



Organization of  
American States



## TECHNICAL NOTE VIOLENCE AGAINST WOMEN IN THE CARIBBEAN<sup>1</sup>

### BELÉM DO PARÁ

- The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belém do Pará”) represents a **legally-binding mandate** for the Latin American and Caribbean States Party. This is the only regional agreement to explicitly address the issue of violence against women (VAW).
- The **States Party** to the Convention not only condemn, but also commit themselves to “...pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence”.
- Belém do Pará defines VAW 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”, that is, in the family as well as the community or social/state spheres.
- Belém do Pará, in accordance with The American Declaration on the Rights and Duties of Man and The Universal Declaration of Human Rights, asserts that VAW is “...a violation of their human rights and fundamental freedoms, and impairs or nullifies the observance, enjoyment and exercise of such rights and freedoms.”
- Such violations of human rights have consequences for the physical and emotional well-being of women, boys and girls, and their participation in the social, political and economic spheres – it represents one of the most serious obstacles to sustainable human development in the Americas.
- According to Belém do Pará, VAW is a universal problem of epidemic proportions that “...pervades every sector of society regardless of class, race or ethnic group, income, culture, level of education, age or religion and strikes at its very foundations”.
- Belém do Pará makes the distinction between: (1) violence within the family or within any other interpersonal relationship; (2) violence which is practiced outside the domestic sphere, by any person, and “...includes 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 (3) violence which originates from the arbitrary use of power by States themselves.
- Belém do Pará identifies the cause of VAW as “...the historically unequal power relations between women and men,” that is, **gender inequality**. It interprets VAW as gender-based violence, a type of violence that is socially and culturally constructed, and therefore susceptible to eradication.
- The Convention establishes women’s right to live a life free of violence and it outlines the human rights and universal freedoms needed in order to exercise this right.

<sup>1</sup>Prepared by Paz Castillo and Luciana Prado for the Inter-American Commission of Women (CIM), October 2010.

This technical note is a draft extracted from a report on the implementation of the Convention of Belém do Pará, currently being prepared by the CIM. It cannot be quoted as the information contained in the report has to be verified/updated by the countries that are referred to in this note. The content relies on reports and studies by UNIFEM (specially the work of Roberta Clarke), ECLAC, the CIM/OAS and the ICHR/OAS.

The following Caribbean countries have acceded to or ratified the Belém do Pará Convention:

Signatory	Signature	Status of the Convention
Antigua & Barbuda	*	11/19/98 (Accession)
The Bahamas	05/16/95	05/16/95 (Accession)
Barbados	05/16/95	05/16/95 (Ratificación)
Belize	11/15/96	11/25/96 (Accession)
Dominica	*	06/06/95 (Ratificación)
Grenada	*	02/15/01 (Ratificación)
Guyana	1/10/95	02/28/96 (Ratificación)
Haiti	*	06/02/97 (Accession)
Jamaica	12/14/05	12/14/05 (Ratificación)
Saint Kitts & Nevis	06/09/94	06/12/95 (Ratificación)
Saint Lucia	11/11/94	04/04/95 (Ratificación)
Saint Vincent & the Grenadines	03/05/96	05/31/96 (Ratificación)
Suriname	*	03/08/02 (Ratificación)
Trinidad & Tobago	11/03/95	05/08/96 (Ratificación)

\* Indicates a country that has not signed the Convention

Source: Status of Signing and Ratification of the Convention of Belém do Pará, Inter-American Commission of Women (<http://www.oas.org/cim/english/Laws.Rat.Belem.htm>)

## PREVALENCE

- Belém do Pará defines violence against women as a phenomenon based on gender inequality, of great prevalence and with consequences<sup>2</sup> and significant costs<sup>3</sup> for the individual and family as well for society and community.
- Some authors have estimated that one in every three women has been beaten, violated or abused in some way during her lifetime, most often by an intimate partner.<sup>4</sup> For women between the ages of 15 and 44, violence is the main cause of death and disability.<sup>5</sup> According to UNIFEM,<sup>6</sup> several studies establish that “...half of the women who die by homicide are murdered by their partners or by current or past husbands.”<sup>7</sup>
- The levels of violence against women in the Caribbean region are consistent with, and in some cases higher, than those of other geographic areas. Some studies have concluded that in the Caribbean, two out of every three women have been beaten at one time by at least one of their spouses.<sup>8</sup> For example:
  - A 1998 study in the British Virgin Islands stated that 25.5% of women had been physically abused.<sup>9</sup>
  - In the Bahamas, the murder of women (femicide) related to domestic violence represented 42% of the total of those murders in the year 2000, 44% in 2001 and 53% in 2002.<sup>10</sup>

<sup>2</sup> See for example, Singh, Charmaine C., *Mental Disorders in Female Victims of Intimate Partner Violence in Trinidad*. DM, UWI, St. Augustine, 2002

<sup>3</sup> See for example, Morrison, Ellsberg, Bott. “Preventing and responding to gender-based violence in middle and low-income countries: a global review and analysis” World Bank Policy Research Working Paper 3618, June 2005.

<sup>4</sup> Heise, Ellsberg and Gottemoeller, 1999 in World Bank, *Addressing Violence Against Women*.

<sup>5</sup> Council of Europe Parliamentary Assembly, 2002 quoted in United Nations Development Fund for Women, 2007

<sup>6</sup> United Nations Development Fund for Women, 2007.

<sup>7</sup> WHO, *World Report on Violence and Health*, Krug et al. eds, 2002.

<sup>8</sup> Clarke, Roberta. *Violence against Women in the Caribbean: State and non-State VAW*. New York: UNIFEM. 1998, p.7.

<sup>9</sup> ECLAC. *!Ni una más! El derecho a vivir una vida libre de violencia en América Latina y el Caribe Chile*. Economic Commission for Latin America and the Caribbean, 2007, p.35.

<sup>10</sup> ECLAC, 2007, op.cit. p.8 and p.70-71.

- Trinidad and Tobago <sup>11</sup> records that 30% of women sampled have suffered domestic violence. Police data from 1991 show that one woman is raped every 1.75 days.<sup>12</sup>
- In Guyana, one in every four women in partnered relationships has suffered physical violence.<sup>13</sup>
- In Suriname, violence against women within marital relations reaches 69%.<sup>14</sup>
- The results of a qualitative study carried out in Dominica demonstrated that 32% of the interviewees had been victims of violence by their spouse or partner.<sup>15</sup>
- In a study of Barbados, 30% of interviewed women had suffered childhood sexual abuse.<sup>16</sup>
- A 2005 CEPAL and UNIFEM report on violence against women in the Caribbean, points out that gender inequality and male alienation increase VAW and that its incidence is independent of ethnicity, geography and employment.<sup>17</sup>
- With regard to risk factors for VAW, a study carried out in Belize identified factors for a sample of 182 people, including the use of alcohol (65% of cases), drugs (66% of cases), unemployment (49%) jealousy (65%) and infidelity (60.9%).<sup>18</sup>

## JUDICIAL REFORM

- Beginning in the 1980s, the Caribbean governments have advanced the implementation of an agenda, strongly focused on legislative reform, to fight violence against women. The leadership and political pressure of a strong and unified movement of women,<sup>19</sup> the signing of international legal commitments, including Belém do Pará, and the work of both the national mechanisms for gender equality<sup>20</sup> and the international community promoted agendas of change that were implemented during the 1990s and that have generated third generation legal and policy reforms in some countries throughout this last decade.
- In addition to legislative reform, action around violence against women has also included capacity-building with police and justice officials, the provision of health and legal services for victims and specific preventive actions, in particular public information and communication campaigns and educational training
- In spite of this progress, according to Roberta Clarke (UNIFEM), the work of Caribbean governments has been limited, outside the justice sector.<sup>21</sup> Even when new legislation is adopted, it is usually limited to certain types of violence against women, in particular intra-family or domestic violence (see table 1).
- Of the 14 OAS member states in the Caribbean, only 9 have specific legislation that criminalizes rape within marriage.<sup>22</sup> Of these, 3 countries penalize the crime directly, and 6 penalize it only if the couple is in the process of separation or divorce (for more information, see Annex 1). Similarly, legislation is still weak or non-existent for sexual offenses, in particular incest. In this way, the legal and policy reforms regarding domestic or intra-family violence are pioneering and much stronger than those regarding other types of violence such sexual offenses, incest, and rape within marriage (see Table 1).

<sup>11</sup> CAFRA study, 1998. Cited in CEPAL, op.cit. p.35.

<sup>12</sup> Clarke, op.cit. p.10.

<sup>13</sup> A study of UNIFEM and CEPAL (2005). Cited in CEPAL, op.cit. p.35.

<sup>14</sup> Information compiled by WHO (1999). Cited in CEPAL, op.cit. p.35.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> UNIFEM, 2005. Eliminating Gender-Based Violence - Ensuring Equality, p.5. Barbados: United Nations Development Fund for Women.

<sup>18</sup> Kamala, Kempadoo, 2006. CEPAL (2005). Cited in CEPAL, op.cit. p.35.

<sup>19</sup> Clarke, op.cit.

<sup>20</sup> National Mechanisms for Gender Equality exist in all Caribbean countries, usually as part of a particular line ministry.

<sup>21</sup> Clarke, op.cit.

<sup>22</sup> UNIFEM, op.cit..

Table 1: LEGISLATION ON VIOLENCE AGAINST WOMEN IN THE CARIBBEAN

Country	Domestic or intra-family violence	Rape in marriage	Human trafficking	Forced prostitution	Sexual harassment
Antigua & Barbuda	Yes	Yes	Not clear	No	Not mentioned
Barbados	Yes	Yes	No	Yes	Not mentioned
Belize	Yes	Yes	Yes	Not mentioned	Yes
Dominica	Yes	No	Not mentioned	Not mentioned	Not mentioned
Guyana	Yes	No	Yes	Not mentioned	Not mentioned
Haiti	It is not clear	No	Yes	Not mentioned	Not mentioned
Jamaica	Yes	Not mentioned	Yes	Not mentioned	In planning stages
Dominican Republic	Yes	Yes	Yes	Not mentioned	Not mentioned
Saint Lucia	Yes	Yes	No	No	Yes
Suriname	Only some incidents	No	Yes	No	No
Trinidad & Tobago	Yes	Yes	No	No	Not mentioned

Source: Adapted from CIM. *Hemispheric Report of MESECVI*. Washington, DC: Organization of American States, 2008. Answers provided by the States party to Belém do Para using the questionnaire circulated by the MESECVI Committee of Experts

- Sexual offenses in particular were much later in being addressed by legislative reforms, and problems with respect to these laws continue to exist in the majority of the countries. In Jamaica, for example, the conviction rates for sexual offenses are much lower than for other types of violent crime.<sup>23</sup> Also notable is the almost complete absence of legislative attention to sexual harassment in the workplace.
- In response to these limitations, the CARICOM Secretariat has developed “model legislation on issues affecting women”<sup>24</sup> that covers several different types of VAW and can be used by CARICOM countries in order to address gaps in their national legislation.
- This approach of the CARICOM countries to addressing VAW, centered mainly on legislative reforms, only partially responds to the commitments made by these countries in their signing, ratification or accession of Belém do Pará.<sup>25</sup> This is a significant limitation to the real impact of national efforts to address VAW,<sup>26</sup> and the Convention is explicit in this respect. Apart from legislative reform, an appropriate provision of comprehensive services, prevention efforts and changes in the status of women and gender inequality are also essential elements of an effective response to VAW.

## TREATMENT AND PREVENTION

<sup>23</sup> UNIFEM, op.cit.

<sup>24</sup> In terms of VAW, model legislation is available on Domestic Violence, Sexual Offences and Sexual Harassment. See: [http://www.caricom.org/jsp/secretariat/legal\\_instruments/model\\_legislation\\_women\\_issues.jsp](http://www.caricom.org/jsp/secretariat/legal_instruments/model_legislation_women_issues.jsp), for more information.

<sup>25</sup> Clarke, op.cit. p.39.

<sup>26</sup> Ibid. p.37.

- In addition to legislative reform, the majority of the countries of the Caribbean have assigned their limited financial and human resources (including those of the national mechanisms for the advancement of women) to the implementation of specific capacity-building or awareness-raising efforts and to the provision of specific services. This has left aside the collection of data, research and analysis on VAW,<sup>27</sup> which has generated significant knowledge gaps that require attention in order to improve the effectiveness of other efforts.
- The treatment programs implemented in the Caribbean in order to address VAW have faced a number of challenges that have limited their potential impact: an insufficient provision, in the majority of the countries, of some services or specific actions, a lack of coordination among sectors that could have been fostered by the development of national action plans to address VAW, and strategic actions that could have supported the effectiveness of existing efforts:
  - In terms of services, medical coverage, shelters or housing services, offender-treatment programs, support services for victims and their families and capacity-building/awareness-raising for service-providers are generally inadequate, or insufficient.
  - In terms of specific actions, there is still a significant lack of prevention efforts (particularly within the education system), research and services related to the abuse of children, and conceptual reflection and understanding of the underlying socio-cultural and political causes of VAW, in particular related to the issue of masculinity.
  - In terms of strategic actions, there is an urgent need to raise public and political awareness of the issue, develop coalitions and alliances between sectors and social movements, strengthen the national mechanisms for the advancement of women and improve efficiency in the face of scarce resources.<sup>28</sup>
- At the programmatic level, there is still a lack of research, quantitative and qualitative information and monitoring and evaluation that allows for an identification of what does, or does not work, and what impact existing efforts have had.
- Governments must generate integrated, inter-sectoral and comprehensive responses to VAW – ideally through the development and effective implementation of national plans (see Table 2). These plans should provide for the participation of relevant actors, beyond national mechanisms for the advancement of women, and for increased coordination. In terms of the Caribbean, it is worth noting the tendency to adopt national plans on gender equality, which place specific emphasis on gender mainstreaming at the ministerial level.
- National mechanisms for the advancement of women must go beyond the provision of services to facilitate the coordination of efforts among different national offices, promote research and formulate policy on gender equality and violence against women.

Table 2: NATIONAL PLANS BY COUNTRY

Country	National Mechanism	Gender Equality Plan	VAW Plan
Antigua & Barbuda	Directorate of Gender Affairs	Gender & Development Plan (2004-2014)	--
Bahamas	The Bureau of Women’s Affairs (part of the Ministry of Social Development and Social Transformation)	--	--
Barbados	Bureau of Gender Affairs (part of Ministry of Social Transformation)	Developing National Policy on Gender (2008), (2009-2013)	--

<sup>27</sup> UNIFEM, op.cit. p.6.  
<sup>28</sup> Ibid. p.75.

Belize	Women's Department (part of Ministry of Human Development)	--	National Gender-Based Violence Plan of Action (2010-2013)
Dominica	Bureau of Gender Affairs (part of Ministry of Community Development, Gender Affairs and Information)	National policy and action plan on Gender Equity and Equality (2006)	--
Dominican Republic	Secretaria de Estado de la Mujer	PLANEG (2006-2016)	--
Grenada	Domestic Violence Unit (part of Ministry of Social Development, Gender & Family Affairs & Housing)	--	--
Guyana	Women's Affairs Bureau (part of Ministry of Labour, Human Services & Social Security)	Revised National Policy Paper on Gender (2006)	National Policy on Domestic Violence (2008) (2008-2013)
Haiti	Ministry of the Status of Women and Women's Rights	--	National Plan to Combat Violence against Women (2005) (2006-2011)
Jamaica	Bureau of Women's Affairs	National Policy for Gender Equality (NPGE). As of May 2010 <sup>29</sup> the Policy had been finalized and submitted to the Cabinet for approval.	--
St. Kitts & Nevis	Department of Gender Affairs (part of Ministry of Health, Social and Community Development and Gender Affairs)	Gender Policy for St. Kitts and Nevis (2010) As of September 2010 the policy was at proposal stage and seeking funding, in addition to working with ECLAC and seeking funding from UNIFEM.	--
St. Vincent & the Grenadines	Gender Affairs Division (Ministry of Social Development)	--	Initiatives on GBV and draft Action Plan on DV
St. Lucia	Division of Gender Relations (Ministry of Health, Human Services, Family Affairs and Gender Relations)	--	Developing National Policy on GBV (2010-2012)
Suriname	National Bureau on Gender Policy (Ministry of Home Affairs)	Multi-Annual Development Plan (2006-2011); Integral Gender Action Plan (2005)	Part of the Gender Action Plan addresses VAW Currently working on a third National Policy Plan: 2010-2012
Trinidad &	Gender Affairs Division (Ministry of	National Policy on Gender	--

<sup>29</sup> As declared by Jamaica in its National Report to the 11<sup>th</sup> Regional Conference of Women in Latin America and the Caribbean, July 2010.

Tobago	Community Development, Culture and Gender Affairs)	and Development (2009)	
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-- indicates a country for which a national plan on gender equality, or violence against women, could not be found.

## KEY ISSUES

### Socio-cultural and political bases of violence against women in the Caribbean

- Some authors have tried to identify the socio-cultural and political bases of violence in the Caribbean. Most of these efforts, discussed by other authors, depart from the history of slavery and indentureship that characterize the Caribbean, which legitimized and legalized violence, dominance and control of some people over others.<sup>30</sup> This “accepted” use of violence for the resolution of conflicts makes some people disproportionately vulnerable to victimization.<sup>31</sup>
- In addition to theories that highlight the need to change politico-cultural contexts, other studies have pointed to the need to understand the socio-cultural context, including processes of socialization and construction of gender identities and their relation to violence, as well as the specific risk factors of the region.
- In spite of the limited amount of research available, some studies have established that the cultural construction of masculine identity is strongly tied to force (physical power), the use of violence,<sup>32</sup> and aggressive behaviour.<sup>33</sup> This cultural construction could be addressed through education programs within schools, as well as through the work of Caribbean men’s organizations that are strongly positioned against VAW. Both types of action are absent from the majority of countries in the region.

### Intersections between HIV/AIDS and VAW

- Among the many consequences of VAW, it is worth considering its impact on the HIV/AIDS pandemic.<sup>34</sup>
- The prevalence of HIV/AIDS in the Caribbean is the highest in the Americas and second only to Sub-Saharan Africa in the world. The main form of transmission of HIV in the region is through heterosexual sex, predominantly from men to women.<sup>35</sup>
- The ineffectiveness of programs to reduce the incidence of HIV can be explained by the lack of attention to the socio-cultural context in which transmission occurs, which is strongly linked to gender relations. This reality, combined with sexual abuse and violence against women contributes to spreading HIV.<sup>36</sup>
- Both masculine and feminine gender identities are strongly linked to virility, fertility and procreation.<sup>37</sup> While some programs to reduce the transmission of HIV may have been effective in other regions, their failure in the Caribbean is due to an ignorance of this reality.
- In addition, “VAW reduces women’s space for negotiation of condom use or other methods of protection, even more so for refusal of sex, and has become an avenue for transmission of the virus against which women have little or no recourse. It is generally recognized that violent or forced sex can increase the risk of transmitting HIV. In forced vaginal penetration, abrasions and cuts

<sup>30</sup> Cain, Maureen, The Specificity of Violence against Women. In Cristine Barrow & Roda Reddock (Eds). Revised in Kamala, Kempadoo, 2006. Gender, Sexuality and Implications for HIV/AIDS in the Caribbean: A review of Literature and Programs, p.4. United Nations Development Fund (UNIFEM) and International Development Research Centre (IDRC).

<sup>31</sup> Clarke, op.cit. p.11.

<sup>32</sup> Trinidad & Tobago, Bahamas and Jamaica have programs that work with men.

<sup>33</sup> Clarke, op.cit. p. 38

<sup>34</sup> Johnson, Tine, The Intersection of two global epidemics: HIV/AIDS and gender based violence. MA Columbia University, 2003. Revised in Kamala, Kempadoo, 2006. Gender, Sexuality and Implications for HIV/AIDS in the Caribbean: A review of Literature and Programs, p.4. United Nations Development Fund (UNIFEM) and International Development Research Centre (IDRC).

<sup>35</sup> Kempadoo, op.cit. p.4.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid., p. 10.

commonly occur, thus facilitating the entry of the virus, when it is present, though the vaginal mucosa.”<sup>38</sup>

## RECOMMENDATIONS

- Improve the legal response to all types of violence against women – especially incest, rape within marriage and sexual harassment in the workplace. In addition, there is a need to improve the effectiveness of the security sector response by developing protocols and building awareness and capacity among officials who work with victims of VAW.
- Close the significant gaps that continue to exist between international standards and national laws and practices,<sup>39</sup> and between these and governmental action.<sup>40</sup>
- Strengthen the provision, quality and coverage of services.
- Generate support services and information and referral systems for victims of VAW.
- Increase the coverage of shelters and create housing programmes for women victims of violence and their families.
- Design financial support programs and access to credit and /or employment for victims of VAW.
- Create information-gathering systems in order to strengthen available data/information and support gender indicators and effective monitoring and evaluation systems.<sup>41</sup> Trinidad and Tobago has developed an information-gathering protocol that could serve as an example for the rest of the sub-region.
- Strengthen research and understanding on VAW, its causes, risk factors, costs and consequences.
- Concentrate more effort on prevention and promoting cultural change, linked to changes in the conceptualization of gender identities, through the education system.
- Develop national plans on VAW. These plans can facilitate the fulfilment of the commitments adopted through Belém do Pará – including coordination, efficiency, monitoring and evaluation. Approaches to eradicating VAW must be integrated and multi-sectoral (security, justice, health, social services, etc) in order to provide adequate and appropriate services combined with strong prevention strategies.
- Guarantee sufficient financial and human resources with the necessary capacity to address VAW effectively and appropriately.
- In the case of national mechanisms for the advancement of women, continue strengthening their institutional capacity to address VAW.<sup>42</sup>
- Promote the ratification of Belém do Pará by all the countries of the sub-region and support the operation of its follow-up mechanism, MESECVI.

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<sup>38</sup> (WHO, 2003) quoted in Kempadoo, op.cit. p.16.

<sup>39</sup> ECLAC. “Report on activities at the Caribbean sub-regional level relating to the Beijing + 5 review process” Trinidad and Tobago: Economic Commission for Latin America and the Caribbean, 2000, p. 19

<sup>40</sup> MESECVI, op.cit.

<sup>41</sup> ECLAC, 2000, op.cit.

<sup>42</sup> Ibid.

## ANNEX 1

### LEGISLATION ON MARITAL RAPE IN THE CARIBBEAN<sup>43</sup>

Countries that directly penalize marital rape	
<b>Dominican Republic</b>	<p><b>Penal Code (amended by Law 24-97, of 1997):</b></p> <ul style="list-style-type: none"> <li>• Art. 330 defines sexual aggression as any sexual act that is performed with an element of violence, threat, constraint, surprise or deceit</li> <li>• Art. 331 defines rape as any act of sexual intercourse, regardless of its nature, that is committed using violence, constraint, threat of surprise</li> <li>• Art. 332 establishes that a person that engages in sexual activity without the consent of the other person involved shall be subjected to the same penalties prescribed to rape in cases where: there is use of force, violence, intimidation or threat; the victim's capacity to resist is impaired by any means; the victim suffers from mental illness or incapacity, permanent or temporary, and is not able to comprehend the nature of the act at the time of its performance; or the victim was compelled or induced by her partner, through physical or sociological violence, to unwillingly engage in sexual relations with a third party.</li> </ul>
<b>Trinidad and Tobago</b>	<p><b>Act No. 31 of 2000 - An Act to amend the Sexual Offences Act, 1986:</b></p> <ul style="list-style-type: none"> <li>• Section 4 defines rape as sexual intercourse with another person without consent</li> <li>• Section 5 refers directly to a husband in relation to the commission of the offense of rape against his wife</li> <li>• Section 6 defines "husband" or "wife" to include a cohabitant within the meaning of the Cohabitation Relationships Act, 1998".</li> </ul>
<b>Suriname</b>	<p><b>Criminal Code (amended by the revised Moral Legislation, 2009):</b></p> <ul style="list-style-type: none"> <li>• Art. 295 criminalize rape with 15 years of prison and a fine of SRD 100.000. Rape within marriage is penalized under the amended definition, which deleted the words "buiten echt" (beyond marriage).</li> </ul>
Countries that penalize rape with conditions	
<b>Antigua and Barbuda</b>	<p><b>Law No. 9 of 1995: "The Sexual Offences Act", 1995:</b></p> <ul style="list-style-type: none"> <li>• Art. 3 defines rape, but makes no specific mention of marital rape</li> <li>• Art. 4 defines sexual assault; and these offenses can be committed by the husband (though not by another type of partner); however, such is limited to cases where the couple is in the process of separating.</li> </ul>
<b>Barbados</b>	<p><b>Sexual Offences Act, Chapter 154:</b></p> <ul style="list-style-type: none"> <li>• Section 3 defines rape as any person who has sexual intercourse with another person without consent</li> <li>• Section 4 defines marital rape as when the husband has sexual intercourse with his wife without her consent, by force or fear, with the existence of the following: a decree nisi of divorce, a separation order within the meaning of section 2 of the Family Law Act, a separation agreement, or an order for the husband not to molest his wife or have sexual intercourse with her.</li> <li>• Section 5 establishes the penalty for these offenses, which can be up to imprisonment for life.</li> </ul>
<b>Dominica</b>	<p><b>Act No. 1 of 1998 – Sexual Offences Act:</b></p> <ul style="list-style-type: none"> <li>• Section 3 defines rape in two situations; without the consent of the other person and without belief that the other person has consented to such intercourse or with recklessness as to whether or not the other person has consented. Circumstances which consent has not been granted include the use of force, threats, false and fraudulent representation, use authority, administration of drugs to the victim, or intimidation. Part 3 of the Section indicates that the</li> </ul>

<sup>43</sup> CIM. "Briefing Note 1: Marital rape in the Americas." Washington, DC: Organization of American States, 2010. (forthcoming).

	<p>husband is guilty of the offense of rape when he has sexual intercourse with his wife without her consent by force, fear or the use of a drug or other substance with intent to stupefy or overpower her, within the existence of a decree nisi of divorce, a decree of judicial separation, a separation agreement, or an order for the husband not to molest his wife or have sexual intercourse with her. Changing conditions apply to a wife who committed the offence of rape.</p> <ul style="list-style-type: none"> <li>• The husband or wife who is guilty of the offense of rape is liable on conviction to imprisonment for fourteen years.</li> </ul>
<b>Jamaica</b>	<p><b>The Sexual Offences Act (2009):</b></p> <ul style="list-style-type: none"> <li>• Art. 3 defines rape as intercourse with a woman without her consent and Article 4 provides a comprehensive list of activities that are regarded as constituting grievous sexual assault</li> <li>• Art. 5 relates specifically to the question of marital rape, addressing the conditions under which a husband can be prosecuted for having raped his wife; namely, when she has not consented to sexual intercourse. Notwithstanding, it should be noted that when it comes to a couple, such legislation further determines that it only constitutes rape if they are separated, if a process for dissolution of matrimony is in place or, at best, if the husband knows that he has a sexually transmitted infection.</li> </ul>
<b>Saint-Lucia</b>	<p><b>Criminal Code of Saint Lucia:</b></p> <ul style="list-style-type: none"> <li>• Section 123 defines rape as any person who has sexual intercourse with another person without the consent of that other person or without believing that the other person consents.</li> <li>• Consent is not considered to have been obtained where the victim submits or does not resist by reason of the use of force, threat, impersonation of the spouse of the complaint, false and fraudulent representation of the nature of the act, use of the accuser's position of authority over the complaint, the administration to the complaint of a drug, matter or thing intended to stupefy or overpower the complaint; or the use of intimidation of any kind. However a husband is guilty of the offence of rape where he has sexual intercourse with his wife without her consent by force, fear or the use of a drug or thing with intent to stupefy or overpower her, where there is in existence in relation to them: a decree nisi of divorce or nullity granted under the Divorce Act; a decree of judicial separation granted under the Civil Code; a separation agreement or where the parties are in fact separated; or a peace binding order or an order for the husband not to molest his wife or have sexual intercourse with her including a protection order from the Family Court.</li> <li>• The sections of rape apply <i>certain changes</i> to a wife who commits the offence of rape.</li> </ul>
<b>Belize</b>	<p><b>Penal code and Domestic Violence Act (2007):</b></p> <ul style="list-style-type: none"> <li>• Art. 72 indicates that a male spouse commits marital rape against the female spouse if the first mentioned spouse has sexual intercourse without the consent of the female spouse, and the spouse is aware that the female spouse does not consent to sexual intercourse, or recklessly not caring whether the female spouse consents or not. This only applies if: the spouses have separated and thereafter have lived separately and apart within the meaning of the Married Persons (Protection) Act; there is in existence a separation agreement in writing between the spouses; proceedings for the dissolution of the marriage or for a decree of nullity of marriage have been instituted; there has been made or granted against one of the spouses an order or injunction, for non-cohabitation, non-molestation, ouster from the matrimonial home or the personal protection of the other spouse; one of the spouses has agreed to comply with any of the orders previously mentioned; and if the act of sexual intercourse is preceded or accompanied by or associated with, assault and battery, harm or injury to the female spouse.</li> <li>• The marital rape does not include cohabitation.</li> </ul>

- Chapter 93 - defines “domestic violence”, which includes physical, sexual, emotional, psychological or financial abuse committed by a person against a spouse, child, *de facto* spouse, or any other person who is a member of the household of the applicant or the respondent.