Organization of the recommendations issued by the Committee

Legislation	National Plans	Access to Justice	Specialized Services	Budget	Information and Statistics	Total
16	5	8	4	3	6	42

- 23 In the present Follow-up stage, the analysis of the implementation of the specialized services was executed in the context of the access to justice, as an essential axis of the right and as a part of the duties of the State to guarantee the actions and services without discrimination.
- 24 The Committee also deemed it advisable to accord to diversity the same importance as was accorded to the aforementioned areas, following a wide-ranging discussion thereon at the Ninth Meeting of the CEVI. Therefore, the Committee has added diversity to the matrix of indicators and, in this report, as a seventh section, pursuant to Article 9 of the Convention.

2. Methodology and Matrix for Follow-up on the Recommendations

- 25 The Committee prepared the *Progress Indicators for Measuring the Implementation of the Belém do Pará Convention*, incorporating outcome indicators into the structure of structural and process indicators of the First Round. Thus, the matrix contained in the document distributed to the States Parties and civil society organizations that participated in this Second Follow-up Round takes a long look in order to link each type of indicator with the different recommendations and with one or more articles of the Belém do Pará Convention, seeking thereby to compile the different efforts made by the States.
- 26 Therefore, the indicator document fulfills two purposes. On the one hand, it is the basis for gathering information from the States to measure the implementation of the recommendations and of the Belém do Pará Convention and, on the other, it establishes a

²⁰ MESECVI (2012). Second Hemispheric Report on the Implementation of the Belém do Pará Convention, pp. 97-102. <http://www.oas.org/en/mesecvi/docs/MESECVI-SegundoInformeHemisferico-EN.pdf>

technical roadmap for use by the States in strengthening information compilation and generating relevant statistics, in a systematic manner, on violence against women, the measures implemented to eradicate it, and the outcomes obtained through the implementation of these measures.

- 27 This system of indicators is based on the indicator model promoted by the Inter-American human rights system, specifically the Inter-American Commission on Human Rights (IACHR),²¹ and also adopted by the OAS General Assembly²² as a matrix for the working group on the Protocol of San Salvador. The indicators assist in analysis of the different levels of commitment, efforts, and outcomes of the States in implementing public policies formulated in the light of the international obligations derived from the Convention. Based on this model, the CEVI has developed a series of indicators for its use in following up on the different efforts made in the region since the entry into force of the Convention and, specifically, since the presentation of the 42 general recommendations of the MESECVI's 2012 Hemispheric Report. The replies presented in connection with to these indicators and the comparison of replies provided at the evaluation stage were a fundamental tool in the exercise of measuring progress made through the measures implemented.
- 28 The structural indicators measure constitutional or legal recognition of rights and reflect the commitment of the States to ratifying or adopting international legal instruments and national or sector measures or plans. For examples, structural indicators identify whether legal norms, strategies, policies, plans, programs or public agencies are in place for the implementation of women's rights²³ in general and, in particular, women's right to a life free from violence.
- 29 For their part, the process indicators make it possible to establish, with a reasonable degree of objectivity, the gap between reality and the standard or desired goal.²⁴ They quantify the measures of public policies and specific interventions that a State is willing to adopt to fulfill its commitment to achieving results corresponding to the realization of a specific human right,²⁵ in this case, the human rights of women, girls, and adolescents enshrined in the Belém do Pará Convention.
- 30 The outcome indicators reflect the exercise of a human right. They seek to measure the actual impact of the State's strategies, programs, and interventions as guarantees of women's rights. Their aim is to facilitate a quantitatively verifiable and comparable measure of the progressive realization of rights. Improvements in outcome indicators may

²¹ Organization of American States (2008). Guidelines for Preparation of Progress Indicators in the Area of Economic, Social and Cultural Rights. OEA/Ser.L/V/II.132.

<http://www.cidh.org/countryrep/IndicadoresDESC08eng/Indicadoresindice.eng.htm>

²² IACHR. Guidelines to elaborate indicators son Economic, Social and Cultural Rights.

<http://www.cidh.org/countryrep/IndicadoresDESC08sp/Indicadores1.sp.htm>

²³ CEVI (2013), op. cit.

²⁴ ACHR. Guidelines to elaborate indicators son Economic, Social and Cultural Rights.

<http://www.cidh.org/countryrep/IndicadoresDESC08sp/Indicadores1.sp.htm>

²⁵ United Nations (2008). Report on Indicators for Promoting and Monitoring the Implementation of Human Rights. http://www2.ohchr.org/english/issues/indicators/docs/HRI.MC.2008.3_en.pdf

be a sign that the measures adopted were appropriate and suggest gradual progress toward the full and effective exercise of rights²⁶ whose realization it is sought to measure.

- 31 Lastly, indicators were supplemented with qualitative signs of progress. In this category, the Committee requested information from the States on the number and characteristics of the civil society organizations participating in the monitoring of public entities and the existence of social audit reports and studies of user satisfaction with the quality of services. The objective of these indicators is to ascertain the perception of the social actors²⁷ and the significance they attach to policies and services relating to the prevention, punishment, and eradication of violence against women.
- 32 The Committee is aware that the change of tool and the disparity between the information provided and that available at the regional level meant that analyzing the indicators was a complex and challenging task both for States, the participating organizations, and the Committee itself. However, it hopes that the ongoing use of follow-up indicators as a daily work tool for all actors of the Mechanism will serve as a roadmap as we move together towards the full realization of women's rights.

²⁶ CEVI (2013). op. cit., indicator document, MESECVI/CEVI/doc.188 /13 rev.1, p. 9.

²⁷ CEVI (2013). op. cit., indicator document, MESECVI/CEVI/doc.188 /13 rev.1.

III. Implementation of the Recommendations

33 At this follow-up stage, the Committee examined the level of implementation of the 42 general recommendations issued in 2012, based on the following methodology: (a) legislative analysis of the 32 States Parties;²⁸ (b) the replies to the matrix of indicators provided by 19 States as of June 2014; (c) the seven alternative reports provided by organizations accredited to the OAS; and (d) the information contained in the country reports submitted in the framework of the Second Multilateral Evaluation Round.

1. Legislation – Articles 1, 2, 3, 4 and 7 c), e) and g) of the Belem do Para Convention

34 Since its inception, in its analysis, the Committee has especially emphasized moving forward with the region's legislative harmonization process in order to measure the implementation of the Belém do Pará Convention at the national level. In that regard, the Committee has been following up especially on five fundamental mandates of the Convention in the legislative area, these being:

35

- a) The concept of violence established in laws to protect women's right to a life free from violence and stereotypes (Article 1);
- b) The different types of violence to be punished by the criminal legislation of the States Parties (Article 2);
- c) The spheres of application of norms developed to protect women and girls (Article 3);
- d) The existing legislative framework for the prevention, punishment, and eradication of violence in all spheres, and the modification of existing legislation that perpetuates violence (Article 4.c and 4.e); and
- e) Adjustment of the State apparatus through norms and procedures to guarantee women's rights to the truth, justice, and reparation (Article 4.g).

36 Since the first Hemispheric Report, the CEVI has noted the large number of laws in the region which, based on models previously established by specialized organizations,²⁹ protected women's rights in the area of domestic or intra-family violence; or protected the institution of the family without taking account of the need to implement public policies for the eradication of violence; or that lacked a gender perspective; or that did not take account of the reality of the diversity of women in the region.

37 To advance towards a region that not only punishes violence but also recognizes the causes and consequences of the different types of violence against women, and these, in turn, as a human rights violation, the Committee of Experts, in the Second Hemispheric

²⁸ The information on legislation is publicly available and accessible, which enabled the Technical Secretariat to deepen its analysis of several of the recommendations and make a more exhaustive comparison of the progress by and challenges confronting the 32 States Parties.

²⁹ MESECVI (2008). First Hemispheric Report
<http://www.oas.org/es/mesecvi/docs/InformeHemisferico2008-SP.pdf>

Report on the Implementation of the Belém do Pará Convention (2012) issued the following 16 recommendations on legislation:

1.1 Harmonization with the legal framework

1.2 Mediation, conciliation and other forms of resolution in cases of violence

1.3 Violence in the private sphere

- a. Conceptualization of family violence
- b. Rape within marriage/de facto unions

1.4 Violence in the public sphere

- a. Trafficking persons
- b. Forced prostitution
- c. Sexual harassment
- d. Violence perpetrated or tolerated by the State and its agents

1.5 Femicide

1.6 Sexual and reproductive rights

- a. Decriminalization of abortion
- b. Obstetric violence
- c. Forced sterilization and insemination
- d. Emergency contraception and prophylaxis

1.1 Harmonization with the legal framework

Belém do Pará Convention, Article 1

(...) Violence against women: any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.

- In its first Recommendation,³⁰ the Committee urged the States Parties **to amend the legal framework to bring it into line with the definition of violence against women established in the Belém do Pará Convention.**

38 The Committee developed a variety of indicators to measure progress with the implementation of this Recommendation, such as incorporation of the diverse forms of violence against women (physical, sexual, patrimonial, etc); incorporation of the spheres and concept of gender-based violence in keeping with the definition of the Belém do Pará Convention; and the existence of specific laws.

39 In measuring this progress, the Committee recognizes that the States Parties have a high level of commitment to formal recognition in criminal legislation and other types of norms of forms of violence against women as punishable offenses. All States Parties to the Convention do, in fact, establish punishments in their legislative framework for physical, psychological, and sexual violence against women,³¹ although some punish it only in the private sphere. The vast majority (25 States) punish patrimonial or economic violence. Only seven do not.³²

Table No. 3: Forms of violence against women in legislation

Forms of violence against women (regardless of sphere—public or private)	Number of countries the define these in their legislation (of a total of 32)	Percentage
Sexual	32	100%
Physical	32	100%
Psychological or emotional	32	100%
Patrimonial, financial, or economic	25	78%

*Source: In-house, based on a legislative review conducted by the Technical Secretariat of the MESECVI in July 2014.

³⁰ MESECVI (2012), op. cit. **Recommendation No. 1:** Amend and/or harmonize the legal framework concerning the prevention and punishment of violence against women to bring it into line with the definition of violence against women established in articles 1 and 2 of the Belém do Pará Convention.

³¹ Note: Haiti and Jamaica do not have legislation specific to women. However, in the Penal Codes of both countries, this type of violence is punished.

³² Antigua and Barbuda, Chile, Ecuador, Haiti, Jamaica, Paraguay, and Saint Lucia.

- 40 In the cases of Haiti and Jamaica, the law punishes violent acts but does not distinguish whether the victim is a man or a woman, so that it does not expressly recognize the asymmetry of power and that this gender-based violence has disproportionate impact on women.
- 41 As for the spheres in which the different types of violence occur, since 2008, the Committee has recommended that the States Parties legislate on violence against women in the three spheres where it is perpetrated: domestic, community, and state.³³
- 42 The Committee of Experts recognizes the definition contained in the first article of the Convention³⁴ is gradually being incorporated, in whole or in part, in national legislation, primarily in the countries where comprehensive laws on violence against women have been adopted or where the legislation has been updated in the last eight years.³⁵
- 43 The CEVI has also been reiterating the importance of guaranteeing a holistic and effective approach to combating violence against women, and recognizes that a comprehensive legal framework is essential in preventing and addressing the different types of violence of which women are victims, while it is also essential for the State apparatus to be ordered, by law, to guarantee the full exercise of the right to justice and the mechanisms and policies necessary to eliminate the causes of discrimination and violence. In that context, comprehensiveness is of particular importance, since such legal frameworks recognize that violence against women is a violation of their human rights that should be prosecuted and punished, and that the measures necessary to protect the victims, provide reparation for the harm caused, and generate public policies to eliminate it should be guaranteed.³⁶
- 44 Comprehensive laws enable a wide-ranging approach to be taken to violence against women, since that legislation expands protection and makes possible uniform and consistent treatment in the institutions in addressing the diverse forms of violence. As indicated above, since 2011, the Committee, in its first Follow-up Report, indicated that these laws establish common principles and assist in coordinating different actors in generating public policies, access to justice, research, and the compilation of data and statistics.³⁷

³³ MESECVI (2008). first Hemispheric Report on the implementation of the Belém do Pará Convention. <http://www.oas.org/en/mesecvi/docs/InformeHemisferico2008-EN.pdf>

³⁴ Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention) (1994). Article 1: (...) “For the purposes of this Convention, violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.”

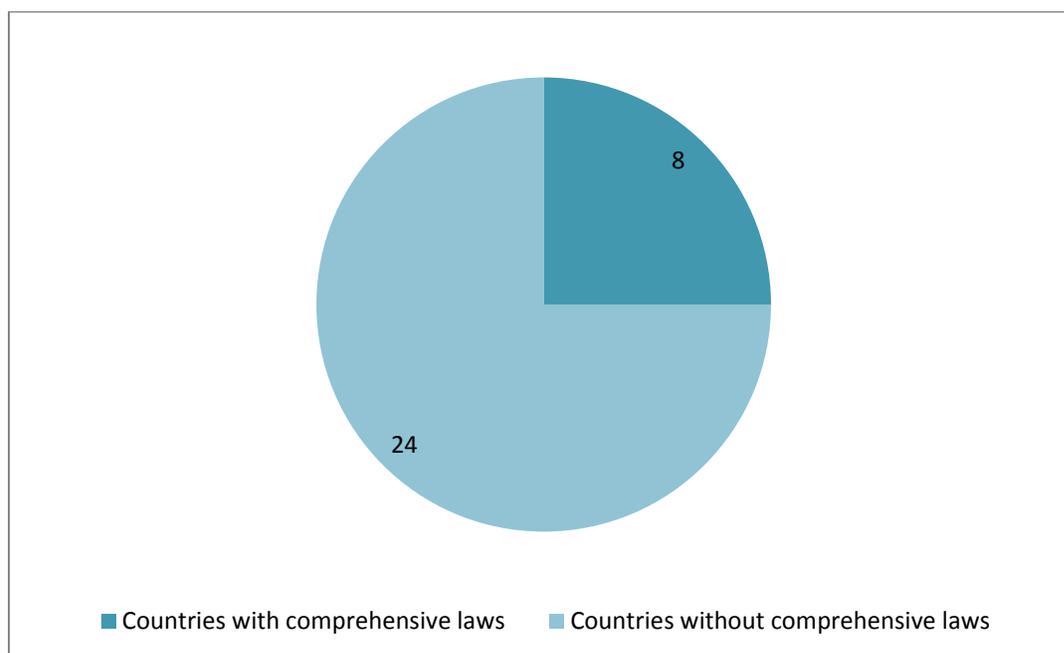
³⁵ MESECVI (2012), op. cit. p. 17.

³⁶ United Nations (2010). Department of Economic and Social Issues. Division on the Progress of Women. Handbook for Legislation on Violence against Women. p. 14 Available at [http://un.org/womenwatch/daw/vaw/handbook/Handbook-for-legislation-on-VAW-\(Spanish\).pdf](http://un.org/womenwatch/daw/vaw/handbook/Handbook-for-legislation-on-VAW-(Spanish).pdf)

³⁷ MESECVI (2011). First Hemispheric Report on the recommendations of the Committee of Experts, made during the evaluation stage of the First Multilateral Evaluation Round. Document MESECVI-III/doc.57/11. <http://www.oas.org/es/mesecvi/biblioteca.asp>. MESECVI (2008). Second Hemispheric Report on the Implementation of the Belém do Pará Convention (2012), p. 17. <http://www.oas.org/es/mesecvi/docs/MESECVI-SegundoInformeHemisferico-ES.pdf>.

45 Although the region's countries are gradually incorporating punishments for psychological, physical, and sexual violence, 75% still lack comprehensive laws on violence against women that cover all types and spheres of violence. Figure 1 shows that only eight of the 32 countries have a comprehensive law on violence against women or on gender-based violence.

Figure 1. Comprehensive laws



* Source: In-house, based on a legislative review conducted by the Technical Secretariat of the MESECVI in July 2014.

Table No. 4: Countries with a comprehensive law against gender-based violence/violence against women:

Country	Comprehensive law
Argentina	Law No. 26.485 (2009). Law for Comprehensive Protection to Prevent, Punish, and Eradicate Violence against Women in the spheres of their interpersonal relations.
Bolivia	Law No. 348 (2013). Comprehensive Law to Guarantee Women a Life free from Violence
Colombia	Law No.1257 (2008), issuing provisions on awareness, prevention, and punishment of forms of violence and discrimination against women, reforming the Penal Code, the Penal Procedural Code, and Law No. 294, of 1996, and issuing other provisions.
El Salvador	Decree No. 520 (2010). Special Comprehensive Law for a Life free from Violence for Women.
Guatemala	Decree No. 22 (2008). Law against Femicide and other Forms of Violence against Women.

Mexico	Decree No. 218 (2007). General Law on Women's Access to a Life free from Violence
Nicaragua	Law No.779 (2012). Comprehensive Law against Violence against Women and Amending Law 641 on the Penal Code.
Venezuela	Law No. 38668 (2007). Organic Law on Women's Right to a Life free from Violence

* Source: In-house, based on a legislative review conducted by the Technical Secretariat of the MESECVI in July 2014.

- 46 The Committee congratulates Argentina, Colombia, El Salvador, Guatemala, Mexico, and Venezuela on their comprehensive laws and views with satisfaction that Bolivia and Nicaragua³⁸ have enacted this type of law following the recommendations issued by the Committee.
- 47 The Committee also received information on reform initiatives under way in some countries on draft comprehensive laws that have been undergoing the legislative process for some years, such as the cases of Paraguay (2012), Peru (2011), and Dominican Republic (2013). In the case of Venezuela, a bill to amend the Comprehensive Law to incorporate femicide in the Organic Law has been before the legislature since 2013. The Committee reiterates its first Recommendation, that the States amend and/or harmonize the legal framework concerning the prevention and punishment of violence against women to bring it into line with the provisions of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention), and encourages broad participation in and definitive enactment of the bills that expand the levels of protection of women's rights. It also makes available all tools of the Mechanism to facilitate the processes of inter-State dialogue that may enrich the exchange of best practices in this area.
- 48 As for Nicaragua, the CEVI commended, in a Note to the State of Nicaragua, the enactment of Law 779.³⁹ However, following its enactment, the Committee received information regarding Presidential Decree 42-2014 (Regulations to Law 779), published on July 31, 2014, which limited the protection of women's rights that had been achieved through the enactment of Law 779. Among other things, the Decree redefines the concept of femicide, limiting it to cases of interpersonal relationships, excluding the other spheres where the violent death of a woman based on gender may occur, establishing as an objective of the law the protection of Nicaraguan families, and creating methods of mediation or conciliation in cases of violence, something that had been put aside in the comprehensive law. All this clearly limited the process of legislative adjustment in line with the Convention that the CEVI had commended with the enactment of the comprehensive law.

³⁸ Bolivia (2013) and Nicaragua (2012). In 2014, a presidential decree was issued in Nicaragua limiting the protection of the rights that had been achieved with the enactment of that's country's comprehensive law.

³⁹ CEVI (2012). Letter addressed to the State of Nicaragua by the Committee of Experts of the MESECVI, signed by the CEVI Coordinator Patricia Olamendi Torres.

1.2 Mediation, conciliation and other forms of resolving complaints of violence against women

- In its fifth Recommendation, the Committee urged **the States to forbid mediation in criminal proceedings on violence against women and urged them to avoid other methods for out-of-court settlement in cases of intra-family violence**, noting the importance of expanding those prohibitions to other cases of violence against women⁴⁰.

49 To measure the implementation of this Recommendation, the Committee incorporated in the system of indicators a request for information on the express prohibition in the legislative framework of the use of methods of conciliation, mediation, probation, and the use of the “principle of opportunity,” commutation of punishment, and other methods for out-of-court settlement in cases of violence against women.

50 Since 2004, the Inter-American Commission of Women, with other international organizations, and, specifically, in the context of the report presented by the Gender and Health Unit of the Pan American Health Organization,⁴¹ has proposed a need to eliminate, generally, the practice of mediation or conciliation in cases of violence against women and, more specifically, in cases of violence at the hands of a partner or former partner.

51 In that regard, the CEVI argues that mediation or conciliation is often detrimental to women victims of violence because conditions of equality are not present that would enable them to participate in equitable negotiations and reach a fair settlement. In these cases, there is often well-founded fear on the part of the victims and coercion on the part of the assailant or “family or community pressure for the women to accept a conciliation procedure.”⁴²

52 In that regard, the IACHR, during the preparation of its report on Access to Justice for Women Victims of Violence, received the disturbing information that in many cases, it is primarily the judicial bodies themselves that promote the use of conciliation during investigation processes as a method of out-of-court settlement in cases of crimes of violence against women, especially crimes of intra-family violence.⁴³ In that regard, the report indicates that: “In a number of countries it has become clear that the agreements reached in the framework of mediation compound the physical and emotional risks for women given the unequal power relationship between the victim and her assailant. As a rule, the assailant does not honor the agreement and the agreement itself does not address the causes and consequences of the violence.”⁴⁴

⁴⁰ MESECVI (2012), op. cit. **Recommendation No. 5:** Forbid the use of conciliation, mediation and other methods for out-of-court settlement, as well as the use of the “principle of opportunity” in cases of violence against women, and harmonize procedural legislation in accordance with said prohibitions. If they are already forbidden

⁴¹ Pan-American Health Organization: Gender and Health Unit (2004) Law and politic modelo on domestic violence against women. <http://cidbimena.desastres.hn/filemgmt/files/LeyModelo.pdf> p. 19.

⁴² MESECVI (2014). Bolivia’s Follow-up report on the recommendations of the CEVI. Second Evaluation Round. NEED CODE.

⁴³ IACHR (2007): Access to Justice for Women Victims of Violence in the Americas, para. 161. Available at: <http://www.cidh.org/women/Access07/tocaccess.htm>

⁴⁴ Ibid.

- 53 Therefore, it is of concern to the Committee that institutions should offer mediation to women victims of violence, making light of gender-based crimes and increasing the jeopardy at which women find themselves. The Committee notes that in the most serious cases, intimate-partner crime culminates in the woman's death,⁴⁵ and the risk to women is often compounded after they decide to leave the violent relationship in which they live.
- 54 In following up on this Recommendation, the Committee noted that new laws against violence against women take account of this concern, although there may be, in practice, different nuances in its formal recognition. Of the 32 States Parties, 19 provided information to the Committee based on the *Progress Indicators for Measuring the Implementation of the Belém do Pará Convention*, and of these, 14 countries replied regarding the prohibition, or lack thereof, of the use of conciliation and mediation methods in resolving cases of violence against women.
- 55 The Committee analyzed each State Party's legislative provisions on mediation and conciliation. The texts of these provisions and the replies received show that the following three methods of regulating alternative dispute resolution methods in the context of crimes of violence against women are employed:
- a) The use of mediation or conciliation in cases of violence against women (Ecuador,⁴⁶ Bolivia,⁴⁷ Costa Rica,⁴⁸ Panama,⁴⁹ Paraguay,⁵⁰ and Dominican Republic⁵¹)
 - b) Prohibition of mediation or conciliation in cases of intra-family violence (Brazil,⁵² Peru⁵³);
 - c) Absolute prohibition in any case of violence (Argentina,⁵⁴ El Salvador,⁵⁵ Guatemala,⁵⁶ Colombia,⁵⁷ Mexico,⁵⁸ and Venezuela⁵⁹).

⁴⁵ United Nations General Assembly Unidas (UN) (2006), op. cit.

⁴⁶ **Regulation of Law No. 103 (1995), Art. 29:** The audience of conciliation will have the purpose of searching for legal agreement between the parties, without affecting the rights of any of them.

⁴⁷ **Law No. 348 (2013), Comprehensive Law to Guarantee Women a Life Free of Violence. Art. 46:** The reconciliation is banned within any case of violence that jeopardizes the life or sexual integrity of women. Neither any institution that receives complaints or its personnel under duty will be able to promote any type of reconciliation between the woman and her aggressor.

⁴⁸ **Criminal Procedure Code. Art. 36:** (...) In the cases of sexual crimes, domestic violence, and crimes sanctioned by the Law of criminalization of violence against women, the court should not seek the reconciliation of both parties, and it should not call for an audience with this purpose, unless the victim or her legal representatives have explicitly requested one.

⁴⁹ **Criminal Procedure Code of Panama. Art. 206:** In the crimes that admit to desistance to follow article 201, the Public Ministry will promote the reconciliation between the victim and the accused. In these cases, the reconciliation will occur at a center that is chosen by the parties.

The State did not provide sources. We based [the analysis] in the answer granted by the Matrix of Indicators for the Second Round of Follow-up (2012).

⁵⁰ The State did not provide sources. We based [the analysis] in the answer granted by the Matrix of Indicators for the Second Round of Follow-up (2012).

⁵¹ **Criminal Procedure Code of the Dominican Republic. Art. 38:** (...) In the cases of domestic violence and cases that affect children adolescents, the Public Ministry can only seek the reconciliation when the victims or their legal representatives expressly request one.

⁵² **Law No. 11340/2006. Art. 41:** The crimes performed with domestic or family violence against women, regardless of the penalty, are not applied to Law No. 9.099 of September 26, 1995.

⁵³ **Law No. 29990 which modifies the Children and Adolescents Code, the Law of Reconciliation and the Criminal Code. Art. 7-A:** (...) Reconciliation is not applicable in cases of domestic violence.

56 The CEVI recognizes that generally most States that replied to the indicators take a position at least favorable to prohibiting or limiting by law the use of these methods in cases of domestic violence or cases of violence against women. Therefore, the Committee considers that although not all aspects of the Recommendation have been implemented, significant progress has been made in eradicating this practice as greater understanding is gained of the seriousness and impact of violence on the lives of women and the gravity that is implied by the mediation between unequal parties.

In that regard, the Committee notes three main challenges in the countries that have advanced in the process of eradicating and/or eliminating this practice:

57 First, partial prohibition of mediation allows for discretion on the part of justice system operators and judges. Without a gender perspective, they may make inappropriate and stereotyped assessments of the risk or fact of violence and permit conciliation. For example, conciliation is usually employed in “less serious” cases of violence against women or when its marks of violence are minor or invisible. However, attempts at strangulation, as often occur in cases of violence against women at the hands of her partner, may ultimately be referred for conciliation, given the “minor marks” that despite the gravity of the crime, this being attempted homicide, and the hazard that conciliation or mediation may pose for the woman. “The experience in several counties has shown that the established agreements in the context of mediation have increased the physical and emotional risk of women.”⁶⁰

58 Second, the comprehensive laws or specific protocols of several States prohibit mediation and conciliation.⁶¹ The comprehensive laws of Argentina and El Salvador prohibit all mediation and conciliation hearings in cases of violence against women. For its part,

⁵⁴ **Law No. 26.485 (2009). Law of the Comprehensive Protection to Prevent, Sanction, and Erradicate Violence against Women in the contexts that develop around interpersonal relationships. Art. 28:** (...) Audiences of mediation or reconciliation are banned.

⁵⁵ **Decree No. 520 (2010). Special Comprehensive Law for a Life Free of Violence for Women Art. 58:** The reconciliation or the mediation of any of the crimes comprised within the present law is banned.

⁵⁶ **Protocol for the Application of the Law Against Femicide and other forms of Violence against Women**

⁵⁷ Law 1542 (2012). Art The present law has the object to guarantee the protection, the due diligence of the authorities in the investigation of the assumed crimes of violence against women, and to eliminate the character of crimes related to domestic violence and the absence of food, criminalized in articles 229 and 233 of the Criminal Code.

In Colombia, the cases of crimes related to domestic violence stopped being reconcilable due to the pressure that many women received to prevent them from turning their cases to the law. Thus, norms of awareness, prevention, and sanction of the different forms of violence and discrimination against women are dictated within the reform of the Criminal Code, Criminal Procedure, Law No. 294 of 1996, and other dispositions are dictated within Art. 10.

⁵⁸ **General Law of Women’s Access to a Life Free of Violence (2007). Art. 8-IV:** (...) Avoid procedures of mediation or reconciliation, for being unviable in a relationship of submission between the perpetrator and the victim.

⁵⁹ In Venezuela, although it is not expressly prohibited in the comprehensive law, the general criminal procedural norms for cases of alternatives to prosecution do not apply, since crimes of violence against women are crimes constituting human rights violations. This rules out any measure of this type in the criminal procedural framework. See Organic Law on the Right of Women to a Life Free from Violence. Preamble and Article 5, and COPP, Articles 37 and Article 313.

⁶⁰ Pan-American Health Organization: Gender and Health Unit (2004) Op. Cit

⁶¹ The comprehensive laws of Argentina and El Salvador prohibit all mediation and conciliation hearings in cases of violence against women. For its part, the comprehensive law of Mexico stipulates that mediation and conciliation hearings between assailant and victim should be avoided. In the case of Guatemala, the protocol for application of the Law against Femicide and Forms of Violence against Women stipulates that mediation and conciliation shall not be applied in proceedings involving violence against women.

Mexico indicates that its comprehensive law stipulates that mediation and conciliation procedures between assailant and victim must be avoided. In the case of Guatemala, the protocol for application of the Law against Femicide and Forms of Violence against Women stipulates that mediation and conciliation shall not be used in proceedings involving violence against women. The Committee of Experts considers these prohibitions to be steps in the right direction. However, in order to guarantee their effectiveness and application in all cases, the Penal Codes and Penal Procedural Codes should also contain this prohibition, given the great value that, in practice, judges and justice operators accord such legal instruments.

- 59 Third, in recent years, most countries have transitioned or are transitioning to an accusatory system in order to, among other things, relieve pressure on the justice system.⁶² In that context, alternative justice centers have been created that often offer mediation or conciliation for less serious offenses. It is disturbing to the Committee that in practice, the States settle reports of violence against women out of court or channel them to alternative justice centers because they consider them unimportant or less serious.
- 60 The Committee insists that mediation or conciliation, as well as the principle of opportunity, be prohibited in these cases since this is not a minor offense. Prohibition of mediation should go hand in hand with institutional, political, and cultural changes so that women who approach justice authorities are not pressured, in practice, by justice operators, who may have incentives for applying any measure that compounds impunity in these cases so as to relieve pressure on the justice system, to the detriment of women victims of violence.
- 61 Mediation or conciliation in cases of intra-family violence against women reflects State tolerance of this violence and may promote its perpetuation, as does the priority that the State still attaches to “preserving family unity,” to the detriment of women as subjects of human rights.

1.3 Violence in the private sphere

- 62 One of the fundamental contributions of the Belém do Pará Convention was to establish the basis for the criminalization of violence against women in the private sphere and to impose obligations on the States to act, in the framework of the international human right system, to address a matter that for many years was wrongly perceived as a private problem. The Convention recognizes that violence against women is an extreme form of discrimination⁶³ and a human rights violation regarding which the States have a responsibility and international obligation to act, and actively prevent and punish.

⁶² For further information on reforms to the region’s justice systems, see: Justice Studies Center for the Americas (JSCA), an entity of the inter-American system created in 1999, by resolution of the OAS General Assembly: www.cejamericas.org

⁶³ General Recommendation 19, adopted by the Committee for the Elimination of Discrimination against Women, 11th session periods, 1992. HRI/GEN/1/REV.1 at 4 (1994)

63 In that context, the Committee is analyzing some existing challenges in the area of violence perpetrated against women in the private sphere, such as the conceptualization of family violence, sexual violence in marriage or de facto union, issues that were addressed in the Second Hemispheric Report of the Committee.

a) Conceptualization of family violence

Belém do Pará Convention. Article 2.a.

Violence against women shall be understood to include physical, sexual and psychological violence:

a. that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse (...);

64 The most common form of violence experienced by women globally is intimate partner violence.⁶⁴ Nonetheless, until intimate-partner violence was recognized as a serious crime and human rights violation, and the private sphere was made visible as a place of insecurity for women, most laws in the region protected the physical and sexual integrity of persons regardless of the context in which the act of violence occurred.

65 The Convention clearly defines violence against women in the private sphere as that which occurs (...) “within any interpersonal relationship”.⁶⁵ With the entry into force of the Convention, the region’s first legislative expressions for the protection of women focused mainly on criminalizing intra-family violence, advancing towards the recognition by the public that this problem was perpetrated in the private sphere. This led to the establishment, in all States of the region, of one or more laws punishing domestic violence.

66 However, in its first Hemispheric Report, the CEVI also noted that national legislations on “family” or “domestic” violence were insufficient since the concept of intra-family violence was applicable to any family member, including older adults, men, and boys and girls, rendering invisible the unequal power relationships and the fact that most victims of domestic or intra-family violence were women.⁶⁶ In that regard, several of these laws primarily protected the family union as a legal interest,⁶⁷ often to the detriment of women.

⁶⁴ United Nations General Assembly (2006). In-depth study of all forms of violence against women. Report of the Secretary-General, para. 112. A/61/122/Add.1.
<http://www.un.org/womenwatch/daw/vaw/violenceagainstwomenstudydoc.pdf>

⁶⁵ Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women “Belém do Pará Convention,” Article 2.b.

⁶⁶ MESECVI: First Hemispheric Report, p. 16. See also Chiarotti, Susana (2010). Medidas implementadas para enfrentar la violencia contra las mujeres en América Latina in: *Interactive Expert Panel on the Commission on the status of Women of the United Nations. Fifty-fourth session.*
http://www.un.org/womenwatch/daw/beijing15/interactive_panel_V/Chiarotti.pdf

⁶⁷ Mejía, Luz Patricia: “La Comisión Interamericana de Mujeres and la Belém do Pará Convention. Impacto en el Sistema Interamericano de Derechos Humanos” *Revista IIDH: Edición especial sobre el XXX Curso Interdisciplinario en Derechos Humanos* (56). (San José: Inter-American Institute of Human Rights (IIDH), 2012).
http://iidh-websserver.iidh.ed.cr/multic/UserFiles/Biblioteca/IIDH/3_2013/766d57df-258c-45f8-a242-ecc65d785cc3.pdf

67 Furthermore, the use of the concept of domestic violence as a synonym for violence against women also rendered invisible other types of violence to which women are subjected and in many cases limited punishment of violence only to cases where a domestic or intra-family relationship existed with a partner or former partner. In these cases, the Committee reiterates the importance of the legislative framework introducing the definition of violence against women contained in the Convention and of not making its punishment contingent upon the existence of a family union.

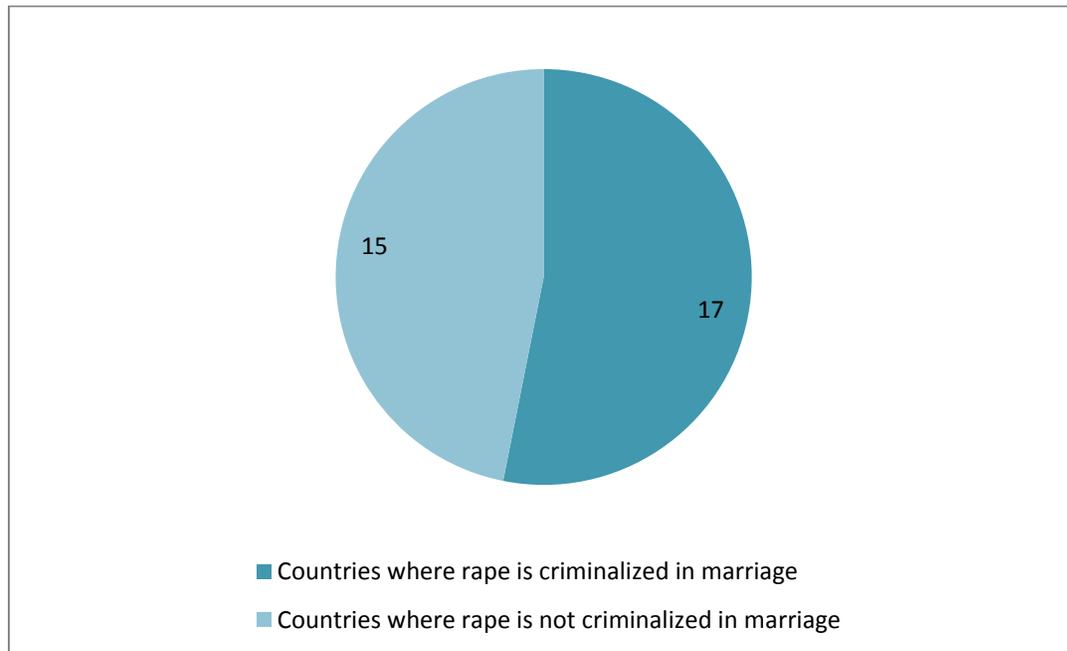
68 As to how the different forms of violence are conceptualized, since 2008, in its first Hemispheric Report, the Committee of Experts has indicated that it is important to distinguish adequately between the terms “violence against women,” “gender-based violence,” and “domestic violence” or “intra-family violence,” and that these should not be treated as synonyms, since this may impede the implementation of the comprehensive laws. Their indistinct use may hinder the implementation of specific measures or protocols to address violence against women.

b) Rape within marriage/de facto unions

- In its fourth Recommendation, **the Committee urged the States to criminalize sexual violence and rape committed within a marriage or de facto union and to revise the rules of criminal procedure** in order to remove obstacles that could prevent women from seeking justice in these cases.

69 In the system of indicators, the Committee included legislation in this area that incorporated punishment. The Technical Secretariat also prepared a legislative analysis on criminalization of rape in marriage or de facto union. As an outcome of this analysis, in the light of this Recommendation, the Committee found that of all States Parties to the Convention, in 15 countries, sexual violence or rape in marriage was not defined as a crime.

Figure 2. Legislation on rape/sexual violence in marriage



* Source: In-house, based on a legislative review conducted by the Technical Secretariat of the MESECVI in July 2014.

Table No.5: Countries where rape in marriage is criminalized, and those where it is not

Rape in marriage/common-law-marriage	Countries	Total: 32 countries
Criminalized	Argentina, Bolivia, Brazil, Colombia, Chile, Costa Rica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Peru, Suriname, and Venezuela.	18
Not criminalized	Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Ecuador, Haiti, Jamaica, Paraguay, Saint Kitts and Nevis, Santa Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, and Uruguay.	14

* Source: In-house, based on a legislative review conducted by the Technical Secretariat of the MESECVI in July 2014.

70 As is evident in the table, except for Uruguay, most American States criminalize rape in marriage or de facto union; while most Caribbean States do not criminalize rape or define it as an aggravating circumstance when perpetrated by the intimate partner. The Committee acknowledged the recent legislation reforms of the Criminal Code in Grenada

in 2012 to criminalize rape in marriage. The Committee reiterates to the rest of States Parties that this act should be criminalized.⁶⁸

- 71 It also considers it advisable for it to be criminalized in the context of all interpersonal relationships—in line with the Belém do Pará Convention—at the same time implementing training programs to promote attitudinal changes among justice operators that enable them to identify and exhaustively investigate, when a women files a complaint, the variety of crimes that may have been perpetrated since in interpersonal relationships, different types of gender-based violence, e.g., psychological, physical, and sexual, often are intertwined.
- 72 To conclude, in addition to criminalization of rape in marriage, the Committee reiterates the importance of eliminating procedures and obstacles, including prejudices and preconceived and sexist ideas, which prevent women from obtaining justice in these cases.

1.4 Violence in the public sphere

- 73 In its second Article, the Convention refers to violence perpetrated outside the private sphere. “It is important to point out that, even if the Convention outlines the areas in which violence takes place for analytical purposes, it is very careful to indicate that violence is not defined by the physical space in which it takes place – but by the power relations produced and the nature of interpersonal relations between victims and perpetrators.”⁶⁹
- 74 Violence in the public sphere includes, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping, and sexual harassment. The Convention, in Article 2.b, recognizes that there are areas in which hierarchy exists where power relationships, as well as forms of violence against women, can be reproduced and heightened, such as the workplace, schools, and health care centers, among others. Article 2.c, for its part, refers to violence perpetrated or tolerated by state agents. The Committee analyzes the implementation of the recommendations in the light of these forms of violence in the public sphere.

⁶⁸ MESECVI (2012), op. cit. **Recommendation No.4:** Criminalize sexual violence and rape committed within a marriage or de facto union, and revise the rules of criminal procedure in order to remove obstacles that could prevent women from seeking justice in these cases.

⁶⁹. Economic Commission for Latin America and the Caribbean (ECLAC): *No More! The right of women to live a life free of violence in Latin America and the Caribbean*. (Santiago, Chile, 2007), p. 21, http://www.unicef.org/lac/No_more.pdf

Belém do Pará Convention. Article 2.b

Violence against women shall be understood to include physical, sexual and psychological violence:

b. that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place.

75 The incorporation of this broad definition in the Convention is relevant because it recognizes that violence against women occurs not only in the private, but also the public sphere. In legislative terms, the recognition and punishment of violence against women in the public sphere represents an opportunity. The legislation of only nine of the 32 States Parties expressly incorporates both spheres.

Table No. 6: Spheres where violence against women has been criminalized in legislation, by country

Sphere where violence against women is perpetrated	Countries	Number of countries: 32
Private sphere	Antigua and Barbuda, Bahamas, Belize, Brazil, Chile, Costa Rica, Ecuador, Grenada, Guyana, Honduras, Jamaica, Panama, Paraguay, Peru, Saint Lucia, Suriname and Uruguay,	17
Private and public spheres	Argentina, Bolivia, Colombia, El Salvador, Guatemala, Mexico, Nicaragua, Dominican Republic, and Venezuela.	9
No sphere	Barbados, Dominica, Haiti, Saint Kitts and Nevis, Saint Vincent and the Grenadines, and Trinidad and Tobago.	6

** Source: In-house, based on a legislative review conducted by the Technical Secretariat of the MESECVI in July 2014.

76 The Committee notes that some of the States do punish one or more of the forms of violence against women often perpetrated in the public sphere, such as trafficking in persons, forced prostitution, and sexual abuse. Table No. 6 shows those States whose legislation makes express textual reference to violence in the private and the public spheres, in keeping with the text of the Convention.

a) **Trafficking in persons**

- **The Committee recommended criminalizing trafficking in persons** in line with the standards of the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,” known as the Palermo Protocol.⁷⁰

77 Since 2008, the Committee has been requesting the States to provide information on the criminalization of trafficking in persons. In its first Hemispheric Report, it found that most States had provisions punishing trafficking in persons. However, it noted that in many cases, these provisions were not in line with international legislation in this area, especially the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,” also known as the Palermo Protocol⁷¹.

78 In the Second Hemispheric Report, the Committee noted that some States had updated their legislation on trafficking, taking account of the Palermo Protocol, which defines this crime as:

“... the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;”⁷²

Of the 19 States that answered the indicators, 17 States sanctioned the human trafficking and 2 States do not.

⁷⁰ Recommendation No. 2. Second Hemispheric Report, *op. cit.*

⁷¹ MESECVI (2011). First Hemispheric Report on the recommendations of the Committee of Experts, p. 20. MESECVI-III/doc.57/11. <http://www.oas.org/es/mesecevi/biblioteca.asp>

The State of Colombia, on October 23rd, 2014, requested the Technical Secretariat of the MESECVI to add the following information related to paragraph 77: It is important to point out that, for Colombia, the prevention of trafficking in persons, combating it, and assisting the victims of that crime are right at the top of the country's bilateral and multilateral, as well as domestic, agenda. Thus, the country has adopted an integral approach to trafficking in persons, encompassing crime prevention, criminal justice and a human rights perspective. That has enabled Colombia not only to confront the criminal organizations involved in trafficking, but also to care for their victims. On June 12, 2014, the Executive issued Decree 1069, regulating the competencies, benefits, procedures, and formalities governing the entities responsible for adopting measures to protect and assist victims of trafficking in persons. Likewise, in 2013, the Inter-Agency Committee against Trafficking in Persons devised and established a new National Strategy against Trafficking in Persons, which will govern its actions through 2018.

⁷² Article 3.a, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

Criminalization of trafficking	Countries	Total number of countries = 19
Criminalized	Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Grenada, Guatemala, Mexico, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela	17
Not criminalized	El Salvador and Ecuador	2

- 79 However, in the replies from the States to the System of Indicators, most did not provide specific information that would make it possible to corroborate the extent to which their legislation effectively does or does not take account of the Palermo Protocol so that the Committee could analyze this information.
- 80 The Committee notes possible confusion between the concepts of trafficking of persons, forced prostitution, and smuggling of persons. For example, in their replies to this indicator, Grenada and Barbados reported that their provisions on trafficking included crimes related to prostitution, and Chile relates it to the trafficking of migrants.
- 81 The Committee notes that in the case of Bolivia, the recent law criminalizing trafficking, incorporated by that law in the Penal Code, goes beyond the definition of the Palermo Protocol, which does not distinguish between minors and adults.⁷³
- 82 The Committee reiterates its Recommendation that all States Parties distinguish between trafficking in persons, smuggling of persons, and forced prostitution, and that they continue to criminalize the first based on the standards established in the Palermo Protocol, in order to close the legal lacunae used by traffickers to avoid due investigation and punishment. In accordance with the recommendation of the Special Rapporteur on violence against women, its causes and consequences, criminalization is a step forward that should be accompanied by comprehensive support for victims of trafficking, social and psychological support, and adequate holding facilities for irregular migrants, as well as fair procedures that facilitate the identification of victims of trafficking and of traffickers and that guarantee protection to the victims.⁷⁴ In addition to the formal component, States should step up efforts to ascertain the magnitude of the problem and build the capacities of organizations working in this area and progressively develop services and capacities for the effective punishment of this crime.

⁷³ CEVI (2014), Bolivia's Country Report.

⁷⁴ United Nations (UN) (2014): Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, Addendum, Mission to Seychelles. Available at: http://ap.ohchr.org/documents/dpage_s.aspx?m=137

b) Forced prostitution

- The Committee recommended criminalizing forced prostitution in accordance with the Rome Statute creating the International Criminal Court.⁷⁵

83 In order to measure the level of implementation of this Recommendation, the Committee included in the system of indicators criminalization of forced prostitution in line with the Rome Statute. The Technical Secretariat also conducted a legislative analysis of its criminalization. In connection with this Recommendation and as an outcome of this analysis, the Committee found that 28 countries criminalize prostitution:

Table No.7: Criminalization of prostitution

Criminalization of prostitution	Countries	Total number of countries = 32
Criminalized	Argentina, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Uruguay, and Venezuela	26
Partially criminalized	Antigua and Barbuda, Bahamas, Grenada and Haiti	4
Not criminalized	Dominica and Trinidad and Tobago	2

*Source: In-house, based on the replies sent to the Committee in 2012 during the Second Multilateral Evaluation Round.

84 As the CEVI indicated in the 2012 report, a wide variety of crimes have been defined in the region for the punishment of prostitution, from the most classic and discriminatory crimes against morality and good custom or crimes against sexual freedom, to comprehensive laws and special laws that define it as crimes against humanity, the latter two types of law in line with the Rome Statute.

⁷⁵ Recommendation No. 2. Second Hemispheric Report, op. cit. International Criminal Court: Elements of Crime. At: U.N. Doc. PCNICC/2000/1/Add.2 (2000). <https://www1.umn.edu/humanrts/instree/iccelementsofcrimes.html>

85 For this period of analysis, no State reported making reforms to harmonize its national legislation on forced prostitution with what was established in the Rome Statute.

86 Therefore, the Committee reiterates its Recommendation especially for those States that are currently revising their criminal legislation, such as Ecuador and Peru, and for the rest of the States to incorporate this crime with the following elements in accordance to the Rome Statute:

1. The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.
2. The perpetrator or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature.⁷⁶

87 The Committee reiterates the importance of defining violence against women in the light of the Convention, and its recommendations that the States legislate in the area of trafficking in persons and forced prostitution, in accordance with the obligations of the Palermo Protocol and the Rome Statute, respectively.⁷⁷

c) **Sexual harassment**

- The Committee **recommended punishing sexual harassment** in the workplace, in health and education centers, and any other sphere, and repealing any provision that revictimizes victims or blocks their attempts to obtain punishment for those responsible and to seek adequate reparation.⁷⁸

88 The International Labor Organization identifies sexual harassment as the most common form of gender-based discrimination at work and defines it as: “reiterated propositions, touching, approaches, or unwanted invitations sexual in nature that may come from the worker's superior that directly impact job opportunities and workplace conditions or the

⁷⁶ MESECVI. Second Hemispheric Report. *Op. cit.*

⁷⁷ MESECVI (2012). *op. cit.* **Recommendation No. 2:** Criminalize trafficking in persons and forced prostitution in accordance with the standards of the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime” known as the Palermo Protocol, and the Elements of Crimes of the Rome Statute creating the International Criminal Court, and adopt measures to protect and provide care for victims, their relatives and witnesses.. **Recommendation No. 3:** Punish sexual harassment in the workplace, in health and education centers and in any other sphere, as provided in article 2 of the Belém do Pará Convention. Repeal any provision that revictimizes victims or blocks their attempts to obtain punishment for those responsible and to seek adequate reparation.

⁷⁸ Recommendation No. 3. MESECVI (2012), *op. cit.*

workplace environment and also impact the victims, both psychologically and emotionally.”⁷⁹

- 89 In order to measure the degree of implementation of the above Recommendation, the Committee added to the system of indicators the criminalization of sexual harassment in different spheres, taking into account women’s diversity. In the light of this Recommendation, it also requested information from the States Parties, through the system of indicators, on the characteristics, coverage, and schedule of outreach campaigns against sexual harassment; and on the number of judgments or rulings on violence, including sexual harassment, disaggregated by gender, age, race and ethnicity, and socioeconomic condition.
- 90 Of the 32 countries that provided information on this subject, 16 reported that they criminalize sexual harassment. The Committee notes that this is criminalized primarily in the workplace and in education. As for outreach campaigns against sexual harassment, only five countries⁸⁰ reported to the Committee that they had such campaigns.
- 91 The Committee notes with interest the adoption of specific measures in this area. Several of the region’s States have different types of legislation to address these acts, imposing sanctions of different levels of seriousness, from criminal sanctions to prosecution to civil and administrative sanctions. Bolivia has specific legislation against sexual violence in schools, which provides that the State shall take preventive measures upon learning of a crime of school sexual harassment and, as a protective measure, immediately dismiss the person indicated as perpetrator.⁸¹
- 92 In the case of El Salvador, the State also indicated that punishments are imposed for sexual harassment at work and in education and health centers. In the Dominican Republic, sexual harassment at work is criminalized by Law No. 41, enacted in January 2008, only in government, as a disciplinary infraction, although its seriousness is not defined. In the case of Colombia, sexual harassment is criminalized under Law 1257 of 2008, referring to any context in which it could occur. Law 1010, of 2006 regulates and sanctions conducts constituting workplace harassment, but it does not refer to sexual harassment in education, health, or other institutions of public or private nature - harassment, but not sexual harassment, is punished under Law 1010, of 2006. For its part, Guatemala reported that its Decree 27-2203 provides that children and adolescents have the right to be protected from sexual abuse, including ... *(d) sexual harassment by teachers, tutors, and those in charge.” However, this legislation does not specify whether sexual harassment is an offense incorporated in its Penal Code, or whether other specific measures have been taken to punish sexual harassment at work and in health and education centers.

⁷⁹ International Labour Organization: *Acoso sexual en el trabajo y masculinidad en Centroamérica y Dominican Republic* [Sexual harassment at work and masculinity in Central America and the Dominican Republic] (2013). www.ilo.org/sanjose/sala-de-prensa/WCMS_205747/lang--es/index.htm

⁸⁰ Bolivia, Costa Rica, Dominican Republic, Mexico, and Paraguay.

⁸¹ Bolivia, Decree to Eradicate Violence and Abuse Jeopardizing the Integrity of Children and Adolescents in Education. Supreme Decree 1320, of August 8, 2012.

- 93 A legislative development in Paraguay was the enactment in 2012 of Law 4,633, on school harassment which, although not directly especially at girls and girl adolescents, constitutes an instrument for the prevention of violence against them in education, a key scenario for the prevention of sexism and of associated forms of violence. The Committee also noted progress in the adoption in Uruguay of Law 18,561, on Prevention and Punishment of Sexual Harassment at Work and in Student-Teacher Relationships, although it indicated the importance of expanding the scope of the law not only to work and education, but to all types of relationships with authorities and to power, age, gender, job position, family, and economic relationships that may be used for sexual harassment, and underscored that this law establishes only civil and administrative punishments for the assailant, and does not elevate it to the status of crime, ignoring the violation of human rights, such as to integrity and to sex education, among others.
- 94 The CEVI recognizes the legislative efforts of the States Parties to criminalize violence against women. It encourages the States Parties to ensure that these efforts also translate into the implementation of policies or actions for the realization of formally recognized rights. In this case, of the 15 countries that punish sexual harassment or abuse in different types of legislation, only five have outreach campaigns in this area. Moreover, none provided disaggregated data on the number of judgments in cases of sexual harassment, as requested by the Committee through the system of indicators. The States that have legislated in the area of sexual harassment did not provide information to the Committee on the impacts of that legislation on women's lives.
- 95 Therefore, the Committee of Experts reiterates its Recommendation to harmonize domestic legislation on sexual harassment so as to cover at least the areas of work, education, and health, as established in the Convention of Belém do Pará, and to repeal any provision or practice that revictimizes the victims or blocks their attempts to obtain punishment for those responsible and to seek adequate reparation⁸². Also, the CEVI encourages States to keep a registry of the application of this law.

d) Violence perpetrated or tolerated by State agents

Convention of Belém do Pará. Article 2c.

Violence against women shall be understood to include physical, sexual and psychological violence:

c. that is perpetrated or condoned by the state or its agents regardless of where it occurs.

- The Committee recommended to the States that they adopt provisions to punish sexual violence in armed conflicts and in natural disasters.⁸³ It also recommended that they adopt provisions to punish sexual violence committed in State institutions, either as an independent crime or an aggravating factor to the sexual crimes included in the Penal Code.⁸⁴

⁸² MESECVI (2012), op cit.

⁸³ Recommendation No. 7. MESECVI (2012), op. cit.

⁸⁴ Recommendation No. 8. MESECVI (2012), op. cit.

96 Of the 32 State Parties, the Committee obtained information of 30 States, and found that only 15 States Parties expressly punish violence perpetrated by the State or its agents.⁸⁵

Table No. 7: Countries that punish violence perpetrated by the state or its agents.

Violence perpetrated by the state or its agents	Countries	Total number of countries = 32
Punished	Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Haiti, Honduras, México, Nicaragua, Panama, Uruguay, and Venezuela.	15
Not punished	Bahamas, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, Paraguay, Peru, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago.	15
Lack of Information	Antigua y Barbuda, Saint Lucia	2

* In-house, based on the information provided to the MESECVI through the system of indicators from 2013 to 2014.

97 The Committee notes with satisfaction the adoption of the recent legislative amendments in Colombia. The new legislation, enacted in 2014, expressly stipulates that sexual violence may constitute a crime against humanity and therefore is not subject to any statute of limitations.⁸⁶ It also incorporates forms of torture that may have disproportionate impact on women—owing to gender prejudice and stereotypes—such as forced nudity. That law also prohibits the investigation of sex offenses by military courts.

98 The Inter-American Court of Human Rights has repeatedly emphasized in different judgments in the region that military courts should not be used to investigate and prosecute human rights violations.⁸⁷ That Court has also established international standards of due diligence and reparation for damage in cases of violence against women

⁸⁵ Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Uruguay, and Venezuela.

⁸⁶ Law on Sexual Violence in Colombia (2014)

<http://wsp.presidencia.gov.co/Normativa/Decretos/2014/Documents/AGOSTO/05/DECRETO%201480%20DEL%205%20DE%20AGOSTO%20DE%202014.pdf>

⁸⁷ I-A Court HR, Fernando Ortega and others vs. Mexico, August 30, 2010; Case of Rosendo Cantú and other vs. Mexico, August 31, 2010; Case of Radilla Pacheco vs. Mexico, November 23, 2009; Case of Cabrera Garcia and Montiel Flores vs. Mexico, November 26, 2010.

perpetrated by the State.⁸⁸ Also, the Inter-American system has also established international standards on the responsibility of the State when its agents condone violence through inaction or unwarranted delay.⁸⁹ In that regard, the MESECVI has held that “States may also be held responsible for private acts of violence—condoned by the State—if they do not adopt measures with due diligence to prevent the violation of rights or to investigate and punish acts of violence and compensate the victims.”⁹⁰

99 Therefore, the Committee reiterates the importance of criminalizing violence perpetrated or condoned by state agents and, especially, the need to criminalize expressly sexual violence perpetrated by state agents as a war crime and a crime against humanity, and to ensure its punishment.⁹¹

1.5 Femicide/Feminicide

- **The Committee of Experts recommended that the States adopt measures to prevent and punish femicide/feminicide.**

100 Ten countries have criminalized this act in their respective Penal Codes or legislation, although each has incorporated a different definition of the crime. In 2008, given the lack of consensus regarding the characteristics of this crime, the Committee adopted a declaration, defining it 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, or whether it is perpetrated or tolerated by the state or its agents, by act omission.”⁹²

101 In 2012, the Committee found that most States that had incorporated femicide/feminicide in their legislation focused their efforts on criminalizing the act when it was perpetrated at the hands of the intimate partner or former partner, better known as “intimate femicide”.⁹³ The following year, with the preparation of the *Progress Indicators for Measuring the Implementation of the Belém do Pará Convention*, the Committee provided a more detailed definition of the crime and therefore requested information on the following concept:

102 “the violent death of women based on gender, whether it occurs within the family, a domestic partnership, or any other interpersonal relationship; in the community, in their

⁸⁸ I-A Court HR, *Castro Castro v. Peru*, 2006. November 25, 2006; I-A Court HR, *Inés Fernández v. Mexico*, August 30, 2010, *Case of Rosendo Cantú and another v. Mexico*, August 31, 2010.

⁸⁹ IACHR. *María da Penha Maia Fernandes v. Brazil*. Report on the Merits 54/01. Case 12.051, April 16, 2001. I-A Court HR. *Case of González et al. (“Cotton Field”) v. Mexico*. November 16, 2009. I-A Court HR. “*Case of the “Las Dos Erres” Massacre v. Guatemala*. November 24, 2009.

⁹⁰ MESECVI (2014): *Guide to the Application of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women*. <http://oas.org/es/mesecvi/docs/BdP-GuiaAplicacion-Web-ES.pdf>

⁹¹ MESECVI (2012). *op. cit.* The latter two included violations of due diligence in preventing, investigating, and punishing violence against women, in accordance with Article 7.b) of the Belém do Pará Convention.

⁹² CEVI (2008). *The Committee of Experts’ Declaration on Femicide* (document MESECVI/CEVI/DEC. 1/08), August 15, 2008, point 2. At: portal.oas.org/Portals/7/CIM/MESECVI-CE-DEC.1.esp.Femicidio.doc

⁹³ MESECVI (2012), *op. cit.*, p. 33.

workplace, in public space, by any person or group of persons known or unknown to the victim, or when it is perpetrated or tolerated by the state or its agents, by action or omission, either as an autonomous offense or as an aggravating factor in homicide.”⁹⁴

Figure 3. Criminalization of femicide, by country

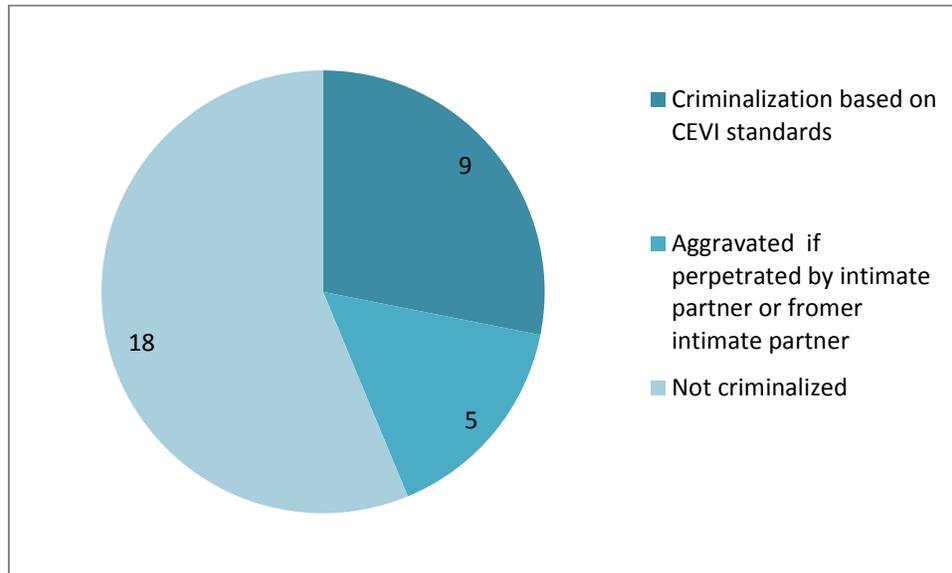


Table No. 8: Criminalization of femicide as an aggravating circumstance of death

Femicide	Total number of countries = 32
Criminalized	10
Criminalized	22

Table No. 9: Different scopes of criminalization of femicide or as an aggravating factor in a women’s death based on gender

Femicide/Femicide	Country	Total number of countries = 32
Criminalized based on the definition of the Committee of Experts	Bolivia, Colombia, Ecuador ⁹⁵ El Salvador, Guatemala, Honduras, Mexico Nicaragua and Venezuela ⁹⁶	7

⁹⁴ MESECVI (2012), op. cit., p. 32.

⁹⁵ When this report was issued, Ecuador informed the Technical Secretariat of the MESECVI that it had changed its legislation to criminalize femicide. The law entered into force in August 2014.

⁹⁶ When this report was issued, The Committee learned about the reform of the Organic Law on Women’s Rights to live free of violence to criminalize femicide in Venezuela.

<http://www.correodelorinoco.gob.ve/judiciales-seguridad/presidente-maduro-firma-reforma-ley-sobre-derecho-mujeres-a-vida-libre-violencia/> (link in Spanish)

Criminalized only if perpetrated by intimate partner or former intimate partner	Chile, Costa Rica, and Peru	3
Not criminalized	Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Brazil, Dominica, Dominican Republic, Ecuador, Grenada, Guyana, Haiti, Jamaica, Panamá, Paraguay, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela.	22

** In-house, based on legislative reform conducted by the Technical Secretariat of the MESECVI

- 103 The Committee reiterates to the States the importance of adopting measures to prevent and punish this crime in the private and public spheres, and to follow-up on judicial decisions; remove judicial obstacles that prevent the victims' next of kin from accessing justice; and prohibiting reduction of sentence for the assailant when he alleges that he acted in "the heat of passion" to justify or minimize the gravity of the crime.⁹⁷

1.6 Sexual and reproductive rights

Convention of Belém do Pará. Article 4

Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

- a. The right to have her life respected;
- b. The right to have her physical, mental and moral integrity respected;
- c. The right to personal liberty and security;
- d. The right not to be subjected to torture;
- e. The right to have the inherent dignity of her person respected (...)

- 104 Control of women's reproductive rights is a means of maintaining male domination and women's subordination,⁹⁸ and constitutes a form of discrimination and institutional violence against them. In that context, the Committee prepared seven recommendations on application by the States of Article 4 of the Convention and their protection of a

⁹⁷ MESECVI (2012). op. cit.

⁹⁸ United Nations (UN) (2006): Ending violence against women: From words to action. Study of the Secretary-General, p. 29.

<http://www.unwomen.org/~media/Headquarters/Media/Publications/UN/en/EnglishStudy.pdf>

woman's right to have her life and physical, mental, and moral integrity respected, and her right not to be subjected to torture.

105 In the light of this article, the Committee issued several recommendations. The first group referred to legalizing the interruption pregnancy on therapeutic grounds⁹⁹ and in cases of rape.¹⁰⁰ The second group urged the criminalization of obstetric violence, artificial insemination without the woman's consent, and forced sterilization. Lastly, it recommended the free distribution of emergency contraceptives and emergency prophylactic treatment to prevent unwanted pregnancies and sexually transmitted diseases, with special emphasis in the attention given after the sexual violence crime.

a) Decriminalization of abortion

- The Committee **recommended decriminalizing the interruption of pregnancy on therapeutic grounds**, that is to say, to save the life of the mother or avoid serious or permanent injury to her physical and mental health, and to **decriminalize the interruption of pregnancy caused by rape**.¹⁰¹

106 The Committee notes that of the 32 States Parties to the Belém do Pará Convention, 27 have legalized abortion on different grounds.¹⁰² The most common are: therapeutic grounds, pregnancy caused by rape/incest, severe fetal deformity, and artificial insemination without the woman's consent. The Committee has also emphasized the importance of a non-punitive approach to therapeutic abortion and abortion in cases of women victims of sexual violence.

107 It is disturbing to the Committee of Experts that Chile, Dominican Republic, El Salvador, Honduras, and Nicaragua ban abortion on any grounds and still punish women who terminate their pregnancies, regardless of the circumstances.

108 The Committee received information from organizations in the Dominican Republic and El Salvador that show that women and girls who terminate their pregnancies are still prosecuted and imprisoned, even in cases of miscarriage.

109 The Committee received information that in El Salvador, 17 women are serving prison sentences of more than 30 years, and five other women more are prosecuted for the crime of abortion or for infanticide. Several of these cases include initial reports of abortions

⁹⁹ MESECVI (2012). op. cit. Recommendation 10: Legalize interruption of pregnancy on therapeutic grounds, that is to say, to save the life of the mother or avoid serious or permanent injury to her physical and mental health. Implement the services in hospitals and health centers and establish care protocols or guidelines to guarantee women's access to such procedures.

¹⁰⁰ MESECVI (2012). op. cit. Recommendation 11: Legalize the interruption of pregnancy caused by rape. Implement that service in hospitals and health centers and establish care protocols or guidelines to guarantee women's access to such procedures.

¹⁰¹ MESECVI (2012). op. cit. Recommendations 10 and 11.

¹⁰² Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Costa Rica, Colombia, Dominica, Ecuador, Granada, Guatemala, Guyana, Haiti, Jamaica, Mexico, Panama, Paraguay, Peru, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Suriname, Trinidad and Tobago, and Venezuela.

that were medically diagnosed as miscarriages (spontaneous or occurred through no action of the woman).¹⁰³

Case of Beatriz. In 2013, Beatriz (fictitious name), a young Salvadorian women suffering from lupus, brought proceedings for amparo protection before the Supreme Court of Justice for authorization of termination of pregnancy because her life was at risk and the fetus was not viable because it had no brain. The Supreme Court denied the request, making it evident that there was no possibility of opening legal debate on termination of pregnancy, even when the life of the mother was at risk. In this case, the doctors were afraid to give her the treatment necessary to save her life simply out of fear of imprisonment, despite attempting to save a life. The inter-American Court of Human Rights ordered provisional measures¹⁰⁴ to guarantee Beatriz's life, which resulted in a cesarean section when she was virtually in labor. A complaint was lodged with the Inter-American Commission on Human Rights against the State of El Salvador for the lack of jurisdictional protection that could have been afforded at the time to protect her rights to life, physical integrity, health, and non-discrimination.¹⁰⁵

- 110 Criminalization of abortion regardless of grounds constitutes not only a violation of women's right to choose, but also violates their right to autonomy, privacy, security, and confidentiality. Such criminalization impacts especially poor women and those living in conditions of vulnerability.
- 111 Given the close association between criminalization of abortion regardless of grounds and cruel, inhuman, and degrading treatment, the Committee against Torture, of the United Nations, among its recommendations to the State of Paraguay, held that:

*“the general prohibition of abortion ...means that the women concerned are constantly reminded of the violation committed against them, which causes serious traumatic stress and carries a risk of long-lasting psychological problems. ... the denial of medical care to women who have decided to have an abortion... could seriously jeopardize their physical and mental health and could constitute cruel and inhuman treatment.”*¹⁰⁶

¹⁰³ Amnesty International (2013). El Salvador: Woman at the peak of death because of abortion prohibition regardless of the Inter-American Court decision, Chile. <http://www.amnistia.cl/web/ent%C3%A9rate/el-salvador-mujer-alborde-de-la-muerte-por-prohibici%C3%B3n-de-abortar-pese-fallo-de-corte-inte>
Center of Reproductive Rights (2014). Excluded, Persecuted, Prisoned .The impact of the absolute criminalization in El Salvador, New York.

http://reproductiverights.org/sites/crr.civicaactions.net/files/documents/crr_ElSalvadorReport_Sept_25_sp.pdf

¹⁰⁴ IACHR. (2013) Provisional Measures. El Salvador.

http://www.corteidh.or.cr/docs/medidas/B_se_01.pdf

¹⁰⁵ ORMUSA and CEJIL (2014), Shadow Report. Op Cit

¹⁰⁶ Committee against Torture (2011): Consideration of reports submitted by States parties under article 19 of the Convention. Concluding observations of the Committee against Torture. Paraguay. Forty-seventh session, 31 October-25 November 2011, para. 22.

112 The CEVI sustains that forcing women to continue a pregnancy, especially when it resulted from rape, or when her life is at risk, constitutes a form of institutional violence and may constitute a form of torture, in violation of Article 4 of the Convention. Also, the CEVI notes the impact that clandestine or unsafe abortions have on the life of poor women.

With regard to the close association between women's rights to health and to life, the Committee on the Elimination of Discrimination against Women (CEDAW) has systematically criticized restrictive laws on abortion, especially those that prohibit and criminalize abortion on any grounds, and has requested the States Parties to revise legislation criminalizing abortion, recommending that they States Parties eliminate punishment for women who undergo abortions,¹⁰⁷ in accordance with General Recommendation No. 24¹⁰⁸ of that Committee, and the Beijing Declaration and Platform for Action¹⁰⁹.

113 In the Consensus on Population and Development (2013), in Montevideo, the representatives of 38 Latin American and Caribbean countries agreed to “[p]rioritize the prevention of pregnancy among adolescents and eliminate unsafe abortion through comprehensive education on emotional development and sexuality, and timely and confidential access to good-quality information, counselling, technologies and services, including emergency oral contraception without a prescription and male and female condoms”.¹¹⁰

114 The States also agreed to “[e]nsure, in those cases where abortion is legal or decriminalized under the relevant national legislation, the availability of safe, good-quality abortion services for women with unwanted and unaccepted pregnancies, and urge States to consider amending their laws, regulations, strategies and public policies relating to the voluntary termination of pregnancy in order to protect the lives and health of women and adolescent girls, to improve their quality of life and to reduce the number of abortions”.¹¹¹

115 As for the countries where abortion has been decriminalized on some grounds, the Committee indicates its concern that most States still lack care protocols or guidelines for its effective implementation in health centers and to guarantee women's access to that procedure, despite this being a Recommendations of the Committee.¹¹²

116 According to the information provided by the States, only Argentina, Jamaica, Mexico and Uruguay have treatment guidelines for cases of abortion. On that point, the

¹⁰⁷ Committee on the Elimination of Discrimination against Women (CEDAW). See Concluding observations to Mauricio (2006), 36th session, 7 to 25 August 2006. CEDAW/C/MAR/CO/5. Recommendation No. 31; See Concluding observations to Dominican Republic (2004). 30th session, 12-30 January 2004) A/59/38 (SUPP). Recommendation No. 285; See Concluding observations to Sri Lanka. 26th session, 7 May 2002. Recommendation No. 283.

¹⁰⁸ Committee on the Elimination of Discrimination against Women (CEDAW). General Recommendation No. 24, 20th session, 2 February 1999.

¹⁰⁹ Declaration and Action Platform of Beijing, Fourth World Conference on Women, Beijing 1995, Par. 106 k.

¹¹⁰ Montevideo Consensus on Population and Development (2013). Agreement 14. <http://www.unfpa.org/webdav/site/global/shared/documents/news/2013/Montevideo%20Consensus-15Aug2013.pdf>

¹¹¹ Ibid, Agreement 42.

¹¹² MESECVI (2012), op. cit., p. 41. Recommendations 10 and 11

Committee on the Elimination of Discrimination against Women has indicated that “health is a public good for which the States are responsible.” In its General Recommendation No. 24, it noted the duty of States parties to “respect, protect and fulfill women’s rights to health care.”¹¹³

- 117 The Committee notes with satisfaction that Uruguay has adopted Law No. 18.987, which regulates the voluntary interruption of pregnancy by establishing that “The State guarantees the right to conscious and responsible procreation, recognizes the social value of maternity, protects human life, and promotes the full exercise of sexual and reproductive rights of the entire population.” In its article 2, the law decriminalizes abortions performed during the first twelve weeks of the pregnancy as long as it fulfills all the requirements established by the law.
- 118 Additionally, the Committee celebrates that in compliance with the recommendations issued,¹¹⁴ the law determines that outside the circumstances, terms, and requirements established by article 2 and 3 of the law,¹¹⁵ the interruption of a pregnancy is possible: a) when the pregnancy implies a serious risk for the health of the women; thus, the life of the embryo or fetus should be saved without risking the life or the health of the women; b) when a pathologic process is verified, which could provoke malformations incompatible with life outside the uterus; c) when it’s a product of an accredited violation with proof of its judicial complaint, within the first fourteen weeks of the pregnancy.
- 119 The Committee reiterates its profound concern regarding the restrictive laws on abortion in place in States Parties to the Convention and insists that restricting access to sexual and reproductive rights gravely jeopardizes the human rights of women and girls. For all these reasons, the Committee insists that the States should decriminalize abortion in the above-mentioned cases and implement care protocols to guarantee the life and health of women who decide to terminate their pregnancy if they have been victims of sexual violence or on therapeutic grounds.

¹¹³ Committee on the Elimination of Discrimination against Women (CEDAW). General Recommendation 24: Women and health, 20^a session (1999), #13, U.N. Document A/54/38/Rev. 1 (1999)

¹¹⁴ MESECVI (2012). Op Cit. Second Hemispheric Report of the Implementations of the Belem do Para Convention. Recommendation No. 10 and 11.

¹¹⁵ Law No. 18.987. Art. 2. Voluntary interruption of pregnancy. Voluntary interruption of pregnancy shall not be penalized and consequently Articles 325 and 325 bis of the Criminal Code shall not be applicable, for cases in which the woman meets the requirements as established in the following articles and it is performed during the first twelve months of pregnancy. Art 3. Within the time period established under the previous article of the instant law, the woman must receive a medical examination before an institution of the National Integrated Health System, in order to bring to the attention of the doctor the circumstances giving rise to the conditions in which the conception has ensued, situations of economic, social or family hardship or age-related circumstances, which in her view impede her from continuing with the pregnancy in course. Accessible at:

<http://www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=18987&Anchor=>

b) Obstetric violence

Convention of Belém do Pará. Article 9.

States Parties shall take special account of the vulnerability of women to violence (...) Similar consideration shall be given to women subjected to violence while pregnant (...).

- The Committee recommended that the States adopt provisions criminalizing obstetric violence and that they define by all appropriate means the elements that constitute a natural process before, during and after childbirth.¹¹⁶

- 120 Therefore, the Committee requested the States—through the system of indicators—to provide information on the criminalization of obstetric violence, and on the number of judgments in connection with this type of violence. In that regard, the Committee notes that despite this Recommendation, only Argentina, Suriname, and Venezuela report that they have criminalized obstetric violence. The Committee notes that these countries had criminalized it prior to the Recommendation, meaning that there has been no progress since it was issued.
- 121 The Committee recognizes Venezuela for criminalizing obstetric violence in its Organic Law on Women’s Right to a Life free from Violence, which even defines it as: “the appropriation by health personnel of women’s bodies and reproductive processes that is expressed as dehumanizing treatment and abuse of the medicalization and pathologization of natural processes that leads to the loss of autonomy and the capacity of women to take free decisions regarding their bodies and sexuality, with negative impact on their women’s quality of life.”¹¹⁷
- 122 As regards the application of the law punishing obstetric violence, the Committee did not receive any information on the number of judgments or rulings on obstetric violence, suggesting that the gap between legislative provisions and their effective application.
- 123 In the light of Article 9 of the Convention, the Committee reminds the States of their obligation to take special account of women subjected to violence while pregnant, for which reason dignified and safe care for women and the eradication of obstetric violence are of the utmost importance

Case of Irma. A Mazateca woman who gave birth to her baby in the garden of a Oaxaca (Mexico) hospital because she was denied adequate medical care and because the necessary health care infrastructure was lacking, in violation of her rights to health,

¹¹⁶ Summary of Recommendation No. 9, which reads: “Adopt provisions to criminalize obstetric violence. Define by all appropriate means the elements that constitute a natural process before, during and after childbirth, without arbitrary or excessive medication and guaranteeing the free and voluntary consent of women to procedures related to their sexual and reproductive health. Adopt an intercultural perspective for including indigenous and afro-descendant people in health services and respecting their customs and cultural norms.” In MESECVI (2012), op. cit.

¹¹⁷ Article 15. Paragraph 13 of the Organic Law on the Women’s Right to a Life Free of Violence in Venezuela. <http://venezuela.unfpa.org/documentos/Ley-mujer.pdf>

personal integrity and security, dignified treatment, a life free of violence, equality, and non-discrimination. In November 2013, a complaint was lodged with the National Commission on Human Rights (CNDH), which issued measures so that this would not be repeated. However, reparation for harm was left entirely at the discretion of the responsible authority and no objective parameters were established for determining the amount of compensation.¹¹⁸

- 124 The Committee also urges the States to provide timely and truthful information to pregnant women, including adapted information for indigenous, illiterate, and rural women, among others, so that they can take free and informed decisions that are respected. Given the importance of an intercultural perspective, the Committee recommends permitting the inclusion of indigenous populations in health services, with full respect for their customs and cultural norms.
- 125 For all these reasons, the Committee reiterates its Recommendation to the States they not only adopt provisions to criminalize obstetric violence, but also respect what constitutes a natural process before, during and after childbirth, without arbitrary or excessive medication.

¹¹⁸ Grupo de Información en Reproducción Elegida [For the recognition and defense of reproductive rights in Mexico] (GIRE) (2014). Case of Irma. 01/2014. <http://www.scribd.com/doc/204637333/CNDH-01-2014-Caso-Irma>

c) Forced sterilization and artificial insemination without the woman's consent

- The Committee recommended that the countries adopt provisions to penalize forced sterilization as a crime and an act tantamount to genocide, war crimes, and crimes against humanity,¹¹⁹ and to adopt regulations on artificial insemination and punish those who perform it without the consent of the victim.¹²⁰

- 126 In order to measure legislative development in connection with forced sterilization and artificial insemination without the woman's consent, the Committee requested information of the criminalization thereof. This indicator is found in the system of indicators together with other types of violence related to sexual and reproductive rights, such as obstetric violence, abortion, and emergency contraception.
- 127 In their replies, the States did not provide the Committee with sufficient information to analyze whether forced sterilization is defined as a common crime or whether it is defined as the Committee recommends.
- 128 Therefore, the Committee does not have updated information on the States' legislative framework on forced sterilization and artificial insemination without the woman's consent that would enable them to measure possible progress with the implementation of these Recommendations. The Committee notes the importance of punishing forced sterilization, since it is a practice to control reproductive behavior that constitutes violence against women.

Case of María Mamérita Mestanza. A rural indigenous woman, 33 years of age, who was repeatedly pressured to accept sterilization by the personnel of the health center in her rural community in Peru. According to the health center, a law had been enacted that required anyone with more than five children to pay a fine and go to jail. After 10 intimidating home visits by officials of the Fujimori administration's 1996-2000 National Program for Reproductive Health and Family Planning, María Mamérita Mestanza agreed to tubal ligation surgery without being advised of its consequences and risks. The surgery was performed in March 1998. In the days that followed, she asked on at least five occasions for medical care, which was denied. Eight days later, she died from untreated postoperative sepsis. The case was brought before the IACHR and then closed through a friendly settlement in which the Peruvian State promised to make a thorough investigation of the facts and apply legal punishments to any person determined to have participated in them, as either planner, perpetrator, accessory, or in other capacity, even if they be civilian or

¹¹⁹ MESECVI (2012), op. cit., Recommendation No. 12.

¹²⁰ MESECVI (2012), op. cit., Recommendation No. 13.

military officials or employees of the government.¹²¹ As of the close of this report, the Peruvian States continues to debate the relevance of reopening the case.

- 129 Since 2012, the Committee has noted that cases of forced sterilization lodged with the IACHR “revealed that this practice is used in some countries where the law does not have the necessary provisions to prosecute the crimes, especially when they are committed as part of a systematic widespread practice that is State policy.”¹²²
- 130 The Inter-American Commission has also noted that this practice is based on stereotypes that see women as vulnerable and unable to make autonomous decisions regarding their own health.¹²³ According to the Commission, forced sterilization has been used in some countries of the region “as a method for rapidly changing the population’s reproductive behavior, particularly poor, indigenous, and rural women.”¹²⁴
- 131 In that regard, the Committee wishes to underscore the importance of measurement by the States of the component of diversity, including indigenous women, in order to understand that some provisions have disproportionate negative impact on some groups of women, thereby violating their rights, including the right to non-discrimination and to equal treatment.
- 132 The Committee reiterates the need to prosecute forced sterilization as an act tantamount to crimes against humanity and/or genocide when perpetrated as State policy, in accordance with the Rome Statute, where forced sterilization figures as a war crime and crime against humanity, because they are “measures intended to prevent births within the group.” This Recommendation is made because prosecuting forced sterilization as a crime against humanity and/or act conducive to genocide has the advantage that these crimes are not subject to any statute of limitations.¹²⁵
- 133 In that regard, the CEVI has issued its opinion regarding artificial insemination, which should be prohibited when performed without the free and voluntary consent of the woman concerned, whereas the States have banned its prohibition, since it is a technical and scientific technique with direct impact on women. In 2012, the Inter-American Court censured Costa Rica for expressly prohibiting in vitro fertilization (IVF), in the case of Artavia Murillo, holding that the decision whether or not to become a mother (...) is part of the right to private life. The Court further held that even though “the absolute ban” on

¹²¹ See IACHR, Report No. 71/03, Petition 12.191, Friendly Settlement, María Mamérita Mestanza Chávez (Peru), October 3, 2003, <http://cidh.org/annualrep/2003eng/Peru.12191.htm>; and Report No. 40/08, Admissibility, I.V. (Bolivia), July 23, 2008. Reyes, María Elena. Attempting to redefine justice: The case of forced sterilization in Peru (no publication date). Available at www.womenslinkworldwide.org/pdf_pubs/es_pub_cuerpos1.pdf

¹²² MESECVI (2012), p. 42. See case

¹²³ Inter-American Commission on Human Rights (IACHR) (2010): Access to Maternal Health Service from a Human Rights Perspective, para. 38.

<http://cidh.org/women/SaludMaterna10Eng/MaternalHealthTOCeng.htm>

¹²⁴ IACHR (2003): Report No. 71/03. Petition 12.191, Friendly Settlement. María Mamérita Mestanza Chávez (Peru), para. 9. <http://cidh.org/women/SaludMaterna10Eng/MaternalHealthChap2eng.htm>

¹²⁵ MESECVI (2012), op. cit., p. 43.

the practice of IVF—an assisted reproduction technique, like artificial insemination—is not expressly addressed at women, and thus appears neutral, it has a disproportionately negative impact on women, owing, in part, to the existence of gender stereotypes and prejudices in society.¹²⁶

134 Therefore, the Committee reiterates its Recommendations 12 and 13 that the States complete the harmonization of their legislative frameworks with the Belém do Pará Convention and that they criminalize forced sterilization and artificial insemination without consent.¹²⁷

d) Emergency contraceptives and treatment

- The Committee requested the States **to provide emergency contraceptives and prophylactic treatment to prevent sexually transmitted diseases, including HIV**, especially for cases of sexual violence.¹²⁸

135 In order to measure the implementation of these Recommendations, the Committee requested information on existing legislation and protocols or guidelines to guarantee that these medications are provided.

136 Of the 19 countries that replied to requests for information on the system of indicators, only 8 reported that provisions were in place for the free distribution of emergency oral contraceptives, especially in cases of sexual violence¹²⁹. The Committee received information on the lack of applicability, the lack of information and access to oral emergency contraceptives, even in the cases where the States reported that they had legal provisions.

137 According to report provided to the Committee of registered civil society organizations of the OAS, “generally, the existence of emergency contraception is not publicly disseminated on the grounds that it would create excessive demand, impacting the public budget, and to prevent opposition by fundamentalists who consider it a method of abortion, so that the population usually does not know that these services are available, even when they are stated to be available in health units as part of the care available to

¹²⁶ I-A Court of HR. Case of Artavia Murillo et al. v Costa Rica (In vitro fertilization). Judgment of November 28, 2012. http://www.corteidh.or.cr/docs/casos/articulos/seriec_257_ing.pdf

¹²⁷ MESECVI (2012) Op. Cit. Recommendation 12. Adopt provisions to penalize forced sterilization as a crime and an act tantamount to genocide, war crimes, and crimes against humanity. Recommendation 13. Adopt regulations on artificial insemination and punish those who perform it without the consent of the victim.

¹²⁸ MESECVI (2012): op. cit. Recommendation 14: Adopt provisions to guarantee the free distribution of emergency contraceptives in public health services without distinctions based on social class or membership to an ethnic group, and ensure their fulfillment by removing any obstacles to their full implementation. Recommendation 15: Adopt provisions to offer emergency prophylactic treatment for HIV/AIDS and other sexually transmitted diseases in public health services, especially for cases of sexual violence. Adopt protocols defining the treatment steps and the manner of providing care for users.

¹²⁹ Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, and Peru.

women who request it and, especially, as part of the emergency kits provided to women victims of sexual violence.”¹³⁰

- 138 Also, the organizations noted “the lack of availability and quality of sexual health and reproductive services – in particular, those targeting teenagers – and the difficult access of the youth to contraceptive methods and information about them.”¹³¹
- 139 The Committee of Experts reiterates that this situation means that victims of sexual violence are left unprotected and that it also repeats the discrimination against rural, indigenous, adolescent, and the poorest women, since they find it more difficult to access private services as a result of their economic situation or gender prejudices and stereotypes in society¹³².
- 140 The Committee received limited information from the States on the provision of emergency prophylaxis for HIV/AIDS and other sexually transmitted diseases in public health services, especially in cases of sexual violence.
- 141 Civil society organizations reported lack of access to these services. "In El Salvador, even if hospital protocols regulated emergency contraception and care for emergency prophylaxis for HIV / AIDS and other sexually transmitted infections, in cases of sexual violence (...), there is no dissemination to the public and limited information for staff who provide care for victims of sexual violence. According to the National Health Forum, retrovirals are not available in all hospitals in the country and when an inquiry among medical staff was made to learn about the population who receives the drugs, sexually abused women are not mentioned..According to studies by the Forum, only in three hospitals (Suchitoto, Ilobasco and New Guadalupe) victims of sexual violence appeared; in other hospitals in the western part they were not mentioned .”¹³³
- 142 "In Mexico, even though there is a Mexican Official Protocol , it is not applied uniformly in all the States of the Mexican Republic, so the emergency prophylaxis treatments for HIV / AIDS and other infections are not guaranteed in the public health sector for cases of sexual violence. The situation faced by indigenous and peasant women is serious.”¹³⁴
- 143 The Committee reiterates its recommendation that States adopt provisions to ensure the distribution of emergency contraception and prophylaxis treatments in public health services. In States where such provisions are already in force, the Committee requests to ensure full compliance by removing obstacles to their application. As guidelines to

¹³⁰ Report on El Salvador – presented by the Center for Justice and International Law (CEJIL) and the Organization of Salvadorian Women for Peace (ORMUSA), El Salvador. July 2014.

¹³¹ Report on the Dominican Republic presented by the Committee by parts of various organizations, including the following three, which have consulting status in the OAS: CEJIL, Women Collective and Health, Latin American and the Caribbean Committee for the Defense of Women’s Rights (CLADEM). July 2014.

¹³² MESECVI (2012). op. cit.,

¹³³ Report on El Salvador – presented by the Center for Justice and International Law (CEJIL) and the Organization of Salvadorian Women for Peace (ORMUSA), El Salvador. July 2014.

¹³⁴ Report on Mexico Presented by the Coalition against the Traffic of Women and Girls in Latin America and the Caribbean (CATWLAC). July 2014.

follow, the World Health Organization and the Pan American Health Organization have developed various guidelines, recommendations and guidelines for dealing with sexual violence, and the provision of prophylaxis and medications to reduce the risk of contracting sexually transmitted diseases including HIV / AIDS.¹³⁵

¹³⁵ Guidelines for the Use of Prophylaxis Post HIV Exposure.
http://whqlibdoc.who.int/publications/2011/9780978856373_eng.pdf

2. NATIONAL PLANS – Articles 1, 2, 7, and 8c and 8d of the Belém do Pará Convention

Convention of Belém do Pará. Article 7.

All States Parties condemn all forms of violence against women and to pursue, by all appropriate means, without delay, policies to prevent, punish, and eradicate such violence.

- 144 For the CEVI, measuring the implementation of national plans means evaluating whether different aspects of the plans and services provided by the State have impact on women's lives. Therefore, the capacity of the State to report the scope of the plans; the incorporation of different government and nongovernmental areas; the priority perspectives; the population groups benefited; the resources allocated; and the information media utilized to give account of such measures are the tools required to assess the progress of the efforts made by each State Party to the Belém do Pará Convention.
- 145 In that context, in the section on national plans, the Committee made five recommendations: two regarding the adoption and implementation of plans and strategies on violence against women,¹³⁶ one on human resource training on women's rights, and one on civil society participation.¹³⁷ Lastly, the CEVI urged the States to include in their national plans strategies for cooperation with the media in order to publicize women's rights. Along with those five recommendations, this section also discusses the recommendation on national campaigns to disseminate women's rights, given their association with the media.

2.1 Plans and strategies on violence against women

- The Committee requested the States to adopt national intersectoral plans to prevent, punish and eradicate violence against women, together with mechanisms for their monitoring, evaluation and dissemination, and civil society participation, and to establish penalties for government officials who fail to implement them.¹³⁸
- 146 In order to measure progress with this recommendation, the Committee requested from the States—through the system of indicators—information on: national plans, policies, actions, and strategies for the prevention, punishment, and eradication of violence that

¹³⁶ MESECVI (2012): Second Hemispheric Report on the Implementation of the Belém do Pará Convention. Recommendation 17: Adopt national intersectoral plans to prevent, punish and eradicate violence against women, together with mechanisms for their monitoring, evaluation and dissemination, ensuring civil society, organized communities and social movements' participation in the different stages of said plans. Establish penalties for government officials who fail to implement them.

¹³⁷ Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention) (1994). Article 8.c: "to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;";

¹³⁸ Recommendation 17.

address the diversity of women. All States are at least carrying out actions in this area.

- 147 The analysis of the replies to requests for information on the indicators made evident the variety of actions and plans in the region. Of the 19 States that participated in this follow-up stage, all reported specific plans to combat violence, either as an action line in the framework of the national development plans or national equality plans, or as part of specific national plans or strategies for the eradication of violence against women.
- 148 The greatest advances noted in the period of study were the implementation of the projects, plans, and strategies that had been announced during the second evaluation stage, as well as drafts plans and new comprehensive laws containing strategic action lines that have entered into force¹³⁹.
- 149 The CEVI also applauds the fact that although the majority of States reported having specific plans against violence, they also reported that they had been incorporated in existing equality plans in the country as mechanisms to combat and eradicate the causes and consequences of violence against women in all its spheres¹⁴⁰.
- 150 Another important advance in the region is the improved quality of information and publicity on budgetary allocations which, in earlier evaluation periods, were earmarked primarily for the operation of the national machinery for the advancement of women. Of the 19 States that participated in this follow-up stage, all reported that they had budgetary allocations for national or sectoral plans, projects and strategies,¹⁴¹ although less information was provided on the specific areas.
- 151 The States also reported broad participation, with different degrees of intensity, either from women's bases directly in communities or through advisory councils or participatory and advisory bodies created under existing national legislation.¹⁴² This participation is more evident in the area of policy planning and design and programs to be implemented than in implementation and subsequent monitoring and evaluation.
- 152 The CEVI also notes as progress the gradual structuring, promoted by the State, of forums for participation at the community level to expand access by affected women to processes of public policy discussion, planning, and monitoring,¹⁴³ as well as the important contribution made by women's and feminist movements,¹⁴⁴ and by other civil society groups focusing on different issues.
- 153 The CEVI also acknowledges the significant progress reported by most States that they had specific budgetary allocations for the implementation of plans or strategies, and were making efforts to expand coverage or raise the levels and quality of care offered to

¹³⁹ This is the case in Bolivia, El Salvador, and Venezuela.

¹⁴⁰ This is the case in Bolivia, Colombia, Panama and Venezuela

¹⁴¹ These advances are discussed in the chapter on budget.

¹⁴² Colombia, El Salvador, Panama, Peru, and Venezuela.

¹⁴³ Ecuador, Venezuela, El Salvador, Panama, and Brazil.

¹⁴⁴ Quito Consensus. Tenth session of the Regional Conference on Women in Latin America and the Caribbean, para. 15. Available at: <http://www.cepal.org/publicaciones/xml/5/29555/dsc.li.pdf>

women.

- 154 The CEVI especially commends States such as Bolivia, Dominican Republic, and Colombia which reported that they had mechanisms for evaluating and monitoring the implementation of the national plans, one of the greatest concerns expressed by the CEVI during the second evaluation stage, although this remains a challenge for the other States consulted.
- 155 The CEVI also applauds the substantial conceptual progress evident at the regional level, moving from the eradication of domestic or intra-family violence to a concept of gender-based violence or violence against women. Some examples of this are set out below and discussed in greater depth in the specific chapters on each State:
- 156 **Argentina** informed that during 2011 and 2012, a validation process of the National Plan was performed, which allows to unify the resources and the efforts in the work against violence and discrimination towards women, strengthening the responsibilities of different governmental levels, and thematic jurisdiction.
- 157 Although **Bolivia** has not implemented national plans to prevent, punish, and eradicate violence against women, in the framework of Law 348, it has prepared the comprehensive public policy “Decent Lives: Women Free from Violence,” a strategic objective of which is that, by 2020, all State organs, autonomous territorial entities, and authorities involved will ensure a reduction in indices of violence against women and impunity for assailants; and the construction of a culture of non-violence and the empowerment of women for the exercise of their rights. It also has the “National Plan for Equal Opportunity for Women— Building a New Bolivia for Better Lives for All (PNIO),”¹⁴⁵ whose aim is to eliminate gaps and inequalities and is part of the planned “departriarchalization” process. It also reported the recent structuring of the System for Monitoring, Preventing, Addressing, Punishing, and Eradicating Violence against Women (SIPPASE-VRG), which is based on monitoring indicators and outcomes related to reducing and/or eradicating violence against women.¹⁴⁶
- 158 **Brasil** counts on its National Political Plan for Women 2013-2015, which its creation counted on the participation of organizations from its civil society. Among its main principals, the following stand out: the women’s autonomy; the sustainable equality among men and women in all contexts; the respect of diversity and the fight of discrimination forms; and the active participation of women in all phases of public policies.
- 159 **Colombia** has launched, in the framework of the 2010-2014 National Development Plan “Prosperity for All,” national public policy guidelines on gender equity for women, as well as the Plan to Guarantee a Life free from Violence¹⁴⁷.

¹⁴⁵ Adopted by Supreme Decree No. 29850, of December 10, 2008.

¹⁴⁶ For further information, see: MESECVI (2014), Follow-up Report of Bolivia.

¹⁴⁷ The State of Colombia, on October 23rd, 2014, requested the Technical Secretariat of the MESECVI to include the following information: It is important to point out that through CONPES 161 of 2013 Colombia formulated its national public policy on gender equity and the comprehensive plan to guarantee

- 160 **Costa Rica** has a National Policy for the Prevention of and Care in Cases of Violence against Women, and its action plan, updated in 2010 and in force until 2015 (PLANOVI-MUJER 2010-2015), specifically implemented through the gender-based violence area of and included in the Operations Plan of the Instituto Nacional de la Mujer [National Women's Institute] (INAMU).
- 161 **El Salvador** reported that since 2012, different measures have been developed for multisector implementation of the Comprehensive Law, and that implementation has begun of the National Policy for a Life free from Violence,¹⁴⁸ which entered into force in November 2013. The Policy provides for different levels of coordination among concomitant spheres of competence for protection, prevention, defense, oversight, and reparation in connection with the rights of women and girls, expansion of the coverage of the measures previously implemented, and advancement of the prevention, education, and training processes for officials charged with enforcement of the Comprehensive Law.
- 162 The Committee notes the significant progress in **Grenada** of the existence of a Gender Equality Plan, reported by the State, following the publication of the Second Hemispheric Report
- 163 **Mexico**, through the Office of the President of the Republic, has incorporated the gender perspective as a cross-cutting strategy of its 2013-2018 National Development Plan. It also defines as a strategy (1.5.2) efforts to address violence against children and adolescents through coordination to ensure participation by all areas responsible for prevention, care, evaluation, and monitoring.
- 164 **Panama** reports that it has the 2004-2014 National Plan to Prevent and Address Domestic Violence and Policies for Citizen Coexistence and is now taking the steps necessary to create a new plan against violence, which the CEVI hopes will amplify the concept of violence against women in line with the provisions of the Convention. The State also reports that in 2012, it launched the Public Policy on Equal Opportunity for Women, whose structure includes 17 thematic areas, including combating and preventing violence against women.
- 165 The Committee notes progress in **Paraguay** with the change of status of the former Women's Secretariat to the Women's Ministry, an institutional strengthening measure

women a life free from violence. That was an important instrument, which opened up innumerable options and became a key vehicle for defining the challenges our country faces for safeguarding women's rights and upholding the principle of equality and non-discrimination. To that end, CONPES 161 develops strategies based on inter-sectoral coordination, gender mainstreaming, a differential approach, and equal opportunity. Furthermore, given that the aforementioned CONPES envisages short-, medium-, and long-term actions, care has been taken through the Presidential Advisory Office (Consejería Presidencial) to generate mechanisms to ensure implementation of those actions and sectoral and territorial continuity in the implementation of the policy via the technical secretariat established by Decree 1930.

¹⁴⁸ Salvadorian Institute for Women's Development (ISDEMU) (2013): National Policy for Women's Access to a Life free from Violence. Available at:

http://www.fosalud.gob.sv/phocadownload/politica_nacional_violence.pdf

that helps build capacities to implement this mechanism's mandate and the action line of eradicating violence against women expressly set forth in Article 5 of the Law creating that Ministry.

- 166 **Uruguay** reported the existence of a National Strategy to Combat Gender-based Violence, whose frame of reference is the Second National Plan to Combat Domestic Violence, implemented, since 2012, as the “Measures towards a Domestic-Violence-Free Country.” The CEVI hopes that the Strategy’s change of name will have direct impact on the measures implemented in addition to domestic violence and that it takes as reference the concept of violence of the Convention.
- 167 **Venezuela** reported the implementation of the draft plan, presented during the second evaluation stage as Historic Objective No. 2 of the 2013-2019 Socialist Plan of the Nation and the 2013-2019 “Mamá Rosa” Gender Equity and Equality Plan, which incorporates action lines and strategies for care and for the protection of women’s rights, especially those of vulnerable groups such as girls and girl adolescents, adult women, older women, indigenous women, Afro-descendant women, and women with disabilities. In this case, especially emphasized are action lines to “monitor the prison humanization process for women deprived of liberty” and “support for girls as subjects of rights.”
- 168 The CEVI notes the cases of Argentina, Brazil, and Mexico, which, as federal States, must meet the challenge of coordinating policies in each province and/or state with national/federal policy and the commitments assumed at the international and inter-American levels. These three countries reported some degree of progress with the harmonization processes, but none referred to mechanisms for coordination with the regional levels so that public policy at the national level could be addressed comprehensively. The Committee encourages these States to provide further information regarding the coordination measures and to strengthen them since the obligations arising under the Convention are incumbent upon the State as a whole.
- 169 The CEVI notes with satisfaction the progress achieved in the region in this area. From the study conducted based on the replies to the request for information on the indicators, the Committee notes that challenges remain in expanding from the private to the public sphere the policy on women’s rights to a life free from violence and in implementing measures for monitoring and results-based evaluation. However, the CEVI is optimistic about the expansion and implementation of new plans, measures, and strategies in the region, as well as new mechanisms for their implementation and follow-up—including the *Progress Indicators for Measuring the Implementation of the Belém do Pará Convention*—which reflects greater awareness on the part of the States regarding the importance of follow-up, something not as evident in earlier evaluation and follow-up stages.

2.2 Violence against women in other plans /actions /strategies

- The Committee recommended defining **and implementing actions relating to violence against women within the national plans for other sectors**, with particular reference to education, employment, poverty eradication, gender

equality, health, and security.¹⁴⁹

- 170 The Committee understands that including the issue of violence against women in plans, programs, and projects other than those implemented in the framework of national plans on gender or against violence yields positive results, since this facilitates more coordinated work with other areas with important responsibilities for protecting and guaranteeing women's right to a life free from violence. It therefore invited the States to provide additional information for this follow-up stage.
- 171 Of the 19 States that replied to the request for information on the system of indicators, most of those that reported coordination with other areas effected this by incorporating violence against women in education, health, poverty eradication, justice, and security plans.
- 172 Ecuador, Guatemala, Mexico, Paraguay and Suriname mentioned the linkage with national plans on childhood and adolescence, although no State provided specific information to the Committee on outcomes of care policies for children and adolescents or on diagnostic assessments of violence in that specific area.
- 173 In the cases of Bolivia, Colombia, Ecuador, Panama, and Venezuela, plans against violence were also introduced as cross-cutting components of general plans of the nation and in the framework of national anti-poverty and anti-social inequity plans and plans for depatriarchalizing the State.
- 174 Argentina, Brazil, El Salvador, Guatemala, Paraguay, and Venezuela have incorporated or linked plans to combat violence against women with plans to combat discrimination or xenophobia,¹⁵⁰ national human rights plans,¹⁵¹ national justice plans,¹⁵² health plans,¹⁵³ social security plans,¹⁵⁴ and education plans.¹⁵⁵
- 175 The CEVI acknowledges the gradual progress represented by this linkage with other national plans through the incorporation of actions in other areas fundamental to the transformation of the causes of violence and discrimination. The CEVI commends the States Parties for having provided information in this regard and encourages them to provide—as they have for national plans to combat violence—in subsequent evaluation and follow-up stages qualitative and quantitative information for use in evaluating the implementation of these mechanisms for coordination and mainstreaming of the struggle to eradicate violence against women and its causes and consequences.

¹⁴⁹Summary of Recommendation 18, which reads: “Define and implement actions or strategies relating to violence against women within the national plans for other sectors, with particular reference to education, employment and income generation; poverty eradication; gender equity and equality; health; HIV/AIDS; and public security and crime prevention.” In MESECVI (2012): op. cit.

¹⁵⁰Argentina

¹⁵¹Brazil

¹⁵²El Salvador

¹⁵³Paraguay

¹⁵⁴Guatemala and Venezuela

¹⁵⁵Dominican Republic

- 176 Several States reported plans on the topic of the treatment of people, with cross-cutting themes of gender and security, among them Brazil, Chile, El Salvador, Ecuador, Guatemala, Mexico, and Paraguay. Brazil and Peru, specifically mentioned the components of gender in its national security plans.
- 177 In the citizen security area, the CEVI echoes the concern of the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM) regarding the existence of opportunities for the incorporation of security with a gender perspective in regional plans and strategies. According to this Organization, different national and regional plans are being discussed that do not take into account the differentiated use by men and women of cities and spaces,¹⁵⁶ and their differentiated manner of living in/occupying public spaces.
- 178 The Committee likewise encourages the States to forward supporting information on actions they are carrying out in connection with social security, employment, and security plans. The Committee reiterates its recommendation regarding the importance of including strategies to combat gender-based violence in sectoral economic autonomy and citizen security plans.

2.3 Training on women's human rights and gender-based violence

Convention of Belém do Pará. Article 8: The States Parties agree to undertake progressively specific measures, including programs:

... c. to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;

- The Committee of Experts recommended that the States develop ongoing training, with educational content on violence against women, in professional training plans for government officials.¹⁵⁷

- 179 Since the First Multilateral Evaluation Round, the CEVI has been citing the importance of progress with ongoing structural training plans, to which regular budgetary allocations are made, so that they are ensured within the budget structure.

¹⁵⁶ The CEVI reiterates its call to the States at its Tenth Meeting, where it urged the States to incorporate a gender perspective in security plans and to take account of United Nations resolution 1375, on peace, woman and security. Cite CEVI: minutes of agreements

¹⁵⁷ MESECVI (2012): Summary of Recommendation 19, which reads: "Develop ongoing training plans on violence against women and on women's rights under the Belém do Pará Convention for decision-makers and authorities, especially for government officials and agencies responsible for enforcing legislation or policies to prevent, punish and eradicate violence against women. These include legislators, justice and health workers, educators, the military and police forces, social and community women's organizations, and specialized centers for dealing with violence."

- 180 As for the need to improve and strengthen knowledge and respect by government officials for the Belém do Pará Convention, as established in its Article 8, the Committee incorporated indicators on the number of justice system personnel trained and on the impact of education.
- 181 The CEVI has underscored the importance of training on the gender perspective and on women’s human rights, since this may be an effective way of changing stereotypes that contribute to violence or promote impunity. In that context, the Committee notes with satisfaction that 18 of the 19 States that provided information—the exceptions being Barbados – indicate that they have provided training to government officials on gender, human rights, or violence against women; thus the CEVI can affirm that the training programs in these areas are progressively trending upward.
- 182 However, both the CEVI, the Inter-American Commission on Human Rights (IACHR), and the Committee on the Elimination of Discrimination against Women (CEDAW)¹⁵⁸ have indicated that in order to result in sustainable changes, these training programs should be vested with the needed mechanisms to guarantee their institutionalization, efficacy, and follow-up.¹⁵⁹ As the Committee of Experts has held since 2012, a pending challenge is to ensure that this training is not limited to sporadic workshops or activities that are not part of a permanent program or are the product of projects that are temporary or partial in nature.¹⁶⁰
- 183 The Committee considers that in addition to providing training to a growing number of government officials, the countries should measure the changes potentially generated through these courses. The information provided on monitoring and evaluation of training does not make it possible to determine the total number of individuals trained nationwide, except in the specific cases described below, or the impact of this training on knowledge and attitudes of government officials, or on the effects of the services provided to victims of violence.
- 184 For that reason, we can indicate the progress in the region remains heterogeneous and disparate. For example, although some States have structured plans and processes for ongoing training for some government officials, especially for those involved in administration of the justice system, others only organize meetings, workshops, or mass dissemination mechanisms. However, the Committee views as significant progress the expansion of education and training processes to include others involved in that system, in addition to judges and police officers, such as prosecutors, defenders, prison personnel, and law professionals.
- 185 Argentina, Costa Rica, Chile, Dominican Republic, El Salvador, Mexico, Paraguay, Peru,

¹⁵⁸ Committee on the Elimination of Discrimination against Women (CEDAW) (1987): Recommendation 3. Education and public information programs. Available at:

<http://www.un.org/womenwatch/daw/cedaw/recommendations/index.html>

¹⁵⁹ IACHR (2007): Access to Justice for Women Victims of Violence in the Americas, and MESECVI (2014). Guide to the Application of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, para. 55.

¹⁶⁰ MESECVI (2012), op. cit., p. 54.

and Uruguay reported the number of individuals trained in the period of study. The modalities, content, and processes indicated by each State were so diverse that common elements of the different experiences could not be identified, nor could the level of actual impact, since none of the States reported the existence of a specific monitoring mechanism for its evaluation. However, the CEVI notes that States have built State capacities to ensure the education plans and also recognizes the budgetary efforts made by the States in this area.

- 186 Additionally, the programs most implemented are those for judiciary and State security officials, with the judiciary at the helm of a large group of educational policies on building the response capacity of the justice administration system. The CEVI received less information on institutionalized training programs for the education and health sectors. The Committee wishes to emphasize best practices in this area now being adopted by some States Parties that may be shared for the formulation of regional policies for progress in this area:
- 187 **Argentina** is to be noted for the number of government officials trained through Ministry of Defense training programs utilizing the program for the prevention of violence in the armed forces, the Police Personnel Training system which, since 2009, has been used to train 11,095 noncommissioned officers of the Argentine Federal Police and, especially, the program of the Women’s Office of the Supreme Court of Justice of the Nation which, in 2011, launched “Job training in workshops on gender and trafficking in persons for purposes of sexual exploitation,” whose aim is to obtain the commitment of the security forces to combat the crime of trafficking in persons and overcome cultural resistance impeding a proper approach thereto.
- 188 **Brazil** reports major efforts in the judicial area, including participation by the National School for Magistrates, the Special Secretariat on Policies for the Advancement of Women of the Department of Judicial Reform, the National Council of Justice, and the Magistrates’ School.
- 189 **Ecuador** reported that a total 17,554 police officers had been trained nationwide in the areas of gender analysis theory, basic concepts, sexual diversities, procedures for addressing intra-family violence, and the structuring of crime and violence prevention projects, and also reported a large number of workshops and meetings for judicial personnel. The CEVI notes with satisfaction the educational effort made on gender-based violence-related topics in the area of LGBTI persons for police officers of different units and departments of the National Police, where a study was conducted of the Police Gender-Awareness Procedure and the training program established by the Ecuadorian Armed Forces in the area of human rights, gender, and multiculturalism.
- 190 **El Salvador** has created the School for Substantive Equality Education with the aim of helping reduce gender inequality and discrimination through the institutionalization of a professional training policy that builds the response capacity of Salvadorian State

institutions.¹⁶¹ The State reported that from its inception to May 2013, 2,836 individuals (2,115 women and 711 men) had participated in this training process.

- 191 **Mexico** reported the existence of systematic education, training, and awareness processes for government officials on legal tools for imposing punishment, and for protecting and promoting women's rights, especially the right to a life free from violence. The gender policy of the Federal Council of the Judiciary includes as one of three components the education of court staff on gender equality. For its part, in 2011, the Gender Equality Unit of the Supreme Court of Justice implemented two diploma programs for those involved in justice administration, and, in 2012 and 2013, the comprehensive graduate program on human rights and democracy, with essential components on gender and violence against women.
- 192 **Paraguay** reported the development of activities to train and raise awareness for the members of the Judicial Power, Attorney General, Health personnel and the National Police, which reflects the continuous respect to the CEVI's recommendation. In fact, the new report shows that in 2013, from January to September, 1581 individuals were trained, many of which were public officials from institutions such as: the Ministry of Treasury, National Police, Ministry of Defense, Officers from the Referral Center for Women, and the women's house "Mercedes Sandoval," I.P.S.
- 193 **Uruguay** reported an important system for ongoing training of State security officials that includes armed forces members, police personnel, and technical and prison police, for both those at entry level and those at higher grades, on the subjects of human rights, domestic violence, sexual and reproductive health, and gender-based violence. It also mentions Resolution No. 042/2012, of the National Police Academy, which creates the gender and public security lectureship, so as to mainstream gender, sexual and reproductive rights, and domestic violence in curricula at all levels. \
- 194 **Venezuela** stands out for the creation of the National Council for Depatriarchalizing the State, whose aim is to provide systematic education, training, and awareness for government officials; the "Argelia Laya" National Feminist Training Plan, whose aim is training for government officials, promoting gender equality and equity and preventing violence against women; and the "Community Defenders Training Plan, whose aim is to promote the peaceful coexistence of men and women by promoting violence-free territories.
- 195 In the context of these positive experiences, the Committee reiterates its recommendation that the States develop ongoing training plans on violence against women and on women's rights under the Belém do Pará Convention. It also encourages the States to ensure that these training plans are accompanied by evaluation mechanisms for the measurement of their potential impact on the attitudes of government officials.

¹⁶¹ Instituto Salvadoreño para el Desarrollo de la Mujer. [Salvadorian Institute for Women's Development]: Informe de la Situación y Condición de las Mujeres Salvadoreñas 2011 – 2012 [2011 – 2012 Report on the Situation and Condition of Salvadorian Women]. Available at: <http://www.isdemu.gob.sv/>

2.4 Links with civil society organizations

- The Committee urged the States to institutionalize the participation of civil society in the design, implementation, and evaluation of national plans on violence against women.¹⁶²

- 196 Participation by women in public affairs is a fundamental aspect of the exercise of human rights in general and, especially, of the right to a life without violence. In particular, women, girls, and adolescents, older adults, and persons of diverse sexual orientations should participate actively in the preparation, implementation, and evaluation of the obligations—positive and negative, immediate and progressive—arising from the rights enshrined in the Convention related to the guarantees of a life free from violence.¹⁶³
- 197 Access to information and political participation are crosscutting core principles of the Convention, that are “highly useful for gathering information on the situation of women suffering from structural inequality and inequity issues or on sectors vulnerable to violence (Article 9 of the Convention) but also for ascertaining the effectiveness of the policies being implemented by the State to guarantee each right recognized in the Convention.”¹⁶⁴ The right of participation then refers to rights not simply as rights, but rather opportunities, meaning that every person formally vested with such rights have a real opportunity to exercise them.¹⁶⁵
- 198 In order to measure the exercise of women’s right to participate in public affairs, in the light of the Belém do Pará Convention, the CEVI made the above recommendation, which focused generally on increasing the participation of women’s and feminist organizations, which have been at the vanguard of the struggle for the realization of women’s rights, and on the formulation, implementation, and monitoring of the States’ policies and actions to combat gender-based violence.
- 199 The Committee of Experts is troubled by the fact that the participation of civil society organizations is mainly in targeted activities, but not necessarily in the execution of national plans or projects, and even less so in the design of the national plans and monitoring their execution.¹⁶⁶

¹⁶² MESECVI (2012): Second Hemispheric Report on the Implementation of the Belém do Pará Convention. Recommendation 20: “Institutionalize the participation of civil society, organized communities and social movements in the design, implementation, monitoring and evaluation of national plans on violence against women, through the mechanisms deemed most appropriate, such as participation in high-level commissions, thematic roundtables and broad based consultative processes, among others of a binding nature.”

¹⁶³ CEVI (2013): Progress Indicators for Measuring the Implementation of the Belém do Pará Convention (Adopted by the Committee of Experts (CEVI), 21st May 2013. MESECVI/CEVI/doc.188 /13 rev. 1.

¹⁶⁴ Ibid.

¹⁶⁵ IACHR: The Road to Substantive Democracy. Women’s Political Participation in the Americas, para. 24, citing I-A Court HR: Case of Castañeda Guzmán v. Mexico. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 6, 2008, para. 145.

<https://www.cidh.oas.org/pdf%20files/POLITICAL%20PARTICIPATION.pdf>

¹⁶⁶ MESECVI (2012), op. cit., p. 56.

200 In order to determine the level of participation and the mechanisms existing in the States, the CEVI requested, through the Progress Indicators, information on the number and characteristics of civil society organizations involved in the promotion and protection of the right to a life without violence and those that were involved in budget oversight initiatives and budget execution. It also requested that the States indicate the forms and types of participation, as well as the existence of spaces, mechanisms and tools with recognition and legal status for interagency coordination between the public and civil society organizations.

- Number and characteristics of the organizations participating in the promotion and protection of the right to a life without violence

201 Of the 19 States that replied, only Colombia provided a specific number of organizations, indicating that 182 organizations participate actively in the monitoring, evaluation, and follow-up to policies to guarantee this right. The rest of the States reported that women's organizations had different opportunities for participation, such as the discussion of plans, projects, or specific laws. However, no State provided further details on the levels of or mechanism for participation or the extent of follow-up thereto. In their replies, El Salvador and Panama explained that active dialogue is now under way with civil society to discuss specific action plans and, in the case of Paraguay, the new Law on Violence.

202 No State provided information on the organizations pursuing judicial proceedings for the defense of women's rights or that are requesting relevant public information held by the State.

- Number and characteristics of the organizations involved in budget and budget oversight initiatives, and in monitoring their implementation

203 Only Ecuador and Chile indicated that they were making efforts to implement specific plans and projects with civil society organizations, based on the shared responsibility modality, such as homes or care services for women victims of violence. Ecuador indicated that it had budget oversight and monitoring processes in specific projects.

- Existence of spaces, mechanisms and tools with recognition and legal status for interagency coordination between the public and civil society organizations

204 Only El Salvador, Panama, and Uruguay reported having authorities created under laws and regulations that institutionalize direct participation by civil society organizations in consultation processes. However, the CEVI did not receive information that would enable it to determine the levels of participation and the existence of formulae for its monitoring.

- Participation by women as leaders

205 Although this was not an area for express follow-up in the Progress Indicators, the CEVI welcomes the valuable information it received on information processes and mass

participation by women in general and by users of specialized services for women. Three States reported, during this follow-up period, following up on measures to establish direct linkages with women.

- 206 Bolivia reported that it had held nine women's summits, with participation by over 2,500 women, through which women's main primary demands in the area of violence were compiled. For its part, El Salvador promotes mechanisms for participation known as Advisory Councils for Societal Oversight, with national coverage, which now have 14 departmental and 227 municipal advisory councils that facilitate women's direct participation in discussions of public policies implemented, which, as of the date of this report, had 3,975 women members. In that regard, Venezuela reported that it had 23,004 Women and Gender Equality Committees, organized in the communes, to protect the right to a life without violence against women and to gender equity.
- 207 The CEVI applauds these initiatives, since participation by women as leaders from a human rights perspective is an essential requirement for the full exercise of their human rights.
- 208 Lastly, the CEVI wishes to emphasize that evidence of budgetary investment, measures for evaluating the use of earmarked resources on the policies implemented, and transparency in resource execution are key to enabling civil society organizations, women's groups, and interested actors to participate in monitoring the use of resources and in evaluating their effectiveness.

2.5 Communication media and violence against women

- The Committee recommended conducting awareness and prevention campaigns on violence against women¹⁶⁷ and including in national plans on violence against women strategies for cooperation with the media.¹⁶⁸
- 209 The right to information as a human right is enshrined in Article 13 of the American Convention on Human Rights. The Inter-American Court of Human Rights has interpreted this as the right to “‘seek’ and ‘receive’ information”¹⁶⁹. For its part, Article 8.g of the Belém do Pará Convention encourages “...the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women.”

¹⁶⁷ MESECVI (2012), op. cit. Summary of Recommendation. 16, which reads: “Conduct awareness and prevention campaigns on violence against women and knowledge and promotion of their rights, preferably within a stable time frame, without distinctions based on sex, social class or membership to an ethnic group, and establish mechanisms for evaluating the results.”

¹⁶⁸ MESECVI (2012), op. cit. Summary of Recommendation 21, “Include in national plans on violence against women strategies for cooperation with the media and advertising agencies in order to publicize women's rights, in particular the Belém do Pará Convention. Ensure that they have sufficient budgetary funding for continuity as well as an impact evaluation mechanism.”

¹⁶⁹ IACHR (2011): Access to Information on Reproductive Health from a Human Rights Perspective, para. 2. <http://www.cidh.oas.org/pdf%20files/womenaccessinformationreproductivehealth.pdf>

- 210 The CEVI, conscious of the roles of the media in the exercise of this right and, especially, in promoting and disseminating women's rights,¹⁷⁰ has indicated that for women to exercise effectively the right to participation as a guarantee of the exercise of other rights, the right to access to information on public policies affecting them must be guaranteed, an essential requirement also in guaranteeing the women's right to a life free from violence. In that regard, the CEVI recognizes that the dissemination of information in a democratic society is an indispensable requirement in allowing citizens to oversee the actions of the governors whom they have entrusted with the protection of their interests,¹⁷¹ and also to access and exercise the right to information in the hands of the State.¹⁷²
- 211 Therefore, the CEVI has been requesting information on the obligations of the State related to the development of mechanisms to provide information to everyone, and, especially, to women on their human rights, especially information of public interest that is held by the State where no other means of accessing it exist.¹⁷³
- 212 In the Declaration of Pachuca,¹⁷⁴ adopted by the Delegates of the Inter-American Commission of Women and the Committee of Experts, in May 2014, guidelines were established for the States' work with the media, notably: First: Eliminate gender stereotypes and sexist and discriminatory images and messages in communications media. Second: Provide gender training from a multi-cultural perspective in the curricula of journalism institutions. Third: facilitate sufficient resources for the implementation of programs, campaigns and actions designed to prevent violence against women and girls in the media; as well as evaluation of the impact of these measures. Lastly: work with civil society in the task of evaluating the fulfillment of the Convention of Belém do Para in relation to communications media, as well as the application of sanctions to sexist publicity and media coverage.
- 213 Accordingly, the recommendation of the Committee is aimed at the creation of spaces for necessary coordination between national plans for the eradication of violence and processes of access to public information and the type of message promoted through the mass communications media. To that end, the CEVI requested information on awareness campaigns to promote knowledge of women's human rights, whether implemented directly in the community or through the communications media, to address the issue of violence against women and to guarantee their right "...to be valued and educated free of

¹⁷⁰MESECVI (2012) Second Hemispheric Report on the Implementation of the Belém do Pará Convention., p. 56.

¹⁷¹CEVI (2013): Progress Indicators for Measuring the Implementation of the Belém do Pará Convention (Adopted by the Committee of Experts (CEVI), 21st May 2013). MESECVI/CEVI/doc.188 /13 rev. 1, p. 14.

¹⁷² For further information on this point, see: Office of the Special Rapporteur for Freedom of Expression: Estudio especial sobre el Derecho de Acceso a la Información, Available (only in Spanish) at: <http://IACHR.oas.org/relatoria/section/Estudio%20Especial%20sobre%20el%20derecho%20de%20Acceso%20a%20la%20Informacion.pdf>

¹⁷³ Ibid.

¹⁷⁴Declaration of Pachuca (2014). Available at: <http://www.oas.org/en/mesecvi/docs/DeclaracionPachuca-EN.pdf>

stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination.”¹⁷⁵

- 214 In this follow-up stage, the CEVI received little information in this area, although some countries are to be noted for their use of the mass communications and electronic media to promote campaigns implemented and, to a lesser extent, for mechanisms to take steps and coordinate with the media to eradicate messages that deepen gender stereotypes.
- 215 The CEVI did not receive specific answers on the public interest information disseminated in the mass media, such as budget and budget execution for programs, plans, and projects, or on mechanisms to facilitate access to this information. Neither did it receive information on the publication and dissemination of records—in the police, courts, prosecutor’s offices, and health systems—of reports for violence against women.¹⁷⁶
- 216 From the information received, of the 19 States that replied to the request for information on the Progress Indicators, all States except Barbados reported having some type of campaign against violence against women, and only seven States provided detailed information on campaigns or measures to address sexist messages in the communications media:
- 217 In **Argentina**, in 2011, the campaign “260 Men on Machismo” was conducted in conjunction with the National Institute against Machismo. This campaign took as its name the number of women murdered as a result of gender-based violence in 2010, with the aim of making visible the problem of femicide and its roots in gender inequality and discrimination. At the Belém do Pará +20 Hemispheric Forum “Prevention of violence against women: Good practices and proposals for the future,” Argentina presented the experience of the Media Observatory of the Office of the Public Defender on Audiovisual Media Services. The Office of the Public Defender proposes to contribute to the citizen debate, together with other public and civil society organizations, to develop communication that counteracts violence against women and gender-based discrimination in the media and promotes diversity and equal opportunity as constituent values of democracy.¹⁷⁷ To that end, that Office of the Public Defender is carrying out a series of specific actions, such as training, publishing, and distributing consultation materials, promoting and recognizing best practices, workshops with numerous actors, meetings with media leaders, and specific actions in connection with reports, complaints, and public consultations, which are reported on a web page.¹⁷⁸ The Office of the Public Defender also declared 2014 the “Year to Combat Media Violence towards Women and Gender-based Discrimination in the Audiovisual Media.”
- 218 **Chile** stands out for the agreements with the media and publicity agencies and the National Television Council to incorporate measures in the framework of the program for

¹⁷⁵ Article 6.b of the Belém do Pará Convention.

¹⁷⁶ Progress Indicators, p. 14.

¹⁷⁷ For further information, see: <http://www.defensadelpublico.gob.ar/es/secciones/violencia-genero>

¹⁷⁸ <http://www.defensadelpublico.gob.ar/es>

the improvement of gender management, and the mass and electronic campaigns for the prevention of violence against women in the dating period.

- 219 **El Salvador** has conducted the campaign “Violence against women is violence against society,” promoted in June 2012, through the operation of a free easy-to-dial helpline number (126) to provide information and advice and receive complaints of cases of violence against women. It has also launched was a radio program “Women’s Voice.” a forum for women to express their views and discuss their problems, and to provide information on their rights. The CEVI also applauds the fact that the Ministry of the Interior, through the Office of Public Entertainment Events, Department of Evaluation and Monitoring, evaluates audiovisual media content to identify violence, discrimination, and all actions violating women’s rights.
- 220 **Guatemala** reported mass awareness campaigns, implemented through the media, on violence against women and on their rights. In that regard, they reported the use of radio slots, television spots, and materials in different formats (press notes, bulletins, supplements) disseminated electronically and through social networks and announcements.
- 221 **Panama** reported that it periodically conducted campaigns for prevention of violence against women, among them: “Don’t Put a Pretty Face on It. Report It”; “Zero Abuse”; “Don’t Hit Her”; and, recently, “End Femicide,” as support for the UN regional campaign, which was adopted in Panama as “Panama, Unite to End Violence against Women.”
- 222 **Paraguay** has conducted a series of mass awareness campaigns on the rights of women in connection with violence, mechanisms for the protection of women’s rights, sexual harassment, and trafficking of persons, among others, to be noted for their use of Spanish and Guaraní.
- 223 **Peru** also provided detailed information on its campaigns for different audiences that discuss prevention and care in cases of violence, as well as impunity in cases of these crimes.¹⁷⁹
- 224 **Venezuela** has established as an objective of the Gender Equality Plan “to promote mass dissemination of aspects related to the rights of women in all spheres of national life.”¹⁸⁰ It has also imposed an obligation on the State to ensure that the media offer programming that is free of violence and discrimination against women, and to coordinate inter-sector and interinstitutional actions to combat the dissemination of messages with degrading content and that make sexual use of women. It has also stipulated that all State entities should prepare, in their area of competence, mass publicity materials on women’s rights and on building gender equality in society.

¹⁷⁹In 2011, the campaigns “If they love you, they really love you,” and “Lower Your Hand. Machismo Abuses and Kills” were implemented. In 2012, the campaigns: “Love without Violence—That’s What Sets It Apart,” and “End Impunity. Let’s Eliminate Violence against Women” were implemented.

¹⁸⁰ Reply of Venezuela to the request for information on the Progress Indicators.

- 225 In this regard, the IACHR has pointed out that “The socialization process The socialization process and cultural practices that discriminate against women play a key role in compounding the violence and discrimination against women and creating the perception that it is the natural order of things. They thus become the principal means by which that violence is bred. This systemic social discrimination manifests itself in various ways in every sphere. Institutions like the family, language, advertising, education, the mass media and others, use a discourse and convey an ideological message that influences the behavior of men and women so that they conform to establish cultural patterns that promote inequality.”¹⁸¹
- 226 For all these reasons, the Committee reiterates its recommendations to strengthen efforts in the areas of awareness and communications campaigns in order to change preconceived ideas about the stereotyped roles of women and men that promote inequality and violence against women. The Committee also values recent efforts made by several States to monitor the media from a gender perspective and to implement mechanisms to receive complaints and end sexist publicity prejudicial to women’s integrity, and urges the States to discourage publicity that reproduces stereotyped roles of men and women.

¹⁸¹ IACHR (2011) Access to Justice for Women Victims of Sexual Violence in Mesoamerica <http://www.oas.org/en/iachr/women/docs/pdf/WOMEN%20MESOAMERICA%20ENG.pdf>

3. Access to Justice and specialized services - Articles 7d. and 7f. and 8c. and 8d. of the Convention of Belém do Pará

- 227 Measuring the extent to which women's access to justice rights are satisfied, understood in a broad sense, includes the scrutiny of both the legal and practical possibility of accessing administrative and judicial complaint and protection mechanisms.
- 228 The CEVI found that the principal concerns regarding the right of access to justice fell largely into two categories. The first has to do with the high rate of impunity in cases denounced. The second relates to the low number of units receiving and processing complaints about acts of violence. Both elements were identified as major obstacles to achieving the full exercise of women's human rights, especially the right to a life free from violence and the right to justice when the former right is violated.
- 229 Consequently, the Committee used the access to justice section of the Indicators Matrix to assess whether and to what extent progress has been made with developing standards regarding the right to the effective judicial and other remedies needed to protest the violation of women's human rights, which are established as international obligations in Articles 7, 8, and 9 of the Convention.¹⁸²
- 230 The CEVI has maintained that the obligation of States is not just negative, in the sense of not preventing access to those remedies. Rather, it is eminently positive, in the sense that they should be organizing the institutional set-up in such a way as to ensure that everyone has access to justice. For that to come about, States have to remove the regulatory, social, or economic obstacles that thwart or restrict the possibility of women and girls having access to justice.¹⁸³
- 231 With respect to those obligations and, above all, with respect to the right to live a life free from violence and, specifically, the right to obtain protection measures and the punishment of those who commit acts of violence, it has been recognized that guaranteeing compliance with the duty to practice due diligence is absolutely essential. With a view to elaborating on the essential contents of that duty, the inter-American human rights system has addressed, through extensive doctrine and case law, strategic cases that have allowed it to highlight its core components.
- 232 Accordingly, the IACHR has pointed out that the duty to perform due diligence includes the obligation “to organize the structure of the State—including the laws, public policy, organs charged with enforcing the law, like the police, and the judicial system – so that it is capable with enforcing the law, like the police, and the judicial system – so that it is capable of adequately and effectively preventing and responding to these problems. Both the Inter-American Commission and the Inter-American Court have invoked the principle of due diligence as a reference for deciding cases and situations involving violence perpetrated against women by private persons, including violence against girls and

¹⁸² MESECVI (2013) Indicators System. Op Cit.

¹⁸³ Ibidem

women who suffer multiple forms of discrimination, such as indigenous and Afro-descendant women.”¹⁸⁴

- 233 On this, the Inter-American Commission and Court of Human Rights have stated that the duty to perform due diligence comprises four obligations: "prevention, investigation, punishment and redress of any human rights violation, in order to prevent impunity. The universal and regional human rights systems have also addressed the close nexus that exists between discrimination, violence and due diligence, emphasizing that the State's failure to act with due diligence to protect women from violence is a form of discrimination and a denial of their right to equal protection of the law and of the duty to guarantee access to justice."¹⁸⁵
- 234 Additionally, the effective guarantee of the right to justice also treats the development of the duties to guarantee the accessibility to the services of all women without discriminating, in compliance with the duty of “Establishing the legal protection of women's right based on equality with men, and guaranteeing, through the channel of competent national tribunals and other public institutions, the effective protection of women against all act of discrimination.”¹⁸⁶
- 235 The Committee issued eight recommendations to guarantee the duty of due diligence in connection with the right to justice of women victims of violence: First, it recommended increasing the number of entities receiving complaints, especially in non-urban areas¹⁸⁷ and taking the diversity and vulnerability of women into account.¹⁸⁸ Second, it recommended issuing protection orders¹⁸⁹ and making sure they are effective.¹⁹⁰ Third, it recommended having trained personnel¹⁹¹ and protocols for dealing with cases of

¹⁸⁴ I/A Court HR. Velásquez Rodríguez Case v. Honduras. Judgment of July 29, 1988. Series C No. 4 cited by IACHR, Access to Justice for Women Victims of Sexual Violence...paragraph 40, page 12, available at (English version):

<https://www.oas.org/en/iachr/women/docs/pdf/WOMEN%20MESOAMERICA%20ENG.pdf>

¹⁸⁵ Idem. Paragraph 41

¹⁸⁶ CEDAW art. 2

¹⁸⁷ MESECVI (2012). *Op. Cit.* Recommendation No. 22. Increase the number of entities receiving complaints, especially in non-urban areas with indigenous or afro-descendant populations, as well as their effectiveness and inclusive, inter-cultural nature.

¹⁸⁸ MESECVI (2012) Recommendation No. 24. Provide information to the Committee on access to justice for indigenous women, especially regarding the organs and procedures available, the benefits and obstacles they entail, and the national and customary provisions used to administer justice.

¹⁸⁹ Idem. Recommendation No. 23. Ensure women's access to justice by guaranteeing, as a minimum, the availability of specialized personnel to serve victims and handle their cases throughout the procedural stages; areas that offer privacy within police stations, courts and health centers; free legal services specialized in violence against women, provided by the State nationwide; interpretation services in indigenous languages for victims from ethnic communities who turn to the judicial system; and confidentiality and data protection both for victims and for their relatives and witnesses.

¹⁹⁰ Idem. Recommendation No. 25. Ensure that protection orders are applied in all cases of violence against women. Monitor their application as well as conduct evaluations and studies of their implementation and effectiveness in order to take corrective measures or reinforce them as necessary

¹⁹¹ Idem. Recommendation No. 23: Ensure women's access to justice by guaranteeing, as a minimum, the availability of specialized personnel to serve victims and handle their cases throughout the procedural stages; areas that offer privacy within police stations, courts and health centers; free legal services

violence against women.¹⁹² Lastly, it called for studies on the use made of the Convention of Belém do Pará in legal judgments¹⁹³ and studies of judgments or legal opinions containing gender stereotypes or prejudices in cases of violence against women.¹⁹⁴ Finally, the Committee issued recommendations on access to justice for indigenous women and women in vulnerable situations, especially regarding the organs and procedures available, the benefits and obstacles they entail, and the national and customary provisions used to administer justice.¹⁹⁵

236 To measure the implementation of this right, the CEVI generated recommendations that will make it possible to gauge progress toward fulfillment of the duty to perform due diligence. To that end, it requested information that would allow States to measure i) the appropriate means, services, or institutions for satisfying the whole set of duties established in Article 7 of the Convention of Belém do Pará; and ii) refrain from (negative obligation) "engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation" (Article 7.a).¹⁹⁶

237 The CEVI also requested information for measuring compliance with:

1. The obligation to establish the means, actions, and services needed to ensure care for women victims and to refrain from engaging in any violent or discriminatory practice (Articles 7 and 8 of the Convention);
2. The obligation to ensure the accessibility of all means, actions, and services free from all forms of discrimination (Article 6 of the Convention);
3. The obligation to ensure quality in the policies, actions, and services provided to guarantee women's right to live a life free from violence (Articles 7 and 8 of the Convention); and
4. The obligation to be ready to adapt by developing policies and institutions and providing all services that are tailored to the needs of women, girls, and female adolescents; elderly, indigenous, Afro-descendant, and migrant women; women

specialized in violence against women, provided by the State nationwide; interpretation services in indigenous languages for victims from ethnic communities who turn to the judicial system; and confidentiality and data protection both for victims and for their relatives and witnesses.

¹⁹² Idem. Recommendation No. 27. Adopt and implement protocols for dealing with victims of violence against women in police stations or entities receiving complaints, prosecution offices and health services. When appropriate, said protocols shall be translated into indigenous languages.

¹⁹³ Idem. Recommendation No. 28: Conduct studies or compilations on the use of the Belém do Pará Convention and other international standards relating to violence against women in legal judgments and opinions, for use as tools in the work of judges, prosecutors, and the judiciary and law students.

¹⁹⁴ Idem. Recommendation No. 29. Conduct studies on judgments and opinions containing stereotypes, prejudices, myths and customs in cases involving women victims of violence, as well as the use of the victim's personal history or sexual experience to deny her justice.

¹⁹⁵ Idem. Recommendation No. 24. Provide information to the Committee on access to justice for indigenous women, especially regarding the organs and procedures available, the benefits and obstacles they entail, and the national and customary provisions used to administer justice.

¹⁹⁶ MESECVI (2013) System Indicators .Op Cit.

who are refugees or displaced persons; women with disabilities; and those who are socio-economically disadvantaged (Article 9 of the Convention).¹⁹⁷

238 Finally, as part of its follow up on the recommendations regarding access to justice, the CEVI also analyzed the accessibility, acceptability (quality), availability, and adaptability of the specialized services provided by the national systems as a whole, including all services involved with responses to women victims of violence.

3.1 The duty to establish the means, actions, and services needed to ensure care for women victims and to refrain from engaging in any violent or discriminatory practice

- The Committee recommended "**increas[ing] the number of entities receiving complaints, especially in non-urban areas with indigenous or afro-descendant populations**, as well as their effectiveness and inclusive, intercultural nature."¹⁹⁸

a) Entities that receive complaints

239 With a view to measuring the progress made with governmental actions relating to this recommendation, the Committee asked the States to furnish information regarding "the existence of entities receiving complaints and, where applicable, the number and location of such entities." It also requested information regarding the existence of "administrative bodies for filing complaints in cases of noncompliance with obligations relating to the right to a life free from violence."¹⁹⁹

240 All the States that furnished information answered that they had such entities for receiving complaints and that, organizationally, they were located in police stations. Nevertheless, 13 of the States that replied said that, in addition to the police stations, they had courts, justices of the peace, and prosecutors' offices²⁰⁰ directly authorized to receive complaints of acts of violence, as well as the offices of national human rights protection agencies that refer complaints against government officials who do not respond to complaints by victims or members of their families.

241 Brazil reported that it has more than 300 police stations specializing in attending to women, although it acknowledges that that number is not enough compared to the size of the population and women's demand for such services throughout the country.²⁰¹ Bolivia reported that cases can be referred to Community Homes for Women (*Casas Comunitarias de la Mujer*) for appropriate attention and that cases of sexual violence, femicide, and similar offenses are referred to the courts. Chile pointed out that

¹⁹⁷ CEVI's "four 'A's" rule for structuring the individual components of each right and the Government's corresponding obligations (availability, accessibility, acceptability, and adaptability):

¹⁹⁸ MESECVI (2012) Recommendation No. 22.

¹⁹⁹ MESECVI (2013) Indicator System. Op.Cit

²⁰⁰ Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Guatemala, Grenada, Paraguay, Peru, Suriname, Uruguay, and Venezuela.

²⁰¹ MESECVI (2014) National Follow-up Report on Brazil.

complaints are received by Courts, the police (*Carabineros*), and the plain clothes police (*Policía de Investigaciones*).

- 242 Costa Rica reported the establishment of units specializing in receiving complaints in all seven of the country's provinces. These units are supplemented with interdisciplinary response teams in courts specializing in domestic violence.
- 243 Grenada reported that it receives complaints through its Royal Grenada Police Force, the Legal Aid and Counseling Clinic, and the Ministry of Social Development. For its part, Peru provided information on coverage in non-urban areas. Uruguay states that it has units specializing in domestic violence and specialized family courts responsible for cases of domestic violence and endowed with emergency powers in cases relating to the violation of children's and adolescents' rights.
- 244 Venezuela reported that its 34 Oversight, Hearing, and Measures Courts and 16 trial courts with special jurisdiction in cases of violence against women. They provide psychological, social, and legal services. It reported that the Public Prosecution Service (*Ministerio Público*) has 67 special prosecutors' offices authorized to handle violence against women cases and, essentially, to expedite justice at the inquiry phase for women victims of violence.
- 245 In connection with the second indicator related to this same recommendation, Brazil, Colombia, the Dominican Republic, Paraguay, Peru, and Venezuela pointed out that they do have administrative bodies for receiving complaints of noncompliance with obligations relating to the right to a life free from violence, through the Attorney General's office, specialized administrative tribunals, and the Ombudsperson's Office.
- 246 The Committee is troubled by the fact that the States were most challenged when it came to replies regarding the justice indicators. As a result, the CEVI received little information to enable it to ascertain whether the States managed to expand coverage and, if they did, whether that increased coverage applied only to rural areas and, if so, whether it met the criteria of adaptability in respect of specialized care for women victims of violence and other forms of discrimination. Thus, the CEVI did not receive information about accessibility in rural areas or about the adaptability of the units receiving complaints.
- 247 Finally, the CEVI can also report greater awareness on the part of States of the importance of developing an inclusive and intercultural response to the needs of women and groups of women victims of violence, in a context of various forms of discrimination. Specifically, the CEVI elicited more information about centers providing specialized care for indigenous women and for girls and women with disabilities. The CEVI also obtained information on courses for training officials with respect to other grounds for discrimination, such as groups of transgender women.
- 248 The Committee urges States to provide more information in later Rounds on the geographical location and socio-demographic characteristics of the places where most receiving entities and the new entities are to be found, so that the CEVI can ascertain

whether they are in places that are accessible and in certain areas inhabited by women in vulnerable circumstances, such as rural, Afro-American, and indigenous women.

249 For all the above reasons, the Committee reiterates this recommendation and the call -- pursuant to Article 9 of the Convention -- for the services that help women seek justice to establish a presence in remote areas so as to facilitate access for the various groups of women who may be in more vulnerable circumstances due, inter alia, to their race or ethnic origin.²⁰²

b) Specialized personnel

250 The Committee recommended, on the one hand, having specialized personnel and cost-free legal services specializing in violence against women;²⁰³ and, on the other, introducing protocols for assisting women victims of violence.

251 With a view to measuring the extent of implementation of this recommendation, the Committee requested information from the States -- through the indicators system -- on training programs for officials working in national response systems to ensure that the services attending to women victims have personnel capable of providing appropriate and high-quality care.

252 As the CEVI sees it, the conditions under which women are attended to form part of the States' obligation not just to provide specialized services and response programs but also to ensure that those services are appropriate for serving women victims of violence. The CEVI is particularly concerned about this aspect because in many cases of violence against women, it is the judicial institutions that frequently reproduce social and cultural patterns in their responses. Police, prosecutors, judges, lawyers and others involved in law enforcement and the administration of justice are influenced by stereotypes, practices, and assumptions. The Inter-American Commission on Human Rights (IACHR). The IACHR believes that allowing these stereotypes inside the judicial branch serve to legitimize and aid and abet impunity.²⁰⁴ For that reason, the CEVI asked questions about the training received by officials serving in offices attending to women.²⁰⁵ These measures can help close the gap between laws on the books, their

²⁰² Article 9. With respect to the adoption of the measures in this Chapter, the States Parties shall take special account of the vulnerability of women to violence by reason of among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socio-economically disadvantaged, affected by armed conflict or deprived of their freedom.

²⁰³ MESECVI (2012) Recommendation No. 23.

²⁰⁴ IACHR (2007) Access to Justice for women victims of sexual violence in Mesoamerica OEA/Se.L./V/II. (Spanish)

http://www.oas.org/es/sla/ddi/docs/acceso_justicia_instrumentos_internacionales_recursos_Informe_CIDH_mujeres.pdf

²⁰⁵ Some of this information was analyzed already in the Chapter on National Plans. Despite its importance for guaranteeing the duty to exercise due diligence, this section highlights its relevance to the justice administration system, construed as not just the Judiciary but also as the machinery in which the various State bodies become engaged when they come across a case of violence.

enforcement by state institutions to achieve results and actual progress toward reducing violence, including sexual violence against women and girls.²⁰⁶

253 Regarding specialized personnel, the Committee notes that, with the exceptions of Grenada and Barbados, the 19 countries reported one or more training programs for the police, justice system personnel, or other government officials. The Committee underscores the increasing efforts by States to train the staff dealing directly with cases of violence against women, as a way of helping to get rid of gender stereotypes and enhance access to justice.

254 The CEVI warns, however, that despite these training efforts, no State reported the existence of measurements of structural changes brought about in the services provided by personnel, despite the fact that new offices have been opened specializing in attending to women victims. On the contrary, the CEVI has continued to receive information regarding ongoing complaints all over the region about the treatment to which victims of violence are subjected. The report presented to the Committee by the Latin American and Caribbean Committee for the Defence of Women's Rights (CLADEM) points to:

"numerous shortcomings with respect to the personnel handling cases of violence against women; with very few exceptions, entities like the attorney general's office, the public prosecution service, the courts, support staff and justice system personnel have not been properly trained to assist victims of sexual violence in such a way that judicial proceedings, interviews, reception of the complaint, and other procedures are conducted in a manner that is sensitive to the situation that the victim has been through and respectful of her rights and fundamental guarantees. That lack of training translates into mistreatment, misinformation regarding red tapes, failure to attend to the victim's needs, and lack of credibility."²⁰⁷

255 The Inter-American Commission, for its part, has stressed that:

"In cases of violence against women, (...) the existence of discriminatory sociocultural patterns (...) influences the behavior of officials at all levels of the judiciary, who regard cases of violence as non-priority and belittle the victims, fail to conduct key tests for ascertaining who was responsible, attach importance only to physical evidence and testimony, grant scant credibility to the claims of victims and mistreat them and their family members when they try to collaborate in the investigations."²⁰⁸

256 The Committee considers that justice system operators must have the tools and knowledge needed to grasp the specific nature of gender-based violence, such as the vicious circle of violence and the obstacles women face when they seek to file a complaint. Moreover, it is ultimately up to the State itself to ascertain the truth, which should not have to depend on the victim's own efforts or those of her family

²⁰⁶ CLADEM (2014) Report on Colombia presented to the Committee.

²⁰⁷ CLADEM Colombia report

²⁰⁸ IACHR. (2007) Access to Justice for Women Victims of Violence in the Americas. Op. cit.

members.²⁰⁹ For that to come about, operators in all the bodies handling cases involving women victims of violence should have the tools needed not only to deal with the complaint itself from a gender and human rights perspective, but also to attend to the specific needs of women victims of violence.

c) Protocols for Assisting Women Victims of Violence

- 257 The gender-based roles and different expectations for men and women that are so deeply embedded in society that they may prevent justice system operators of both sexes from recognizing violence against women, because they have got used to it or because of the roles socially assigned to each sex. Some women also find it difficult to recognize violence or identify all the types of violence of which they are victims. Consequently, has placed great store by care protocols that enable justice system personnel not only to provide the necessary assistance but also to discern the different hidden power relations present in the cases in which a complaint has been filed.
- 258 At the same time, the duty to perform due diligence constitutes a frame of reference for analyzing the actions or omissions of the state institutions responsible in such cases and for assessing compliance with their international obligations.²¹⁰ In that context, the protocols may constitute useful tools for helping justice system operators perform due diligence when conducting investigations.
- 259 The CEVI has detected significant progress and proliferation with respect to protocols. Most of the States furnishing information regarding this recommendation reported having drawn up various protocols for investigating and prosecuting offenses with a gender perspective and for serving women victims of different types of violence, thereby standardizing the way they are handled and the services provided to victims.
- 260 Specifically, the Committee requested information regarding the existence of assistance and investigation protocols. Four States²¹¹ replied that they had protocols with a gender perspective for criminal investigations of offenses involving violence against women and femicides, and Ecuador reported that it was in the process of developing protocols.²¹² The other States reported having some kind of protocol for dealing with cases of violence and standardizing responses, but none of them provided further details.

²⁰⁹ IACHR. Access to justice for Women Victims of Violence in the Americas, OEA/Ser.L/V/II., Doc. 68, January 20, 2007, paragraph 40; I/A Court H.R., Godínez Cruz Case v. *Honduras*. Judgment of January 20, 1989. Series C No. 5, par. 188. ³⁰ IACHR, Report No. 80/11, Case 12.626, *Jessica Lenahan (Gonzales) et al. (United States)*, July 21, 2011, par. 173; IACHR. *The Situation of the Rights of Women in Ciudad Juárez, Mexico*, OEA/Ser L/V/II.117. Doc. 44, March 07, 2003, paragraph 51.

²¹⁰ United Nations. (2014) Protocol for the investigation of gender-motivated killings of women, p.3. (Spanish)<http://www.ohchr.org/Documents/Issues/Women/WRGS/ProtocoloLatinoamericanoDeInvestigacion.pdf>

²¹¹ Colombia, Guatemala, Mexico, and Paraguay.

²¹² Ecuador stated that in 2012, a round table had been established, called "Women and Justice," to mainstream a gender perspective in the justice system and strengthen inter-agency coordination mechanisms. Among other tasks, that round table had been charged with designing response protocols aimed at preventing revictimization of women who access the justice system and a geo-referenced system of services for the institutions involved in attending to women victims of violence. MESECVI (2014) Follow-up Report on Ecuador.

- 261 For this review period, Colombia is noteworthy for having a model and comprehensive health care protocol for women victims of violence targeting justice system operators and a protocol with guidelines for attending, in particular, to women victims of sexual violence targeting the police, as well as a protocol for investigating crimes against the liberty and personal integrity of women.
- 262 For its part, Guatemala reported that it has several protocols, including: the Ministry of Education's protocol for identifying, responding to, and referring cases of violence within the national educational system; the Judiciary's protocol for the Law on Femicide and Other Forms of Violence against Women; the Ministry of Public Health and Social Welfare's protocol for dealing with victims/survivors of sexual violence; the national Forensic Sciences Institute's protocol for handling victims/survivors of violence; and the behavioral protocol for the National Civilian Police for dealing with violence against women.
- 263 In Mexico, the Supreme Court of Justice prepared a protocol for conducting trials with a gender perspective²¹³ so that judges of both sexes have a tool for measuring the different impacts of provisions, interpretation, and enforcement of the law based on stereotypes regarding the behavior of men and women. It also drafted a protocol to guide justice system personnel involved in cases dealing with sexual orientation or gender identity.
- 264 Paraguay reported that it is currently taking steps to standardize the Ministry of Public Health's Protocol for Assisting Persons in a Situation of Violence and the Public Prosecution Services' Protocol for the Comprehensive Expert Report for Investigating Sexual Offenses. It also pointed out that it has a Handbook on applying the police procedures protocol for interventions in cases of domestic and gender-related violence.
- 265 Finally, the CEVI wishes to underscore the importance of the Model Latin American Protocol for the Investigation of Gender-related Killings of Women (femicide/feminicide), researched and published by the Office of the United Nations High Commissioner for Human Rights (OHCHR). It was validated throughout the region by national machineries for women, attorney generals' offices, technical and forensic police bodies and justice system personnel in different countries. The CEVI considers that that Protocol will provide practical guidelines for investigating feminicides throughout the region, based on the principle of due diligence, as well as providing general guidelines and courses of action for improving practices among justice system personnel, forensic experts, and other specialized personnel, while mainstreaming the gender perspective in the work of justice system institutions and furnishing tools to safeguard the rights of the victims, survivors, and their family members.²¹⁴

²¹³ Supreme Court of Justice (2013). Protocol to judge with a gender perspective Making reality the right to equality. México.

<http://www.amij.org.mx/site/protocols/Protocolo%20Para%20Juzgar%20con%20Perspectiva%20de%20Genero.pdf>

²¹⁴ United Nations (2014). Model Latin American Protocol for the Investigation of Gender-related Killings of Women (femicide/feminicide)

<http://www.ohchr.org/Documents/Issues/Women/WRGS/ProtocoloLatinoamericanoDeInvestigacion.pdf>

3.2 The obligation to ensure the accessibility of all means, actions, and services free from all forms of discrimination; (Article 6 of the Convention)

- 266 The gap between high incidence rates of violence and low conviction rates is one of the most glaring features of the States' replies on the indicators. Specifically, one of the principal obstacles women face with regard to access to justice is the low number of specialized courts competent to hear cases of violence, the paucity of such courts in rural areas, and the lack of budgetary resources to improve and expand support services. Add to that, the scant number of convictions and almost total lack of judgments ordering reparation for the victims or their family members.
- 267 Based on the States Parties' replies to the indicator system questions, the Committee observes that there is information and some progress with respect to the formal component regarding rights. In other words, there is now wider coverage by courts competent in this field, thanks to the formal recognition provided by provisions and laws on violence against women and the establishment of protection measures, specialized services, and punishments. Nevertheless, the level of information drops when it comes to eliciting information about the extent to which those legal provisions are implemented and the extent to which they are applied in women's daily lives, especially in the case of women subjected to multiple forms of discrimination. Information on reparations is inexistent.
- 268 For that reason, in following up on its recommendations and, in particular, as part of its follow-up on the obligation to ensure access to justice without discrimination, the Committee asked for specific information about the number of offices or mechanisms specializing in violence against women, the time that elapses between the first manifestation of violence and first contact with those offices, or the percentage of women victims of violence who actually request assistance.
- 269 On these matters and outcome indicators, such as the percentage of denunciations that lead to trials for violence against women, the number of convictions, and the quality of judgments handed down, the Committee received almost no information. Nor did it receive information broken down for specific groups of women, which suggests that States do not keep such records, despite their obligation to do so under Article 8h of the Convention.²¹⁵ In light of the above, the Committee reiterates the importance of investigating with due diligence and properly punishing cases of violence against women. At the same time, it reiterated the duty to have administrative records on the subject.

Regarding other measures needed to ensure women's access to justice system services, the Committee highlights the following:

²¹⁵ Belém do Pará Convention. Article 8h.

a) Cost-free legal counseling

- 270 The CEVI requested specific information regarding the number of women receiving free legal counseling. Most States replied that they had various kinds of free legal aid, ranging from private assistance arrangements organized by civil society organizations to national public ombudspersons' offices providing free legal aid. However, in the majority of cases, what women find is legal information and assistance, rather than legal representation.
- 271 Eleven of the States Parties replied that they do have cost-free and comprehensive legal services for protecting the right to a life free from violence. They are established by law and coordinated through general free legal aid systems.²¹⁶ Even if almost all States reported to provide these services, only five States provided information on the number of users who obtain these services of cost-free legal representation, whether its public or private, with or without state subsidy.²¹⁷ Nevertheless, the Committee notes that the figures are based on approximations, not on properly kept administrative records of the number of women seeking help in cases of violence²¹⁸. Sometimes, reference is made to some women being "attended to," with no indication as to the kind of attention they received, or whether or not they received free legal counseling, and the outcome thereof.
- 272 Those data are used by the CEVI as the baseline for subsequent review rounds, unless data are available from previous reports that make it possible to gage whether or not coverage for this service has increased.
- 273 The Committee sees some promise in El Salvador's "Ciudad Mujer" (Women's City) project, which have been expanding care centers in rural areas. They function as safe areas providing a variety of comprehensive care services, including legal and psychological counseling and economic/financial empowerment programs. Other countries, like Mexico and Brazil, have reported that they have established and intend to open Justice Centers for Women.

²¹⁶ **Argentina:** Law 26.485; Cooperation Agreement between the National Council of Women and the National Public Defenders Office (*Ministerio Público de la Defensa de la Nación*); Law Faculty of the UBA; other legal aid clinics; the "Victims against Violence" Program. **Brazil:** Office of the Ombudsperson (*Defensoria Pública*). **Chile:** SERNAM, Care for the Victims of Crime Centers of the Ministry of the Interior and the Legal Aid Corporation. **Colombia:** Comprehensive Care and Investigation Centers for Victims of Sexual Offenses and Comprehensive Care and Investigation Centers for combating Domestic Violence. **Venezuela:** A free extra-judicial care program for women victims of violence organized by the National Institute of Women (INAMUJER) and the Office of the Ombudsperson. The remaining countries -- **Costa Rica, Dominican Republic, El Salvador, Guatemala, Paraguay, and Peru, stated that they had programs but provided no details.**

²¹⁷ **Chile:** the Corporation for Judicial Assistance to the Ministry of Justice registered that 471 women were victims of violence; SERNAM registered 20.800 users. **Guatemala replied:** The Criminal Public Defender Institute (*Instituto de la Defensa Pública Penal*) attends to between 15,000 and 18,000 female users each year and that civil society organizations attend to at most 1,000 cases each year." **Panama** replied that in 2012, the Comprehensive Counseling Center for Women received 124 cases, which it referred to other entities. **Peru:** the Emergency Centers for Women (CEM), the Emergency Attention Service (SAU), and Alegra serve 1713. **Venezuela:** National Advocacy of Women's Rights, provided assistance on a national level to 5.606 women in vulnerable situations that threaten their fundamental rights, with emphasis on the victims of gender violence, of which 692 are incarcerated women, 3.550 are women from our communities guided and informed in 71 events of promotion and spread of the Organic Law of Women's Right to a Life Free of Violence in the 22 of the district capital' parishes, totaling 9.156 attended, guided, and informed women.

²¹⁸ For example, Guatemala responded: "The Institute for the Criminal Public Defense services between 15.000 and 18.000 annual users, and civil societies' organizations service no more than 1000 cases a year."

b) Protection measures

- The Committee issued two recommendations regarding protection measures. The first urges States **"to ensure that protection orders are applied in all cases of violence against women;** to monitor their application as well as conduct evaluations and studies of their implementation and effectiveness."²¹⁹ In the second, the Committee recommends that States "Implement mechanisms to ensure compliance with protection orders granted...Ensure funds for transfers; rescue mechanisms... and protection."²²⁰

274 To measure the extent of implementation of these recommendations, the Committee asked the States to provide the percentage of requests for protection orders in cases of violence against women that actually resulted in protection orders granted, broken down by type of offense and/or type of violence denounced.

275 Of the 19 States, only six provided some kind of information with respect to this indicator²²¹. The countries that replied mentioned the total number of protection orders granted in various years, without mentioning how many had been requested. The Dominican Republic answered: "50% of all orders issued are to protect against violence against women" but it did not relate that percentage to orders requested by women in a situation of violence. In other words, the Committee lacks the data or statistical basis to assess the information reported.

276 The Committee points out that Suriname was the only country to demonstrate that it has reliable administrative records on the number of protection orders requested and the number of those granted. That State indicated that as of September 2013 it had received 148 requests. Of those 71 (approximately half) were granted.

c) Rescue and transfer mechanisms

277 The CEVI likewise requested information on judicial procedures and mechanisms for implementing protection measures and guaranteeing the safety of women victims of violence, such as funds for transferring them; mechanisms for rescuing women; name changes; witness protection; safe-conduct passes to leave the country; secure referral networks; and emergency alarm buttons²²².

278 Regarding the existence of legislation on protection measures requested by the victim, third parties, or ex officio, before and during the administrative and/or judicial process,

²¹⁹ MESECVI (2012) Recommendation No. 25. Ensure that protection orders are applied in all cases of violence against women. Monitor their application as well as conduct evaluations and studies of their implementation and effectiveness in order to take corrective measures or reinforce them as necessary

²²⁰ MESECVI (2012) Recommendation No. 26. Implement mechanisms to ensure compliance with protection orders granted in favor of women, their relatives and witnesses. Ensure funds for transfers; rescue mechanisms; change of identity for victims; witness protection; safe conduct to leave the country; secure referral networks; and others.

²²¹ Brazil, Chile, Costa Rica, Dominican Republic, Guatemala, Paraguay, and Suriname.

²²² MESECVI (2013) Indicator system. Op Cit.

16²²³ States Parties do have laws on protection measures at the request of the victim.. Nevertheless, most States did not specify the type of mechanisms at their disposal to actually implement protection orders and monitor their effectiveness. However, the States that do have victim and witness protection laws stated that those laws also applied to cases with women victims.

- 279 Eleven of the States Parties replied that they do have legal procedures providing for mechanisms to enforce protection orders and ensure the safety of women victims of violence. Of the countries that replied, Grenada and the Dominican Republic indicated that they have safe houses/shelters (*casas de acogida*). Chile and Costa Rica reported that they funds for providing financial assistance, without, however, furnishing details about the amounts involved or modus operandi. Brazil reported that it has protection brigades and patrols, as well as alarm buttons. Colombia has Decree 4796 (2011), which is a step forward in that it establishes the right of women victims of violence to food, accommodation, and transport, which are provided through shelters and safe houses. Paraguay reported that it has a home for women in situations of violence, which currently accommodates 44 women and their children, and that it is constructing a shelter for at-risk women in Curuguaty, in the Department of Canindeyú. For its part, Peru reported that it has embarked on a "Prevention, Response, and Protection Strategy to address Domestic and Sexual Violence in Rural Areas." However, the Committee received no further information as to the components of the strategy or its implementation²²⁴.
- 280 The Committee welcomes the use of modern mechanisms for monitoring the location of aggressors in respect of women with protection orders. For instance, Uruguay has reported using electronic bracelets to ensure effective compliance with such orders, in cases of grave risk to the life or bodily integrity of women. The Committee was told that in some federative agencies in Mexico and Brazil such electronic bracelets were also being used as protective measures in cases of domestic violence against women. The Committee also underscores the fact that Brazil is reporting the existence of a police battalion trained to visit women who have been granted protection measures. For its part, Venezuela reported having a series of tools, as contemplated in the Law to protect Victims, Witnesses, and Other Persons involved in Judicial Proceedings.

²²³ **Argentina:** Law on Violence No. 26.485; **Bolivia:** Law 348; **Brazil:** Law 11.340/2006; **Chile:** Law 20.066; **Colombia:** Law 1257 of 2008 (Article 8); **Costa Rica:** Law 8720 (Office of the Judiciary for Attending to and Protecting Victims and Witnesses); **El Salvador:** Special Law to Protect Victims and Witnesses; Comprehensive Special Law for a Violence-Free Life for Women. **Guatemala:** Law to prevent, punish, and eradicate domestic violence; Law against femicide and other forms of violence against women; Rules of Procedure for courts and tribunals competent to hear cases of femicide and other forms of violence against women; Article 88 of the Criminal Code; Civil and Commercial Procedure Code; **Mexico:** General Law on Women's Access to a Life Free from Violence; Protection Orders; **Paraguay:** Law 1600 of 2000; **Peru:** Law 26260; **Dominican Republic:** Law 24-97 (Article 309-4); **Suriname:** Law on Combating Domestic Violence; Law on Stalking; **Uruguay:** Law 17.514, Articles 8ff; Decree 317/2010, Articles 14ff; **Grenada:** The Domestic Violence Act (2010); and **Venezuela:** The Organic Law on Women's Right to Live Free from Violence.

²²⁴ The State of Colombia, on October 23rd, 2014, requested the Technical Secretariat of the MESECVI to add the following information: It is important to point to the issuance in 2012 of CONPES 3726, "Guidelines, execution work plan for meeting targets, the budget, and follow-up mechanism for the national plan for comprehensive care and reparation for victims," which included items relating to specific issues suffered by women victims.

281 Despite these data regarding specific mechanisms, the CEVI did not receive sufficient quantitative or qualitative information to enable it to evaluate and monitor the enforcement and effectiveness of protection orders. For that reason, it reiterates the above-mentioned recommendations, along with its request to States that they collect and furnish information on the measures they implement, the facilities and type of protection they provide to women subjected to violence, and the effectiveness of such measures.

d) Procedural guarantees

282 The CEVI also inquired about judicial mechanisms in place for enforcing the rights recognized under domestic law and the guarantees for ensuring the exercise of those rights. Specifically, the Committee asked about the existence of constitutional protection or custody actions in the States Parties.

283 Seven of the States Parties (Brazil, Chile, Colombia, Dominican Republic, Guatemala, Peru, and Venezuela.) reported the existence of constitutional remedies such as "amparo", actions for protection, guardianship, and others. However, none of them provided specifics on their regular use as tools by women or the organizations defending them. The same States also reported having sets of procedural guarantees in judicial proceedings dealing with cases of violence, including safeguards for: (i) the independence and impartiality of courts; (ii) reasonable timeframes; (iii) "equality of arms" (fair balance between the opportunities afforded parties in litigation); (iv) *res judicata* (barring claims already litigated); and (v) appeals to higher courts.

284 Likewise, these States reported that they had systems enabling women to complain of institutional violence: specifically to file complaints against the health system²²⁵ or the justice system²²⁶.

e) Reparation for victims

285 States have the obligation, based on articles 7 and 8 of the Belem do Para Convention to ensure reparations or other just and effective compensations for women who are victims of violence. In this sense, the CEVI requested States information on existing mechanisms for harm repair. Of the 19 states that participated in this follow-up phase, 11 reported on this topic²²⁷.

286 Most of these 11 countries reported having a legal framework that refers to reparations, either through laws or national plans. The Committee notes that some countries, like Argentina and Guatemala made reference to specific reparation laws for victims of human rights violations, without making a distinction on the legislation that specifically protects women victims of gender based violence.

²²⁵ Brazil, Chile, Colombia, Dominican Republic, Guatemala, Paraguay, and Peru.

²²⁶ Argentina, Brazil, Chile, Colombia, Guatemala, Costa Rica, Dominican Republic, Paraguay, Peru, and Venezuela, stated that the Ombudsperson's Office and the Public Prosecution Service (*Ministerio Público*) perform that function.

²²⁷ Argentina, Bolivia, Brasil, Chile, Colombia, El Salvador, Guatemala, México, Perú, República Dominicana and Venezuela.

- 287 As for the data on the number of sentences or resolutions related to reparation of the victims, of the 11 countries that reported having reparation mechanisms, only Chile provided the number of resolutions that incorporate these reparations. The Chilean State refers to the families of victims in cases of femicide. The remaining States did not report on the number of resolutions that ensure reparation, which is a key component of access to justice.
- 288 For the CEVI and Inter-American Court, the duty to offer an effective judicial protection to women victims of violence, under conditions of equality and free from any form of discrimination involves four obligations: prevention, investigation, punishment and reparation of any human rights violation²²⁸.
- 289 For the Inter-American Human Rights System, reparation must involve satisfaction, rehabilitation and guarantees of non- repetition and compensation, but in cases of violence against women it must also have a “transformational purpose,” which means not only an effect of restitution, but also of rectification; “a crucial means to address the structural situation of violence and discrimination²²⁹”.
- 290 The Committee notes that while countries report having the legal framework, they did not provide information on the registration of specific cases where damage reparation is guaranteed to women victims of violence. The CEVI recalls that reparation is one of the fundamental components of access to justice and, according to the provisions of the Inter-American System, these reparations must be made with a gender perspective that takes into account the specific needs and priorities of women victims²³⁰.
- 291 Therefore, the CEVI invites States to implement efforts to ensure adequate reparation, with a gender perspective and to keep proper records in the judiciary system of such reparations for women victims of violence.

²²⁸ MESECVI (2014) Guide for the implementation of the Belem do Para Convention. P. 29.

<http://www.oas.org/es/mesecvi/docs/BdP-GuiaAplicacion-Web-ES.pdf>

²²⁹ Ibidem. P. 50.

²³⁰ United Nations (2011) Report of the Special Rapporteur on violence against women, its causes and consequences (A/66/215). New York: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/66/215>

3.3 The obligation to guarantee quality in policies, actions, and services provided to guarantee women's right to live a life free from violence

- The Committee recommended conducting studies or compilation regarding the application of the Convention of Belém do Pará in judgments and opinions handed down in cases of violence against women²³¹, as well as studies of judgments and opinions containing stereotypes, prejudices, myths, and biases in cases involving women victims of violence.²³²

a) Publicity and transparency in the justice system

- 292 As pointed out in the review of access to information and the participation of civil society organizations, the CEVI considers that publicizing the public policies related to guaranteeing women's rights is indispensable to ensure the full realization of their human rights and, in particular, the human right to live free from violence.
- 293 Accordingly, the ability to guarantee the quality of public policies in the judicial sphere presupposes publicizing the actions undertaken to enforce rights and keep statistical records of both progress and setbacks in this field, the enforcement of sentences, the number of decisions handed down, and the effectiveness of the convictions and punishments of offenders. The objective sought is not only to be able to evaluate the way the system operates, but also to ensure broad social oversight and the monitoring and evaluation of those policies, as well to provide tools with which to strengthen women and the organizations that work on their behalf, while at the same time boosting the confidence of women victims to resort to the justice administration system.
- 294 The CEVI received no information from any of the States indicating that there is a positive trend in the region toward publicizing justice system-related public policies, or in the substantive aspect of the decisions handed down in implementing domestic laws, or in budget allocations and execution in this area²³³. It is the Committee's understanding that most States in the region have improved access to court rulings through various on-line media, generally speaking court web sites. Nonetheless, the Court did not receive any information from States that would indicate systematic use of that tool to measure not just the quality of decisions, but their quality as well.
- 295 For its part, Guatemala pointed out that all the judgments rendered by the Specialized Courts have taken the Convention of Belém do Pará into account because they enforce a law that develops the Convention. However, it did not provide specific on this. Argentina

²³¹ Summary of Recommendation 28, which reads as follows: Conduct studies or compilations on the use of the Belém do Pará Convention and other international standards relating to violence against women in legal judgments and opinions, for use as tools in the work of judges, prosecutors, and the judiciary and law students.

²³² Summary of Recommendation 29, which reads as follows: Conduct studies on judgments and opinions containing stereotypes, prejudices, myths and customs in cases involving women victims of violence, as well as the use of the victim's personal history or sexual experience to deny her justice.

²³³ Only Colombia, Costa Rica, and Uruguay made a generic reference to having annual accountability reports. In Uruguay's case, this came about in connection with celebrations marking International Women's Day on March 8.

reported that it has a database on jurisprudence with a gender perspective, and Brazil has a Commitment and Attitudes campaign to enforce the Maria da Penha law, which attempts to identify relevant court decisions and post them on its website. Finally, Mexico's Supreme Court of Justice runs an annual "Gender and Justice" competition, in which essays are submitted with references to court decisions, aimed at publicizing gender, justice, and human rights-related issues and cases, promoting research, creating proposals, giving a hearing to the protagonists in such cases, and generating innovative tools for increasing awareness and training in this field.

- 296 For its part, the CEVI has become aware of a significant number of civil society initiatives aimed at establishing observatories of court decisions, which will allow some of them to be evaluated²³⁴. However, the CEVI received no information from the States regarding monitoring of the judiciary's budget or evaluation of public policies relating to the quality of the services and assistance provided, despite the fact that this is one of the principal tasks of feminist and women's organizations in the region.
- 297 Regarding the number of complaints of violence received, investigated and resolved by the country's competent national human rights institutions, the tendency was similar to that for the other indicators, namely to provide very little detailed information. Four States²³⁵ replied, providing heterogeneous information on some offenses but not on others. Most countries chose not to reply or else stated that they lacked that information.
- 298 Given the lack of regional statistics on the resolution of cases to the satisfaction of the women in the region as a percentage of complaints received, but bearing in mind that the number of judgments does not match the far higher number of complaints,²³⁶ the CEVI reiterates that impunity for crimes against women and girls sends a message that violence against women is tolerated, which leads to it being perpetuated and social acceptance of the phenomenon, a feeling and sense of insecurity in women, and ongoing distrust among women of the justice administration system.²³⁷

b) Studies on the application of the Convention

- 299 To gauge implementation of this recommendation, the Committee requested information on judgments and legal opinion that use and incorporate the Convention of Belém do Pará. Of the 19 States, only four replied regarding the direct application of the

²³⁴ Judicial Judgments Observatory at ELA – Equipo Latinoamericano de Justicia y Género, Women's link Worldwide's Gender Justice Observatory, and the Judicial Judgments Observatory of the Association of Justice Administrators (AMIJ).

²³⁵ **Colombia:** approximately 20,000 sexual abuse cases per year. However, only about 4,500 of them are reported to the Care Center for Victims. **Guatemala:** 53 cases of rights violations registered, 35 of them resolved. **Panama:** 1,225 complaints registered with the National Police Complaints Reception Center. **Perú:** In 2012, the National Police and the Public Prosecutions Service together received 263,803 complaints of domestic violence, 6,240 complaints of sexual violence, 97 cases of femicide, and 624 cases of trafficking in persons. **Dominican Republic:** 1,469 complaints of violence (unspecified).

²³⁶ IACHR, Access to Justice for Women Victims of Violence in the Americas (2007)

²³⁷ Inter-American Court of Human Rights (2009) Case of González et al. ("Cotton Field") v. Mexico. Judgment of November 16, 2009, paragraph No. 400.

Convention in their judicial decisions²³⁸. The Committee acknowledges that Paraguay was the only State to provide specific data on judgments and decisions that make use of the Convention. It pointed out that in 2011, of the 814 judgments reviewed, 265 cite the Convention of Belém do Pará and 56 apply it directly. The State did not explain the basis for that distinction.

3.4 The duty of adaptability developing policies and institutions, and providing all services that are better adapted to women's needs

- 300 The indicators require information regarding public policies toward indigenous women, including those who are ethnically diverse, Afro-descendants, rural women, women with disabilities, women with different sexual preferences because of their sexual identity, female migrants and refugees, displaced women, older women, and women deprived of their freedom. With respect to that recommendation, the Committee asked the States to provide, through the indicator system, information about the existence of specific and cost-free legal services for this diverse range of women and the resources allocated to finance them, as well as the number of resolved cases involving women's rights and the confluence of various different discriminatory factors and violence.
- 301 Regarding minors, only Guatemala reported having specific response statistics. It reported that 20,156 cases were resolved between 2009 and 2012. Of them, only 9 percent led to a judgment being handed down.
- 302 The following nine countries: Bolivia, Brazil, Costa Rica, Colombia, Dominican Republic, Guatemala, Peru, Uruguay, and Venezuela replied that their laws make specific reference to women's diversity. Regarding cost-free legal services, some referred to specific measures and nine States replied that they had such services²³⁹ tailored to specific groups of women. Uruguay pointed out that it began adopting specific measures for women with disabilities in the National Disability Program and that it is including an inter-generational perspective in the National Plan currently being debated.
- 303 Concerning the request for information about access to justice for indigenous women, information was requested, in particular, about the bodies and procedures available to them, their pros and cons, both national legal and customary law provisions used to administer justice, legislation and mechanisms readily available for the protection of girls and female adolescents, adult and elderly women, and indigenous and rural women victims of violence, with special emphasis on intercultural fund-supported services.
- 304 Only eight States replied, in some detail, that they do have legislation and readily available mechanisms for protecting girls and female adolescents, adult and elderly women, indigenous and rural women victims of violence. Bolivia, Brazil, and Costa Rica stated that they have laws offering explicit protection for those groups. Guatemala reported that it has a number of institutions, including the Ombudsperson's office for

²³⁸ Guatemala, Paraguay, Peru and Dominican Republic.

²³⁹ Argentina, Brazil, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Paraguay, and Peru.

Indigenous Women and the Criminal Public Defenders Institute that guarantee interpretation services so that the women can speak their native language. Other institutions include the Ombudsperson's Office to Defend Children's and Adolescents' Rights; courts competent to hear cases involving children and adolescents; the Attorney General's office; services provided by the Model Comprehensive Care for Victims of Violence against Women facility; courts, and the Public Prosecutions Service, the Ministry of Health and Social Welfare, and the Judiciary.

- 305 For their part, Colombia and Peru stated that they had public policies geared to attending to and supporting indigenous communities' restorative justice systems. In both cases there is a prevention, care, and protection strategy to address domestic and sexual violence in rural areas that includes special consideration for the most vulnerable women and girls (rural, indigenous, and so on) through institutional and community networks.
- 306 However, the States did not provide specific information about services for indigenous women in their native languages, translation services, or human rights training courses for women in connection with indigenous peoples' justice systems.
- 307 The Committee reiterates the importance of legal services for victims and their children, with a gender perspective and provided by specialized personnel, and that such services should not be restricted to legal advice only. Rather, they should guarantee real representation or legal sponsorship throughout the proceedings. As regards the number of cases resolved involving girls and female adolescents, adult women and indigenous or rural adult women victims of violence, only Guatemala provided information for that indicator. However, the information it provided was not enough to discern what types of violence against women were involved in the cases resolved. Nor were the figures broken down by age or ethnic origin.²⁴⁰
- 308 Once again the Committee notes that a commitment to acknowledge women's rights formally in legislation does not necessarily translate into concrete and specific steps to facilitate the enjoyment of those rights, including the right to access to justice, and particularly in the case of women who are subjected to multiple types of discrimination and violence.

²⁴⁰ Guatemala reported that "between 2009 and 2012, there were 20,156 cases, 9% of which have reached a verdict; 80.12% involved women victims of violence."

4. Budgets

- The Committee recommended approving sufficient budget appropriations for the execution of public policies and plans,²⁴¹ identifying national budget figures or percentages earmarked for services for women victims of violence,²⁴² and providing information on the percentage of budgets allocated to national women's mechanisms.²⁴³

309 To gauge compliance with these recommendations, the Committee requested data that would allow follow-up on the commitments undertaken, including the existence of national budget laws with a breakdown of expenditures, the existence of laws specifically addressing violence with a budget appropriation, and the publication of reports on the budget and its execution.

310 The Committee has insisted on the need for the policies implemented to protect women's rights to be not just designed at the operational level but also funded with general budget resources for the actual implementation of those measures, with as broad coverage as possible, in the full amount needed, and for as long as it takes to achieve full realization of the right of women and girls to live a life free from violence.

311 In order to analyze countries' budgetary commitments and execution, the CEVI asked whether there were specific laws on violence that included budgetary appropriations, whether the national budget law included expenditure earmarked to implement laws, programs and plans to address violence as well as funds allocated to the national machinery for women, specialized offices, health, and education.

4.1 National Budget Law with expenditure earmarked for the implementation of laws, programs, and plans on violence

312 Of the 19 States that replied to the Indicators Matrix, 13 provided information about whether or not their national budget law included expenditures earmarked for implementing laws, programs, or plans to combat violence.²⁴⁴ Their experiences are described below. In its analysis of the replies to the indicators, the Committee notes varying degrees of fiscal commitment and budgetary capacity in respect of gender policies and responses to violence against women.

²⁴¹ Summary of Recommendation No. 34 which reads as follows: "Approve sufficient budget appropriations for the execution of public policies and plans on the prevention, response, punishment and progressive eradication of violence against women in the public and private spheres."

²⁴² Summary of Recommendation No. 36 which reads as follows: "Identify national budget figures or percentages earmarked for services for women victims of violence, including: women's police stations, prosecution offices and other entities receiving complaints; training for government officials; specialized services such as shelters and safe houses, telephone hot lines, free legal advice, free legal representation and free psychological counseling; campaigns for the prevention of violence against women and health services for women affected by violence."

²⁴³ Summary of Recommendation No. 35 which reads as follows: "Establish mechanisms that allow the provision of information on the percentage of budgets allocated to national women's mechanisms."

²⁴⁴ Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, Grenada, Guatemala, Mexico, Panama, Paraguay, Peru, Uruguay, and Venezuela.

- 313 The region is quite diverse with respect to budgets. Some countries have national budget laws. Others report that they have a budget and/or earmarked expenditures even though they have no, or mention no, national budget law as such. Others provided the Committee with only scant information.
- 314 Although they responded to the Indicators System, Argentina, Barbados, Costa Rica, Chile, El Salvador and Suriname did not provide specific information on most budget indicators, which suggests that there is room to strengthen both budgetary regulations and investment in this area, or else that more ample records could be kept and more information furnished to the Committee.
- 315 Due to differences among States in the formulation, allocation, and reporting of government budgets, it needs stressing that the information provided below is not comparable at the regional level, and that this prevents an in-depth analysis of the allocation and execution of funds for preventing, responding to, and punishing violence -- that is to say, implementation of the Convention. In most cases, it is not even possible to ascertain the total amount of resources allocated to respond to violence against women; what percentage of the total national budget they amount to; and whether that share of the budget bears any relation to the demand posed by the number of victims. Nevertheless, of the States that furnished information regarding the Indicators System, the Committee would like to highlight the following:
- 316 **Brazil** reported that it has a national budget law with expenditure earmarked for program implementation as well as specific laws to address violence that contain budget appropriations. It reported that it even has a national budget law specifying the funds allocated to the national machinery for women, specialized offices, the health sector, and the education sector. The Brazilian State reported that 27.82% of the portion of the budget formulated and executed by the Secretariat of Policies for Women was earmarked for eradicating gender-based violence.²⁴⁵
- 317 **Bolivia** reported that it itemizes outlays for gender equality and other services for eradicating inequalities and providing social protection. The Committee welcomes the fact that the State reports having introduced costing of gender programs as a planning and budgeting tool for gender equality policies and actions. Even so, the State acknowledges that one of the challenges it faces is "consolidating budgetary capacity for gender policies."²⁴⁶ The Committee did not receive information regarding the percentages of the national budget allocated to promoting gender equality or eradicating gender-based violence, but the Government points out that it is insufficient and 75% dependent on grants from donor agencies.

²⁴⁵ Replies by the Brazilian State to the Matrix of Progress Indicators for Gaging Implementation of the Convention of Belém do Pará, 2012. The State provided a breakdown of the amounts for women's police stations or other bodies receiving complaints, specialized offices in the judiciary or government ministries (prosecutors' offices, ombudspersons' offices), care programs for women victims of violence, prevention campaigns, and studies to monitor and evaluation the various components of strategies, plans, programs, and actions.

²⁴⁶ MESECVI (2014) National Follow-up Report on the State of Bolivia and ECLAC (2014), Bolivia Report, Beijing +20. Posted at: www.cepal.org/mujer/noticias/paginas/3/51823/Informe_Bolivia_Beijing_20.pdf

- 318 **Colombia** reported that it has a budget for implementing laws, programs, and plans to combat violence. The State reported that half the budget funds allocated for all victims of violence in 2013 were earmarked for programs, plans, and institutions involved in fighting the different forms of violence against women.²⁴⁷ The Committee did not receive data that would enable it to ascertain whether the High Presidential Advisory Office for Women's Equality plays a major role in establishing and executing plans and whether it has a budget for full implementation of those plans. The State also reported that the National Planning Department ensures that a gender perspective is built into its annual planning and budgeting processes. The Committee does not have detailed information on how the country achieves this or an impact assessment.
- 319 **Ecuador** reported that it has an "Expenditure Guidelines Catalogue, Gender Equality Policies." The Committee notes and welcomes this itemizer, the use of which is obligatory for the public sector. It has been in force since 2012 and one of its subheadings is "promoting and guaranteeing a life free from violence." The CEVI also received information regarding the amount allocated to promoting and guaranteeing a life free from violence.²⁴⁸
- 320 **Grenada** did not report having national budget laws or specific laws addressing violence. However, the Committee notes that the State did report that it has funds allocated for national mechanisms for women and other specialized offices responsible for implementing policies, plans, and programs related to violence against women. The State also furnished information on the amounts allocated to those institutions. The Committee welcomes the fact that this investment has been growing and in fact tripled between 2007 and 2011, according to the information provided.²⁴⁹
- 321 **Guatemala** pointed out that the General Budget Law on State Revenue and Expenditure has specific budget items for law, programs, and plans for combating violence, as well as a budget itemizer imbued with a gender and ethnic perspective that is used by 93 institutions. It also reported that the Organic Budget Law establishes, for various government departments, specific line items for violence prevention.²⁵⁰ It also stated that the Women's Commission in Congress had presented a bill (No. 4399) amending the Organic Budget law to ensure that gender equity is definitely built into the national budget.
- 322 **Mexico** reported that the General Law on Women's Access to a Life Free from Violence establishes that the Federal Executive Branch shall propose allocating, in the Draft Expenditure Budget of the Federation, an appropriation to guarantee compliance with the objectives of the system and program envisaged in the law. It also pointed out that the

²⁴⁷ "The 2013 budget allocates 6.2 billion pesos for victims of violence in general. Of that amount, 3.5 billion pesos are allocated for programs, plans, and institutions involved in fighting the different forms of violence against women." In: MESECVI (2014) Country Report. Colombia.

²⁴⁸ The budget appropriation for Account K in 2012 was \$1,363,743,746.91. Of that, \$107,846,404.33 were allocated to Promoting and Guaranteeing a Life Free from Violence.

²⁴⁹ The State reported that it earmarked XCD (East Caribbean dollar) 355,000 in 2007 and XCD 1,577,926 in 2011. Of the latter figure, 1,308,243 were state funds and 269,683 were funds from abroad.

²⁵⁰ Decree 30-2012 in MESECVI (2014) National Follow-up Report on the State of Guatemala.

Federal Budget and Financial Responsibility Law is designed in such a way as to include elements that allow the budget cycle to contain a gender perspective and that it has specific provisions governing the allocation of budget appropriations and expenditures earmarked for implementing laws, programs, and plans for combating violence against women. The State provided the CEVI with information on the funds earmarked for equality between women and men and to address violence against women.²⁵¹

- 323 **Panama** pointed out that it has a national budget law but that it is Law 71 that establishes that one of the functions of the National Institute of Women is to promote gender mainstreaming in the National Budget (*Presupuesto General del Estado*) and participate in the monitoring and evaluation process with the Ministry of Economy and Finance so as to ensure effective compliance.²⁵² The Committee has no information regarding actual participation. The Law also calls for coordination with the other national institutions responsible for execution of the projects and programs included in the National Budget. Nevertheless, the State reported that the country's budgetary arrangements do not include a list of appropriations for implementing programs and plans to combat violence, with the exception of items listed as part of the institutional appropriation for the National Institute of Women.
- 324 **Paraguay** reported that its budgetary provisions include Guideline Decree No. 11017/13, which establishes general guidelines and amounts for the programming and presentation of preliminary drafts for the 2014 national budget. The State said it expected resources to be allocated to the gender equality agenda and for the National Plan to Prevent and Punish Violence against Women. It also reported that Paraguay has a National Investment Fund for the Prevention of Trafficking in Persons and Care for its Victims. The State did not provide information on budget percentages or amounts earmarked for the eradication of violence against women. The CEVI welcomes the initiative and trusts that funds will in fact be allocated for the gender equality agenda and for actions to eradicate violence against women.
- 325 **Peru** reported that several legal provisions expressly establish the obligation to make budget appropriations. They include the Law on Equal Opportunities for Men and Woman and several decrees establishing appropriations for implementing the National Plan to Fight Violence against Women.²⁵³ The State also furnished details of the specific amounts allocated to that Plan and to the Program to Fight Domestic and Sexual Violence. It stated that, based on that law, a budget had been assigned to the Ministry of Women and Vulnerable Populations for victims of domestic violence. The CEVI acknowledges the willingness shown by the Peruvian State in moving ahead with the budget appropriation for 2012 and 2013 in line with the recommendation made in the Second Hemispheric Report. It also urges the State to strengthen work on budgetary targets, in light of its indication that only two of the six ministries involved had budgetary targets in relation to the aforementioned Plan. It did not specify the ministries in question.

²⁵¹ The Mexican State reported that in 2013 it earmarked US\$71,613,670.56 for these items.

²⁵² In its response to the System of Indicators, it cites verbatim Article 6, sections 4 and 5 of Law 71 of December 23, 2008 and Title II, Chapter I, Article 6, section 11 of Law No. 4 of January 29, 1999.

²⁵³ Appendix 5 to Law N° 29951 on the Public Sector Budget for Fiscal Year 2013 http://www.mef.gob.pe/contenidos/presu_publico/sectr_publico/presu_2013/Anexos/Anexo5.PDF (Pág. 306)

- 326 **The Dominican Republic** provided information about the National Budget and the budget for the Ministry of Women.²⁵⁴ However, the State did not furnish information about laws with itemized expenditures included or about budget-related matters such as appropriations sufficient to execute public policies and plans.
- 327 **Uruguay** made no reference to any specific national budget law with itemized expenditures, but it did break down the budget earmarked for a number of actions aimed at preventing violence against women in different government bodies.
- 328 **Venezuela** reported that the Organic Law on the Right of Women to a Life Free from Violence establishes that the National Executive Branch shall make available the funds needed for actions to prevent and respond to violence against women and requested by Community Councils, women's organizations, and other grassroots social organizations. The Venezuelan State reported that, through the budget allocated to the Ministry of People's Power for Women and Gender Equality, it earmarks funds for implementing programs to prevent and respond to violence against women.²⁵⁵ The State reported that it has been pushing for gender-sensitive budgets in national planning processes since 2005. The State did not furnish information on the impact of this practice or evaluations thereof.
- 329 The CEVI's objective in budget matters is to be able to provide sustained follow-up on the extent of budgetary commitment on the part of States to implementing policies aimed at closing the current gap between formal recognition of women's rights and the actual fulfillment of those rights. The CEVI further seeks to provide States with a tool for preparing the way for administrators, decision-making bodies, and women to play an active part in monitoring, keeping track of, and evaluating the use of funds and their real impact on women's lives.
- 330 With respect to recommendations relating to the budget, the Committee notes several positive trends in the region. First, it observes some progress at this stage, given that several States report that they have begun or stepped up efforts to develop budgets with a gender perspective, by incorporating a gender approach in their national laws and budgets. This is in line with positions taken by the Committee and established in the Convention of Belém do Pará regarding the need to make an effort to address various areas and mainstream a gender perspective in government actions, as well as invest in the eradication of the causes and consequences of violence against women in all sectors and spheres, including the elimination of stereotypes with respect to the roles of women and men.
- 331 Second, the Committee notes and welcomes the fact that mostly those countries that have comprehensive laws on violence, but also some countries that do not, such as Ecuador

²⁵⁴ The National Budget totaled RD\$430,000.81 million. The Ministry of Women's budget totaled RD\$426.45 million, or 0.09% of the National Budget.

²⁵⁵ The State reported that in 2013 it invested Bs 34,240,486 in promoting gender equity, Bs 42,807,548 on actions for comprehensive care for women victims of violence and for preventing gender-based violence, and Bs 6,015,880 on research into the design of gender perspective training and gender mainstreaming programs.

and Grenada, have begun to include violence against women in their lists of itemized expenditures. The Committee also found that other countries, such as Ecuador and Grenada, report that they are investing in programs and institutions working to eradicate gender-based violence.

- 332 Third, there is a gradual trend toward specific appropriations for gender equality issues, including the prevention, response to, and punishment of violence against women. The CEVI notes, as an area of opportunity in budget appropriations, the implementation of measures for evaluating the use and efficiency of funds and, in particular, the link between the allocation of resources and the demand for them from women victims of violence, in line with results-based budgeting principles.

4.2 Specific laws on violence that include budget appropriations or budget lines

- 333 As for specific laws on violence with budget appropriations, the Committee notes that it is mostly comprehensive laws for protecting women from violence in the region that refer to the importance and necessity of allocating budgetary resources to ensure the implementation of some of their articles.
- 334 The laws to protect women from violence in Argentina²⁵⁶, Bolivia, Costa Rica²⁵⁷, El Salvador²⁵⁸ and Mexico²⁵⁹ all indicate the need for budget appropriations for their implementation. From the information furnished by the States, the Committee observes that a provision to that effect in comprehensive laws does not necessarily translate into an actual budget allocation or its incorporation into national budget laws. In other words, there are no additional legal provisions to ensure that this one is implemented. Nor are there percentages or deadlines for executing the resource allocations referred to in the laws.
- 335 The Committee notes that this regulatory component derived from some comprehensive laws is a step forward and regards it as promising that States can use such provisions as a basis for budget execution. The CEVI also attaches importance to clear statements by countries that plan to adopt or are in the process of adopting specific laws on violence against women of the percentage of public investment they intend to earmark for the implementation of those laws.
- 336 The Committee underscores the importance of allocating a budget commensurate with the magnitude of the problem to support activities designed to address victims' needs, provide them with appropriate services, and educate the general public on preventing and eradicating the problem. It also underscores the importance of institutionalizing the

²⁵⁶ Law 26485 on Comprehensive Protection for Preventing, Punishing, and Eradicating Violence against Women in Interpersonal Relations contains a budgetary provision.

²⁵⁷ Law 8889, establishing the National System for Responding to and Preventing Violence against Women and Domestic Violence, requires public institutions with day-to-day responsibilities for preventing and responding to violence to provide in their regular and special budgets for the resources they need to comply with the obligations imposed on them by that law. In addition, their operating plans must include all actions envisaged in order to comply with those obligations. See: Costa Rica's Reply to the Indicators Matrix.

²⁵⁸ Comprehensive Special Law for a Life Free from Violence. Articles 33 – 36

²⁵⁹ General Law on Women's Access to a Life Free from Violence.

investment that several States are already making in this field, through provisions that also guarantee the sustainability of funding and the effective use of resources. The Committee reiterates, moreover, its concern that part of the response to violence against women continues to be dependent upon international partnership for development funding, which should be regarded as complementing, not substituting for, institutionalized public investment.

4.3 Provision of information on the percentage of the budget allocated to national women's mechanisms²⁶⁰ and to violence against women issues

- 337 With a view to ascertaining what social audit or accountability mechanisms are in place on budgetary matters and violence against women, the Committee requested information about any reports published on budget appropriations and their execution.
- 338 Brazil, Colombia, Ecuador, Guatemala, and Mexico reported that they published and disseminated information on the budget and its execution. The Committee appreciates and welcomes that fact that Brazil, Ecuador, and Mexico reported using communication technologies and have virtual platforms or portals enabling citizens to access detailed information about budget appropriations and the implementation of expenditure on specific items. In that way, the citizens of those countries can monitor the budget earmarked for certain programs. In the case of Mexico, the State reported that, since 2008, the transparency portal of the National Institute of Women has been publishing the quarterly itemized budget reports prepared by departments of the Federal Public Administration. Ecuador pointed out that each public institution complies with the obligation to publish management reports on its website at least once a year and many also publish additional periodical reports.
- 339 The Committee also notes that other countries publish annual reports on budget appropriations and out-turns. Panama and Peru report that annual expenditure execution reports are submitted to certain authorities, such as members of the legislature. Venezuela produces its "Annual Report and Accounts" (*Memoria y Cuenta*) at the end of each fiscal year on the budget and its execution. In Uruguay, on March 8 of each year, there is a public accountability presentation comparing what was achieved during the year with commitments undertaken.
- 340 The Committee notes that several States issue publications and budget reports as part of their overall accountability obligations, without that necessarily implying any particular focus on specific actions and resources used to eradicate violence against women.
- 341 The Committee likewise reiterates the importance of women's organizations being able to exercise their right to transparency and access to public information, in the framework of human rights recognized in the American Convention, by having access to reliable and readily available data on the policies pursued by countries to comply with commitments derived from the Convention of Belém do Pará. Periodic, rather than just annual, publication of expenditures actually carried out can provide women and the general

²⁶⁰ Summary of Recommendation No. 35 which reads as follows: Establish mechanisms that allow the provision of information on the percentage of budgets allocated to national women's mechanisms.

public with the wherewithal for informed participation in decisions on the use of resources and can encourage social auditing of programs aimed at eradicating violence against women, as well as fostering accountability and transparency in the use of resources.

- 342 The publication of annual and any budget information is an advance, although the CEVI, in line with the recommendations made, encourages States to make specific information available, periodically and in accessible user-friendly formats, on the amounts allocated to address the issue of violence against women and to women's mechanisms, along with regular, detailed information on the execution of those budgets.
- 343 The CEVI regards, as a promising area in budget outlays, the implementation of measures permitting transparent evaluation of the use and efficiency of resources, since this is a vital tool for enabling civil society organizations, women's groups, and interested parties of both sexes to participate in the monitoring of the use to which those funds are put and to evaluate how efficiently they are used.

5. Information and statistics

Convention of Belem do Para. Article 8h.

The States Parties agree to undertake progressively specific measures, including programs to:

ensure research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes."

- 344 During both Evaluation and Follow-Up Rounds, the Committee of Experts of the Mechanism to Follow Up on Implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (CEVI) urged the States Parties to comply with this obligation, stated in article 8h of the Convention. That is why, in the recommendations of the Second Report, it underscored the need to pass laws establishing the obligation to prepare studies and carry out surveys of violence against women; disseminate the findings of those surveys and information on women's rights and the services available to them, or include such material in modules forming part of general surveys or censuses.²⁶¹ The idea was to ensure the existence of a broad diagnostic assessment of the violence to which women are subjected and of quantitative tools for addressing all the different manifestations of that violence with specific and structurally in-built public policies.
- 345 In the statistics section of its Second Hemispheric Report, the Committee made six recommendations: 1) Include in national plans on violence against women research and studies on this topic in order to determine the budget allocated and the promotion of findings²⁶²; 2) Conduct surveys on violence against women, women's knowledge of their rights, and knowledge of services available; 3) Keep records in entities receiving complaints, courts and prosecution offices and health centers, in order to have reliable data on the scope of violence against women; protecting their privacy; 4) Collect and make public information disaggregated by sex, age, civil status and geographic location, on the number of women victims of violence; and on the number of prosecutions for violence against women; convictions for violence against women; victims of femicide and convictions for femicide; 5) Institute registries in police stations and in the judiciary, at the national level, to keep statistics on femicides, with data disaggregated by age, civil status and geographic location; and 6) Establish the rules for proper coordination between national statistics agencies and women's institutes.
- 346 In the Access to Justice section, the review focused on the statistical information kept by organs of the justice system, in light of the recommendations regarding 1) the keeping of records in entities receiving complaints; and 2) the collection and publication of

²⁶¹ MESECVI (2012). *Op. Cit.* Second Hemispheric Report on Implementation of the Convention of Belém do Pará Recommendation No. 38.

²⁶² Summary of Recommendation No. 37 which reads as follows: Include in national plans on violence against women research and studies on this topic in order to determine the budget allocated, and the dissemination and promotion of results and publications.

information, including the data on victims of violence against women. The recommendations for conducting research and periodic surveys to monitor and evaluate policies, plans, programs, strategies and actions²⁶³, as well as the availability and free access to information were analyzed in the National Plans and Budget sections.

- 347 The Committee recognizes that "generally speaking, it is often difficult to use outcome indicators owing to the lack of information in many States of the Hemisphere. On every occasion, the Committee of Experts has reiterated its concern regarding the lack of available records and statistics on violence against women: Although some States provided recent figures, it is essential to have the information requested under the indicator to ascertain the magnitude of the problem of violence, its victims, its aggressors, and its extent. Without this information, realistic public policies cannot be designed or specific measures implemented to prevent and deal with this violence. Consequently, the Committee has emphatically urged the States to step up efforts and investments in order to generate and compile quantitative and qualitative information, disaggregated by sex, ethnicity, race, age, marital status, socioeconomic status, and migratory condition, among others, respecting standards of validity and methodological and statistical reliability."²⁶⁴
- 348 Based on the responses of the States to the Indicator System, and in accordance with the recommendations of the CEVI, three aspects on information and statistics are relevant: legislation or specific rules for the collection of statistics and information, interagency cooperation, and surveys and data on violence against women.

5.1 Specific rules

- 349 The Committee recommended to: "include in national plans on violence against women research and studies on this topic in order to determine the budget allocated, and its dissemination²⁶⁵". The CEVI asked the States for information on laws or rules regarding statistics, based on the indicator system, with a view to gaging States' formal commitments to implementing these recommendations, as well as to know their financial and institutional capacities, and the results of their efforts.

At this follow-up stage, the Committee notes progress with respect to the regulatory component of States' obligations to generate statistics:

- 350 **Argentina** reported that Law 26.485 establishes that its Supreme Court (*Corte Suprema de Justicia de la Nación*) "will prepare statistics, open to the public, disclosing, at the very least, the characteristics of those who perpetrate or suffer violence, the type of violence, the ties between the parties, type of measures adopted and their outcomes, and the type and quantity of sanctions imposed."²⁶⁶ It also furnished statistical information

²⁶³ MESECVI (2013) Indicator system. MESECVI/CEVI/doc.188 /13 rev.1 *Op Cit.*

²⁶⁴ MESECVI (2013) Indicator System. MESECVI/CEVI/doc.188 /13 rev.1 *Op Cit.*

²⁶⁵ MESECVI (2012) Summary of Recommendation No. 37 which reads as follows: Include in national plans on violence against women research and studies on this topic in order to determine the budget allocated, and the dissemination and promotion of results and publications.

²⁶⁶ Ley 26.485. *Op. Cit.*

regarding complaints of domestic violence, but it did not provide information on the budget allocated to the preparation or publication of statistics.

- 351 **Bolivia** reports that Law 348, passed in 2013, established the Plurinational Comprehensive System for Preventing, Responding to, Punishing and Eradicating Gender-based Violence. The tasks entrusted to the System include conducting surveys of the impact of the services provided. The State also reported that the Ministry of Justice was designing a Single Form for registering complaints of violence, along with a Single Register of Violence. The Committee welcomes these recent advances in legislation. However, it notes that it has not received any information as to their implementation. Nor did the State indicate whether, in the regulatory sphere at least, there were budgetary appropriations for the production of information and statistics, pursuant to the recently adopted law.
- 352 **Colombia** stated that, pursuant to Law 125, of 2008, the Ministry of Social Protection and High Advisory Office established the High Advisory Office's Observatory on Gender Matters in 2012 as a body responsible for consolidating efforts in this field, calculating indicators, and in-depth analysis aimed at following up on anti-violence laws countrywide²⁶⁷.
- 353 **El Salvador's** Comprehensive Law for a Life Free from Violence envisages a National System of Data, Statistics, and Information on Violence against Women.²⁶⁸ The Committee welcomes that regulatory provision. However, in the follow up to this policy, the State provided no information on implementation of that System or on the existence of public sector entities generating data on violence against women, or about such data being published. Nor did the State indicate whether, in the regulatory sphere at least, there were budgetary appropriations for the production of information and statistics, pursuant to the recently adopted law.
- 354 **Mexico** informed that its Comprehensive Law "establishes as one of the functions of the Secretariat of the Interior (*Secretaría de Gobernación*) the periodic conducting of a National Diagnostic Assessment and other complementary studies with a gender perspective of all forms of violence against women and girls, in every sphere, to provide objective information to be used in formulating government policies for preventing, responding to, punishing, and eradicating violence against women."²⁶⁹ The Committee

²⁶⁷ The State of Colombia, on October 23rd, 2014, requested the Technical Secretariat of the MESECVI to add the following information: it is important to mention that so far the Gender Issues Observatory of the Presidential Advisory Office for Women has published the following studies, which have a bearing on matters of concern in the hemispheric report: Trends in adolescent pregnancies in Colombia. Epidemiological analysis 2000 to 2011; Developments in the international legal framework regarding sexual violence against women. 2012; Sexual violence in connection with armed conflict in international case law. 2012; Certain factors associated with violence against women of African descent, black women, and women from the Raizal and Palenque communities. ANRP COLOMBIA 2012-2013 (Exploratory study); Certain factors associated with violence against indigenous women, Colombia 2012-2013. December 2013 (Exploratory study).

²⁶⁸ Comprehensive Special Law for a Life Free from Violence for Women (2010). Legislative Decree N° 520. Article 30.

²⁶⁹ MESECVI (2014) Country Report.

appreciates this formal commitment, but stresses that it did not receive information regarding any budget allocation for the studies and surveys referred to. The State also reported that it was continuing surveys to measure violence against women, the latest of which was published in 2012. The findings are shown alongside those of the other countries that reported information on domestic and sexual violence.

- 355 **Paraguay** reported that it was working on a Comprehensive Bill to Prevent, Punish, and Eradicate Violence against Women based on Gender-related Asymmetries, which, according to the State, would include the obligation to gather statistics and data on the subject. However, as of the date of this report, the Committee had not received information regarding whether that bill had become law or not, so that it cannot yet be considered progress. The Committee urges that the bill be adopted. The State also reported that the Ministry of Women was to carry out the First National Survey of Gender-based Domestic Violence toward the end of 2013. The Committee learned through the media that the survey had been launched but has not had access to the findings. In light of the above, the Committee regards the State's initiatives in recent years as promising, but insists on the importance of their actually materializing, so that they can be considered progress.
- 356 **Peru** reported that the Law on Organization and Functions of the Ministry of Women and Vulnerable populations (MIMP) -- Legislative Decree N° 1098 -- establishes the Ministry of Women's function of organizing and supervising the records for which it is responsible and generating information regarding matters in its remit (Article 4). The enabling regulations to the Law state that the MIMP must establish information systems within its sphere of competence (Article 7). The MIMP keeps the following records: Domestic and sexual violence cases; Actions to encourage prevention of domestic and sexual violence; and Femicides and attempted femicides. The Committee applauds the fact that these formal provisions are accompanied by a specific budget for their implementation. Indeed, Peru was one of the few countries that provided specific information on a budget appropriation to cover the cost of record keeping and statistics.
- 357 **Suriname** did not report any legal provisions obliging the State to compile statistics or keep records. Nevertheless, it did say it has a General Office of Statistics, which "produces gender-sensitive statistics every two years." The CEVI welcomes this information even though it did not receive further details or samples of those statistics or information on how to access them.
- 358 **Venezuela** did not report any legal provisions obliging the State to conduct periodic surveys or keep records of cases of violence against women. Nevertheless, it did point out that, through the National Institute of Women (INAMUJER), the Office of Strategies and Follow-up on Public Policies of the Ministry of the People's Power for Women and Gender Equality is responsible for conducting research and periodic studies aimed at monitoring and evaluating State policies.

5.2 Inter-agency cooperation

- 359 The CEVI recommended "[e]stablish[ing] the rules for proper coordination between national statistics agencies and women's institutes"²⁷⁰. Therefore, the Committee included in the indicators system a request for information regarding cooperation agreements and/or ties between national mechanisms for the advancement of women and the national agency responsible for official statistics or negotiation processes aimed at achieving such technical cooperation, as that information is useful for assessing institutional capacities.
- 360 **Argentina** reported that in 2012, the National Council of Women and the National Institute of Statistics and Censuses signed an agreement on compiling a Single Register of cases. The idea is to forge a tool that can be used for a real diagnostic assessment of gender violence based on administrative records derived from a variety of sources of information in public administration. The Committee sees this as a step in the right direction and will be keen to receive further information regarding the operational aspects and results of that agreement, as well as about the dissemination of those statistics.
- 361 **Brazil** reported that it has a Gender and Time Use Studies Committee charged with incorporating a gender perspective in the production and analysis of official statistics. The CEVI is also aware of the existence of the Brazilian Institute of Geography and Statistics. The Committee welcomes Brazil's formal commitment to place the topic of time use surveys on the public agenda, as agreed in the Brasilia Consensus,²⁷¹ which reiterated the need to further develop time use studies in the region given the ongoing inequalities and inequities in the time uses of men and women.
- 362 **Colombia** reported that the inter-agency cooperation through the Human Rights Observatory and National Violence Observatory of the Ministry of Health and the High Advisory Office. The CEVI also welcomes inter-agency collaboration on statistics. Nevertheless, the Committee received no information regarding the effectiveness of coordination measures, or about budget appropriations specifically for the production of information and statistics. Nor did the State provide information about any vehicle concentrating all the information in such a way as to make it easily accessible to the general public²⁷².

²⁷⁰ MESECVI (2012) Recommendation 42.

²⁷¹ "Bearing in mind that Latin America and the Caribbean is still the most inequitable region in the world and exhibits widening gender, ethnic and racial gaps; that the social, political, cultural and economic patterns underlying the sexual division of labour must be changed without delay; and that the key to this is a new equation between the State, society as a whole, the market and families in which unpaid domestic work and caregiving are construed and treated as public matters and a responsibility to be shared among all these spheres" Brasilia Consensus (2010) Economic Commission for Latin America and the Caribbean (ECLAC) http://www.cepal.org/mujer/noticias/paginas/6/40236/consensobrasilia_ing.pdf

²⁷² The State of Colombia, on October 23rd, 2014, requested the Technical Secretariat of the MESECVI to add the following information: It should be noted that, to ensure compliance with the public policy on gender equity set forth in CONPES 161, a set of indicators has been established, based on National Planning Department (DNP) methodology, to facilitate periodic measurement of implementation of the actions envisaged in the policy, based on the functions assigned to each of the entities responsible for their execution.

- 363 **Costa Rica** did not report any binding norms obliging the State to conduct periodic surveys of the various manifestations of violence against girls and adolescents, women and elderly women. Nevertheless, it did report the establishment of a Uniform System for Statistical Measurement of Gender-based Violence aimed at "defining, constructing, maintaining, enhancing, and monitoring an information system based on harmonized records and the construction of key, agreed-upon indicators that provides insight into the scope of gender-based violence and institutional responses to it."
- 364 The Committee notes that various governmental and nongovernmental agencies participate in that System and that the System includes a Technical Committee coordinated by the National Institute of Women (INAMU), which is responsible for ordering and gathering information needed for the construction of indicators. The State also reported that the INAMU and the Judiciary have an agreement providing for periodic access to the latter's official statistics. The CEVI welcomes inter-agency collaboration on statistics. However, as with Colombia, the Committee received no information regarding the effectiveness of coordination measures, or about budget appropriations specifically for the production of information and statistics. Nor did Costa Rica provide information about any vehicle concentrating all the information in such a way as to make it easily accessible to the general public.
- 365 Back in 2012, **Ecuador** notified the CEVI that the National Institute of Statistics and Censuses (INEC), in its capacity as the coordinator of the National Statistics System (SEN), had formed a special inter-agency Committee to work on the National Survey on Violence against Women with a view to "generating data and producing statistical information on the prevalence, incidence, and scope of the different forms of gender-based violence (physical, psychological, sexual) to which women are or have been subjected in both the public (school, work, and social) sphere and the private sphere (home, family, relations with a partner); on women's awareness of or search for services and judicial bodies to help them confront the violence, and their perceptions regarding the institutional response."²⁷³
- 366 In this regard, the CEVI particularly welcomes the fact that Ecuador is one of the countries that, in recent years, has prepared its first Survey of Family Relations and Gender-based Violence against Women. That survey made it possible to arrive at a major diagnostic assessment of the situation of violence against women, particularly in the private and public spheres of women aged 15 and older. The findings of the survey in respect of physical and sexual violence are shown in this section, along with those of the other countries that reported conducting such surveys.
- 367 **El Salvador** reported on a large number of agreements signed by the Salvadoran Institute for the Advancement of Women (ISDEMU) as the Competent National Authority,²⁷⁴

²⁷³ MESECVI (2012). *Op. Cit.* Final Report of the Second Multilateral Evaluation Round of Ecuador

²⁷⁴ The ISDEMU reported that it had entered into agreements with the following entities: The Supreme Court, the Office of the Attorney General (*Procuraduría General de la República*), the Office of Public Prosecutions (*Fiscalía General de la República*), the Ministry of Justice, the Ministry of Education, the Ministry of Foreign Affairs, ANDA (water supply and sewerage utility), UTE (the Technological

even though it did not explicitly point out that the purpose of those agreements was to generate, together with the national agency responsible for official statistics, high quality information on the various forms of violence against girls, adolescents, women, and elderly women. No information was provided by the state on the budget or appropriations for statistics and information on violence.

368 **Grenada** did not report any regulations requiring surveys of violence against women. Nevertheless, it did report that, starting in 2010, the central statistics office began compiling and producing statistical information on violence against women. The State indicated that records of sex crimes and domestic homicides are kept by the Criminal Records Office of the Royal Grenada Police Force. Nevertheless, the Committee notes that "the criminal records on assault, attempted homicide, bodily harm, etc. are not broken down by sex of the victim or the perpetrator. Nor are the grounds easily discernible, so that it is not easy to make out cases of domestic violence. The same applies to the General Hospital's Accident and Emergency Department records kept and presented by the Domestic Violence Unit for processing.²⁷⁵" The Committee welcomes that the central statistics office compiles information and statistics on violence against women, but it has not information on budget appropriations or the publication of the statistics referred to, so that it is not in a position to analyze the extent of compliance.

369 **Guatemala** reported on the need to "establish a National Information System on Violence against Women, through which the entities referred to, shall implement the appropriate mechanisms, depending on their in-house rules and regulations, to fulfill this obligation," This information is insufficient to determine whether Guatemala has got beyond the recommendation made in the Second Round about having a unified system in addition to the statistics produced by each institution related to or bound by the Law on Femicide and Other Forms of Violence against Women.

370 That notwithstanding, Guatemala notified the CEVI of the "Agreement on Inter-Agency Cooperation between the National Statistics Institute and the Presidential Secretariat for Women 2012-2015," which in itself constitutes a significant step toward the development of statistics focusing on violence against women. The CEVI deems it important that Guatemala provide more information on the implementation of that Agreement, on actions undertaken, and on the budget allocated to ensure that it meets its objective.

371 The CEVI will be looking forward to receiving information and to the implementation of the proposal regarding the self-determination criterion and complementary questions aimed at better coverage of the ethnic variable that are currently being worked on by the Coordinating Office for the Mainstreaming of Gender and Peoples Statistics in the INE –OCTEGP-, composed of the Presidential Secretariat for Women, the Presidency's

University of El Salvador), the National Civilian Police, the Salvador Social Security Institute, the Ministry of Health, the Ministry of Economy, DIGESTYC (the Statistics and Censuses Directorate), the Secretariat for Social Inclusion, Doctors of the World, the Prudencia Ayala Feminist Coalition, the United Nations Population Fund (UNFPA), the European Union, the Ministry of Women and Vulnerable Populations of Peru, the Mélida Anaya Montes Association, ANDRYASAS, and the Women for Local Development Cooperative.

²⁷⁵ MESECVI (2014). Country report Grenada

Planning and Programming Secretariat, the Office of the Coordinator against Discrimination and Racism, and the Office of the Ombudsperson for Indigenous Women (*Defensoría de la Mujer Indígena*).

- 372 **Paraguay** informed that it signed with the Inter-American Development Bank a non-refundable cooperation grant. The executing agency is the Office of the Director General of Statistics, Surveys, and Censuses of the Technical Secretariat for planning of the Presidency of the Republic of Paraguay, in partnership with the Ministry of Women. The Committee welcomes that agreement and looks forward to receiving further information about the outcomes.
- 373 **Suriname** informed about several studies conducted in recent years. One was a study conducted jointly with the United Nations Population Fund on attitudes toward domestic violence and sexual and reproductive rights, and another was a qualitative study conducted in 2013 by the Ilse Henar – Hewitt Juridische Bijstand foundation, aimed at improving services for women victims of domestic violence. The CEVI welcomes this progress vis-a-vis the previous year and urges the State to boost its capacities for conducting such studies in the future in an autonomous and sustainable fashion. To that end, the Committee urges the State to strengthen the formal and structural underpinnings for such studies and to allocate sufficient funds in the budget to cover the cost of compiling statistics and disseminating the studies' findings.
- 374 **Uruguay** did not report any legal provisions obliging the State to compile statistics or keep records of violence against women. Nevertheless, it did tell the CEVI that the National Institute of Women - Ministry of Social Development (MIDES) is the competent authority for coordinating efforts to put together complete administrative records of violence against women. It also reported that the National Observatory on Violence and Crime had been set up in the Ministry of the Interior with a view to providing real and reliable data compiled in accordance with a strict methodology for processing the main indicators on developments in crime and in the police response to it, and publishing quarterly statistics.²⁷⁶
- 375 The CEVI particularly welcomes the fact that in 2012 Uruguay conducted its first Survey of the Prevalence of Domestic Violence Situations involving women of 15 or more years of age who were attended to in public and private ambulatory health care centers. This was followed in 2013 and 2014 by the first Survey on the Prevalence of Gender- and Generation-based Violence, conducted jointly with the National Statistics Institute (INE).
- 376 The Committee notes that **Venezuela's** latest statistical reports on violence against women date back to 2009. It strikes the CEVI as promising that the “Mamá Rosa” 2013-2019 Plan for Gender Equality and Equity envisages reviving the inter-agency agreement with the National Statistics Institute to strengthen the Subcommittee on Gender Statistics as a mechanism for accessing updated statistical information and for mass dissemination of national statistics on violence against women via an also revived Bolivarian Gender Observatory.

²⁷⁶ The Ministry web site open to the public is: <https://www.minterior.gub.uy/observatorio/>.

- 377 Barbados, Chile, the Dominican Republic, and Panama are countries that provided so little statistical information that the CEVI cannot pronounce on any progress they made. The Committee deduces from the lack of information that there is room in those countries for enhancing specific provisions for surveys and the structural and budgetary underpinnings needed to ensure real information regarding the phenomenon of violence against women, its causes, and its sequels.
- 378 In general, the Committee notes several areas of progress and several challenges still remaining with respect to the formal and structural aspects of gathering information and compiling statistics. First, the CEVI observes that there is a correlation between those countries that have comprehensive laws on violence against women or laws on gender-related violence and the existence of a State obligation to conduct studies and compile statistics on the subject. As shown above, this is largely because certain articles in those comprehensive laws often explicitly establish the State's duty to gather information and statistics on this matter.
- 379 The Committee notes that, despite that progress on the formal and structural front, most countries, including those legally bound to conduct surveys and gather information on the topic, do not report the existence of a budget appropriation to finance surveys on violence against women. The lack of appropriations may limit or prevent implementation of the legal provisions, particularly when it comes to conducting surveys, which are expensive, given the scope of the undertaking of information. For that reason, the Committee urges the States to accompany their formal commitments with sufficient resources to ensure implementation.
- 380 Second, during this phase, the Committee has received more ample information regarding inter-agency agreements reached between the ministries of women and national statistics offices, or between other government agencies, or even with international organizations, on collecting information, making records comparable, or building Single Registers. The Committee greatly appreciates this progress in inter-agency collaboration aimed at generating statistics on violence against women. The Committee urges States to transform those partnerships into concrete actions that will increase the statistical information available on the violence wrought on women in the region.
- 381 Third, the Committee observes that the States are up against the challenge of enhancing both the quantity and quality of information on violence against women. The CEVI notes that some countries have begun or stepped up efforts to build a Single Register. Here, the CEVI stresses the need to ensure consistency in that information, the inclusion of figures and data from civil society organizations, and, above all, broad dissemination of the information and its use in designing and implementing measures aimed at curbing, and ultimately eradicating, violence against women.
- 382 Fourth, the Committee appreciates that fact that, even if some States do not have formal provisions, the States in the region have demonstrated considerable commitment to -- and indeed have pioneered -- time use surveys drawing attention to differences between men and women. While such surveys do not convey the full extent of violence against

women, they do reflect the inequalities that exist and the consequences of assigning stereotyped roles, which can be a cause of violence against women.

383 Finally, most of the statistics incorporated in the Report do not do justice to the social circumstances of different sets of women with political, social, ethnic, territorial, generational, and sexual diversity-related vulnerabilities. Those structural factors need to be reflected in the statistics generated and in the gathering of information based on surveys and qualitative studies, so that they are a better guide for the policies seeking to implement the laws and plans on violence against women and to make a life free from violence a reality.

5.3 Surveys and data on violence against women

384 With respect to violence against women, it is impossible yet to measure the impact of most measures adopted due to the lack of, with a few exceptions, unified registers to shape each State's response based on the magnitude of violence against women. We have only recently begun to standardize the criteria for information gathering. But much more needs to be done before we can say that States are complying with the legal obligation they have contracted with regard to generating information.²⁷⁷ Sixty percent of the member states of the United Nations have still not registered the required information: a sign that much more political will is required to implement U.N. commitments.²⁷⁸

385 In this context, the Committee recommended that the States Parties conduct surveys on three fundamental topics for assessing the causes, consequences, and frequency of violence against women. Specifically, the CEVI asked for information about surveys of violence against women, about women's knowledge of their rights, and about their awareness of state services available to them.

386 In assessing follow up to those recommendations, in this phase the CEVI ascertained that 12 countries in the region have statistics on the prevalence of violence, based on various kinds of surveys or records. Of the 12 States Parties to the Convention reviewed in the Report of the Pan American Health Organization (PAHO),²⁷⁹ eight States -- listed below -- provided specific information on the surveys they had conducted and, using indicators, on rates of violence. The surveys were conducted by their statistics offices, or in health modules, and all of them addressed different types of violence against women.

387 The Committee welcomes the fact that, as it reported in the last evaluation period, Ecuador conducted the National Survey of Violence against Women. For the eight States

²⁷⁷ CEPAL (2010) Study of the information on violence against women in Latin America and the Caribbean. Serie 99, woman and development. Santiago de Chile.

<http://www.eclac.cl/publicaciones/xml/8/38978/Serie99.pdf>

²⁷⁸ Ibidem

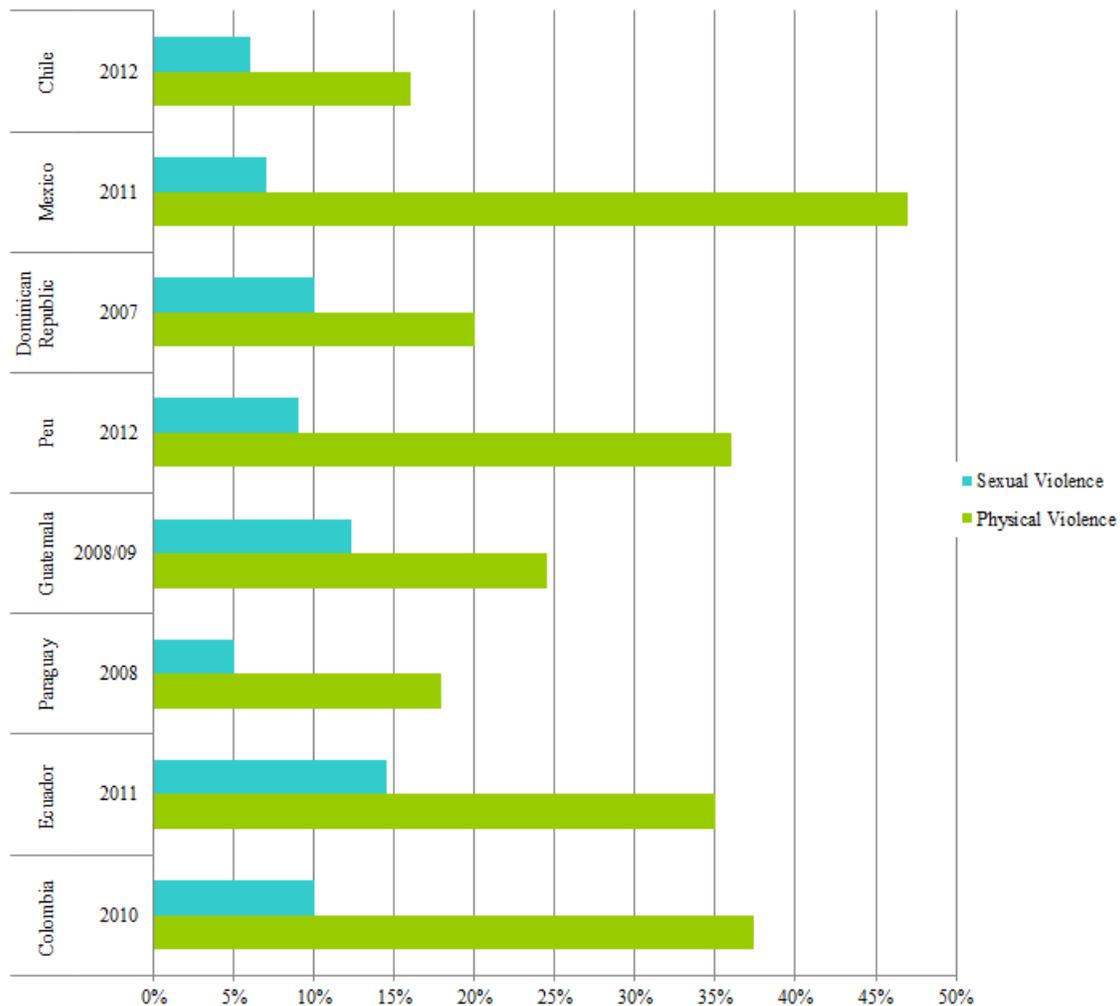
²⁷⁹ The Report on Violence in Latin America and the Caribbean by the Pan American Health Organization analyzes the incidence of violence against women based on demographic data taken from Demographic and Health Surveys (DHS) and Reproductive Health Surveys (RHS). Further information is posted at: http://www.paho.org/hq/index.php?option=com_docman&task=doc_view&gid=21425&Itemid

that replied, the CEVI received comparative information on the prevalence of sexual and physical violence using indicators that made it possible to compare the oldest findings (dating back to 2007) and the latest (Ecuador's National Survey of 2012).

- 388 The Committee of Experts notes that despite the progress made with surveys, there is still a dearth of consistent and comparable statistical data on violence against women. In the Americas, the data for Latin America are very different from those available for the Caribbean. In Latin America, more information/data are available on efforts being undertaken by the States Parties to reduce violence against women. The Caribbean region faces greater challenges in its attempts to generate information.
- 389 The Committee notes that, in the replies obtained from States, several States have altered the formula for calculating the indicator, while some report just some kinds of violence. The vast majority report acts of violence in the private sphere, perpetrated in the past 12 months, or throughout life, by a partner, or a former partner, or a third party. For this reason, the Committee acknowledges that it has some difficulty quantifying certain aspects. Violence against women is complex given that it "is expressed in numerous different ways, manifested in a continuous series of multiple, interrelated, and at times recurrent forms that vary according to social, economic, cultural and political contexts."²⁸⁰
- 390 The data were most comparable for sexual and physical violence, whereas more variables were involved in other types of violence, such as psychological, property-related or economic/financial violence, and in the other forms of violence in the public or community sphere. Extracting the comparable features in those would require a lot more analysis than there is room for in the scope of this report.
- 391 The CEVI recognizes that one of the major challenges in the region is still to achieve comparable statistics, given the lack of uniform standards in statistics on violence against women and the nature of the phenomenon. This remains true despite the fact that five of the eight States that replied with rates and percentages of violence had conducted surveys within the past four years.

²⁸⁰ MESECVI (2014) *Guía para la interpretación de la Convención Interamericana para prevenir, sancionar y erradicar la violencia contra las Mujeres* (Convención Belém do Pará) [Guidelines for Interpreting the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, "Convention of Belém do Pará"]

Chart 4. Physical or sexual violence experienced by women at some point in their life



Authors' presentation.²⁸¹

392 As the Chart above shows, the percentages of sexual and physical violence were those that the CEVI found easier to compare. The Chart shows that, in the eight States that replied, physical violence was twice or three times as common as declared sexual violence. Nevertheless, the CEVI recognizes that the comparability of even those data is limited, given that each State may have different and complicated definitions of sexual or physical violence, or of violence against women perpetrated by a partner or former partner in the past 12 months and throughout life. The Chart shown here indicates the percentages provided by those eight States for declared sexual or physical violence perpetrated in the previous 12 months by a partner or former partner. In principle, this Chart would appear to show a similar trend in violence against women as that revealed by the World Health Organization.

²⁸¹ Technical Secretariat of the MESECVI, based on surveys on violence against women conducted in the eight States Parties that replied with information on the rate of violence outcome indicator.

- 393 The CEVI consulted the work on comparative statistical data on physical and sexual violence. In this regard, the Committee noted that the Pan American Health Organization (PAHO) conducted a comparative analysis on violence against women based on population data from 12 countries in Latin America and the Caribbean. In this analysis, PAHO reported on physical or sexual violence experienced by women at the hands of an intimate partner at some point in their life and/or in the preceding 12 months²⁸². Three of the states that were part of this analysis (Ecuador, Colombia and Peru) provided new and disaggregated information on sexual and physical violence experienced throughout different stages of life. Additional to this, Chile and Mexico (States that were not analyzed by PAHO) provided the information.
- 394 The CEVI presents new information, disaggregated by type of violence, according to information provided by States through the Indicator Matrix. Other non-comparable statistical data provided by States is not reflected here. However, the information can be found in the country reports or in responses provided to indicators Matrix.
- 395 The data from the region seems to be in accordance with recent WHO figures on the global prevalence of violence against women that indicate that 35% of women in the world have experienced violence from an intimate partner or sexual violence by a non-partner at some point in their lives. On average, 30% of women who have been in a relationship report that they experienced some form of physical or sexual violence perpetrated by their partner. Globally, 38% percent of murders of women are committed by an intimate partner.²⁸³
- 396 The Committee acknowledges the importance of the work done in this field by both the United Nations Statistical Commission and ECLAC's Division for Gender Affairs, which have made huge efforts to generate international standards in this field.²⁸⁴ Nevertheless, the paucity and diversity of the replies to the Committee, in which only 8 of the 32 States Parties to the Convention responded to the follow-up on their obligation under Article 8h of the Convention, suggest that the standardization of indicators continues to be a major obstacle to quantifying violence against women in the region. It also shows that even gathering this information through surveys or administrative records still poses significant challenges for more than two-thirds of the States that, through the Convention, committed to carrying out such studies.
- 397 With respect to the breaking down of statistics by sex, the Committee notes that the Health Sector is the one that keeps more elaborate and sustainable statistics and, in several countries, compiles crosscutting factors such as the age or race of women, and their ethnic origin, which may prove useful for justice system purposes. In that context,

²⁸² Organización Panamericana de la Salud (2014). La violencia contra la mujer en América Latina y el Caribe: Análisis comparativo de datos poblacionales de 12 países Washington, DC. http://www.paho.org/hq/index.php?option=com_docman&task=doc_view&Itemid=270&gid=21425&lang=es

²⁸³ World Health Organization. October 9, 2013 Descriptive note No. 23, Intimate partner and sexual violence against women. <http://www.who.int/mediacentre/factsheets/fs239/en/>

²⁸⁴ The United Nations has, since 2009, convened a number of experts to generate statistics on violence against women, based on rates of violence.

the Committee urges the States to consider the importance of not just conducting surveys but also broadening data collection to other key players, such as the administration of justice system. The CEVI likewise reiterates the importance of conducting studies showing how women experience violence or the hurdles they face when they try to have access to justice.

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