

Violence in the Americas A Regional Analysis

Including a Review of the Implementation of the
Inter-American Convention on the Prevention, Punishment,
and Eradication of Violence Against Women
(Convention of Belém do Pará)

**Final Report
July 2001**



The Inter-American Commission of Women (CIM)
Organization of American States (OAS)



The International Centre for Criminal Law Reform
and Criminal Justice Policy (ICCLR)



The United Nations Latin American Institute for the
Prevention of Crime and the Treatment of Offenders
(ILANUD) - Women, Justice, and Gender Program

ACKNOWLEDGEMENTS

This study was made possible through the generous support of the United States Agency for International Development (USAID). The Inter-American Commission of Women (CIM) of the Organization of American States (OAS), the International Centre for Criminal Law Reform (ICCLR), and the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) wish to thank the Principal Delegates to the CIM and other national respondents, as well as all the other participants who made this complex review possible. They also wish to thank the project's principal researchers, Vivienne Chin, Yvon Dandurand, and Ana Elena Obando, as well as all the researchers involved in producing the national studies:

- ❑ Leila Linhares Barsted and Jacqueline Hermann (Brazil);
- ❑ Lorena Fries and Paula Salvo (Chile);
- ❑ Ivannia Monge (Costa Rica);
- ❑ Rocío Salgado (Ecuador);
- ❑ Yolanda Guirola (El Salvador);
- ❑ Carmen Lopez de Caceres and Lucrecia Lopez Lopez (Guatemala);
- ❑ Lolis María Salas Montes (Honduras);
- ❑ Teresa Ulloa Zíaurriz, Mónica del Val Locht, and Jorge González Santana (Mexico);
- ❑ Rosina M. Pérez Bermudez (Panama);
- ❑ Line Bareiro, María Molinas, and Marilut Lluís O'Hara (Paraguay);
- ❑ Marcela Huaita (Peru); and
- ❑ Eileen Skinnider (Canada).

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Introduction

The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women, the Convention of Belém do Pará, reaffirms every woman's "right to be free from violence in both the public and private spheres" (Article 3). It defines violence against women 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" (Article 1). That includes 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;
- (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; and
- (c) that is perpetrated or condoned by the state or its agents regardless of where it occurs. (Article 2)

The Inter-American Commission of Women (CIM) drafted the Convention. Following a consultation process carried out by the CIM with the governments of the region, the Convention was adopted in June 1994 at the twenty-fourth regular session of the General Assembly of the OAS, held in Belém do Pará, Brazil. It was immediately adopted by the governments of the member states and entered into force on March 5, 1995.

The coming into force of the Convention marked an important moment in the continued efforts to affirm and protect women's human rights and to denounce violence against women as a human rights violation. Other initiatives to prevent, punish, and eradicate violence against women had preceded the adoption of the Convention. However, the latter was unique in clearly delineating states' obligation to protect women's right to a life without violence. To date, the Convention remains the only legally binding international instrument that specifically addresses the issue of violence against women.

Also in 1995, at the Fourth World Conference on Women, in Beijing, the world acquired a comprehensive action plan to promote women's rights, enhance women's social and economic empowerment, improve women's health, advance women's education and training, and end violence against women. The Beijing Declaration and Platform for Action contained the main elements of a global strategy to abolish violence against women.

It may be many more years before the full impact of the ratification of the Convention and the adoption of the Platform for Action can be fully appreciated.

However, in countries where they were taken seriously, these two events marked the beginning of a crucial but difficult process of change.

Those who advocated the adoption of the Convention and the Platform for Action recognized that it would take more than formal affirmations of the right of women to a life without violence to eradicate the problem. However, they also wanted to ensure that recognition of the fact that change cannot occur overnight does not become an excuse for procrastination and complacency.

Under the terms of the Convention, States Parties are required to report to the CIM on the measures they have adopted, the progress they have achieved, and the obstacles they have encountered as part of their efforts to abolish violence against women. In addition, in compliance with resolution AG/RES. 1456 (XXVII-O/97), the Permanent Secretariat of the CIM is required to report every other year to the OAS General Assembly on the progress achieved in the implementation of the Convention and on the impact of the measures adopted by member states to eliminate violence against women. The Commission presented its first biennial report in November 1998.

In addition to the process described above, in 1994, the Special Rapporteur on Women's Rights and Member of the Inter-American Commission on Human Rights (IACHR), Dr. Claudio Grossman, was given a mandate to study and report on the extent to which OAS member states' legislation and practices that affect the rights of women comply with the obligations established in the existing regional human rights instruments, including the Convention of Belém do Pará. The Special Rapporteur's report,¹ based on a questionnaire developed by a group of experts and sent to member states and nongovernmental organizations, was approved by the IACHR in March 1998 and transmitted to the OAS General Assembly. Among other things, the report revealed how much more remained to be achieved in order to fully implement the Convention. It pointed at persistent discriminatory legislation against women and at the need for States Parties to adopt suitable legislation and to develop more effective measures and programs to denounce, investigate, and punish the many and still very prevalent forms of violence against women.

As the year 2000 approached, it became clear that the profound changes envisioned by the Convention could not simply be assumed to be taking place. The time had come to scrutinize what was being accomplished and to determine how successful current strategies were proving to be in eradicating violence against women.

For its part, the UN General Assembly launched and completed a review of the progress achieved in pursuing the objectives and implementing the strategies contained in the Beijing Declaration and Platform for Action. As a result, the General Assembly, at its Twenty-third special session, held in June 2000 and entitled "Women 2000: Gender, Equality, Development and Peace for the Twenty-first Century," identified further actions and initiatives that must be taken to implement the Declaration and Platform for Action.

In preparation for that special session of the UN General Assembly, the Eighth Session of the Regional Conference on Women in Latin America and the Caribbean, held in Lima, Peru, in February 2000, adopted the Lima Consensus. The Consensus reiterated the need to take more decisive and sustained action to prevent all forms of violence against women. It recognized that “in spite of the apparent and real advances made by women and girls in Latin America and the Caribbean, the fundamental structure of gender relations remains disadvantageous to the majority of girls and women.”² The member states represented at that regional meeting undertook, among other things, to promote the effective implementation of the Convention of Belém do Pará and to “guarantee the protection of women’s human rights, including sexual and reproductive rights, and address violations of these rights with particular attention to all forms of gender-based violence and its root causes, including the reproduction of a culture of violence.”

At the same time as the Beijing +5 review process was taking place, a distinct process was developed to review the implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women. The CIM sought and received financial assistance from USAID to review national programs to prevent, punish, and eradicate violence against women in the Americas. To conduct the review, the Commission enlisted the collaboration of the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR) in Vancouver, Canada, and the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) in San José, Costa Rica. These two international institutes are members of the UN Crime Prevention and Criminal Justice Programme Network and have been involved extensively in that area of research.

The main objectives of the review conducted by the three organizations during the year 2000 were to:

- ❑ review the nature and perceived efficiency of the various policies and legislative reforms and programs adopted in countries of the region to prevent, punish, and eradicate violence against women;
- ❑ identify some of the specific programs and measures adopted by each country and review what is known of their impact;
- ❑ identify the obstacles encountered in implementing the various measures and policies called for by the Convention; and
- ❑ assess, if possible, the relative impact of the measures and programs adopted in countries of the region on the various factors contributing to violence against women.

The review aimed to offer a greater understanding of the progress accomplished to date in implementing the Convention, the obstacles encountered, and the work that remains to be done. The analysis therefore focused on the first three points mentioned above.

The Focus of the Review

As a legally binding instrument, the Convention is unique in that it clearly delineates the state's obligations to protect women's right to a life without violence. Article 5 of the Convention states that:

Every woman is entitled to the free and full exercise of her civil, political, economic, social and cultural rights, and may rely on the full protection of those rights as embodied in regional and international instruments on human rights. The States Parties recognize that violence against women prevents and nullifies the exercise of these rights.

Article 7 of the Convention articulates the obligations of States Parties with respect to their role in the protection of women's right to a life without violence. Specific obligations are listed that flow from the States Parties' formal undertakings to refrain from committing acts of violence against women; demonstrate due diligence in preventing, investigating, and punishing violence against women; reform existing laws, policies, and administrative practices contributing to violence against women; and ensure that women victims have access to restitution, reparations, and other forms of just and effective remedies. Article 8 of the Convention also specifies that a number of other programs and measures must be adopted to promote public education and awareness, to mobilize communities in the fight against violence against women, and to offer specialized services and assistance to women victims.

The current review focuses on the implementation of the measures and dispositions described in articles 7 and 8 of the Convention. It also considers the efforts that are being deployed, as required by Article 9 of the Convention, to take special account of the vulnerability of women to violence by reason of their age, race, ethnic background, status as immigrants, socioeconomic position, or disabilities, among other factors.

The Basis of the Review

First, the review is based in part on an analysis of the replies received from member states to a questionnaire sent to them by the CIM in April 2000. The questionnaire is appended to this report. Member states were asked to respond to the questionnaire by the beginning of June 2000. Some member states found it difficult to reply to the questionnaire within the period of time suggested.

The CIM received 18 replies from Argentina, Belize, Bolivia, Canada, Chile, Ecuador, El Salvador, Guatemala, Guyana, Jamaica, Mexico, Panama, Paraguay, Peru, Saint Lucia, Saint Vincent and the Grenadines, and Suriname. In the case of Uruguay, a respondent from the *Comisión Nacional de Mujeres Uruguayas de Seguimiento de los Compromisos de Beijing* simply referred to the information contained in a detailed study that had recently been conducted in that country by Graciela Dufau.

Second, the review is based on field studies conducted in selected countries of the Americas, using consultations and interviews with representatives from national agencies, governments, nongovernmental organizations, and academia. The time frame within which the current review was conducted, as well as the limited resources at its disposal, precluded the conduct of field studies in every country of the region. The information collected was supplemented by an examination of some of the available literature on existing legislation and programs in the United States.

The following is a list of the national reports that were produced as part of the review and are available from the CIM in the language in which they produced.

- ❑ “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en Brasil,” by Leila Linhares Barsted and Jacqueline Hermann
- ❑ “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en Chile,” by Lorena Fries and Paula Salvo.
- ❑ “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en Costa Rica, by Ivannia Monge.
- ❑ “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en Ecuador,” by Rocío Salgado.
- ❑ Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en El Salvador,” by Yolanda Guirola.
- ❑ “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en Guatemala,” by Carmen Lopez de Caceres and Lucrecia Lopez Lopez.
- ❑ “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en Honduras,” by Lolis María Salas Montes.
- ❑ “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en México,” by Teresa Ulloa Ziáurriz, Mónica del Val Locht, and Jorge González Santana.
- ❑ “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en Panamá,” by Rosina M. Pérez Bermudez.
- ❑ “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en Paraguay,” by Line Bareiro, María Molinas, and Marilut Lluís O’Hara.
- ❑ Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en Perú,” by Marcela Huaita.

- “National Programs to Prevent, Punish, and Eradicate Violence Against Women in Canada,” by Eileen Skinnider.

The field studies are summarized in three subregional reports:

- “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en la Región Centroamericana,” by Ana Elena Obando and Yvon Dandurand.
- “National Programs to Prevent, Punish, and Eradicate Violence Against Women in Nine Caribbean Countries: Antigua and Barbuda, The Bahamas, Barbados, Grenada, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago,” by Vivienne Chin and Yvon Dandurand.
- “Programas Nacionales para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer en la Región Suramericana,” by Ana Elena Obando and Yvon Dandurand.

Table 1 lists the countries covered by the current review and indicates what information was available for each of them. Some countries replied to the questionnaire but were not the object of a field study. Others were included in a study but did not reply to the questionnaire.

The level of detail, along with the quantity and quality of the information gathered by resorting to the two concurrent processes, varied from country to country. Nevertheless, an effort was made to preserve the richness of some of the information collected by producing a number of country-specific and subregional reports. The final report on the review focuses, as might be expected, on general trends and on the main lessons learned so far in attempting to implement the Convention.

Table I: OAS MEMBER STATES COVERED BY THE REVIEW

Member State	Convention signed	Convention ratified	Field study	Replied to questionnaire
ANTIGUA AND BARBUDA		19 Nov 1998	√	
ARGENTINA	10 June 1994	5 July 1996		√
BAHAMAS	16 May 1995	16 May 1995	√	
BARBADOS	16 May 1995	16 May 1995	√	
BELIZE	15 Nov 1996	15 Nov 1996		√
BOLIVIA	14 Sept 1994	5 Dec 1994		√
BRAZIL	9 June 1994	27 Nov 1995	√	
CANADA			√	√
COLOMBIA		15 Nov 1996		
COSTA RICA	9 June 1994	12 July 1995	√	
CHILE	17 Oct 1994	15 Nov 1996	√	√
DOMINICA		6 June 1995		
DOMINICAN REPUBLIC	9 June 1994	7 March 1996		
ECUADOR	10 Jan 1995	15 Sept 1995	√	√
EL SALVADOR	14 Aug 1995	26 January 1996	√	√
GRENADA			√	
GUATEMALA	24 June 1994	4 April 1995	√	√
GUYANA	10 Jan 1995	28 Feb 1996		√
HAITI		2 June 1997		
HONDURAS	10 June 1994	12 July 1995	√	
JAMAICA			√	√
MEXICO	4 June 1995	12 Nov 1995	√	√
NICARAGUA	9 June 1994	12 Dec 1995		
PANAMA	5 Oct 1994	12 July 1995	√	√
PARAGUAY	17 Oct 1995	18 Oct 1995	√	√
PERU	12 July 1995	4 June 1996	√	√
SAINT KITTS AND NEVIS	9 June 1994	12 June 1995	√	
SAINT LUCIA	11 Nov 1994	4 April 1995	√	√
SAINT VINCENT AND THE GRENADINES	5 Mar 1996	31 May 1996	√	√
SURINAME				√
TRINIDAD AND TOBAGO	3 Nov 1995	8 May 1996	√	
UNITED STATES				*
URUGUAY	30 June 1994	2 April 1996	**	
VENEZUELA	9 June 1994	3 Feb 1995		
TOTAL	25	29	21	17

(*) Literature review only.

(**) See the study conducted by Graciela Dufau.

It was always anticipated that the review would only be as comprehensive as would be permitted by the quantity and quality of the information available in each country. Collection of new data from primary sources could not be contemplated as part of the present project. Unfortunately, it soon became evident that a major obstacle not only to the conduct of the present study, but also to the implementation of the Convention itself, was and continues to be the lack of reliable and systematically collected information. In general, reliable information was scarce on both the prevalence of violence against women and the nature and impact of current social and institutional responses to the problem.

The current review will fill some information gaps. It will hopefully encourage member states, relevant organizations and agencies, community leaders, and concerned individuals to build on the lessons learned these last few years while attempting to bring to life the important principles upheld by the Convention. Ultimately, all of us should feel prompted by these findings to renew our commitment to eradicate violence against women in all its forms.

The body of this report is divided into 12 chapters. The first 10 chapters each deal with a specific aspect of the Convention. They are followed by a chapter on international cooperation in the fight against violence against women and a concluding chapter that highlights some of the main obstacles encountered so far in the region in the implementation of the Convention.

Chapter 1

Reaffirming the Right of Women to a Life Without Violence

Article 3: Every woman has the right to be free from violence in both the public and private spheres.

The Convention is based on a concept of violence against women that is firmly grounded in the basic rights and freedoms already embodied in inter-American and other international human rights instruments. These include the right of a woman to:

- ❑ life;
- ❑ physical, mental, and moral integrity;
- ❑ personal liberty and security;
- ❑ equal protection under and before the law;
- ❑ free association;
- ❑ religious freedom;
- ❑ respect for the dignity of her person;
- ❑ protection for her family;
- ❑ equal access to the public service of her country; and
- ❑ participation in the conduct of public affairs, including decision-making.

Article 5 of the Convention recognizes that violence against women “prevents and nullifies the exercise of these rights.”

The Convention aims to create a regime, both nationally and internationally, that goes well beyond the formal affirmation of the right of women to a life without violence. The formal affirmation of that right is meant to give rise to specific obligations on the part of States Parties to exercise due diligence in protecting women against every form of gender-based violence. States Parties have undertaken to ensure that women have access to simple and prompt recourse to a competent court for protection against acts that violate their rights, including their right to a life free from gender-based violence.

National Mechanisms for the Implementation of the Convention

States Parties have not established mechanisms specifically designed to implement the Convention. However, most of them have given themselves a mechanism, a national machinery, for the advancement of women. In some cases, the mechanism is part of the government itself, while in others that responsibility has been left largely to a nongovernmental organization. In all instances, these mechanisms are playing a crucial role in the implementation of the Convention and in promoting various measures to prevent and eradicate violence against women.

As a rule, these national mechanisms were able to successfully channel the political pressures exercised by women's organizations and other elements of civil society and maintain a strong momentum in favor of concrete actions and legislative reforms. Nevertheless, sufficient and sustained funding has remained an issue for many of these mechanisms, as many of them were formally assigned broad mandates but did not obtain resources commensurate with their mandate. Not surprisingly, therefore, the most successful national mechanisms tended to be those who were well endowed with resources, creative in their fundraising efforts, able to count on some foreign development assistance, able to pool their resources and join their efforts with those of other countries of the region, or capable of mobilizing resources through effective partnerships with various government agencies.

In recent years, the national machinery for the advancement of women has been progressively transformed in some countries into a mechanism to promote gender equality and to respond to gender issues in general. In some cases, this and other structural changes have been perceived as disruptive. In many other cases, the changes in question have visibly served to strengthen existing mechanisms, better integrate them into the overall governance mechanisms, and render them more effective.

Not all national mechanisms have enjoyed the same success. The resources at their disposal, the quality of the leadership on which they could rely, the strength of their links with various government institutions, the breadth of the support they received from the community, and their relative ability to effectively mobilize people and resources have all affected their impact on the prevailing attitudes, laws, policies, and practices in their country.

What clearly made a difference in terms of ensuring that national initiatives had a clear and lasting impact on the situation was whether these activities were part of a widely supported and officially endorsed comprehensive plan of action. Examples of excellent plans of action adopted at the national level abound:

- the Plan of Action for Gender and Development (Antigua and Barbuda);
- the National Strategy for the Prevention and the Eradication of Violence Against Women (Bolivia);

- ❑ Setting a Plan for the Next Century: The Federal Plan for Gender Equality (Canada);
- ❑ the Plan for the Equality of Opportunities for Men and Women (Chile);
- ❑ the National Policy on Women (El Salvador);
- ❑ the National Policy Statement on Women (Jamaica);
- ❑ the National Development Plan (Mexico), which defines violence against women as an obstacle to the full exercise of citizenship rights; and
- ❑ the National Plan for the Prevention and Punishment of Violence Against Women (Paraguay).

Some of these national plans have adopted a somewhat narrower focus than others. Some, for instance, have approached the question of violence against women from the narrower point of view of protecting the family and have tended to shy away from linking domestic violence to broader women's rights issues. Generally speaking, however, national plans are based on the assumption that violence against women cannot be separated from broader issues of human rights, social justice, human development and equality for women. These plans tend to cover the basic elements found in the Beijing Declaration and Platform for Action or the Plan of Action of the CIM on Women's Participation in Power and Decision-Making Structures. In some countries, the national plans are the object of some form of periodic review and have been updated. In the majority of cases, however, the implementation of the national plan is not being systematically monitored or evaluated.

Several factors may explain the different levels of success encountered by countries of the region in their initiatives to end violence against women. One is that national initiatives have not all achieved the same results in mobilizing a government-wide, comprehensive effort to address the question of gender equality and the problem of violence against women. The effective implementation of national plans of action or national programs to address all or some aspects of the problem of violence against women usually requires the involvement of many sectors of the government. Countries of the region have experimented with various mechanisms to ensure the full collaboration and commitment of all concerned agencies of the government. These include interdepartmental committees, special task forces with or without the contribution of the nongovernmental sectors, and expert groups.

- ❑ In the United States, for example, the President's Interagency Council on Women (PICW) was created in 1995. It encompasses a number of interagency working groups that have developed policies and promoted dialogue and coordination on issues affecting women. The Violence Against Women Office (VAWO) was also established within the Office of Justice Programs (OJP) of the federal Department of Justice (DOJ).

- In Paraguay, an inter-institutional commission, coordinated by the National Women's Secretariat, Office of the President of the Republic, has been created.

In other cases, the responsibility for intragovernmental coordination has been assigned to a specific agency.

- In Peru, the Ministry for the Promotion of Women and Human Development (PROMUDEH) plays an important coordination and mobilization role within government.
- In Chile, the National Women's Service (SERNAM) plays a similarly important role.
- In Uruguay, a special interministerial commission was created in 1998 with responsibilities for the planning and coordination of various relevant activities.
- In Saint Kitts and Nevis, the National Council of Women plays an advisory role and an interministerial committee on gender and development, comprising personnel at the level of parliamentary secretaries and chief technical officers, works on coordinating the Government's activities in that area.
- In Trinidad and Tobago, an interministerial committee was established to assist the Gender Affairs Division in structuring activities and projects in all government ministries and agencies.

In many of these cases, the practice of creating focal points within government agencies and departments has apparently been particularly successful in promoting change, instituting viable partnerships, and mobilizing different sectors to contribute to the national effort.

Another factor affecting the relative success of national initiatives is the degree to which mechanisms were put in place to ensure that nationally defined goals and objectives were uniformly and consistently pursued throughout the country. This is a particularly significant issue for large countries with relatively decentralized governance systems. In practice, effective coordination of activities between different levels of government is still lacking in many countries of the region. As a result, a woman's right to a life free of violence is often not always protected to the same extent in one part of a country as compared to another.

Several countries of the region still struggle with the fact that national policies are unevenly implemented throughout the country. In these countries, one of the crucial tasks of national agencies is to effectively enlist the active cooperation of all other levels of government and to facilitate the development of local, municipal, state, or provincial initiatives. In countries like the United States, Canada, Mexico, and Brazil, one often finds very strong policy and program

initiatives at the state, provincial, or municipal levels that deserve to be implemented on a broader scale. Several databases, training programs, and best-practice lists and manuals have been developed over the years. National grants programs have also been implemented in some countries to promote certain programs, to support collaborative efforts involving the community, and to mobilize all levels of governments into action.

Some tools have been developed to mobilize various communities and help them cooperate and build strategic partnerships.

In Canada, the Forum of Federal, Provincial, and Territorial (FPT) Ministers Responsible for the Status of Women meet periodically. The group prepared a guide, "Beyond Violence: Reaching for Higher Ground," which lists good practices of violence prevention in various jurisdictions across the country.

In the United States, the PICW published "A Community Checklist: Important Steps Communities Can Take to End Violence Against Women" in 1996 and "Ending Violence Against Women: An Agenda for the Nation" in 2000. The latter provides a comprehensive blueprint for individual, community, and government action and is accompanied by a "Toolkit to End Violence Against Women."

A further factor affecting the relative success of national initiatives might have been the extent to which countries managed to reach out to each other and share their experience and expertise. In addition to the facilitative role played by the CIM, some linkages have been established at the subregional level between national organizations to facilitate the exchange of information and resources. Informal networks to exchange information and to challenge the inertia of public organizations seem to have played an important role throughout the region.³ The network *Mujeres del Sur*, for example, provided an excellent web-based information sharing mechanism that apparently played an important role in helping organizations from Argentina, Brazil, Chile, Paraguay, and Uruguay communicate with each other and share information and other resources.

Another example of such collaboration is the End Violence Working Group, which demonstrated how modern communication technology can be applied to the task of networking across borders and designing effective strategies to end violence against women. In preparation for an interagency global videoconference linking the UN General Assembly in New York with sites in Nairobi, New Delhi, Mexico City, and the European Parliament sitting in Strasbourg, and which was broadcast via satellite to audiences worldwide on March 8, 1999, the United Nations Development Fund for Women (UNIFEM) initiated a virtual working group discussion on the Internet to promote an exchange of information on successful strategies to reduce the incidence and impact of violence against women and girls.

The End Violence Working Group comprised more than a thousand people and soon took on a life of its own, generating a passionate and dynamic exchange of ideas and experiences on a wide variety of topics, ranging from how

to change attitudes and end patterns of tolerated and hidden violence, to how to successfully educate judges, police, and policy makers to recognize and respond appropriately to situations of gender-based violence. The Group, which was initially scheduled to work for six weeks, became so popular that its life extended from October 1998 to March 2000. UNIFEM has produced a summary of the main discussion points of the End Violence Working Group, which continues to serve as a source of practical information and a learning tool.⁴

These two examples demonstrate the importance of greater and more effective use of new electronic means of communication to foster cooperation between countries and organizations on a regional or subregional basis. It is obvious that much more remains to be done to realize the full potential of electronic communication and other mass media for mobilizing communities.

Public Awareness of Women's Right to a Life Free of Violence

Article 8: The States Parties agree to undertake progressively specific measures, including programs:

(a) to promote awareness and observance of the right of women to be free from violence, and the right of women to have their human rights respected and protected;

Promoting an awareness of and a respect for the right of women to be free from violence is one of the main pillars of the strategy upon which the Convention rests. A greater formal acceptance of the principle of gender equality has created new opportunities in the region for addressing the problem of gender-based violence against women as a human rights issue. As gender-based analyses of the problem of violence are becoming more sophisticated, a progressive shift is being noticed in existing programs from a focus on how cultural stereotypes and practices affect how men treat women to an examination of how existing gender roles and expectations structure gender relationships for both men and women.

In many countries of the region, there is also a very real need for continued efforts to help the population and its leaders better understand the links between violence against women and development. Some awareness-raising initiatives have adopted a comprehensive approach and have denounced all aspects of violence against women. However, many of the existing awareness campaigns have focused mainly on the problem of violence against women within the family and have often neglected other important aspects of the problem of violence against women.

In all countries of the region, the persistence of traditional and stereotypical gender roles, often reinforced by institutional structures and by the media, continues to perpetuate violence against women. It impedes the progress of

efforts to protect women's right to a life free of violence. A public debate on the new roles of men and women must be promoted, as encouraged by the Beijing Platform for Action. Several projects have focused in the last few years on challenging community norms that rationalize men's violence against women. This is the case, for example, with a project of the Mexican Institute for Research on Family and Population supported by the U.S. Agency for International Development (USAID).

Efforts to reduce negative gender stereotyping of women and men must continue and should be particularly vigilant about the evolving nature of these stereotypes and how they affect relationships between men and women. Although some of the offending stereotypes often adopt culturally different forms in one part of the Americas in another, there is room for greater regional cooperation in taking effective action against cultural attitudes and stereotypes tolerating and justifying gender-based violence. It is perhaps one area where cooperation between jurisdictions and a pooling of existing resources may be particularly helpful.

When developing effective awareness-raising campaigns, it is often critical to focus on the attitudes, values, and beliefs of men and boys. Even if such programs are sometimes criticized for diverting resources away from meeting the needs of women survivors of violence, men must become part of the process of change, as well as active participants and promoters of that process. Successful programs are those that can put forward a message that can be recognized and accepted by males. Such programs must therefore be developed in close cooperation with concerned male groups and should be delivered through means that can ensure maximum impact on a male audience. For instance, awareness-raising programs targeting a male audience are apparently delivered very successfully by employers as part of comprehensive programs to address gender-based violence and harassment at the workplace.

Most of the awareness-raising programs observed in countries of the region specifically target an audience of children and youth. Many of these programs are school-based and are undertaken by or in cooperation with education authorities. To ensure that these programs have a lasting impact, it is important that their message be reinforced within the family, and the immediate social and cultural environment, and by the media. Comprehensive approaches aimed at pinpointing the causes of the cultural stereotypes and attitudes that perpetuate gender-based violence are therefore required.

Many countries of the region have invested resources to stage zero-tolerance campaigns against violence against women. Their focus has been on creating a community consensus that violence against women is unacceptable, a goal towards which real progress has clearly been achieved in a great number of communities throughout the region. Nevertheless, not all campaigns have had the same impact and very few of them have been evaluated.

The limited research available on the subject seems to indicate that public awareness campaigns have a greater chance of success when they are developed in collaboration with women and local organizations and have their full support. It also appears that the most successful public education programs are those targeting specific audiences on a particular aspect of the problem. One such program addresses violence in teenage dating relationships. It focuses on empowering girls and fostering an appreciation among boys for relationships based on equality. Another program targets the tourism and travel industry and focuses on sex tourism and the sexual exploitation of children.

Most existing programs apparently have two important shortcomings. First, they do not seem to sufficiently reach communities outside of main urban centers. In addition, their messages are not always very meaningful to the situation of women and men living in rural or remote areas. Second, with very few exceptions, existing programs do not address the issues from the perspective of minority groups or minority cultures. Insufficient resources are being devoted to promote an awareness of the particular difficulties encountered by especially vulnerable women.

Public Education on the Problem of Violence Against Women

Article 8 : The States Parties agree to undertake progressively specific measures, including programs:

(e) to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;

One should not forget that greater public understanding of the importance of gender equality and the rights of women does not automatically translate into real gender equality and greater freedom from violence. There are scores of pervasive obstacles to the eradication of gender-based violence that can only be removed through sustained, collective, and purposeful efforts. A very real challenge faced by most countries consists of moving individuals and communities from awareness to participation, to commitment, and to action.

In the case of the obstacles to change that are created by deep-rooted beliefs and attitudes, it may take several generations for the full impact of some of the existing programs to be felt. In all cases, it will take time and current efforts will have to be sustained and enhanced. Efforts to mobilize communities must go beyond denouncing the intolerable nature of violence against women to proposing concrete forms of action. Greater emphasis must be placed on mobilizing the younger elements of the population in the fight against gender-based violence.

The countries reviewed reported numerous efforts in both the public and nongovernmental sectors to raise public awareness of the issue of violence against women and to mobilize various elements of the community to work together to find solutions. In the majority of countries of the region, most of that important work was carried out by members of civil society. In many cases, however, particularly in the context of developing countries, the insufficient resources at their disposal made it hard for nongovernmental organizations to sustain their efforts.

Many public education programs have focused mainly on denouncing violence against women as unacceptable and intolerable. Because their main objective often was to develop a broad support base for law reform or new programs, they tended to focus on the general need to take action to protect the physical security of women victims. Typically, however, these efforts did not do enough to help the population understand the links between gender-based violence and women's rights, and between violence against women and other social manifestations of violence. They did not always convey sufficient practical information on how individuals and communities can effectively prevent violence against women and respond to it. Finally, they rarely help people understand how the prevention of violence against women must be part of broader violence prevention initiatives.

Public education about the problem of violence against women is an essential part of community mobilization. Lessons were learned in the last few years about effective strategies to not only create public awareness of the seriousness of the problem of violence against women, but also to ensure that the new awareness translates into a genuine community commitment to take action.

To address an issue as complex as violence against women, an effective communication strategy must employ multiple channels. What is required is a sustained effort that combines appropriate media messages and community-based entertainment or communication activities with immediate relevance to the target audience or community.⁵ Many initiatives and programs have developed clear and accessible messages for specific communities. Several of them deserve to be emulated in other countries.

A UNIFEM report entitled "With an End in Sight: Strategies from the UNIFEM Trust Fund to Eliminate Violence Against Women"⁶ provides some case studies of effective strategies for building community commitment, forging key institutional partnerships that can act as powerful engines for change, and developing public and institutional support through research and advocacy.

Many countries of Latin America and the Caribbean participated in the United Nations Inter-Agency Campaign on Women's Human Rights, an advocacy and public awareness campaign against gender violence. The United Nations Inter-Agency Campaign on Violence Against Women and Girls in Latin America and the Caribbean has produced a great number of initiatives throughout the region to raise the profile of violence against women as a social and human rights issue,

to raise public awareness about the consequences of violence against women, and to advocate law reform and other effective means to eliminate that violence. Campaign slogans and symbols were systematically used throughout the region. Media events were staged and national reports were prepared and widely circulated. A wide variety of means were used to convey the campaign's central message—the right of women and girls to a life free of violence—including books, brochures, public meetings, conferences, well-designed websites, and inscriptions on government paychecks, children's snacks, and lottery tickets.

There were many interesting examples of successful public awareness initiatives undertaken in the United States. For instance, the federal Government established a Domestic Violence Workplace Education Day. Individual companies were encouraged to fund various activities on that day. In 1995, the President proclaimed October National Domestic Violence Awareness Month. Awareness programs are held across the country during that month.

In the majority of countries of the region, antiviolence programs have been developed and implemented in primary and secondary schools. They aim to break the cycle of violence early in the life of the individual. Some of the most successful programs target children who are particularly at risk; for example, children who have witnessed or experienced abuse or violence.

Several programs emphasized the education and participation of both women and men in efforts to eliminate sexual assault and domestic violence. It should be obvious that there can be little progress without changes in the attitudes, beliefs, and behavior of men. Several national plans of action now emphasize the need for male commitment and responsibility. However, reaching those males who perpetuate the problem often proves difficult. An example of an innovative strategy used in Comayagua, Honduras, to reach men and members of youth gangs is related in the publication "With an End in Sight: Strategies from the UNIFEM Trust Fund to Eliminate Violence Against Women." In Jamaica, Woman Inc., in partnership with two men's organizations, conducted a series of workshops and a public education campaign to address the attitudes and stereotypes among men that contribute to gender-based violence.

A few programs have been designed to increase public awareness of the seriousness of the problem of sex tourism. An example is the program developed by the National Human Rights Commission of Mexico as part of a plan of action to eliminate the commercial sexual exploitation of children. Other programs have focused on sexual harassment and stalking. For example, the Department of Justice Canada has developed a booklet entitled "Stalking is a Crime Called Criminal Harassment."

Men have an important role to play in ending violence against women. Supporting the role of males in reducing violence must be part of a comprehensive strategy. Dozens of organizations of men have emerged throughout the region to end men's violence against women. They support men and develop men's leadership in challenging all forms of violence in their lives,

families, and communities. Examples of such groups include the White Ribbon Campaign, the Men Against Violence Association, Men Against Violence in Nicaragua, Men Evolving Non-violently (M.E.N.) in California, and the Men's Resource Centre of Western Massachusetts. Several of these organizations also offer treatment services for men or referrals to services. They are involved in various forms of awareness campaign targeting men and, in particular, boys and young men.

Many countries are experiencing some difficulties in ensuring that their public awareness message reaches people in smaller and more remote communities. Different strategies are being developed to address that problem. For example, in Trinidad and Tobago, a program of "community caravans," using techniques of popular theatre as well as games and video presentations, helped existing services reach out to members of rural communities. These events were apparently successful in reaching men.

Countries of the region have also achieved some noticeable progress in promoting better understanding among the population and within the health care community of the impact of violence against women on women's health, in particular their sexual and reproductive health. This has in turn helped to clarify the responsibility of health care providers in the prevention of violence against women and the need to increase the availability of adequate health care services to victims of violence who cannot access existing services.

Contribution of the Communications Media

Article 8: The States Parties agree to undertake progressively specific measures, including programs:

(g) to encourage 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;

Mass media are strong shapers of public opinion, attitudes, values, and behaviors. The media can play a key role in either promoting or undermining women's equality, in denouncing violence or trivializing it. Several of the national strategies reviewed highlighted the importance of the media in raising public awareness of violence against women and advancing women's equality. However, surprisingly few countries have actually implemented national programs or incentives to encourage the communications media to contribute to the eradication of violence against women.

Can the communications and entertainment media be encouraged to contribute more significantly to the eradication of violence against women? The Convention recognizes that enlisting the help and contribution of the media is crucial to the success of efforts to transform deep-seated cultural perceptions

and attitudes. Gender-stereotypical images continue to proliferate in the media. In comparison to the resources devoted, directly or indirectly, to the perpetuation of such stereotypes, the resources devoted by the communications media to the eradication of violence against women are pitifully inadequate.

While governments and nongovernmental organizations of the region invested in institutional campaigns to prevent violence against women, particularly domestic violence, the question arose as to whether these efforts could ever counteract the influence of the violent messages routinely disseminated by the mass media.

The public generally believes, as was confirmed by a survey conducted in Colombia, that television producers, companies, and the Government are not doing as much as they can to develop television programming that promotes tolerance, positive values, and family harmony.⁷ In order to change the current situation, significant financial investments are required. Few countries have decided to invest in that way. In most Latin American and Caribbean countries, there are no special programs to involve the media, nor is there a systematic government policy to encourage the media to contribute to the objectives set forth in the Convention.

The United Nations Inter-Agency Campaign on Violence Against Women and Girls in Latin America and the Caribbean has developed press releases, articles, interviews, and stories to raise the profile of the issue of violence against women and to help mobilize the media. The Inter-Agency Campaign, through the United Nations Development Programme (UNDP), produced a report on the national campaigns that details the means and strategies used at the national level to mobilize the communications media and raise public awareness of the issues. However, the net impact of these activities is hard to assess.

In 1999, the Second International Seminar on Communication Strategies with a Focus on Gender was held in Mexico City. It emphasized the need for communications media to ensure that their own ethical standards include respect for women's rights and women's equality. It advocated greater involvement of women in contents and programming decisions. It concluded that strategic alliances should be established between the media, regulatory agencies, governments, civil society, and opinion leaders to promote and execute the deep attitudinal changes that are required.

What will be required, according to many observers, is a coherent strategy, solid content, and continuity. According to one analyst:

Collaborative work with the media, particularly through drama such as television serials, is indispensable. The media has the potential to 'model' norms and specific behavior among members of a target group, such as women living with violence, or aggressors who require negotiating skills to solve conflicts with their partners. Moreover, communication invites action and informs women and men of where to seek guidance, where to find self-help groups, and who to call in an

emergency. It can empower men and women alike to aspire to reverse the chronic patterns of violent behavior that many families endure.⁸

The Convention calls for States Parties to encourage the communications media to develop appropriate media guidelines to enhance respect for the dignity of women and reduce violence against women. Generally speaking, this appears to be an area that has received insufficient attention. There are some exceptions.

In Canada, for example, the federal Government supported since 1995 a Media Violence Strategy that aimed to reduce media violence and to use media as a positive force to encourage attitudinal and behavioral changes towards societal violence. In 1995, the federal Government and the Canadian Association of Broadcasters (CAB) launched a series of public service announcements entitled "Speaking Out Against Violence." In 1997, the federal Government organized a roundtable to bring together media and women's organizations to discuss the portrayal of young women in the media and to come up with solutions and recommendations.⁹ The Government also supported and promoted the application of the CAB's voluntary code of ethics regarding sex-role portrayal for television and radio programming. Since 1994, compliance with the CAB's code on television violence has been a condition of license renewal, although some observers have deplored the absence of a strong enforcement mechanism to deal with violations.

Another example is found in Mexico, where an accord signed in 1999 instituted a self-regulatory mechanism for television media. The agreement addresses issues of banning images and messages that promote discrimination, violence, and cruelty towards women or deny their dignity.

Commercial publicity messages can sometimes be harmful, can contribute either directly or inadvertently to the perpetuation of gender stereotypes, and can promote disrespect for women's rights and dignity. In countries where the issue has received attention, self-regulation mechanisms have often been preferred to statutory- or government-imposed and enforced standards. In Mexico, for example, the population should be able to count on the diligent work of the *Consejo de Autorregulación y Ética Publicitaria*. However, when such mechanisms are used, the population itself must remain vigilant and be prepared to insist that the industry live up to the ethical standards it sets for itself. Furthermore, as consumers, women and their families can also exert pressure on the industry. In Mexico, for example, a successful boycott of a company's product was organized by the National Commission of Women and the Women's Institute of the Federal District because the company's product advertisement denigrated women.

Chapter 2

Institutional Violence Against Women

Article 7: The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

(a) refrain from 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;

One of the first and primary responsibilities of member states with respect to violence against women is to refrain from engaging in any act of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with that obligation.

In spite of numerous reforms, the problem of officially tolerated acts of violence against women, as well as acts of violence perpetrated by agents of the state, persists in every part of the region without exception. It is difficult to quantify this kind of violence, since official statistics on such incidents are almost never kept. When internal statistics are kept, they are not made public. However, it is clear that the problem of institutional violence against women remains largely neglected throughout the region because of inadequate legislation, lack of clear institutional policies, and weak institutional monitoring and response mechanisms. In particular, the poor conditions in which women who are deprived of their liberty are forced to live and their vulnerability to gender-based violence at the hands of their jailers have generally not received the attention they deserve.

In most countries, effective mechanisms do not exist to hold public officials accountable for the acts of violence against women in which they are engaged. Often, this is only one of the many aspects of the broader problem created by the state's inability or unwillingness to address the impunity of public officials or their general lack of accountability to the law and the people.

Accountability of Officials for Acts of Violence Against Women

It is hard to determine whether countries of the region consistently enforce existing laws to punish police, members of security forces, and other state officials or agents who engage in acts of violence against women during the performance of their duties. In most countries, disciplinary investigations and actions taken within the armed forces, law enforcement agencies, and correctional institutions remain confidential and are rarely open to public scrutiny.

These organizations are generally characterized by a strong subculture that can offer formidable resistance to change.

A few countries of the region have been moving progressively, albeit sometimes very slowly, towards the institutionalization of civilian oversight mechanisms in order to create greater transparency as far the activities of members of law enforcement and other public safety organizations are concerned. Other control mechanisms are being established, with varying degrees of power and authority and different means of action. They include public complaints commissioners, parliamentary committees, internal or external investigators, and public defenders programs.

In Costa Rica, as part of the mandate of the *Defensoria de los Habitantes*, the office of the *Defensoria de la Mujer* is qualified to investigate the actions of officials, including their involvement in institutional violence against women. In Brazil, acts of institutional violence against women can be brought to the attention of the Legislative Assembly's Commission on Women's Rights. In some Central American and Caribbean countries, offices have been created to monitor the performance of state officials and are equipped to enquire into cases involving institutional violence (e.g., the Office of the Commissioner of Professional Responsibility in Jamaica).

In some jurisdictions, comprehensive attempts have been made within certain institutions to deal with gender-based violence. In Canada, the National Defense Act was amended in 1998 to improve the effectiveness of the military justice system in dealing with complaints of sexual assault in the military. The amendments empowered the military justice system to handle sexual assault cases in the armed forces directly, rather than having them tried in a civilian court under the Criminal Code. The Canadian Forces National Investigation Service (CFNIS) was set up in 1997 to investigate reports of sexual misconduct. This body is independent of the operational chain of command and is trained to respond to the challenge of setting up a harassment-free workplace.

It would be outside the purview of the current report to attempt to comment on the relative efficiency of these and other control mechanisms. Nevertheless, it became clear during this review that, irrespective of the relative merits of the methods currently employed, the lack of accountability and the impunity of public officials have reached such proportions in some jurisdictions that they have negatively affected the overall credibility of public institutions in general and of the criminal justice system in particular.

In some cases, the lack of public vigilance and media scrutiny are partly responsible for the political apathy that has characterized governments' response to the problem of impunity. In other countries, by contrast, nongovernmental organizations, such as the Honduran National Human Rights Commission or the Costa Rican National Women's Institute (INAMU), have taken concrete actions to monitor, report, and denounce various forms of institutional violence against women.

Violence Against Women in Detention

The number of women in prison is apparently increasing in all countries of the region. Many of these women are particularly vulnerable because of concurrent drug addiction or mental health problems. A large number of them have not been found guilty of any crime and are simply waiting to appear in court or some other administrative or immigration tribunal. Many of them, often foreigners, have found themselves in prison because of their involvement in drug production or trafficking. Many others were incarcerated simply because of their inability to pay a fine. A large number of them are in prison as a direct result of various forms of discrimination to which they are subjected as women.

Although the presence of institutional violence against women in detention is usually not denied, it has received comparatively little attention in most countries of the region. The current review noted an almost complete absence in most countries of strong and effective advocacy groups to defend the rights of women in detention. In particular, the way in which the plight of foreign women in prison is systematically ignored is very troubling. Women in detention are not only especially vulnerable to abuse and violence; they face harsher difficulties in seeking and obtaining services, protection, or redress. The prevention of violence against these women ought to be recognized by all jurisdictions as a matter of urgent priority.

The current review did not have access to much information about the situation of women in detention. Several countries of the region claim to have achieved some genuine improvement in the conditions of detention for women. In most instances, however, these improvements did not yet amount to proper respect for the rights of women as inmates, nor to the elimination of the gender-based violence and discrimination to which they are subjected. The countries that have made some progress in improving the conditions of women in detention and in prison have resorted to several methods to safeguard detained women. These methods have included codes of conduct for police and correctional officials, proper staff selection and training, institutional programs designed to increase positive interactions between staff and inmates, internal and independent supervising bodies, and special inquiries. Nevertheless, looking at the region as a whole, genuine progress in that regard seems to be the exception rather than the rule.

The rights of women in detention continue to be frequently abused throughout the region. It is particularly worrying that few countries have shown a real determination to address that issue as a matter of priority in their efforts to eradicate violence against women.

In many cases, the violence to which women and girls are subjected while in detention is not gender motivated. Because it is often difficult to distinguish between gender-based and other forms of violence against women in custody, gender-based persecution against women in custody is usually assumed to take the form of custodial rape, sexual violence, and various forms of sexual

harassment during the incarceration, as well as sexual misconduct by police and correctional officers.

Two reports of the United Nations Special Rapporteur on violence against women, its causes and consequences specifically address the issue of custodial violence against women.

One report¹⁰ denounces the sexualization of persecution and torture against women in custody, including resorting to various forms of sexual violence and harassment, forced prostitution, forced impregnation, virginity testing, forced abortion, and forced miscarriage. The report identifies specific cases of violence against women in custody that occurred in countries of the region. It recommends a number of measures to be taken by states, such as gender-sensitization training for police and prison personnel and the creation of effective mechanisms of redress for custodial violence against women, including means to hold perpetrators of custodial violence accountable under national law.

The second report¹¹ deals specifically with the use of violence against women in state and federal prisons in the United States, including documented cases of rape and widespread sexual misconduct against women in custody involving male correctional officers and officials. The report makes a number of specific recommendations for the state and federal levels of corrections and recommends, including one that all states should enact laws that criminalize sexual misconduct between staff and prisoners and that those who violate these laws should be prosecuted. The report emphasizes the crucial importance of an external and independent monitoring of prison conditions.

In 1997, the U.S. Department of Justice reported that it had amended its policies and practices in sexual assault cases involving female inmates to include instances of sexual assault against prisoners by prison staff. As of March 1999, the Department had provided on-site technical assistance for addressing sexual misconduct to correctional agencies in 17 states and the District of Columbia. At that time, 41 states had enacted laws specifically criminalizing certain types of sexual misconduct in prisons.

In Canada, violence against women in institutions is treated as a criminal matter and the same recourses to the criminal justice system apply to institutional cases. However, in 1994, a disturbing event occurred at the Prison for Women in Kingston that provided the Government with an opportunity to examine prison conditions and policies concerning women incarcerated in federal institutions. The Government created an independent commission to look into the circumstances surrounding the disturbance that had occurred at the Prison for Women, as well as the reasons for the inadequate response of the system to the incident. The Commission's report offered numerous recommendations regarding law, procedure, and policy.¹² Since then, four regional facilities and a facility for aboriginal women have been constructed and the position of Deputy Commissioner for Women has been created. Several new women-specific programs have been developed, including a women's substance abuse treatment

program, a parenting program, and a survivors of sexual abuse and trauma program.

It is obvious to most observers of the criminal justice system that in many countries, the need to prevent institutional violence against women in detention goes well beyond the issue of gender-based violence in prison. It raises other very important questions about correctional institutions in general, as well as the general state of violence, corruption, arbitrariness, and lawlessness that reigns in many of them. Furthermore, in almost every country of the region, these problems are currently compounded by a chronic state of overcrowding in most prisons.¹³ In most jurisdictions, the problem of violence against women in detention cannot be solved without significant reform to the correctional system as a whole.

Another important way of preventing systemic forms of institutional violence against women is to ensure that women who defend themselves against violence by their abusive partners are not unduly punished. This is another issue that has tended to be neglected throughout the region. In some cases, the evidentiary law concerning self-defense is evolving or has been amended to account for the special circumstances faced by abused women. In such cases, the situation of women who have previously been convicted and sentenced to long periods of imprisonment must be examined.

In 1997, the Government of Canada appointed a judge to conduct a review of cases in which women prisoners had been convicted of murdering their partners, allegedly to prevent the deceased from inflicting serious bodily harm or death. That review identified gaps and difficulties in the use of the law of self-defense and concluded with proposed amendments to the law.¹⁴

Chapter 3

Confronting Legal and Customary Practices that Sustain the Tolerance of Violence Against Women

Article 7: The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

(e) take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women;

Customs and traditions embedded in law or other institutions form a powerful ideological barrier to the elimination of violence against women. They can sometimes directly justify certain forms of gender-based violence. Their effect can also be extremely pervasive, as they encourage a tolerance of gender-based violence by propagating unfair gender roles and negative stereotypes about gender relations. Doctrines of privacy or sanctity of the family can thus be perverted to serve to promote male dominance as a norm.

Most national plans of action identify the elimination of sexist cultural stereotypes, particularly those that are still reflected in laws and regulations, as a matter of great priority. Legal and institutional reforms can progressively ensure that sexist attitudes and values are no longer reflected in the laws and their application. A prerequisite to such reforms is a formal affirmation of women's equality before and under the law.

Laws and Regulations Perpetuating Violence Against Women

Responses received from member states showed a readiness to place women's rights issues on the legislative agenda and to institute reforms aimed at advancing the legal, social, political, and economic status of women. However, de jure discrimination continues to be present in many countries, particularly with respect to family matters, criminal law, and contract and property laws.

Member states have agreed to take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices that perpetuate a tolerance of violence against women. There has been an impressive amount of activity in most countries in this regard, even if very few countries have in fact committed

themselves to a comprehensive reform strategy. In most countries, a weak political commitment has only managed to produce piecemeal reforms.

Gender-specific definitions of rape are still common in legal systems of the region, and in many cases steps have been taken recently to decriminalize homosexuality and to define new sexual offences involving an offender and a victim of the same gender. In some South American countries, “defense of honor” is still viewed as legitimate in cases of violence against a spouse or her companion. In some Central and South American countries, the criminal law still insists that a victim of rape must establish her previous good moral character with respect to her past sexual conduct. In some jurisdictions, sexual assault is still treated as a crime against morality instead of a crime of aggression violating the personal integrity of the victim. In others, an anachronistic concept of the offence of rape, based on the idea that it is an offence against the victim’s family’s honor, still makes it possible for the offender to avoid prosecution by marrying or offering to marry the victim. Discriminatory marriage, divorce, contract, citizenship, inheritance, labor, and abortion laws very clearly continue to significantly affect women’s rights in many countries of the region and to provide a basis for rationalizing and justifying gender-based violence.

The reviews of laws, codes, and procedures can be institutionalized in a jurisdiction by establishing structures or mechanisms within legislative or administrative bodies. In countries that have national machinery on women’s issues or gender equality, that center of authority is often responsible for reviewing existing laws and promoting reforms from a gender equality perspective. Nevertheless, practical steps are still needed in most countries to maintain an ongoing review of the laws and to monitor how they are interpreted and enforced. There remain, in every part of the region, some very powerful social, cultural, and political obstacles to effective legal reform.

The implementation of law reform initiatives is often very weak, with the consequence that harmful practices continue to exist long after the formal reforms have taken place. In cases where discriminatory laws have been amended, the legislated changes have not always been implemented with sufficient vigor to ensure that, in practice, women have the ability to freely and fully exercise their rights.

To ensure that the necessary reforms are carried out, accountability mechanisms for law enforcement and criminal justice agencies and professionals must be developed. This matter manifestly goes beyond preventing violence against women; nevertheless, it needs urgent attention. In many countries of the region, the entire criminal justice system generally has little credibility in the eyes of the population. Victimization studies in some of these countries have documented the fact that women hold little confidence in the ability of the criminal justice system to protect their right to a life without violence.

Sexist Social and Cultural Patterns of Conduct

Article 8: *The States Parties agree to undertake progressively specific measures, including programs:*

(b) to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women;

Several countries reported the establishment of educational programs to counteract prejudices, customs, and practices that are based on the idea of the inferiority of women or on stereotypical gender roles that either legitimize or exacerbate violence against women. In most parts of the region, national education programs of that type fall under the responsibility of the Ministry of Education. The programs are often accompanied by less formal ones developed by nongovernmental organizations.

In practice, however, it is very difficult to find out whether cultural patterns, values, and attitudes are significantly affected by such programs. It is also very difficult to ascertain that their positive impact is not being negated by the detrimental effect of other messages. Some stereotypical images of women continue to be reinforced in powerful ways. During the course of this review, for example, millions of television viewers in English-speaking countries of the region followed the performances of a number of women, selected out of hundreds of volunteers, who were competing with each other in order to marry an anonymous millionaire about whom they really knew only one thing: that he enjoyed some wealth.

The *Pre-Vida* project of the Inter-American Children's Institute (IACI) encourages governments of the region to work with civil society organizations to modify prevailing social and cultural attitudes that tolerate domestic violence and other forms of gender-based violence and exploitation. The project also promotes prevention strategies, within the family, in schools, and through the public information media, focusing on the general theme of nonviolence.

In the United States, one of the main principles of "Ending Violence Against Women: An Agenda for the Nation" put forward by the National Advisory Council on Violence Against Women is the need to challenge social norms that support and perpetuate violence against women. That agenda for action is based on the premise that, in order to end violence against women, commonly accepted attitudes and beliefs that give rise to men's abusive behavior towards women must change. The acceptance of violence and control as means of getting one's own needs met promotes violence against women and should be challenged.¹⁵

In Canada, several provincial and local violence prevention programs have attempted to address some of the problematic cultural patterns in question. An example of such programs is found in the province of British Columbia in an initiative called "A Safer Future for BC Women." The initiative focuses on systemic changes and changes in social attitudes, commonly accepted behaviors, or social structures that lead to or support violence against women.

Mexico and other Latin American countries have focused some of their efforts on training programs for teachers and the revision of the traditional didactic material in use in public schools. In many cases, such initiatives apparently met some resistance from conservative parents and community groups who came to the defense of traditional discriminatory concepts of women and their place in the family and society. In other circumstances, the lack of financial resources hinders more of these educational reform initiatives.

A few countries of the region have instituted programs to educate the public about health and other issues associated with female genital mutilation. In the United States, the Centers for Disease Control and Prevention (CDC) has developed estimates of the number of girls in that country who were at risk of being submitted to that procedure.

Chapter 4

Legislative and Administrative Frameworks

Article 7: *The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:*

(c) include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary; (...)

(h) adopt such legislative or other measures as may be necessary to give effect to this Convention.

A commitment to proceed expeditiously with the required legal reforms was a central element of the obligations undertaken by States Parties to the Convention. That commitment has since been reiterated on several occasions. For instance, the Plan of Action of the Second Summit of the Americas in Santiago, Chile, restated the commitment of the governments of the region to “examine the existing laws and their implementation in order to identify obstacles limiting the full participation of women in the political, economic, social and cultural life of our countries” and, “whenever necessary, (to) promote or create new laws to eliminate all forms of discrimination and violence against women....”

Efforts have been made throughout the region to ensure that all forms of violence against women are condemned and criminalized. Nevertheless, much more remains to be done.

In many countries of the region, legislative and administrative measures have been taken to prevent, punish, and eradicate violence against women from the point of view of the protection of the family. Several countries, for example, established that violence against a member of the family, particularly a child, constituted an aggravating circumstance. In many cases, the legal protection offered to women was defined mostly in relation to attempts to protect the family as an institution. The need to uphold the rights of women was not always the central concern.

The progress made in implementing the necessary reforms is impeded in several countries by the fact that the existing justice system is very complex, poorly resourced, already overburdened, and generally ineffective. These systems often have very little credibility in the eyes of the population and are

perceived as corrupt. In that context, the ability of these systems to respond to the problem of violence against women is, as best, very limited.

Criminal Law and Criminal Procedure

The criminalization of all forms of violence against women is an objective of the Convention that has not yet been achieved throughout the region.

In many but not all countries of the region, legislators have deployed efforts to provide clearer and more effective definitions of various sexual offences. For example, some Caribbean countries have already made use of the CARICOM Secretariat's Model Legislation on Sexual Offences to revise their laws concerning sexual offences. Nevertheless, in many jurisdictions, the law has yet to squarely address the question of rape and sexual assaults between intimate partners. This is particularly alarming, given the great frequency of rapes between intimate partners, particularly during the period that follows a separation. For instance, the National Violence Against Women Survey conducted in the United States found that 7.7 percent of the women surveyed had been raped by a current or former intimate partner at some time in their life. Women raped by an intimate partner in the previous 12 months averaged 1.6 rapes.¹⁶ Yet, a large number of jurisdictions of the region have not yet criminalized marital rape and sexual assault between spouses.

Many jurisdictions have reviewed and improved their legislation concerning the sexual exploitation of children. These reforms have usually included some changes concerning the age and nature of consent, evidentiary rules concerning children's testimonies, and increased punishment in the case of offenders found guilty of that crime.

In most countries, in spite of the growing evidence of their prevalence and pervasiveness in our societies, sexual harassment and stalking are still not recognized as serious crimes. The National Violence Against Women Survey conducted in the United States, borrowing the definition of stalking used in the Model Anti-stalking Code for States developed by the National Institute of Justice (NIJ), showed that stalking is more prevalent than previously thought. Eight percent of the women surveyed reported being stalked at some point in their life. One percent of them reported being stalked during the 12 months preceding the survey.¹⁷

Criminal harassment generally consists of conduct carried out repeatedly over a period of time that causes victims to reasonably fear for their safety but does not necessarily result in physical injury. It may be a precursor to violent acts. The harassing behaviour causes victims to experience intimidation as well as psychological and emotional distress, including intense and prolonged fear. In the region, progress in criminalizing this form of violence is very slow.

In several countries, including Canada, The Bahamas, Honduras, El Salvador, Mexico, Paraguay, and Uruguay, sexual harassment has been criminalized during the last several years. In other countries, such as Belize, Costa Rica, Panama, and Peru, the behavior is addressed solely through labor law. In Peru, the definition of the offence under labor law is limited to acts committed by employers or supervisors. Some countries have used both criminal and labor laws to address the issue. In many cases, unfortunately, dispositional labor laws concerning sexual harassment create exceptions for domestic employees and do not offer them full protection.

In recent years, a few countries have begun to recognize the need to address issues relating to “cyberstalking” or harassment through the Internet or e-mail messages. The U.S. Department of Justice has developed some concrete recommendations on how protection can be offered to victims and potential victims of these crimes.

Few jurisdictions have enacted legislation that adequately addresses the problem of pornography and child pornography, and even fewer have given themselves the means to criminalize the distribution of pornography over the Internet.

At least two member states have introduced laws to address some traditional practices harmful to women and girls, including female genital mutilation and sexual servitude.

Victims of forced prostitution and trafficking often risk being treated as offenders rather than victims and are not effectively protected by criminal law. Very few jurisdictions have yet proceeded to create new offences in relation to severe forms of worker exploitation, forced prostitution, or trafficking in women and children. The United States adopted the Victims of Trafficking and Violence Prevention Act of 2000 dealing with these issues. At least two jurisdictions adopted legislation against sexual tourism that allows the prosecution of acts of sexual abuse against children committed abroad. A few other jurisdictions are currently considering proposed law reform dealing with these issues.

The Beijing Platform for Action urged governments to “consider enacting legislation aimed at preventing sex tourism and trafficking, giving special emphasis to the protection of young women and children” {131 (e)}.¹⁸ Since then, very few countries have enacted such legislation, each reflecting a different way of dealing with the problem of extraterritorial criminalization raised by this type of offense. The impact of these new laws has not yet been evaluated systematically.

Many countries have amended their laws to provide for increased maximum penalties under the law for rape, sexual assault, and other incidents of violence against women. These measures can obviously serve to heighten the formal denunciation of the behaviors in question. However, the real impact of these changes on the prevalence of the behavior is hard to assess. Furthermore, few

countries collect the kind of statistical data on sentencing patterns that would allow them to monitor how these patterns are affected, if at all, by the legislative changes and the threat of increased punishment.

Another way in which the criminal law and criminal justice system may be made to better contribute to the prevention and elimination of violence against women is by adopting evidentiary rules and procedures that will not discourage victims from coming forward and reporting the crime to the system. Not all jurisdictions of the region have succeeded in eliminating those traditional legal defenses (e.g., honor defense or provocation defense) that are rooted in notions of unequal roles of men and women in society and that have lessened men's responsibility for acts of violence against women.

A few countries have introduced laws that make the giving of evidence easier and safer for the victims, especially children. Such provisions include the use of videotaped evidence, live video links to the courtroom, *in camera* hearings, exclusion of the press, protection of the identity of the victims in press reports, removal of the accused during testimony, and limits on the number of persons allowed in court during the testimony of the victim.

Special Laws Against Domestic Violence

Many jurisdictions have established special laws to deal with incidents of domestic violence.¹⁹ Many of them have also mandated family courts to deal with domestic violence. These laws focus on extending protection to victims as the primary response in order to stop threatened or actual abuse. This is accomplished by extending a range of protection orders and remedies to the victims. These recourses exist in addition to the criminal justice process. In some cases, the laws contain some controversial provisions concerning the possibility of offering mediation and other means of promoting reconciliation between the victim and the offender. These laws only deal with criminal sanctions upon the breach of a protection order, at which time the offender is in contempt of court.

Despite various criticisms, the development of these special laws is generally seen as a sign of progress. Since the question of whether the criminal justice response is always the best response to domestic violence arises constantly, these special domestic violence laws are often designed to offer victims some real choices regarding how to deal with their situation. Women are often very reluctant to invoke the criminal justice process and, therefore, the importance of ensuring that these individual incidents of violence are criminalized gets caught between two competing philosophies. Some believe that the decisions made in these matters by individual victims should be respected and supported; others believe that these decisions should be taken out of the hands of the victims altogether in order to ensure that the behavior is properly condemned and punished as a crime.

The effectiveness of the enactment of special legislation against domestic violence has not yet been properly assessed. One allegation that is sometimes heard in jurisdictions where that approach was adopted is that it has served as a justification for the criminal justice system to neglect its responsibilities with respect to these cases, even it was never meant to replace a proper criminal justice response to all incidents. In the absence of a proper evaluation of the impact of these special laws, policy makers of the region must take into account the cultural, economic, and political realities of their respective countries. They should perhaps also remember the following observation of the United Nations Special Rapporteur on violence against women, its causes and consequences on the advantages of the criminal justice model of response to domestic violence:

Whilst it is important to attach a criminal label to this type of activity [domestic violence], it is impossible to ignore that it takes place within the family, between persons who are emotionally and financially involved with each other. Any policy which fails to acknowledge the singular nature of the crimes and which is unaccompanied by attempts to provide support for the victim and help the abuser will be doomed to failure.²⁰

Civil, Family, and Administrative Law

In the United States, the Department of Justice is developing a strategy to raise awareness of domestic and sexual violence issues in civil matters, provide training to civil justice system personnel, and improve coordination among different civil courts hearing matters involving the same family, and between criminal and civil courts in which domestic violence and sexual violence issues are handled.

In most countries, civil courts (often under the provisions of family law) can issue various forms of protective orders. Much can be done by jurisdictions to simplify the procedures for obtaining such orders and facilitating the victims' timely access to that form of protection. Many jurisdictions have indeed taken steps in that direction, but few have monitored or evaluated the real impact of these measures. Most people readily recognize that the value of these protection orders is relatively limited when there is not a strong response to breaches that commonly occur. In many jurisdictions, the police have been empowered to arrest a suspect without a warrant if they have reasonable grounds to believe that he is breaching a protection order. In some jurisdictions, automated registries of protection orders facilitate their prompt and diligent enforcement. Nevertheless, most jurisdictions receive the recurring complaint that law enforcement agencies are not giving sufficient priority to the strict enforcement of these orders.

A study conducted in the United States examined the effectiveness, from the victims' point of view, of the civil protection orders that can be issued under various state laws. The research concluded that more should be done to ensure that victims are provided with user-friendly information about the availability of

these orders. It also indicated that the criminal record of the abuser should be considered more directly in fashioning these orders.²¹

Children who live in families in which there is spousal abuse are directly affected and often suffer from emotional trauma from this experience. A few jurisdictions of the region have developed legislation and policies to deal with child custody and access disputes in which spousal abuse is involved.²²

In the United States, state legislatures are responsible for enacting legislation relating to family law, including child custody and access issues. In recent years, an increasing number of states have explicitly recognized domestic violence as a factor that should be considered when making custody and access decisions. The National Council of Juvenile and Family Court Judges produced a Model Code on Domestic Violence in 1994 that may be used by state legislatures when drafting statutes relating to family law.²³

Some of the courts qualified to deal with incidents of family violence also have the authority to deal with related litigation and can thus reduce the pressure on women plaintiffs.

Several jurisdictions currently encourage extensive use of mediation in the resolution of family law disputes. This has raised the issue of the appropriateness of the use of mediation in divorce and custody cases that involve family violence.²⁴

As mentioned previously, several jurisdictions that have not criminalized sexual harassment have nevertheless responded to the problem by introducing the concept into their labor law or have enacted special legislation. Several of these legislative initiatives have provided specific remedies for victims of sexual harassment at work, in education institutions, or in other specified circumstances. Unfortunately, in many cases the legislation is not sufficiently comprehensive and in other cases, it does not provide protection for whole classes of workers (e.g., , domestic workers). The CARICOM Secretariat developed model legislation that would make certain acts of sexual harassment on the part of an employer, supervisor, or coworker unlawful. It would also address acts of harassment in educational institutions and in relation to accommodation. Notwithstanding these various developments, the problem of sexual harassment continues to be poorly addressed or not addressed at all in most parts of the region.

Administrative Measures

The current review has revealed, once more, the crucially important role that administrative measures can play in implementing change and dealing with organizational resistance, implementing complex policies, and obtaining the participation of all relevant sectors in an overall effort to eliminate violence against women. In several of the region's jurisdictions, special interagency protocols have been developed with great success, recruitment and training

requirements for various categories of officials have been specified, arrest procedures and prosecutorial guidelines have been developed, and clear policies and directives to guide the work of law enforcement officials and health care services providers have been implemented. Other examples of important initiatives include:

- ❑ Developing guidelines and training diplomatic and consular personnel to deal with issues relating to acts of violence against migrant workers, sex tourism, or trafficking in women and children.
- ❑ Developing procedures to allow battered spouses and children of citizens or legal permanent residents to self-petition to become legal permanent residents themselves. In the United States, the Immigration and Naturalization Service (INS) has also adopted gender guidelines to assist asylum officers assess these types of claims and use gender-sensitive procedures.
- ❑ Offering concrete protection for domestic labor against undue exploitation and ensuring that employers understand their obligations towards their domestic employees.
- ❑ Implementing procedures to facilitate the expeditious resolution, often in a nonadversarial manner, of various forms of family disputes.
- ❑ Developing easily accessible registries of the protection orders issued by the courts in order to facilitate their enforcement.
- ❑ Developing measures to deny access to firearms to those who have been the subject of a domestic-violence-related prohibition order.
- ❑ Developing measures to protect the citizenship rights of victims of gender-based violence and deal with immigration issues affecting women immigrant victims. Some jurisdictions, for instance, are beginning to recognize gender-based persecution as a basis for obtaining refugee status.
- ❑ Developing measures to facilitate access to information by ombudspersons and others who have a mandate to investigate human rights complaints.

Chapter 5

Due Diligence in Preventing, Investigating, and Punishing Violence Against Women

Article 7: The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

(b) apply due diligence to prevent, investigate and impose penalties for violence against women;

Member states have repeatedly been called upon to review their criminal law and criminal justice systems in order to make them as effective as possible in preventing crime against women. They have also been asked to consider how criminal justice systems may become more relevant to women's experiences and aspirations and more effective in protecting their rights. However, the required legal and systemic reforms are both delicate and complex. The question of how these changes can be effected raises a number of issues concerning the relative effectiveness of various strategies to address systemic biases, cultural and subcultural opposition to change, the system's own inertia, or the lack of necessary human and financial resources.

The review considered the strategies used in different jurisdictions to ensure that existing state agencies demonstrate due diligence in preventing, investigating, and punishing violence against women.

As was observed by the Special Rapporteur on Women's Rights, implementing and enforcing the right of women to be free from violence require determining when gender-violence triggers state responsibility.²⁵ In the past, the question has raised the issue of the state's responsibility for the actions of private citizens or actions occurring in private life. On that question, the United Nations Special Rapporteur on violence against women, its causes and consequences, noted that customary law anticipates state responsibility for violations of women's human rights by private actors.²⁶ She argued that "states are held legally responsible for acts or omissions of private persons in the following instances":

- (a) The person is an agent of the state;
- (b) Private acts are covered by provisions of a treaty obligation;
- (c) There is State complicity in the wrongs perpetrated by private actors;
and
- (d) State failure to exercise due diligence in the control of private actors.

The “due diligence” standard, she concluded, has generally been accepted as a measure of evaluating a state’s responsibility for violations of human rights by private actors.

In the case of the Convention of Belém do Pará, the concept of “due diligence” is the criterion against which States Parties have explicitly agreed that their efforts to prevent, investigate, and impose penalties for violence against women should be judged [Article 7 (b)]. However, the Convention does not explicitly define what constitutes “due diligence” in that instance.

Other sources had to be consulted for an operational definition of the criterion of “due diligence” that could be used for the purpose of the current review. The Beijing Platform for Action provided some guidance. However, the most useful and direct statement on the specific measures to be adopted or at least considered by the States Parties prepared to exercise due diligence in eradicating violence against women was found in the annex of a 1997 resolution of the UN General Assembly. The document is entitled “Model Strategies and Practical Measures on the Elimination of Violence against Women in the Fields of Crime Prevention and Criminal Justice.”²⁷

These Model Strategies flow from the Beijing Platform for Action. Their main focus is to ensure that justice systems and other prevention mechanisms provide a “fair treatment” response to all incidents of violence against women. They aim to provide de facto as well as de jure equality between women and men. They are relevant to all aspects of the justice system, from community-based prevention efforts to law enforcement, courts, sentencing, and corrections. They are also relevant to several other strategic objectives relating to education and the mobilization of communities and the media to fully participate in efforts to eradicate violence against women.

The current review was facilitated by the use of the Model Strategies as they related to each of the main dispositions of articles 7, 8, and 9 of the Convention. A table of concordance was developed to show how the various practical measures contained in the Model Strategies relate to the main dispositions of the Convention.

Law Enforcement Procedures and Practices

There are obviously many reasons why survivors of violence against women may choose not to report their victimization to the police. One of these reasons has to do with the anticipated quality and effectiveness of the police response to incidents. Improved legislation is in itself insufficient if it is not accompanied by changes in how law enforcement agencies effectively respond to incidents of violence against women. The police are the point of first contact in most cases, and their response is crucial in enabling women to obtain protection. The review noted a noticeable improvement, in most jurisdictions, in the general responsiveness of the police to the complaints of victims of violence against

women and the willingness of the police to enforce various protection orders issued by the courts. This might explain why, in many jurisdictions of the region, there is a perceived greater willingness of victims to bring their victimization to the attention of the police and request their assistance. Many jurisdictions have begun to emphasize a more strategic approach to law enforcement with respect to various aspects of the problem of violence against women. In some of places, clear policies concerning investigation, collection of evidence, arrest, or measures to increase the safety of the victims have been developed and implemented.

In many jurisdictions, law enforcement agencies have begun to play a more proactive role with respect to the detection, investigation, and prevention of incidents of trafficking in women and various other forms of criminal exploitation of women and children. In a few instances, some specialized multiagency enforcement teams have been assembled to provide more effective law enforcement, including cooperation with foreign enforcement agencies in cases involving transnational incidents.

Police also play other important roles besides enforcement, including assisting community prevention efforts, protecting victims, and informing and supporting them. In many jurisdictions, the last few years have witnessed an increased willingness on the part of police agencies to work more closely with other services and with community groups to achieve their important victim protection and crime prevention objectives. In several cases, law enforcement and other agencies have negotiated detailed cooperation protocols with each other that have significantly improved the overall response of the community to the needs of the victims.

Some of the best practices in these areas are becoming better known. In the United States, for instance, under the STOP Violence Against Women Technical Assistance Project, a number of tools have been developed to identify and promote promising practices within the criminal justice system and in the community.²⁸ A resource manual and an inventory of promising practices dealing in part with the law enforcement response to incidents of violence against women were developed two years ago by members of the UN Crime Prevention and Criminal Justice Programme.²⁹

In Canada, a Federal, Provincial, Territorial (FPT) Working Group developed a comprehensive handbook for police and Crown prosecutors dealing with cases of criminal harassment.³⁰ The handbook provides guidance on all matters relating to these cases, from how the police should conduct the initial interview with the victim and conduct the investigation to how Crown prosecutors should prepare their cases, address the questions of the pretrial release of the offender, handle the presence of firearms, and set up representations at sentencing hearings.

Some jurisdictions use sexual assault centers to deliver an integrated response to incidents of sexual assaults against women. Some countries have

established multidisciplinary response teams of police and social workers who work closely with the victim early in the response process. In other parts of the region, the creation of specialized women's unit has been promoted, following the example of São Paulo, Brazil, in order to provide a more effective response to sexual assault cases. These units comprise sections for investigation, evidence gathering, victim counseling, and victim protection. The relative effectiveness of these various law enforcement models of response delivery requires further investigation.

Over the last decade or so, many jurisdictions have introduced and promoted pro-arrest, pro-charge, and pro-prosecution policies in cases of domestic violence. In recent years, the focus has increasingly been on evaluating the impact of these policies from the point of view of victims and from a perspective of women's safety. The conduct of "safety audits" is being advocated in order to examine every aspect of the criminal justice system to ensure that the safety of women is being considered in all decisions.

In the United States, the Domestic Abuse Intervention Project (DAIP) in Duluth, Minnesota, provides an example of how the justice system's lack of concern for the safety of victims, the prevailing climate of tolerance of violence and the lack of accountability can be affected by focusing on basic procedures and daily routines followed within the system. The project has developed methods of auditing the actions of the system that examine each step of case processing.³¹

Prosecutorial Practices

In most countries of the region, the burden of initiating prosecutions in a case of domestic violence lies primarily with the victim. Very few countries have established guidelines for the prosecution of offenders involved in acts of violence against women. In a number of countries, such as Costa Rica and Honduras, specialized prosecutors have been appointed, usually women, to assume responsibility for the prosecution in cases involving sexual or domestic violence offences. The effectiveness of that approach has apparently not yet been evaluated.

In some cases, offenders are able to avoid prosecution by moving to a different jurisdiction. In the last several years, a considerable amount of energy has been devoted to promoting the exchange of information and greater cooperation between jurisdictions. Countries have concluded mutual legal assistance agreements that have helped address that problem and have increased the effectiveness of prosecution efforts in transnational forms of violence against women. The problem of interjurisdictional cooperation is often also an issue within a single country. In the United States, for example, the Victims of Trafficking and Violence Prevention Act of 2000 introduced measures to improve the ability of federal prosecutors to prosecute interstate crimes of domestic violence, stalking, and violations of protections orders.

A few jurisdictions are experimenting with the concept of a dedicated specialized criminal court dealing with family violence cases (e.g., in Manitoba and Ontario, Canada). These courts include a variety of specialized programs, such as support and information services for victims and witnesses, cultural interpretation services, women's advocacy and child victim witness programs, and male batterer treatment programs. Some of these initiatives are currently being evaluated.

Education of Law Enforcement and Justice Officials

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;

Interventions in cases of violence against women are often complex, difficult, and psychologically sensitive. Specific education and training for professionals is particularly important and critical to the success of policy and legislative reforms. All countries reviewed reported having established some kind of education and/or sensitization training programs for law enforcement officials. The majority of them, but clearly not all, had ensured that the basic training for police recruits included some specific training about violence against women; existing procedures, laws, and guidelines; as well as what would be expected of them in such cases. Some very detailed training curricula³² have been developed, and there has been a fair amount of cooperation among the police forces and police academies with respect to training initiatives and the sharing of relevant training material.

Some tangible progress has been accomplished throughout the region in ensuring that law enforcement officials understand that violence against women is an intolerable violation of human rights, regardless of where it occurs. However, the implications of this knowledge for the day-to-day activities of law enforcement agencies are not always made very clear to all concerned. Furthermore, existing education programs do not always effectively tackle the powerful obstacles created by the subcultural values and attitudes that continue to prevail in these institutions. The effectiveness and focus of many of these programs probably need to be reconsidered.

Given the crucial role of law enforcement and justice officials, several countries have devoted a fair amount of resources to establish gender awareness training for these officials. Efforts have been made to promote changes in the institutional culture of the relevant agencies.

However, such efforts to sensitize the police, the prosecutors, and the judiciary to concerns about gender equality and violence against women may not have produced all the anticipated results. An awareness of the issues involved in cases of violence against women is certainly a crucial element. It does not by itself, however, ensure a competent, professional response in these cases. Training based on helping officials acquire the specific communication and conflict management skills, as well as the psychological and legal information they need to intervene confidently and competently, is singularly required in many jurisdictions. Finally, law enforcement training programs should also take into account the fact that there are powerful and detrimental subcultural values and attitudes within these institutions that must be systematically challenged.

Another important priority for action that has not yet received sufficient attention is that of providing training to health care professionals on violence prevention issues. This is necessary in order to promote health care practices that are responsive to the needs and concerns of women who are victims of violence. Such initiatives should include the development of protocols for health professionals to ensure effective medical documentation of violent incidents and assist in the prosecution of offenders. The professional responsibility of health care personnel to report certain incidents must also be clearly delineated for all concerned.

Protection of Victims and Witnesses Against Intimidation

Article 7: The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

(d) adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;

Women victims of violence continue to be the frequent victims of various forms of stigmatization and intimidation. Some effective protection measures have been developed in several countries of the region. Crisis intervention lines are frequently available. Safe shelters are often made available as one of the first priorities in developing services for victims. Police have established women's desks at police stations to encourage victims to more readily report incidents of sexual assaults and domestic violence. Nevertheless, in most countries the actual protection offered to victims of violence against women remains very limited. In most countries, the number of women's shelters remains insufficient, particularly outside urban areas. The shelters and second-stage housing programs are often inadequately funded. Well-funded crisis intervention centers with adequately trained personnel are generally lacking. Women and children need to have access to safe housing upon leaving an emergency shelter. In

some affluent countries, programs have been designed to give these women priority placement for social housing units managed by government-funded agencies. In less affluent countries, however, women victims frequently have nowhere to go after they leave the emergency shelter. Many of them are in need of assistance in order to attain economic independence and avoid revictimization.

There is an increased willingness of women victims of violence to report their victimization and seek the protection of the justice system. However, in many countries, most victims are still very reluctant to report the violent incidents to the police. They also frequently withdraw their complaint after initially reporting the incident to the authorities. Insufficient efforts have been devoted to the protection of victims against undue pressure to withdraw their complaints. Some research suggests that victims of violence may be at greater risk than ever during the criminal justice process.

There continues to be a great need throughout the region to strengthen existing institutional mechanisms to ensure that women can report acts of violence against them in a safe and confidential environment, free from fear of penalties or retaliation. It may be that too much importance has been given to trying to persuade women to report their victimization to the police and not enough to making it safe for them and their children to do so.

Many jurisdictions have experimented with various methods of promptly removing the offender from the home in domestic violence cases and preventing the victims and their family from being forced to relocate. These methods have included mandatory arrest policies, protection orders, and emergency intervention orders. These orders, however, only provide protection if the abuser has some respect for the legal system, which often is not the case, or has some reasonable expectation that the police will enforce the order.

The consistent and effective enforcement of such orders has proven more difficult than initially anticipated. In some jurisdictions, they are barely ever enforced. In others, their enforcement is progressively receiving a higher priority within police agencies, and police officers are receiving the training they need to enforce these orders safely and confidently. In a very few jurisdictions, central registries have been established for restraining orders. In the best of cases, these registries can be consulted quickly by electronic means by all law enforcement officers.

Insufficient provisions are made in most jurisdictions for the protection of victims and witnesses during the criminal justice process, either at the time of their appearance in court or of the offender's release from prison. Effective measures to ensure the victims' safety and protect their physical and psychological well-being are too often lacking. In a few countries, legal reforms have been introduced to allow for the protection of the identity of victims of sexual offences. In some cases, judges have been empowered to ban the publication of the name of the victim. In other cases, part of the proceedings can

be held *in camera*. In far too many jurisdictions, however, there continues to be a lack of effective measures to protect the identity and privacy of the victims.

Research shows that it is not uncommon for the offenders involved in gender-based violence to also have extensive criminal records involving various other forms of violent crimes. Many of these offenders are extremely dangerous. In many instances, the implementation of some simple administrative measures can do a lot to help women victims of domestic violence elude their abuser.

In the United States, for example, the Social Security Administration (SSA) instituted a program regarding the assignment of new social security numbers to victims of domestic violence who request it. A victim is thus able to obtain a social security number and establish a new identity when she provides written affirmation of her abuser from a third party, such as a law enforcement officer or an attending physician. Information on how to proceed under that program is made available to the victims by various service providers or on the Internet.

A few correctional systems in the region have taken measures to notify victims of violence, whenever appropriate, of decisions made concerning the conditional release, release, or transfer of their aggressor during his sentence. In a few institutions, policies and guidelines were created to prevent incidents of family violence in the inmates visiting program and to ensure that incidents that occur during general or private family visits are addressed.

In many jurisdictions, the establishment of sex-offenders registries is being advocated as a concrete means of protecting potential victims and notifying communities of the presence of sex offenders in their area. Several of these registries have already been developed. There are, however, many unresolved issues, in several jurisdictions, about the validity of sex-offenders registries and the value of programs to notify communities of the presence of sex offenders in their area. These issues call for informed public debate and careful attention by policy makers that may lead to difficult collective choices.

With a few notable exceptions, most countries of the region have little progress to report in terms of specific initiatives to protect child witnesses. The International Association of Prosecutors (IAP) and the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR) have recently developed a set of policy guidelines for the prosecution of these cases. The guidelines deserve careful consideration by all jurisdictions.

Other Preventive Measures

Generally speaking, existing prevention initiatives are being criticized for failing to address the root causes of gender-based violence. Some prevention initiatives focus on the education of children in schools. Some place much of their hopes for change in the promotion of human rights in general. Others emphasize human and economic development initiatives to promote women's freedom from

want and from economic exploitation. Ultimately, however, the prevention of violence against women can only be achieved through a holistic approach to the basic problem of human and social development.

Violence prevention measures are not all equally effective. Exchanging information among jurisdictions about best or promising prevention practices can therefore be very important. Several initiatives along these lines have been developed in the region over the last few years. One of them was a compendium of promising practices to eliminate violence against women, which was produced in 1999 by the ICCLR. In the United States, the STOP Violence Against Women Technical Assistance Project identified promising prevention initiatives that can be undertaken within the community.³³ In Canada, in July 1999, the Federal, Provincial, and Territorial (FPT) Ministers Responsible for the Status of Women released a framework for the compilation and evaluation of innovative initiatives and strategies in the area of prevention of violence against women. In January 2000, the Canadian federal Government released a comprehensive Policy Framework for Addressing Personal Security Issues Concerning Women and Girls, a component of a broader National Strategy on Community Safety and Crime Prevention.

Some of the most effective prevention programs are those that target specific risks and empower women to reduce those risks and protect themselves. In a few countries, successful programs have been developed in cooperation with public and private sector employers. These programs focus on the safety of women at work. For example, the "Keeping Safe at Work" initiative in the Canadian province of Manitoba focused on the risks faced by women as they travel to or from work when they work or travel alone. In the United States, the Occupational Safety and Health Administration (OSHA) developed information and guidelines to help various groups of employers prevent violence against their employees.

A lot more could also be done to prevent sexual harassment in the workplace. The Canadian Human Rights Commission (CHRC) has developed model harassment prevention policies and has made them available to employers across the country.

The presence of a firearm is often a determining factor in various incidents of violence against women. It also tends to increase their morbidity. For these reasons, prevention measures relating to firearms are often advocated as a means to prevent violence against women. Various firearms regulation schemes have been implemented throughout the region, and these schemes directly affected the likelihood that a firearm might be used in cases of domestic disputes. Cooling-off periods have been introduced to delay the acquisition of firearms. Regulations concerning the safe storage of firearms may also have had an impact. Firearms possession or acquisition prohibition orders may be important in the case of individuals who have been involved in a violent crime. In Canada, for example, since 1995, applications for a firearms acquisition

certificate are reviewed on the basis of risk factors associated with incidents of family violence, and applications require the consent of the spouse.

The impact on children of witnessing or experiencing violence or abuse is recognized as an important problem needing intervention from all sectors. Some of the anti-violence programs developed and implemented in schools have specifically focused on breaking the cycle of violence by creating an awareness of the issue and intervening early in the life of children. In a few countries, a variety of counseling programs are being funded to offer specialized counseling and other forms of intervention to children who have been exposed to violence. The programs are mostly offered through schools and children's centers. They tend to be accompanied by other initiatives to assist teachers, school counselors, and parents recognize the impact of violence on children.

In many countries, the important role that can be played by health and social services professionals in the prevention of violence against women is receiving more attention. Some limited efforts are being directed at developing training programs for health professionals and at specifying their role with respect to the prevention, detection, and reporting of violence against women. For example, the Inter-American Children's Institute (IACI), in cooperation with the Inter-American Drug Abuse Control Commission (CICAD), conducted a project on the impact of drug abuse on women and the family. The project emphasized the importance of including effective drug and alcohol abuse prevention components in all broader violence prevention programs.³⁴

Several case studies suggest that sexual assault and other forms of violence against women, both inside and outside the home, are likely to increase in the aftermath of disasters, such as floods, earthquakes, or hurricanes. Police protection and other forms of prevention may become less available. In addition, under such circumstances, services that are usually available to victims may be disrupted or discontinued, thus compounding the victims' vulnerability. Women's health and well-being must be safeguarded during periods of emergency or disaster, both from the effects of the disaster and from the predictable post-event violence.³⁵

Several steps can be taken as part of planning for emergency preparedness, including paying attention to the emergency needs of transition houses, enhancing the ability of anti-violence programs to continue functioning as well as possible during and after a disaster, or ensuring that law enforcement agencies are prepared to deal effectively with violence against women in such a crisis situation. It seems that, with very few exceptions, jurisdictions have not yet addressed these violence-against-women issues as part of their emergency planning activities.

There is also a growing recognition of the importance of secondary prevention strategies and of developing programs to deal with perpetrators of violence against women. Community- and institution-based intervention programs to help male abusers deal with their issues and develop nonviolent

means of dealing with various situations can be part of an effective strategy to prevent future victimization of women. Family violence laws in many countries of the region are now making provision for the treatment of abusers. Unfortunately, in many cases, this has not been accompanied by the development of the necessary treatment programs.³⁶ In most countries, efforts in that particular direction are still at a very early stage of development and some very tentative methods of intervention are being used. A few correctional systems are addressing the need to develop effective intervention programs for male sexual offenders and wife abusers. At least one national correctional system in the region is currently implementing a system-wide program to ensure that family violence treatment issues are addressed as part of correctional treatment intervention at the most appropriate time possible.

A clear focus must also be maintained on the prevention of various transnational forms of violence against women. There is growing recognition throughout the region of the urgent need to adopt effective measures and to take concerted international action to prevent all forms of trafficking in women and girls. Antitrafficking prevention strategies are slowly being developed based on a better knowledge of the characteristics of vulnerable populations and the methods employed by traffickers.

Chapter 6

Effective Access to Justice for Victims

Article 7: *The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:*

(f) establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures;

(g) establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies;

Improved Access

Women who make a decision to report their abuse to the police have certain expectations of the criminal justice system. Most victimization surveys indicate that their experience is far from meeting their expectations. A recent survey of sexual assault survivors in one country showed how far their experience of the justice system was from their expectations. Women who, according to the survey, had hoped to regain a measure of control over their lives realized that control rested with the police and the prosecutor. These survivors described the criminal justice process as “cruel,” “cold and uncaring,” and “hard on them.”³⁷

The justice system’s delays in responding to the protection needs of the victims or in providing victims with the information they need can often become a matter of life or death. Long delays in obtaining access to family court, access to the protection of the justice system, or redress continue to be serious obstacles to victims’ access to justice.

Throughout the region, the most serious obstacle preventing women from obtaining effective access to justice stems from the general lack of institutional capacity to deal with the various issues resulting from gender-based victimization. The existing infrastructure dealing with that type of victimization is often inadequate. In many instances, the respective obligations of law enforcement, health, and justice officials towards the victims of violence against women are insufficiently defined or understood.

Depending on the citizenship laws of a country, immigrant women and migrant laborers often have few recourses under the law and very limited access

to those recourses. Additional difficulties in obtaining access to redress are encountered by women from isolated regions, women who have substance abuse problems, women in detention, and women living in poverty. In most jurisdictions, women and children with any form of disability usually find it particularly difficult to receive help and obtain redress.

Effective access to the justice system is essential to prevent victims of gender-based violence from being victimized anew as a result of gender-insensitive laws and judicial or enforcement practices. Access can be promoted by the timely provision of information about the recourses, redress, and protection available to victims, facilitating the reporting process, and removing unnecessary procedural obstacles encountered by victims. In a few countries, such as Argentina, confidential telephone lines exist for children to report abuses and seek assistance. In many countries, access is facilitated through the assistance of victim advocacy and accompaniment services. In some jurisdictions, interpretation services and culturally sensitive victim support services have improved access for women who have encountered particular access problems due to their language or cultural background.

Many justice systems of the region are finally beginning to show a genuine openness to providing survivors of violence against women with information on how to assert their rights and seek the remedies to which they are entitled. Various sectors of the justice system are slowly beginning to institute procedures to ensure that women are provided with information about their own cases in a timely manner.

Legal Information

Legal information and advice are often crucial in determining women's access to the justice system. Legal clinics and various other practical means of providing victims and potential victims with the legal information they require have been experimented with throughout the region. However, because legal information remains specific to each legal system, legal information programs are the least transferable between jurisdictions. The wealthier countries of the region have been able to develop or fund accessible and meaningful legal information programs. In some cases, these programs even include specific materials for special target groups, such as immigrant women. In the majority of jurisdictions of the region, however, the legal information needs of victims of violence against women remain largely unaddressed. Throughout the region, for the majority of women victims of violence, the justice system remains intimidating, complex, and inaccessible.

In family and civil law matters involving women who are victims or at risk of becoming victims of violence, legal representation is usually extremely difficult to obtain unless women have the means to retain and pay for the services of their own counsel. Even in countries where some form of public legal aid service is

available in these cases, increasing restrictions apply to limit the number of applicants.

Access to Restitution and to Prompt and Fair Redress

Women subjected to violence should receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered. The law should recognize their right to seek restitution or compensation from the offenders and the state.

Redress for the harm suffered by victims of violence can take many forms. Compensation for harm suffered may be available through the criminal courts, through civil suits, or through administrative schemes established by the state.

During the last few years, a few countries, such as Costa Rica and Ecuador, have introduced law reforms improve victims' formal rights to compensation. Nevertheless, in the majority of jurisdictions there are no administrative mechanisms or processes to ensure that women have effective access to compensation or redress.

Very few jurisdictions were able to report major improvements in women victims' access to effective redress or compensation. Consequently, in most countries of the region, prompt and effective access to fair redress for the harm suffered has been usually available only to victims with the financial means to pursue these remedies.

The unavailability of mechanisms through which victims could obtain fair redress or compensation for the harm suffered seems to have led, in some instances, to some abhorrent practices. During the review, there were reports of situations in which, in the absence of redress or compensation mechanisms, victims or their relatives would accept financial compensation from the abuser in exchange for either not denouncing the crime to the police or not testifying in court. For many victims, it appeared that accepting this bribe in lieu of fair compensation was the only way they could obtain the financial means they needed to obtain medical and psychological assistance through private establishments.

The review also noted some cases in which collective recourse mechanisms were required. One reported case deserves mention. In November 1997, the Government of Canada asked the Law Commission of Canada to prepare a report on the means of addressing the harm caused by physical and sexual abuse of children in institutions operated, funded, or sponsored by the Government. These institutions included residential schools for Aboriginal children, schools for the deaf and blind, training schools, long-term mental health care facilities, and sanatoria. The Commission looked not only at physical and sexual abuse, but also at psychological, spiritual, and cultural abuse and other types of mistreatment that have also had profound and long-lasting effects. The

Commission looked at a process for providing redress for survivors, their families, and their communities, including specific programs designed to meet the needs of survivors, programs of public education, and the development and revision of protocols and other strategies for prevention.

International Recourses

Article 12 of the Convention of Belém do Pará provides the possibility for individuals, a group of individuals, or a nongovernmental entity legally recognized in one or more member states of the Organization of American States to file petitions with the Inter-American Commission on Human Rights (IACHR). Such petitions can contain denunciations or complaints of violations of Article 7 of the Convention by a State Party. However, because international and regional human rights systems are designed to be subsidiary to national systems, the party alleging the violation must have exhausted all available remedies under domestic law. The Commission considers the claims that are made in accordance with the norms and procedures established by the American Convention on Human Rights and the Statute and Rules of Procedure of the IACHR. So far, very few petitions have been filed pursuant to the Convention of Belém do Pará. Some observers of the inter-American human rights systems suggest that the underutilization of the important redress mechanism provided by the Convention of Belém do Pará may explain why the Convention may not have been taken as seriously as it ought to have been by all States Parties.

Chapter 7

Specialized Services for Victims

Article 8: *The States Parties agree to undertake progressively specific measures, including programs:*

(d) to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counselling services for all family members where appropriate, and care and custody of the affected children;

(f) to provide women who are subjected to violence access to effective readjustment and training programs to enable them to fully participate in public, private and social life;

Availability of Specialized Services for Victims

In every country examined during the current review, some progress was reported in the establishment of specialized services for women victims of violence. In many countries, these programs only existed because of the contribution of civil society and nongovernmental agencies. In some countries of the region, the continued existence of services for women victims is very precarious due to a lack of funding and a general lack of political commitment to make these services widely available. Throughout the region, survivors of violence against women persistently meet serious difficulties in obtaining access to the essential services they need.

Crisis services, emergency shelters, and emergency telephone hotlines have been introduced in many countries. The client data generated by these emergency services is often a first step in demonstrating the need for services. Second-stage housing for women after they leave an emergency shelter is seriously lacking, as are the pre-employment programs required to provide women victims of violence with the training and support they need to enter or re-enter the workforce. Other longer-term psychological, medical, social, and legal forms of assistance are not usually readily available to victims. Many of these services tend to focus on women's participation in group discussions and group therapies, believed to be important first steps for them in surmounting abusive situations.³⁸

Some progress has obviously been achieved in recent years in the provision of services for abused women and children; hotlines; emergency assistance, including legal services; shelters; special health services; and counseling. However, in most countries, the amount of services available bears no relationship to the demand for these services.

Most countries report an upward trend in the use of criminal justice and social services by women victims. This may be due to a number of factors, including increased public awareness of the problem, increased availability of services, improved training of police and other officials, and increased public confidence in the ability of the criminal justice system to deal effectively with violence against women cases.

Outreach programs are being developed slowly in most jurisdictions to begin to reach women victims who encounter various obstacles in obtaining access to the essential assistance and services they need. In that respect, the health system occupies a strategic position in identifying victims of violence, offering them initial support, and referring them to treatment. In recent years, several countries have experimented with different means of reaching out to women victims of violence. For example, in Trinidad and Tobago, a “community caravan” was used to bring an awareness and problem prevention message to women in some of the more remote communities of the country. The caravan is also used to provide some basic training to local resource persons who could be called upon to intervene after violent incidents.

Several groups of women victims encounter special obstacles in getting access to services and assistance. Their needs are seldom identified as priorities in the official plans and strategies of their jurisdictions. In most countries, women living in poverty, women living in rural or in remote communities, destitute women, women suffering from physical or mental disabilities, women suffering from severe alcohol or drug addiction, and women in prison continue to face nearly insurmountable obstacles in trying to access the limited services available. Girls and women of all ages with any form of disability are generally among the more vulnerable and marginalized in society. The need to take into account and to address their concerns and situations is insufficiently acknowledged in the planning of most programs and services. Immigrant victims and migrant workers who are victims of violence against women usually have limited recourses available to them and little effective access to services. Few countries have taken decisive measures to ensure that migrant women workers have the same protection against gender-based violence. Not all countries have taken steps to ensure that the working conditions and the protection of migrant women workers are the same as that afforded to women nationals.

During or after a disaster, women victims of violence usually encounter major difficulties in gaining access to services. It would seem that very few antiviolence and victim support services have developed an emergency plan. Some tools are being developed in Canada and in the United States to assist communities and service agencies in developing such plans.³⁹

Rehabilitation and Other Support Programs for Victims

In every jurisdiction of the region, there remain some serious obstacles to effective access to support services by victims of violence against women. Over

the years, several effective integrated services models have been developed.⁴⁰ Nevertheless, in most jurisdictions reviewed, effective rehabilitation programs for women victims of violence are usually lacking.

In the United States, the National Advisory Council on Violence Against Women noted that improving the responsiveness of health care policy and practice to violence against women is critical to efforts to end violence against women. Health care services are a critical point of initial contact, primary care, and secondary prevention of violence against women. Health and mental care providers can identify victims of domestic violence and sexual assault who may not otherwise reach out for help. They may be the first and only professionals to see those victims of sexual assault, domestic violence, or stalking. Most women appear in health care settings for regular examinations, for treatment of specific problems both caused by and independent of abuse, or for care of their children and other family members.

Despite the fact the health burden of violence can be shown to be as significant for women as many other health issues, the issue of violence against women receives relatively little attention and fewer resources. Efforts to raise awareness and inform health care professionals about the situation, particular circumstances, and needs of women victims of violence are becoming more common.⁴¹

For instance, Health Canada has published a number of handbooks on specific issues encountered by health professionals when dealing with victims of violence against women. These include “A Handbook for Dealing with Woman Abuse and the Canadian Criminal Justice System: Guidelines for Physicians,” “A Handbook for Health and Social Service Professionals Responding to Abuse During Pregnancy,” and “A Handbook for Health and Social Service Providers and Educators on Children Exposed to Woman Abuse/Family Violence.”⁴²

In the United States, the Department of Health and Human Services (HHS) supported the publication by the Research, Action, and Information Network for Bodily Integrity of Women (RAINBO) of a new book entitled “Caring for Women with Circumcision: A Technical Manual for Health Care Providers.” The training manual serves as a clinical guide for health practitioners on how to manage physical complications of female genital mutilation.

In Canada, the work of the federal interdepartmental Working Group on Female Genital Mutilation revealed a few years ago that women who had undergone that procedure were having difficulties obtaining appropriate health care services in the country. A report on how to improve the health care system’s response in such cases has recently been produced.

Violence against women has serious consequences on women’s lives and their physical and mental health. It affects their sexual and reproductive rights in particular, their right to freely exercise their sexuality and make decisions about their reproductive health free from coercion, discrimination, intimidation, or

violence. It is therefore urgent to develop meaningful, comprehensive, and accountable systems of response within the health care system in every jurisdiction. This is a particularly difficult challenge in countries where the basic health care needs of the population often go unattended due to a lack of resources. In most countries of the region, mental health services for survivors of violence remain painfully inadequate.

In some countries, there is even serious cause for concern about violence against women in the public health service. For instance, the Inter-American Commission on Human Rights (IACHR) reported that it had been told that in one country, the forms of violence ranged from degrading treatment, verbal offenses, indifference, and negligence to rape and violence against pregnant women and women who appear to have had an incomplete abortion. The Commission quoted sources that alleged that:

...there is institutional discrimination in health care for women, which has become a practice that is tolerated and enjoys impunity, given the institutional cover-up in response to complaints, and women's reluctance to lodge complaints for fear of provoking a hostile response on the part of health care providers.⁴³

During this review, information was also obtained about how, in many countries, certain offenders were able to enlist the complicity of private health clinics and hospitals or to purchase their silence to ensure that incidents of violence against women and sexual abuses against children were not reported to the authorities. It would seem that, in some countries, policies concerning the reporting of incidents by health officials do not cover the actions of health care professionals working in private facilities. Several jurisdictions of the region still need to develop effective mechanisms to ensure that incidents of violence against women are not being systematically covered up in health care establishments.

Reproductive health consequences of violence against women jeopardize women's reproductive freedom and rights. The physical and psychological harm caused by sexual assaults, rapes, forced prostitution, and other forms of violence can affect women's sexual and reproductive autonomy and have lasting reproductive health consequences for the victims. The possibility of becoming infected with HIV is a source of anxiety and fear for many survivors of sexual violence, exacerbating the trauma that they experienced. Furthermore, access to medical services and abortion is an issue that has clearly not been resolved in many countries of the region. In some countries, access to such services is limited to those victims who can afford the services of private clinics or hospitals. In some of the countries where abortion is controlled by criminal law, the law has been amended to allow legal abortions in cases where the pregnancy resulted from a sexual assault.

In cases of domestic violence, alcohol and drug misuse is frequent among both victims and offenders. As a result, prevention, treatment and other intervention services must take that important variable into account.⁴⁴ Treatment

programs for alcohol and drug abuse often do not sufficiently address the complex linkages that exist between addiction and various forms of gender-based violence. Some instruments are being developed in various parts of the region to address this frequent oversight.⁴⁵

Victims of violence who also suffer from a substance abuse problem require specialized assistance. A few programs are being developed to help drug addiction counselors diagnose the situation adequately and advise abused women on how to deal with addiction and substance abuse. In the United States, the Substance Abuse and Mental Health Services Administration (SAMHSA) has developed and made widely available a Treatment Improvement Protocol (TIP) on Substance Abuse Treatment and Domestic Violence.

The joint project of the Inter-American Children's Institute (IACI) and the Inter-American Drug Abuse Control Commission (CICAD) on the impact of drug abuse on women and the family documented the necessity to revise existing programs and to create new ones to address the treatment and rehabilitation needs of women with drug misuse problems. These women are at greater risk of being the victims of gender-based violence, both inside and outside the family, and usually encounter greater difficulties in gaining access to services. The IACI and CICAD held a workshop in Montevideo at the end of 1999 for the preparation of a Guide on Diagnosis, Guidance and Treatment of Domestic Violence in the Context of Alcohol and Drug Abuse.

Chapter 8

Particularly Vulnerable Women and Children

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, socioeconomically disadvantaged, affected by armed conflict or deprived of their freedom.

The impact of gender-based violence is further compounded by inequality, racism, discrimination and other biases relating to the victim's social, economic, or immigration status, or her disability, sexual orientation, or ethnic background. Generally, violence and discrimination on the basis of gender on the one hand, and violence and discrimination on the basis of race or ethnicity, on the other hand, have been approached as distinct categories. However, the gender dimensions of racism and the pernicious forms of discrimination and violence to which it gives rise to must be recognized. Racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women or affects women in a different way or degree than men.

Women belonging to minority groups, indigenous women, refugee women, migrant women, and women living in rural and remote communities are often especially targeted and are usually more vulnerable to violence. All countries formally acknowledge that there are some groups of women who are particularly vulnerable to gender-based violence. In practice, however, they often continue to ignore the special difficulties encountered by these women.

In Canada, the 1999 General Social Survey (GSS) on spousal violence documented how, in that country, Aboriginal peoples were much more likely than other Canadians to report being assaulted by a spouse in a five-year period.⁴⁶ The Aboriginal victims also reported having suffered from more severe forms of spousal violence.

In the United States, the National Advisory Council on Violence Against Women recognized that:

For many women, the impact of gender-based violence and inequality in this country is further compounded by racism and other forms of bias based on income, disability, sexual orientation, or immigration status.

Women of color, language minorities, poor women, older women, migrant, immigrant and rural women, incarcerated women, and women with physical, developmental, and psychiatric disabilities have struggled more than others to have their experiences with violence understood and addressed. To be effective, intervention and prevention efforts must be culturally and linguistically appropriate, address violence across women's lifespan, and be rooted in communities themselves.⁴⁷

The Girl-Child

The current review had access to relatively little information about the particular problems encountered by girl-children and adolescents. The lack of statistical data, especially data disaggregated by sex and by age, made it difficult for most countries to provide information on the full impact of gender-based violence on the girl-child and young women.

Even in the absence of systematic information, it is widely believed that despite advances in legal protection, there is increased sexual abuse and sexual exploitation of the girl-child. In Canada, where some reasonably good data exist, it is estimated that 54 percent of girls under 16 years of age have experienced some form of unwanted sexual attention; 24 percent have experienced coercive sex; 17 percent have experienced incest. In that country, 64 percent of all sexual assaults reported to the police apparently involved girls under the age of 18. In addition, although data on dating violence and date rape are not generally available, there is some indication that the prevalence of these incidents has increased significantly due to the wide availability of the so-called "rape-drug."

Hopefully, more detailed information on the issue will soon become available from other sources within the OAS. In March 1999, a seminar entitled "Sexual Violence and Exploitation of Children in Latin America and the Caribbean" was held in Montevideo, Uruguay. At that seminar, the results of a research project conducted by the Inter-American Children's Institute (IACI) on the sexual exploitation of children were presented. Bolivia, Brazil, Chile, Colombia, the Dominican Republic, El Salvador, Jamaica, Mexico, Nicaragua, and Uruguay were involved in the research project. Following the seminar, the General Assembly of the OAS instructed the IACI to prepare a report, to be submitted to the Secretary General, "describing the steps taken by the member states to combat the commercial and other sexual exploitation of children and adolescents" [AG/RES. 1667 (XXIX-O/99)].

In recent years, many governments of the region have begun to pay more attention to the various forms of violence related to the sexual exploitation of the girl-child and adolescents, such as child prostitution, pornography, and incest. However, most countries of the region have not yet managed to significantly change the many societal and institutional factors impeding the eradication of these abuses against girl-children.

Statistics on the prevalence of incidents of trafficking in women and children do not appear to be available anywhere in the region. Nevertheless, the issue of trafficking in children, within or between countries, is receiving renewed attention. Most countries do not have laws specifically criminalizing the offence of “trafficking in women and children.” As yet, few countries have adopted legislation to impose heavier penalties on those involved in sexual abuse, trafficking, and all other forms of exploitation of the girl-child, although most countries of the region have recognized in principle the need to so.

All member states of the Organization of American States except one have ratified the United Nations Convention on the Rights of the Child. All member states have accepted to increase their efforts to prevent and eliminate violence against the girl child, in the form of sexual exploitation and abuse, prostitution, child pornography, trafficking and various harmful traditional practices. There are several initiatives to strengthen international cooperation to detect, investigate, prosecute, and punish those responsible for acts involving the sale of children, child prostitution, child pornography, and child sex tourism.

Seven member states (Argentina, Belize, Brazil, Colombia, Panama, Paraguay, and Uruguay) have ratified the Inter-American Convention on International Traffic in Minors,⁴⁸ which came into force in August 1997. That convention defines international traffic in minors as “the abduction, removal or retention, or attempted abduction, removal or retention, of a minor for unlawful purposes or by unlawful means” [Article 2(b)]. The purpose of the Convention “with a view to protection of the fundamental rights of minors and their best interests, is the prevention and punishment of the international traffic in minors as well as the regulation of its civil and penal aspects” (Article 1). The States Parties to that convention have undertaken to:

- (a) ensure the protection of minors in consideration of their best interests;
- (b) institute a system of mutual legal assistance among the States Parties, dedicated to the prevention and punishment of the international traffic in minors, as well as adopt related administrative and legal provisions to that effect; and
- (c) ensure the prompt return of minors who are victims of international traffic to the State of their habitual residence, bearing in mind the best interests of the minors.

Also, as of the end of 2000, 14 member states (Belize, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Jamaica, Mexico, Paraguay, Peru, the United States, Uruguay, and Venezuela) had ratified the new Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (New York, 25 May, 2000). The Protocol has not yet come into force.

Several member states have been directly involved in the development of an optional protocol to the proposed new United Nations Convention Against

Transnational Organized Crime. The new Convention and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children was opened for signature in December 2000. States Parties to the new Protocol undertake to offer better protection and support for trafficked persons, especially women and children, and to enact domestic laws that will make trafficking in persons a criminal offence.

Various forms of violence against the girl-child, including various forms of abuse and sexual exploitation, result in unwanted pregnancies and transmission of HIV and other dangerous infectious diseases. Increased attention is being paid to the health of the girl-child, including the sexual and reproductive health of adolescents. However, in most countries, that increased awareness of health needs, including the sexual and reproductive health needs of adolescents, has not yet resulted in the development of the necessary information, education, and support programs.

Most of the countries reviewed have encountered difficulties in addressing the problem of violence against girl-children and adolescents. The lack of adequate financial and human resources was often the main obstacle. Many governments lack adequate technical, financial, and material resources to carry out innovative programs and projects. Several community awareness and sensitization programs have been developed in most jurisdictions. Many of them targeted health care and other professionals in contact with children.⁴⁹ However, community awareness and sensitization programs specifically addressing the question of violence against the girl-child are generally lacking. Services to assist child victims of gender-based violence are also insufficient. Finally, existing child care and child protection services are often ill-equipped to effectively deal with situation of domestic violence involving children.

The fact that so many children of the countries of the region are, in effect, street dwellers puts them in conditions that place them at a greater risk of becoming victims of violence, abuse, and exploitation. In addition, it must be recognized that domestic violence and various other forms of violence against children are often the main reason why children and adolescents run away from home and become the victims of sexual and other forms of exploitation. Their unmet physical and emotional needs increase their risk of developing a drug addiction. The socioeconomic conditions of these children make them extremely vulnerable to various forms of abuse and exploitation. The needs of street children, especially girls, should be integrated more systematically into national poverty eradication, social development, and anti-violence programs.

Community prevention efforts should specifically target the factors that render the girl-child more vulnerable to potential violence. A few projects have made some progress in that direction. For example, in 1997-98, Status of Women Canada provided funding to the Alliance of Five Research Centers on Violence in support of the first phase of work to examine the issue of violence prevention and the girl-child. The Alliance has now completed an extensive literature review mapping out the findings of existing research dealing with issues related to violence against the girl-child. It also compiled an inventory of programs and services available to girls in each of the five regions of Canada and conducted

focus groups involving service providers and girls in each region. With continuing funding support, the Alliance's work will contribute to the development of an action-oriented strategy to prevent violence against the girl-child.

Access to justice remains a big issue for children and young people. They are often excluded from the court system and its legal guarantees. To address that issue, several countries, such as Peru and Bolivia, rely on progressively enhancing of the role and the efficacy of child protection agencies, while others, such as Chile, are developing demonstration projects to offer advocacy and other services to abused children. A few countries have developed programs to enhance the ability of children and adolescents to access the justice system and its related agencies and to benefit from the protection they can provide.

In addition to the lack of adequate financial and human resources to meet the needs of abused children, there appears to be, in many jurisdictions, a general lack of awareness and understanding within law enforcement agencies and the criminal justice system as a whole of many of the issues relating to child abuse. The absence of clear policies and guidelines concerning effective practices for dealing with child witnesses within the justice process is still an issue in the majority of countries reviewed. In addition to these difficulties, a lack of well-thought-out procedures to successfully prosecute perpetrators of criminal acts against girl-children is also commonly observed.

According to the International Association of Prosecutors (IAP):

Prosecutors must recognize that children are particularly vulnerable and therefore should do all that is in their power to ensure that child victims or witnesses are treated in a caring and sensitive manner throughout the prosecution process, taking into account age and level of maturity, and ensure that they are effectively protected.

The Association developed model guidelines⁵⁰ that bring together international standards for the treatment of children and the proper standards to be observed by prosecutors. The guidelines deal in some detail with the practical issues that arise against that background and provide a benchmark against which prosecuting agencies may assess their own policies and performance.

The current review identified several specific areas of activity in which drastic improvements are required in most of the jurisdictions considered. Programs and services have often not sufficiently recognized the special vulnerability of child victims and have therefore failed to provide adequate specialized support services nor to adapt existing systems and procedures to enable them to address the special needs of children. Initiatives are required to ensure that children's access to protection, redress, and assistance is unhindered by the attributes of services and procedures essentially developed to fit the circumstances of adult victims. Specialized programs are urgently required in most jurisdictions to assist child victims in their reintegration and full physical and psychological recovery. Measures are required to ensure appropriate training, in particular legal and psychological training, for the persons who work with child victims of sexual

exploitation. In most jurisdictions, greater attention must be given to developing measures to protect street children and other children who are particularly vulnerable to acts of violence and sexual exploitation, as well as measures for the protection of children in detention.

Women with Physical and Cognitive Disabilities

In the United States, the National Institute on Disability and Rehabilitation Research (NIDRR) created a project to reduce risk factors for abuse among low-income minority women with disabilities. The project identified strategies to reach women with disabilities at all stages of resolving abusive situations. In addition, the Women's Personal Assistance Services Abuse Research Project (PASA) seeks to increase the identification, assessment, and response to abuse by formal and informal personal assistance service providers of women with physical and/or cognitive disabilities living independently in the community. Culturally diverse participants assist in the development of appropriate response strategies.

Enhancing the skills of service providers often also helps ensure that they are able to meet the special needs of specific groups. For instance, in the United States, the Justice for Deaf Victims of Domestic Violence and Sexual Assault Project and the Abused Deaf Women's Advocacy Services (ADWAS) in the state of Washington received funding to train service providers working with women victims who are deaf.

Women from Minority Groups

Women from various minority groups often struggle more than others to have their experiences with violence understood and addressed. In their case, effective intervention and prevention efforts are those that are culturally and linguistically appropriate and are rooted in the cultural communities to which they belong. In most jurisdictions, there is a chronic absence of programs focusing on the needs and circumstances of women who belong to various minority groups.

The National Violence Against Women Survey conducted in the United States suggests that more research is required on the demographic, social, and environmental factors that may account for variations in rates among women of different racial and ethnic backgrounds.⁵¹ The data on victimization rates among women of diverse racial background show that women from different minority groups reported significantly different rates of victimization. Similar findings were reported in a Canadian survey.

In Canada, the Multiculturalism Program of the Department of Canadian Heritage funds public education programs about family violence that are targeted to ethnic and visible minority communities, especially those who are not fluent in one of the country's two official languages. A public education campaign was

launched on ethnic communications media to provide information in several languages on Canadian laws and the consequences of family violence. In another context, the project “Justice Working – A Coordinated Criminal Justice System Response to Domestic Violence” involves the creation of a dedicated court to deal with domestic violence cases. This project is located in Calgary, Alberta, Canada, and gives priority to high-need vulnerable women, including those from Aboriginal and visible minority populations, and women with disabilities. Unfortunately, the existence of programs of that type seems to be the exception in most jurisdictions rather than the rule.

The situation of Aboriginal survivors of violence against women is particularly alarming. In the last few years, some limited steps have been taken by a few jurisdictions to address the special circumstances of these victims. For example, in Mexico, the National Indigenous Institute has developed information programs to reach indigenous women in at least six states of the Republic.

The U.S. Department of Justice (DOJ) Office of Justice Programs (OJP) created the tribal courts project to assist in the development and strengthening of tribal courts as institutions of self-government. This project emphasizes judicial response to family violence and child sexual abuse cases. The Office of Tribal Justice and the Violence Against Women Office (VAWO) coordinate the administration of grants under the STOP Violence Against Indian Women (VIAW) Program. These grants go to projects that raise awareness in Indian communities about domestic violence, enact mandatory arrest policies, and develop mechanisms for intertribal sharing of information on protection and restraining orders.

In Canada, in response to the Final Report of the Royal Commission on Aboriginal Peoples and the Criminal Justice System, the federal Government announced in 1998 its national initiative, “Gathering Strength: Canada’s Aboriginal Action Plan,” which included many initiatives with an impact on Aboriginal women. The comprehensive long-term plan aims to develop healthy, more self-sufficient and economically viable Aboriginal communities. Initiatives to address family violence and sexual abuse have been undertaken at the Hollow Water Healing Project in Manitoba and in Toronto. These initiatives focus on holistic healing of all the parties affected by these crimes and emphasize a strong role for women.

Women Elders

For many women, aging often becomes a source of increased vulnerability to gender-based violence. Abuse and neglect of elders living in their own homes have gone largely unidentified and unnoticed.⁵² Some research on the incidence and consequences of that type of violence and how it intersects with gender-based biases and violence is beginning to reveal the true extent of the problem. The issue of older women being abused in institutional settings is also beginning to receive more attention.

For example, in the United States, the National Elder Abuse Incidence Study has shed new light on this significant problem with the finding that approximately 450,000 elderly persons in domestic settings were abused and/or neglected during 1996. The study also showed that female elders were abused at a higher rate than males, after accounting for their larger proportion in the aging population. In almost 90 percent of the elder abuse and neglect incidents with a known perpetrator, the perpetrator is a family member, and two thirds of the perpetrators are adult children or spouses.⁵³ In that country, the National Center on Elder Abuse also exists as a resource for public and private agencies, professionals, and members of the community interested in the prevention of elder abuse.

In countries that have begun to address elder abuse, four major kinds of programs are emerging:

- ❑ statutory adult protection service programs, inspired by child welfare models, which institute legal powers of investigation, intervention, and guardianship;
- ❑ advocacy programs;
- ❑ programs based on the domestic violence model; and
- ❑ integrated programs based on models of service delivery.⁵⁴

In some cases, the law provides for mandatory reporting of incidents by certain classes of professionals.

Migrant Women

The need to establish linguistically and culturally accessible services for migrant women and girls who are victims of gender-based violence is apparently just beginning to receive proper attention. Immigrant women who are victims of violence encounter some additional barriers to access to justice. In many cases, the barriers are compounded by a dependency on the abuser for financial support and immigration sponsorship. A few countries allow battered spouses and children of citizens or legal permanent residents to self-petition to become legal permanent residents themselves. In at least one case, immigration officials are provided with guidelines on how to assess these claims and use gender-sensitive procedures.

One particular survey of access to justice issues from the point of view of abused immigrant women⁵⁵ made a number of specific recommendations on how these issues could be addressed. These included recommendations to create more support services for immigrant families in conflict, including outreach, legal aid and follow-up services for the victims, and to offer training to justice personnel on the specific issues encountered by migrant women victims. A few other local studies have looked at the legal information needs of women

immigrants and how the legal system could better meet the needs of abused immigrant women. More studies are required on the perceptions of migrant women victims of violence with respect to their experience with the police, the courts, and existing support services.

There is still an urgent need to address the specific nature of the problem of violence against women migrant workers and to protect and promote their rights and welfare. Of particular note is what has been termed the “feminization of migration.” Historically, labor migration was predominately male. This is changing. Poverty, desperation, and displacement are having a direct impact on the movement of women. The overall economic situation of a country often exacerbates the difficult situation faced by women and compounds the predicament in which they find themselves due to their own marginalized social and economic status.

As a consequence of the poverty, unemployment, and other socioeconomic conditions that prevail in their own country, there are large numbers of migrant women who have moved to the more affluent countries of the region in search of a living for themselves and their families. Many of them fall victim to various forms of exploitation and violence at the hands of their employers or others. Others, mostly illegal immigrants, are vulnerable to exploitation and violence at the hands of the organized criminal groups who smuggle them illegally into a country and the many others who later on take advantage of the fact that, as illegal migrants, they do not enjoy access to the normal legal recourses against violence and exploitation.

Most experts suggest that both host countries and countries of origin should support training programs for their officials, in particular immigration and law enforcement officials, who deal with the problem of violence against women migrant workers. Receiving countries and countries of origin must assist women migrant workers who are victims of violence and provide, in the reporting of such cases and the prosecution of the perpetrators, adequate consular, counseling, legal, and welfare services to victims. Adequate resources should be allocated for programs to strengthen preventive action, in particular information for relevant target groups and education and campaigns to increase public awareness of this issue at the national and community levels.

Member states have been called upon to consider adopting, as appropriate, legal measures against intermediaries who deliberately encourage the clandestine movement of workers and who exploit women migrant workers. In December 2000, the Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime was opened for signature. Under the Protocol, States Parties will be required to criminalize the smuggling of immigrants, including the procurement, provision, possession, or production of fraudulent travel or identity documents. The Protocol calls for general preventive measures based on the assumption that a key element of prevention is the dissemination of information about the true conditions during smuggling and after arrival. The Protocol also

calls for the gathering and sharing of information needed by law enforcement and immigration officials to take action against smugglers, such as information about the latest smuggling techniques and routes or about investigative and enforcement methods. Several of the region's jurisdictions, including Mexico, Canada, and the United States, have adopted or are considering new legislation against smuggling of illegal immigrants.

Refugees and Internally Displaced Women

There are still many jurisdictions in the region where a gender perspective has yet to be mainstreamed into national immigration and asylum policies, regulations, and practices. It is necessary for them to do so in order to extend protection to women whose claim for protection is based on gender-related persecution. Various forms of violence against women give rise to refugee flows, but the recognition of gender-based violence or prosecution as a ground for refugee status and special protection is relatively new. A few countries, like the United States and Canada, have incorporated the issue of gender-based persecution into their refugee determination and protection policies. Canada's "Gender Guidelines for Women Refugee Claimants Fearing Gender-related Persecution" and the United States' "Considerations for Asylum Officers Adjudicating Asylum Claims from Women" both recognize a number of different gender-related persecutions as a legitimate grounds for seeking asylum. Throughout the region, there continue to exist significant legal and administrative barriers to women obtaining asylum on the basis of gender-based persecution. Removing these barriers is rarely identified as a priority for action at the national level.

Refugee and internally displaced women are particularly vulnerable to many forms of exploitation and violence on the basis of gender. In some cases, they are victimized while awaiting in custody a determination of their status as refugee claimants. They seldom have access to services and, due to their uncertain legal status, they do not always enjoy the full protection of the state against various forms of violence and exploitation.

Finally, for many women migrants, the return home—particularly when it is not voluntary—is often problematic and can be yet another source of vulnerability to violence and exploitation. These situations, particularly in the cases of irregular migrants, rejected asylum seekers, and temporary refugees, raise major human rights issues that are only beginning to receive proper attention on the part of organizations such as the International Organization for Migration (IOM).⁵⁶

Chapter 9

Trafficking and Other Transnational Forms of Violence Against Women

Nature of the Problem

Global media coverage and increased travel have resulted in greater public awareness of opportunities elsewhere and an increased movement of both legal and illegal migrants. Over the last few decades, smuggling and trafficking of humans has become a determining factor in migration trends. An unabated demand for migration, in the face of stricter entry controls and requirements, has provided criminal entrepreneurs with new opportunities for reportedly enormous profits. Today, organized trafficking in persons is reaching every region of the world and is recognized internationally as a major law enforcement, human security, and human rights issue. Criminal organizations exploit the phenomenon of illegal migration and supply a variety of services to illegal migrants, such as smuggling, the provision of fraudulent travel documents, transportation, accommodation, job brokering, and even training in how to claim asylum or deceive border officials. The same criminal organizations are also quick to use deception and coercion to exploit illegal migrants themselves.⁵⁷ Current international discussions speak openly of slavery-like conditions, and the indentured status of trafficked persons is a prime example.⁵⁸

According to the United Nations Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy:

Each year, thousands of women throughout the world are trafficked; they are tricked, coerced, abducted, sold and, in many cases, forced to live and work under slavery-like conditions as prostitutes, domestic workers, sweatshops labourers or wives. The exploitation of female labour and of the female body has led to an international industry of trafficking in women. Such trafficking occurs for diverse purposes but the movement of women within countries and across frontiers is usually a result of their unequal bargaining power and vulnerability to exploitation.

Today, women are primarily trafficked from the South to the North and increasingly from South to South: from countries in which structural adjustment has bankrupted the State economy, deforestation has destroyed villages and forced families into urban areas and the feminization of poverty is most apparent to countries where the gross national product and the standard of living for the average citizen are higher. Consequently, trafficking in women is fuelled by poverty, racism and sexism.⁵⁹

While it will obviously continue to be important for member states to focus on how they can help prevent various traditional forms of violence against women,

the growing threat posed by transnational organized crime forces them to consider how they can protect women against transnational criminal organizations. Because these crimes are committed across borders and transcend the individual legal jurisdiction of each member state, they call for a response and for prevention strategies that are based on mutual cooperation between member states.

Combating trafficking in women and children requires a two-fold approach: a criminal justice response to prevent the crime and deter the offenders, and a human rights response to protect the trafficked persons and their rights. The Beijing Platform for Action formulated strategic objective IV.D.3, aimed at eliminating trafficking in women and assisting victims of violence due to prostitution and trafficking. Governments of countries of origin, transit, and destination, as well as regional and international organizations, it was recognized, should:

...take appropriate measures to address the root factors, including external factors, that encourage trafficking in women and girls for prostitution and other forms of commercialized sex, forced marriages and forced labor in order to eliminate trafficking in women, including by strengthening existing legislation with a view to providing better protection of the rights of women and girls and to punishing the perpetrators, through both criminal and civil measures" {Actions to be taken 30(b)}.⁶⁰

The United Nations High Commissioner for Human Rights has noted the fact that national antitrafficking measures have been used in some situations to discriminate against women and other groups in a manner that amounts to a denial of their basic right to leave a country and to migrate legally.⁶¹ All states are under an obligation to ensure respect for and protection of the rights of illegal migrants, including victims of trafficking, which are owed to them under applicable international law.⁶² The 1999 Trafficking in Persons report by the Office of the High Commissioner for Human Rights stated that the two fundamental principles in the area of trafficking are that:

- (1) human rights must be at the core of any credible antitrafficking strategy; and
- (2) such strategies must be developed and implemented from the perspective of those who most need their human rights protected and promoted.

International Initiatives

As mentioned previously, seven member states (Argentina, Belize, Brazil, Colombia, Panama, Paraguay, and Uruguay) have ratified the Inter-American Convention on International Traffic in Minors,⁶³ which came into force in August 1997. As of the end of 2000, 14 member states of the region had already ratified

the new Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, which has yet to come into force.

Several member states have also been directly involved in the development of an optional protocol to the proposed new United Nations Convention Against Transnational Organized Crime. The new Convention and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children has been open for signature since December 2000. States Parties to the new Protocol will undertake to offer better protection and support for trafficked persons, especially women and children, and to enact domestic laws that will make trafficking in persons a criminal offence. The Protocol calls for the provision of “appropriate housing, economic assistance, psychological, medical and legal support” to victims of trafficking as well as for education for child victims.

Prevention efforts foreseen under that international instrument include the provision of information and education to victims, potential victims, officials, and the public. The Protocol requires the training of officials not only in how to detect and investigate incidents of trafficking, but also in how to protect the rights of victims, including protecting victims from the traffickers. Finally, the Protocol contains some far-reaching provisions concerning the status of victims of trafficking in receiving states and the process of their repatriation. States Parties are expected to consider the adoption of legislative or other measures that would permit victims of trafficking in persons to remain in their territories, either permanently or temporarily. The provisions are also meant to ensure that repatriation of victims of trafficking is carried out in a way that takes into account their safety and the status of any legal proceedings related to the fact that they were victims of trafficking.

On the research side, the International Human Rights Law Institute (IHRLI), in partnership with the Inter-American Commission of Women (CIM) and the Inter-American Children’s Institute (IACI), has initiated a project that focuses on 14 countries of the hemisphere. The project will help assess national legislation, as well as national enforcement policies and practices concerning international trafficking in women and children for commercial sexual exploitation.

The U.S. Department of State’s Bureau of International Narcotics and Law Enforcement Affairs (INL) funded a project at Harvard University to develop a comprehensive database on U.S. and international legislation protecting women and children from commercial sexual abuse. Draft model legislation has also been developed as a guide for countries seeking to improve their laws on these issues.

Several countries of the Americas are also expected to participate in the United Nations Global Programme Against Trafficking in Human Beings designed by the Centre for International Crime Prevention (CICP) in Vienna, in collaboration with the United Nations Interregional Crime and Justice Research Institute (UNICRI) in Turin, Italy. The Global Programme involves both a situation

assessment and a technical cooperation component. The assessment component of the program involves data collection on various smuggling routes and the methods used by criminal organizations involved in trafficking in persons.

The International Organization for Migration (IOM) is also carrying out research and facilitating technical cooperation to promote the establishment of effective migration systems and render assistance to victims of trafficking. The IOM has established a task force on trafficking in migrants as a means of providing guidance for antitrafficking activities in different regions. It also issues a quarterly newsletter entitled "Trafficking in Migrants."

National Initiatives

Many observers have concluded that in all countries, but particularly in developing countries where women and children tend to be the weakest political element of society, national efforts to prevent trafficking in women and their sexual exploitation have been quite feeble. According to one observer:

Economic, race, and gender prejudices are the unarticulated premise for the neglectful or sluggish way in which national laws and policies respond to this widespread criminal phenomenon.⁶⁴

In most of the jurisdictions reviewed, women do not currently receive the level of protection they are entitled to expect from the criminal justice system against the many forms of exploitation and violence they can suffer at the hands of transnational criminal organizations. Until recently, in fact, the issue of transnational forms of violence against women and children appears to have been largely neglected. In Caribbean countries, for example, it seems that the importance of the issue is rarely acknowledged by the governments in spite of the numerous publicly known incidents of women being smuggled into or out of the country to work as involuntary sex workers or to be otherwise exploited by well-organized criminal groups.

Many women are forced to become prostitutes or to suffer other forms of exploitation in order to survive. Many of them fall victim to traffickers and smugglers. Preventive mechanisms are lacking, and many member states do not have the institutional capacity to confront the national and international criminal organizations engaged in procurement or trafficking. They often lack the inter-institutional and international cooperation mechanisms required to ensure that the agencies involved in the countries concerned take concerted action to prevent and punish trafficking in women and children. The criminals are therefore able to operate with a relatively large degree of impunity.

It seems from the little information that is currently available that in most jurisdictions of the region, trafficking offences are rarely prosecuted with success due to the poor protection that is being offered to victims and potential witnesses. Effective law enforcement is severely undermined because victims are unwilling or unable to testify against traffickers.⁶⁵ Victims are also often left to fend for

themselves against organized criminal elements in either or both the countries of origin and of destination.

Immigration laws, policies, and procedures clearly require urgent attention to ensure that the victimization of trafficked persons is not compounded by the interventions of the destination, transit, or source states. The vulnerability of migrants, in particular irregular migrants, as a result of their precarious legal status often leads to violations of their most basic human rights.⁶⁶ In many cases, it is clear that strict immigration laws and procedures relating to the deportation of illegal migrants or workers operate at cross-purposes with efforts to prosecute trafficking crimes and to protect the human rights of victims. In their zeal to punish traffickers and protect the integrity of their borders, states must take care not to inadvertently violate the principle of “doing no harm” to trafficked persons, for example, by increasing the risk of exposure to abuse by third parties.⁶⁷ There is a clear need to ensure better protection of the victims of such criminal practices.

In Peru and Brazil, public information campaigns have been launched about the problems of child prostitution, child abductions, and sex tourism. Several measures have been taken and more are being considered. In Peru, the Ministry of the Interior has specialized personnel trained to detect attempts to smuggle children and women out of the country. The Ministry of External Affairs has established a special office to facilitate the repatriation of victims of smuggling or trafficking. In Brazil, the number of female children and adolescents who have disappeared was so alarming that a system of anonymous denunciation was established to stimulate denunciations of these incidents to the authorities.

Several countries have amended their criminal law to address more directly the cases of sexual exploitation of women and children. In Chile, for example, the criminal law was amended in 1995 to create various offences relating to the sexual exploitation of women and trafficking in women and children for the purpose of prostitution. In Mexico, a series of amendments to the criminal law penalize various offenses relating to the sexual exploitation of children, including sex tourism.

In Ecuador, a recent study on migration and sexual violence documented some of the many violations and abuses suffered by migrant women at the hands of the “coyotes” (smugglers), the police, and others. In 1998, the criminal law of that country was amended to criminalize the activities of people who facilitate the departure from or entry into the country of persons for the purpose of prostitution. In Costa Rica, a National Commission was created to work against the commercial sexual exploitation of children and adolescents. In Mexico, the federal Government established a National Inter-institutional Commission to implement the National Action Plan Against the Commercial Sexual Exploitation of Minors.

In addition, several countries of the region have reviewed and amended their adoption laws to prevent the sale and exploitation of children. This was the case

of Paraguay's new law 1136/97 concerning adoptions. In Peru, the norms and processes relating to adoption were also reviewed with a view to preventing trafficking in children through fraudulent or exploitative adoptions. Some jurisdictions, such as the United States and Canada, have set up special enforcement and prosecution task forces to ensure an effective response to individual cases of trafficking and sexual exploitation.

In Canada, several recent studies funded by Status of Women Canada have begun to document the nature and various dimensions of these transnational forms of violence against women. These include "Migrant Sex Workers from Eastern Europe and the Former Soviet Union: The Canadian Case" and a study of the mail-order bride phenomenon in Canada.⁶⁸ A bill currently before the Canadian Parliament proposes a major reform of the national immigration law and would create the offences of human smuggling and trafficking.⁶⁹

In the United States, the Victims of Trafficking and Violence Prevention Act of 2000 created new criminal offences for severe forms of worker exploitation. The legislation provides assistance to victims of trafficking, including aliens, as well as financial restitution. The President's Interagency Council on Women (PICW) coordinates the U.S. Government's response to trafficking in women and girls. Furthermore, the new legislation instituted an international assistance program to encourage other countries to take steps against trafficking in persons and to meet minimum standards for the elimination of that international crime.

Also in the United States, the Department of Justice has funded a pilot project using a network of community-based organizations to provide culturally appropriate and language-specific services, such as mental health counseling, emergency shelters, and referrals for medical care, to victims of trafficking in the Los Angeles area. Through its child protection initiative, the Department is also involved in the coordination of a national network on youth prostitution whose goal is to track the activities of traffickers and follow through on prosecutions. The network also offers services to victims of traffickers and sex travelers, assisting girls in leaving the prostitution business and providing them with rehabilitation services. Immigration and naturalization officials have been trained on the needs of victims of trafficking, and information brochures for potential victims have made available in some U.S. embassies. The brochures describe the tactics used by traffickers and what women can do to protect themselves.

Finally, in recent years, some jurisdictions have recognized the need to address the issue of the use of modern communication and transportation technologies, including the Internet, for purposes of prostitution, child pornography, pedophilia, trafficking in women, and sex tourism. For example, some jurisdictions are exploring the possibility of enacting new laws or enforcing existing ones to prevent the misuse of the Internet for trafficking, prostitution, and the sexual exploitation of women and children. They are also looking at ways to encourage Internet service providers (ISPs) to adopt or strengthen self-regulatory measures to promote responsible use of the Internet.

Chapter 10

Research and Evaluation

Article 8: The States Parties agree to undertake progressively specific measures, including programs:

(h) 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;

Statistical information about the prevalence, nature, and context of violence against women is needed by policy makers, researchers, and legislators worldwide. The goal is for research to better contribute to the development of effective policies and programs to respond to the issue. To this point, however, data describing women's experiences with various forms of violence remains very limited throughout the region. Information is largely unavailable on a number of groups that are omitted from or insufficiently covered by national surveys and other regular research endeavors. There is still very little research focusing on immigrant or homeless women, women with disabilities, women in the military, or women in other institutional populations.

Although a significant amount of new research on violence against women has been conducted in the region during the last decade, most of it was confined to about half a dozen countries. The research and evaluation needs of the other countries of the region remain largely unattended. In particular, research on the effectiveness of various legislative initiatives, procedural reforms, and institutional programs continues to be sparse. Research on the social and economic costs of violence against women and its impact on social and economic development is only beginning to yield some results. Research on the linkages between gender-based violence and various cultural beliefs and attitudes must be expanded, as must be research on effective means to promote change in these cultural patterns. Finally, research on the link between violence against women and women's later involvement in illegal activity is another area in which some common assumptions are only beginning to be challenged.⁷⁰

Data-gathering on a Gender-disaggregated Basis

The absence of gender-disaggregated data and statistics on the incidence of violence makes the elaboration of programs and the monitoring of progress very

difficult. The lack of data impedes efforts to design specific intervention strategies.

In most countries of the region, the police are collecting some data on the incidents of violence that are reported to them. In many jurisdictions, efforts are currently being deployed to increase the quality of crime statistics in general. However, given women's frequent and understandable reluctance to bring violent incidents to the attention of the police, the data thus collected is usually biased and of limited usefulness for policy analysis and program development. Furthermore, in the majority of jurisdictions of the region, police statistics on violent crimes still do not include information on the gender of the victims and the perpetrators, their relationship, and the context in which the incidents occurred. Relatively few jurisdictions in the region can produce reliable, disaggregated health or crime data on the prevalence and nature of incidents of violence.

Hospitals and other agencies providing services to victims sometimes also collect data that may indicate the existence and accessibility of various services and how many patients/clients they can assist. However, their usefulness is otherwise quite limited.

In the United States, the departments of Justice and Health and Human Services are cooperating with practitioners and researchers to build more uniform ways to collect, analyze, and interpret information on violence against women. In 2000, a workshop entitled "Building Data Systems for Monitoring and Responding to Violence Against Women" was co-organized by the Department of Health and Human Services, the Centers for Disease Control, and the Office of Justice Programs of the Department of Justice. The workshop addressed the opportunities and challenges associated with public health surveillance and research relating to violence against women. It allowed participants to share information about data collection on violence against women and to identify gaps in and limitations of existing systems for ongoing data collection regarding violence against women. Although no single measurement tool is sufficient to gauge and track all dimensions of violence against women, the workshop concluded that personal interview surveys are a better tool for measuring the extent of violence against women than systematic review of medical, crime, or service delivery records. The published recommendations⁷¹ of the workshop provide advice that is relevant to researchers in every country of the region.

Monitoring of Official Criminal Justice Statistics

The most developed countries of the region have reasonably good official data on the violent incidents that women reported to the police. Unfortunately, the data are often of limited usefulness for policy making because they measure the activities of the police and the justice system, not the prevalence of incidents of violence against women. Variations in the official rates of incidents reported to the police mostly reflect the relative confidence victims have in the police or the justice system, as well as the relative willingness of women to report incidents of violent victimization to the police. According to public surveys, public confidence

in the ability of law enforcement agencies is particularly low in several countries of the region.

In a majority of countries of the region, official crime statistics show an increase in the number of incidents reported to the police. This cannot be taken as a sign that the prevalence of incidents of violence against women is necessarily increasing. In fact, it is an encouraging sign, in at least one way, that some countries have made it somewhat safer for some women to report their victimization to the police.

Studies on the Nature and Extent of Violence Against Women

Random surveys of the population can be used to study people's experience with crime and the justice system. They provide information that cannot be obtained otherwise, such as on the victims, the victimization incident, the consequences of the crime, and the victim's decision to report or not to report the incident to the police and to seek other forms of assistance. These studies can be costly and, although, they tend to be used regularly in many wealthy countries, they are only rarely or sporadically used in most countries of the region.

The absence of reliable victimization data is being felt and deplored in most countries of the region. In particular, victimization surveys and standardized data on the experience of women who personally face incidents of violence are lacking. The planning and monitoring of social and institutional change and the evaluation of its impact is hardly possible without such information.

Victimization surveys focusing specifically on domestic violence have been conducted in quite a few countries of the region.⁷² In Peru, a survey conducted in Lima and Callao allowed an examination of the experience of 2,460 women and of the link between domestic violence and various cultural and social beliefs and values. Other surveys have focused on sexual victimization or on the overall prevalence of incidents of violence against women. In Chile, for example, a study of the experience of victims of sexual aggression was conducted in 1998 by the Women's Institute.

Victimization surveys have their limitations, particularly when their focus is on violent crimes, domestic violence, or sexual assaults. These surveys still tend to underestimate the extent of victimization experienced by women. It is difficult for women to acknowledge their experiences of victimization, especially within the private sphere or when they are still in a vulnerable position towards their aggressor. Nevertheless, the victimization surveys conducted in countries of the region confirmed that the majority of women victims of violence do not report the incident to the police.⁷³ These surveys shed some light on the nature of the incidents that occurred, the fear they created, and the reasons why women were often reluctant to bring these matters to the attention of the justice system.

Some progress is being achieved in addressing the shortcomings of victimization surveys in measuring and documenting crimes of violence against women. Procedures and methods have been developed to take into account the sensitive nature of these crimes and the potential vulnerability of the respondents. The safety of victims and the confidentiality of data collected must be given a high priority. Data collection regarding the violent incidents must be designed to ensure confidentiality and to avoid potentially dangerous situations that could compromise the safety of victims.

Two countries of the region, Canada and the United States, have taken the extra step of developing victim surveys that are specifically dedicated to measuring women's experience of violence.⁷⁴ These dedicated surveys contribute a solid basis for awareness-raising and other prevention programs, clear parameters for legislative reforms and program development, as well as a baseline for program evaluation.

Data collected on the prevailing situation in one country cannot automatically be generalized to other parts of the region. National and local studies must therefore be supported. Nevertheless, the findings of the National Violence Against Women Survey in the United States⁷⁵ make it clear that violence against women, particularly intimate partner violence, should be regarded as a major public health and criminal justice concern in that country. The survey shows violence against women as endemic. The data collected on the injuries sustained and the medical services utilized by victims demonstrate the enormity of the physical and social costs resulting from these violent incidents. Women experience three times more intimate partner violence than men. Violence against women is primarily intimate partner violence, as 64 percent of the women who reported being raped, physically assaulted, and/or stalked since age 18 were victimized by a current or former husband, cohabiting partner, boyfriend, or date. The risk of injury increases among female rape and sexual assault victims when their assailant is a current or former intimate partner.

All of these findings and many others are full of implications for the development and the implementation of violence prevention strategies. It is suggested, for example, that because most victimizations are perpetrated against women by current or former intimates, prevention strategies should focus on how women can protect themselves from intimate partners.⁷⁶ The survey's findings also clearly point at the relationship between individual victimization as a child and subsequent victimization as an adult. Women who reported that they had been physically assaulted as a child by an adult caretaker were twice as likely to report being assaulted as an adult, and those who were raped before the age of 18 were twice as likely to report being raped as an adult.

An International Violence Against Women Survey is currently being developed by the European Institute for Crime Prevention and Control Affiliated with the United Nations (HEUNI), the United Nations Crime and Justice Research Institute (UNICRI), and Statistics Canada. The survey, which will use face-to-face interviews with women and a standardized methodology to allow for

crossnational comparisons, will likely be conducted during 2002 and will include Argentina, Costa Rica, Paraguay, Trinidad and Tobago, Uruguay, Canada, and the United States. Other countries should be encouraged to join the project and helped to do so if necessary.

Evaluations of Models, Strategies, and Programs

Rigorous evaluations of the effectiveness of various services are needed. In many cases, more work is required on further articulating the objectives of various programs and initiatives. In many cases, service providers and recipients do not necessarily define positive outcomes in the same manner. Furthermore, evaluation activities should address the financial costs of various violence-related services, including primary prevention activities.

Some observers suggest that future research on violence in the region needs to be “opportunistic and practical” and that the knowledge that has been generated over the past four or five decades in the industrial countries can be synthesized, transferred, and utilized throughout the region.⁷⁷ They argue that the evaluation of pilot projects and best practices ought to be declared a priority for research.

Limited information is available regarding the effectiveness of services for victims and perpetrators of gender-based violence, and this information is needed to guide program and policy development.

Chapter 11

International Cooperation

Article 8: *The States Parties agree to undertake progressively specific measures, including programs:*

(i) to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.

International Cooperation

States Parties to the Convention have agreed to cooperate with each other in the exchange of ideas and experiences and in the execution of programs to protect women who are victims of violence. As was mentioned previously, international cooperation is also particularly important with respect to the problem of transnational forms of violence against women. Article 9 of the new Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime stipulates that:

Article 9 (4): States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

That part of the new international instrument does not only acknowledge that international cooperation is particularly relevant in the fight against transnational forms of violence against women, but it also recognizes that international cooperation must go beyond narrowly defined projects and attempt to address the root causes of the phenomenon.

Based on the numerous examples of international cooperation that were observed during the current review, it is clear that nongovernmental organizations (NGOs) have relied on informal and formal international networks to enhance their mutual cooperation. However, it is not certain that governments have done all they could to cooperate with each other in addressing the problem of violence against women at the national and international levels.

Technical and Financial Assistance

For many jurisdictions, the securing of foreign technical and financial assistance was a crucial step in the process of implementing the Convention of

Belém do Pará. It was obvious during the current review that, in many jurisdictions, the progress achieved in implementing the Convention was very much dependent on the financial and technical assistance that could be obtained from other jurisdictions or from international organizations. Without resources from outside the country or from multilateral agencies, many states would have been hard pressed to devote any significant amount of resources to respond to the problem of violence against women. In the same way, many nongovernmental organizations that have played an important role so far in raising awareness about the issue of violence against women and in providing limited services to victims have survived mainly because of the outside financial assistance they have received.

The bilateral and multilateral assistance projects encountered during the review were too numerous to be presented in this report. They involved every conceivable aspect of the problem of violence against women, including support for public awareness and education campaigns, demonstration projects, training, and research. These projects were either developed as stand-alone initiatives or as part of broader assistance programs relating to justice sector reforms, human rights protection, children's rights, education, and other social and human development priorities.

At the bilateral level, the U.S. Agency for International Development (USAID)⁷⁸ and the Canadian International Development Agency (CIDA) supported numerous projects throughout the region. The Netherlands and Spain supported other projects. At the multilateral level, several organizations were actively involved in facilitating the exchange of information and expertise among countries and the development of national projects and initiatives. Among them are:

- the CIM and other OAS agencies;
- the Inter-American Development Bank (IDB);
- the European Community;
- the World Health Organization (WHO);
- the Pan American Health Organization (PAHO);
- the United Nations Development Fund for Women (UNIFEM);
- the United Nations Children's Fund (UNICEF);
- the Central American Parliament's Commission on Women, Children, and Families; and
- the Inter-American Children's Institute (IACI).

In 1997, for example, the UNIFEM Trust Fund in Support of Actions to Eliminate Violence against Women was created by the UN General Assembly as an important and strategic part of UNIFEM's work on gender-based violence. The Fund's primary goal is to identify and support innovative projects aimed specifically at preventing and eliminating violence against women. As of July 2000, the Trust Fund had mobilized \$4.3 million in funds from governments and private donors to support NGO projects addressing violence against women. The findings generated by the projects provide insights into the most innovative and effective strategies for eliminating violence against women.

The Trust Fund is an excellent example of the kind of strategic approach to cooperation and international assistance that is needed. The purpose of the Fund and its related activities is to inform national governments and civil society about effective strategies for eradicating violence against women. Similar strategic approaches must be developed to promote assistance that goes beyond the funding of demonstration projects and research, and provides support for the implementation of public information and law reform initiatives, as well as the sustainable development and funding of services for victims.

In order to achieve the full implementation of the Convention of Belém do Pará throughout the region, member states will have to elaborate and agree upon a comprehensive hemispheric cooperation and mutual assistance strategy. At the same time, countries eligible for development assistance must be more careful to fully integrate the work they have undertaken to implement the Convention as part of their official development plan.

Chapter 12

Conclusions

The Eradication of Violence Against Women

In many of the countries reviewed, the ratification of the Convention of Belém do Pará represented a high point in the efforts of women of that country to compel their governments to recognize their responsibilities with respect to the right of women to a life without violence. In some cases, the effort required to bring about that level of official recognition seemed to have exhausted the energy of the groups involved. In other cases, it provided a fresh impetus for concrete action.

The ultimate objective of the Convention was and remains the eradication of violence against women. In general, it has been widely recognized that some of the most crucial changes required to achieve this objective, including significant changes in attitudes, beliefs, and traditions, would take a long time to take effect. This is perhaps why, once some institutional processes had been put in place, there emerged a tendency to learn to “cope” with the problem and perhaps even to “tolerate” it, as opposed to a renewed determination to eliminate it altogether. Patience and perseverance must not be allowed to slowly become a new guise for complacency.

In terms of the immediate impact of the ratification of the Convention by various member states, it became clear during the review that some jurisdictions have treated the ratification of the Convention as a “destination” and not as a “point of departure.” In several cases, the governments did not take concrete and sustained actions after ratifying the Convention to ensure its full implementation.

When reflecting upon the impact of the Convention on the phenomenon of violence against women in the region, one must ask whether women and girls are less vulnerable or less exposed to incidents of gender-based violence than they were before. Are they less often victimized? Is their ability to live a life free of violence significantly enhanced as a result of measures that have been taken since the adoption of the Convention? The unfortunate reality, however, is that sound information does not exist in most countries to allow us to measure change. All that can be said, on the basis of the little information that exists, is that it is very unlikely that significant progress has been achieved in the last five years in reducing the incidence of gender-based victimization or the number of women who are affected by it.

Main obstacles

The implementation of the programs and measures called for by the Convention has met with considerable difficulty throughout the region. It is probably fair to say that the full implementation of the Convention has not yet been achieved in any one of the countries reviewed. Each country has had to face specific difficulties relating to its own circumstances, political context, economy, and level of development, as well as its traditions and legal system, the size and diversity of its population, and its geography. There, is however, an emerging pattern of obstacles which has clearly diminished the efficacy of the efforts of many States Parties to live up to their commitments under the Convention.

Some of the obstacles that have generally been encountered were as follows:

Political conditions

In some cases, political change or instability has contributed to the weakening of the efforts of a State Party to proceed with the reforms it had formally undertaken to achieve. Political leadership has sometimes been missing or has not been consistently offered. In many countries, several proposed reforms have died a natural death for lack of effective political leadership and political will to pursue them vigorously.

Economic conditions

Economic disparities among and within countries, economic instability, and underdevelopment have all had a heavy impact on the lives of women. They also affect the ability of states to provide social protection, security, and funding for essential services and programs to prevent and punish violence against women or provide protection and assistance to victims. Natural disasters and social unrest have also sometimes compounded the problem.

Economic inequalities reinforce women's subordinate position in society and render them vulnerable to many forms of violence. Poverty among women and their economic dependence on men are problems that largely remain to be addressed. As long as inequalities are not confronted and resolved, large segments of the female population will remain unable to enjoy their rights, including their right to a life without violence.

Even in cases where the law and the justice system afford women some level of protection against violence, their economic dependency often prevents them from seeking that protection. Many existing programs and reforms seem to have underestimated that difficulty.

Lack of financial and technical resources

In the majority of countries of the region, the need for services and programs is totally out of proportion to the amount of services offered. Financial resources are often not available to effectively implement the programs that have been mandated by legislation or by official policies. During the review, programs were often encountered which, because of financial restraints, existed only on paper and had become a mere shadow of their original design. Oftentimes, programs subsisted and continued to offer essential assistance to victims only because of the sheer determination of a small group of volunteers who refused to give up after funding for the program had run out.

Resources are sometimes also diverted from the provision of essential services to women victims of violence to the pursuit of other priorities (including other social issues and the prevention of other forms of crime). Several states facing severe financial constraints have, often in response to public pressure, given a higher priority to other issues rather than the fight against violence against women.

It is also usually the case that a country's new programs and initiatives to address the problem of violence against women are not consistently applied throughout the territory. The urban /rural divide is still a significant obstacle. There remains a great need for further outreach efforts to be expanded beyond the urban centers. The lack of financial and technical resources continues to be felt more acutely outside of the main urban centers. In most rural and remote communities, efforts to address the problem of violence against women continue to be hampered by the absence of economic opportunities for women as well as the general lack of adequate health care, education, public transportation, and law enforcement resources.

Sociocultural factors and attitudes condoning discrimination and violence against women

The presence of competing values and beliefs about women and their place in the family and in society continues to play against the unequivocal affirmation of women's rights, particularly their right to a life without violence. Attitudes, beliefs, and sexist stereotypes persist and continue to be widely held by both men and women. They impede efforts to translate women's rights into a reality for women. Attitudes and norms that are still prevalent in many parts of the region often devalue women's work; discourage their participation in political life or the assertion of their legal rights through the legal and political process; and discourage and sometimes deny the participation of fathers in family life, child care, and the equal sharing of family responsibilities.

In some countries, prevailing norms and attitudes tolerate or encourage abusive polygamous arrangements (e.g., multiple families, concubines),

making it nearly impossible for women to leave an abusive relationship or severely limiting a woman's reproductive choices. Such attitudes and beliefs provide a basis for traditional practices, social norms, and institutional forms of discrimination that are prejudicial to women and often openly encourage or provide justification for gender-based violence. The same attitudes are also responsible for the frequent stigmatization and isolation of women who assert their right to a life without violence.

Presence of a culture of violence

All countries of the region are affected by the pervasive effects of a prevalent culture of violence that trivializes all forms of violence and presents them as inevitable. In the process, gender-based violence is also trivialized.

New perils

New problems are arising from the use of information and communication technologies. They facilitate certain types of violence against women, such as child pornography, sex tourism, and trafficking in women and children, and facilitate various forms of economic and sexual exploitation of women. They also make the prosecution of such crimes more difficult, particularly when they occur either across border or on the Internet.

Poor planning

In far too many jurisdictions, efforts to combat violence against women are fragmented and poorly coordinated. These plans too often focus on attempting to alleviate the symptoms and consequences of violence against women, rather than specifically addressing the root causes of gender-based violence. Cooperation between sectors of intervention is often weak, and particularly when financial resources are insufficient, there is a counterproductive level of competition between service providers and between them and other agencies active in the fight against violence against women.

Comprehensive national or local plans of action, based on an assessment of the situation and with clearly specified targets, can go a long way to reduce these obstacles. Such plans rarely exist and, when they do, they too often have been developed without proper input from the main groups and agencies ultimately responsible for their implementation.

There exist several examples of comprehensive plans of action that have provided a clear impetus for action and have helped various sectors coordinate their activities. In these cases, the main challenge often lies in ensuring that the progress made in implementing the plan is effectively monitored and that all key actors remain sufficiently mobilized.

In some large countries, difficulties are often experienced in securing the full cooperation of all levels of government. Establishing the required coordination and necessary strong partnerships among all levels of government is often very difficult.

The mobilizing of young people, particularly young women, appears to create a new challenge for many organizations. Many young people act as if gender inequalities and gender-based violence are issues of the past.

Absence of effective monitoring mechanisms

It seems that progress is too often assumed to have taken place. The lack of monitoring mechanisms and accountability measures to ensure the effective implementation of national policies is a major issue in most countries. This is particularly important in the case of policies or measures that are not well received or even resisted by some or parts of the institutions concerned. This is also crucial in the case of policies that may be challenged by the prevailing subculture in a particular agency or institution.

Absence of data

The absence of data is being felt and deplored in most countries of the region. In particular, victimization surveys and standardized data on the experience of women who personally face incidents of violence are lacking. The planning and monitoring of social and institutional change and the evaluation of its impact are not possible without such information.

Lack of understanding of violence against women and its causes.

Although a significant amount of new research has been conducted in the region, most of it was conducted in about half a dozen countries. The research and evaluation needs of most other countries with respect to the problem of violence against women remain largely unattended. In particular, research on the effectiveness of various legislative initiatives, procedural reforms, and institutional programs continues to be sparse. Research on the links between gender-based violence and various cultural beliefs and attitudes must be expanded, as must be research on effective means to promote change in these cultural patterns.

The Way Forward

Significant progress has clearly been achieved throughout the region in promoting an understanding of violence against women as a violation of human rights. The existence of the Convention has, in itself, contributed to a renewed awareness of the seriousness of the problem and the responsibility of the state to

take concrete measures to prevent and eradicate it. Throughout the region, there seems to be a greater acceptance of the fact that violence against women and girls, whether in public or in private, is a violation of their basic human rights. That idea, however, continues to meet strong resistance, much of it only covertly expressed or cynically disguised as a form of pragmatism. That resistance should be challenged directly.

The drive that once existed to bring about meaningful change appears to have been somewhat eroded. Whether this is because, as some respondents suggest, women have lowered their expectations of government institutions or have relaxed their vigilance, it seems that the pressure that was once exerted on governments to live up to their commitment to protect the rights of women to a life without violence has become somewhat weaker in a number of countries. There is, therefore a need for national, subregional, and regional organizations to develop strategies to increase pressure on national governments to fulfill their commitments under the Convention.

The accountability of the state, its agencies, and officials is fundamental. The obligations of the state and its various institutions to prevent, punish and otherwise respond to violence against women have been clearly defined by international law in general, by the Convention itself, and often also by national laws. However, the question of whether and how these obligations are effectively fulfilled by States Parties is an entirely different matter. National or local mechanisms need to be strengthened and provided with the authority and practical means to more effectively monitor the actions of various institutions and government agencies and evaluate their progress and success in eradicating violence against women. This accountability can only be fostered by the existence of reliable information on the incidence of violence against women and on the experience of the victims.

Rigorous evaluations of the effectiveness of various services and other forms of intervention are needed. These evaluations should address the financial costs of various violence-related services, including primary prevention activities.

There is a deplorable absence of reliable victimization data in most countries of the region. In particular, victimization surveys and standardized data on the experience of women who personally face incidents of violence are lacking. The planning and monitoring of social and institutional change and the evaluation of its impact is hardly possible without such information.

The above observations point to the need to invent new ways to sustain and enhance the efforts that have been made so far, to consolidate the gains that have been achieved, and to hold accountable those who have been entrusted with the responsibility to implement the required institutional reforms. In addition to these priorities for future action, particular care must be given to addressing the plight of victims of violence perpetrated by state agents.

Furthermore, the continued neglect of the plight of victims who belong to various minority, ethnic, or racial groups, indigenous women, refugee women, migrant women, and women living in rural and remote communities cannot be tolerated. These women are especially targeted and usually more vulnerable to violence. The difficulties they encounter must be specifically addressed as part of national plans and programs.

Access to justice mechanisms for children and adolescents must also be recognized as a priority. Programs are urgently required to enhance the ability of children and adolescents to access the justice system and to benefit from the protection it provides. Specialized programs are also urgently required in most jurisdictions to assist child victims in their reintegration and full physical and psychological recovery. New measures are needed to ensure appropriate training, in particular legal and psychological training, for the persons who work with child victims of sexual exploitation. Special priority should be given to developing measures to protect street children and other children who are particularly vulnerable to acts of violence and sexual exploitation, as well as children in detention.

The challenge created by the proliferation of various forms of transnational exploitation and violence against women calls for resolute action and cooperation on the part of all countries of the region. The vulnerability of migrants, in particular irregular migrants, as a result of their precarious situation often leads to violations of their basic human rights. In many cases, it is clear that strict immigration laws and procedures relating to the deportation of illegal migrants or workers work at cross-purposes with efforts to prosecute trafficking crimes and to protect the human rights of victims.

Ways to develop or renew a social commitment to the goal of eradicating violence against women must be explored. Advocacy for women's rights, in particular the right of women to a life without violence, needs to be reenergized and strengthened. In that regard, during the current review, many respondents expressed a concern that younger generations of women appeared to be either less committed than their predecessors to the objective of eliminating violence against women or too quick to assume that the problem had already been resolved.

Even if the institutional, attitudinal, and programmatic changes prescribed by the Convention have been implemented to a certain extent in most countries, they have not yet yielded all the concrete results that were hoped for. Many countries have taken formal actions, including declarations, legislation, and constitutional amendments to reaffirm the right of women to a life without violence. However, the impact of these measures has too often been limited to symbolism.

Governmental initiatives against gender-based violence have tended to focus on policy and law reform, frequently without sufficient means devoted to the implementation of these reforms. Too many initiatives seem to have been content to offer formal legal protection to women without providing them with the

genuine means to access that protection. Finally, in the majority of countries reviewed, the Convention itself was poorly communicated to the population and remained rather unknown by those who would normally be expected to participate fully in its implementation.

The depth of the commitment of each government to implement the Convention is not easily ascertainable. During the period reviewed, that commitment certainly appeared to fluctuate, even within countries, as governments and their priorities changed. In some cases, that commitment was translated into concrete and effective action, but in several other cases, it was not. In many countries, the task of promoting and implementing the necessary reforms has been largely left to nongovernmental agencies that too often did not have access to the required resources. In fact, it was clear that several countries were either unable or unwilling to devote the necessary human and financial resources to the cause.

APPENDIX

NATIONAL EFFORTS TO PREVENT, PUNISH, AND ERADICATE VIOLENCE AGAINST WOMEN IN THE AMERICAS

QUESTIONNAIRE

1. What are the specific mechanisms in place in your country to implement the Convention of Belém do Pará? *(Please describe the mechanisms or provide a copy of an existing description.)*
2. Has your country adopted a national action plan or a comprehensive strategy to eliminate violence against women? *(Include, if possible, a copy of relevant documents.)*
3. What measures are being taken in your country to gather data/information in a gender-disaggregated manner to measure the prevalence of violence against women, to monitor official crime statistics, or to evaluate various approaches to eliminate violence against women?
4. What data currently exist in your country on the prevalence and nature of violence against women and on the factors contributing to it? *(Please provide, if available, official statistics, victimization study reports, etc.)*
5. Please describe the programs and initiatives undertaken in your country to raise public awareness of the problem of violence against women, eliminate sexist and discriminatory practices contributing to it, and promote the right of women to a life free from violence.
6. What measures have been taken in your country to prevent, investigate, and punish institutional violence against women and to ensure that authorities, officials, government personnel, agents, and institutions refrain from engaging in any act or practice of violence against women?
7. What legislative or administrative measures have been taken under national law (criminal/penal, civil, administrative) to prevent and respond to violence against women? *(Please provide a copy of relevant legislation, bills, etc.)*
8. What practical measures and strategies, in the field of crime prevention and criminal justice, have been implemented in your country to eliminate violence against women (including training initiatives and programs and policies adopted to protect women against intimidation, retaliation, threats, and harassment)?
9. Please describe the kind of legal information, specialized assistance and support services, and access to prompt and fair redress that are available in your country to women victims of violence.
10. What are the measures being taken in your country to combat transnational forms of violence against women, including trafficking in women and children and forced prostitution?
11. Do programs and services exist in your country to protect and support women who are especially vulnerable to violence by reason of age, physical/mental handicap, race, ethnic background, or by their status as refugees, migrants, prisoners, or displaced persons? *(Please describe.)*
12. Have studies been conducted or is there ongoing research in your country concerning violence against women, its causes and consequences, as well as on the best means to prevent and eradicate it? *(Please provide references and, if possible, a copy of available reports.)*

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