

UNITED NATIONS

ECONOMIC COMMISSION
FOR LATIN AMERICA
AND THE CARIBBEAN



Distr.
LIMITED

LC/L.457 (CRM.4/5)
5 August 1988

ENGLISH
ORIGINAL: SPANISH

Fourth Regional Conference on the Integration
of Women into the Economic and Social Development
of Latin America and the Caribbean

Guatemala, 26 to 30 September 1988

WOMEN AND LEGISLATION

88-8-1070

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INTRODUCTION

This paper forms part of the research carried out by the ECLAC Secretariat in fulfillment of its mandate to periodically evaluate the situation of women in Latin America and the Caribbean. Both the Regional Plan of Action 1/ and the Nairobi Forward-Looking Strategies 2/ highlight legislation as one of the key factors accounting for the discrimination to which women have been subject. The aim of this document is to provide a contribution to the work to be carried out by the Fourth Regional Conference on the Integration of Women into the Economic and Social Development of Latin America and the Caribbean.

There is a general awareness that the recognition of equal rights for both men and women does not merely entail the improvement, completion and efficient application of existing legal codes, but also requires changes in attitudes, behaviour, ways of life and social structures which inhibit the free development of women's personality and their active insertion into national life. However, if we set law in its true perspective, there is no denying that it constitutes a sound basis for promoting measures designed to eliminate the barriers hampering women's access to equality. In addition, it may also provide a means of altering unsatisfactory structures, provided it is conceived for this purpose and drawn up by legislators who are aware of the need for it to meet objectives which are for the benefit of society, and principally for the elimination of inequality.

This paper is designed to fulfil the objective of developing an awareness of the existence of norms containing fundamental rights and ensuring their publication, as essential factors in any attempt to solve the problems affecting women. Consequently, it deals with legal aspects in the international sphere and in the legal codes of the countries of the region and finally, in order to evaluate the extent to which the Nairobi Forward-Looking Strategies have been fulfilled, it considers action and plans carried out at the national level.

The first part outlines the evolution of concern with and recognition of women's rights in the international sphere, from the very beginnings until the present time when the issue of women's rights is posed from the angle of development, of the struggles for peace and international co-operation in such a manner that legislative measures are complemented by integrative and planned strategies. In this connection, particular importance is attached to what are considered to be essential aspects of the Convention on the Elimination of all Forms of Discrimination against Women, while among the measures which have contributed towards eliminating the hurdles preventing women from improving their circumstances, particular attention is drawn to the World Conference in Nairobi, and specifically to the objective of "equality" which was incorporated into the Strategies approved at that conference.

The second part provides a brief summary of the legal status of women in respect of the legislation in force in 1980 in the countries of Latin America and the Caribbean. This outline has been provided even though the information available on countries in the region does not go beyond this year, as it was considered that despite its being out of date, it facilitated an understanding of the situation in respect of political, civil, penal and labour rights, at a time when the co-ordinated measures in the international sphere mentioned above had not yet come into being.

Finally, in order to verify the repercussion and scope of the measures agreed upon at the international level in those countries which have undertaken to implement them, a description is provided of the most significant measures and plans implemented in selected States. Those results which reflect concrete measures are presented, together with plans and programmes put forward for the medium term.

This document constitutes the preliminary output of the research, as the lack of data has made it impossible to deal, at this stage, with all countries. However, it will be possible to consider that its objective has been fulfilled if it provides a true picture of the state of women's rights in Latin America and the Caribbean as well as of the mechanisms designed to eradicate existing inequalities.

In each of the parts of the document the areas requiring priority attention have been specified and analysed, and the relevant conclusions set out in the text itself. The conclusions are the same as those reached by most studies carried out into the topic. Finally, and solely for the purpose of drawing attention thereto, some suggestions are put forward regarding the measures which might be included in national plans in this area.

I. THE INTERNATIONAL SPHERE

The constant concern with the need to acknowledge the equal rights of men and women has been expressed in normative measures beginning with the United Nations Charter itself and the Universal Declaration of Human Rights. Thus, the Charter reaffirms "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women" while, on the other hand, Article 2 of the Declaration expressly states that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

This is why the above instruments initially provided the bases for most of the resolutions adopted by the various organs of the United Nations system, as it was considered that measures discriminating against women violated the principle of respect for human dignity and consequently constituted violations of fundamental human rights.

To this effect, women were granted political, civil, labour and educational rights such as the right to vote, to be elected and to hold public office, the right to equal work opportunities and equal wages, the right of married women to keep, acquire or change nationality, maternal protection and prohibition of night and underground work, the right of married women to manage their property and to practice an independent profession, the right to freedom from discrimination in penal matters, and others.

These measures designed to improve the social and legal status of women so as to place them on an equal footing with men, were adopted by means of conventions or resolutions which, whether they constitute international legislation or not and whether they focus specific ("focal") attention on women or form part of a more general ("non-focal") topic, have been of tremendous importance. This is because, while these measures are not legally binding on States, awareness of their existence as mere guidelines has made it possible to introduce a certain degree of uniformity in essential areas, as an inevitable consequence of the awareness that has developed at different levels regarding the need to repeal those provisions of domestic legal codes which either tacitly or expressly entail different treatment before the law, or alternatively to incorporate therein the relevant principles which have been discussed at international meetings.

This is apparent in the attitude adopted by States at the time of the proclamation in 1967, by the General Assembly of Resolution 2263 (XXII)

"Declaration on the Elimination of Discrimination against Women", which, while its legal nature did not make it legally binding, gave rise to a general trend among States to comply with the principles set out therein, as was confirmed by the information gathered by the Commission on the Status of Women. The above Declaration condenses the set of women's rights which had hitherto been proclaimed; furthermore, in requesting the adoption of the necessary measures to ensure equal rights, article 11 of the Declaration calls upon governments, non-governmental organizations and individuals to "do all in their power to promote the implementation of the principles contained in this Declaration".

As has been seen above, during this first phase, the issue of women was tackled from a humanitarian, social and cultural angle in order to achieve recognition of their equality in national legislation. Subsequently, from the 1970s onwards, the issue of women's rights entered a new phase of development, in the form of concern with their integration into development and into the struggles for international peace and co-operation, with the consequent progress over the achievements of the previous period. This was reflected through the promotion of effective participation in politics and in work; through the recognition of the rights of single women and of their children, as well as in the attention devoted to groups of women in critical circumstances resulting from political, social and economic events, and through the concern shown with problems affecting the family such as violence, family planning and others.

Nevertheless, while most of the rights proclaimed during this period did not materialize in the form of conventions which were legally binding on States, but rather in the form of resolutions containing guidelines for specific action, the legislative measures adopted for the purposes of ratifying and perfecting already recognized rights were complemented by planned and integrative strategies designed to promote the organization of women so as to facilitate their effective and dynamic participation as well as their actual insertion into the national and international community. Thus, 1975 was declared International Women's Year; the United Nations Decade for Women: Equality, Development and Peace (1976-1985) was proclaimed; special agencies and forums were set up to deal with the topic (Committee of the Elimination of Discrimination against Women), and furthermore, world and regional conferences were held in order to draw up plans of action and design mechanisms for evaluating and supervising the proposals made.

Of all the conventions adopted during the period which began in the 1970s, it is undoubtedly, the "Convention on the Elimination of all Forms of Discrimination against Women",^{3/} adopted by the United Nations General Assembly, which most accurately reflects the characteristics mentioned above, since it develops the very principles which had been contemplated in the 1967 Declaration of the same name, and incorporates universally recognized rights into a legally binding document and also proposes specific measures to allow women to achieve fair treatment, as a means of putting an end to discrimination against them in all spheres and at the legislative level.

The preambular parts of the convention itself reflect this objective which may also be inferred from Article 1 thereof, which, in specifying the term "discrimination against women" indicates that it covers "any distinction, exclusion or restriction made on the basis of sex which has the effect or

purposes of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or other field".

The legal nature of the convention entails a binding commitment by those States which ratify it to adopt, by means of their domestic laws, the guidelines developed therein, a commitment from which they may only be exempted, under the terms of article 24, if their own legislation contains principles more conducive to achieving the objectives of equality between man and women than those set out in the text.

Both the implementation of the commitments accepted by States and examination of the progress made in the implementation of the above convention were entrusted to the committee referred to in article 17, whose structure, operation and powers are set out in part V of the Convention.

Thus, in accordance with the norm contained in article 21, "the Committee, shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties".

It should be emphasized that the Committee has fully assumed its responsibilities, and has prepared the relevant reports, covering aspects such as: the analysis of the initial or periodic reports submitted by States Members; guidelines in respect of issues of general interest to assist both States Members and the Committee itself in fulfilling the commitments undertaken; objections and views of the States Parties regarding the reservations expressed at the time of ratification and of course, the situation of the Convention regarding the number of States which have deposited instruments of ratification or adhesion and the date on which they took effect.

In this connection, the Report of the Secretary-General entitled "Status of the Convention on the Elimination of all Forms of Discrimination against Women" (A/42/627) of 13 October 1987, states that as of 31 August the same year "the Convention had been signed by 94 countries, 74 had ratified it and 19 States had adhered to it, thereby bringing the total number of ratifications and adhesions to 93".

By way of information, it should be mentioned that as of 30 March 1987 24 States in Latin America and the Caribbean had ratified or adhered to the Convention. These were: Argentina, Barbados, Brazil, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Peru, St. Christopher and Nevis, Saint Lucia, St. Vincent and the Grenadines, Uruguay and Venezuela. Subsequently, as of 31 August 1987 the Convention had been signed but not ratified by Bolivia, Chile, Grenada and Trinidad and Tobago, while Paraguay had adhered thereto.

The other aspect considered by the Committee and to which we should like to draw attention is that concerning the "reservations" made by the States in

respect of the Convention, since there has been considerable concern with the large number of reservations communicated during this period and with the possible incompatibility of some of them with paragraph 2 of article 28 of the Convention which states:

"A reservation incompatible with the object and purpose of the present Convention shall not be permitted."

The meaning and scope of the above paragraph is clear, as it prohibits the expression of reservations which affect the aim and purpose of the Convention, whenever failure to observe the fundamental principles regarding human rights contained therein may lead to the distortion of its essential purpose: the elimination of discrimination against women.

Consequently, it is imperative to analyse the reservations made at the time of ratification or adhesion, and to determine their scope. For this purpose, the States adopted a decision urging States to fully comply with paragraph 2 of article 28, and requested the Secretary-General to gather the opinions of States Parties regarding the reservations which might fall within the sphere of application of this paragraph, and which had to be included in the report on the status of the Convention. This request was duly expedited by the Secretary-General in May 1986 and the relevant responses have been included in subsequent reports.

In this connection, it needs to be mentioned that at its sixth session (30 March to 10 April 1987), the Committee, expressing concern in relation to "the significant number of reservations that appeared to be incompatible with the object and purpose of the Convention", adopted General recommendation 4, in which it "welcomes the decision of the States parties to consider reservations at its next meeting in New York in 1988, and to that end suggests that all States parties concerned reconsider such reservations with a view to withdrawing them".

As mentioned above, during the phase which began in the 1970s, co-ordinated steps were taken at the international level to contribute towards eliminating the obstacles to the improvement of the status of women at the national, regional and international levels.

Noteworthy among these are the following: the declaration by the General Assembly of resolution 3010(XXVII) of 1975 as International Women's Year, in order to strengthen measures designed to promote equality between men and women, to ensure the full integration of women in the total development effort and to enhance their contribution to strengthening world peace; b) the formulation of the World Plan of Action for the Implementation of Objectives of the International Women's Year, adopted by the World Conference of the International Women's Year held in Mexico City in 1975 and backed by the General Assembly through resolution 3520(XXX), which also declared 1976-1985 "United Nations Decade for Women: Equality, Development and Peace"; and c) the organization of the World Conference of the United Nations Decade for Women, held in Copenhagen in 1980, at which the Programme of Action for the second half of the United Nations Decade for Women (approved by General Assembly resolution 35/136) was agreed upon, and which examined the obstacles

encountered and the existing international consensus over the measures required to achieve the established objectives.

These measures, plans and programmes remain valid and relevant and consequently constitute the basis for the strategies and measures set down in the Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi in July 1985. These strategies were approved by the General Assembly without a vote in resolution 40/108 of 13 December 1985.

Broadly speaking, and as is mentioned in paragraph 6 of the above document, "the Forward-Looking Strategies for the Advancement of Women during the Period from 1986 to the Year 2000 set forth ... concrete measures to overcome the obstacles to the Decade's goals and objectives for the advancement of women ... reaffirm the international concern regarding the status of women and provide a framework for renewed commitment by the international community to the advancement of women and the elimination of gender-based discrimination".

In our opinion the fundamental significance of the Nairobi Strategies lies in their reiteration of the unity and interdependence of the objectives of the Decade: Equality, Development and Peace, which lay stress on the principle that the advancement of women and their full integration into economic, political, social and cultural development will only be made possible if these objectives are achieved jointly. Consequently, when formulating basic strategies, it is necessary to highlight the existing basic hurdles as well as those which are emerging, to propose measures designed to overcome such hurdles and to devote attention to special circumstances, which as a whole provides a practical and effective guide to the action required in all spheres of international and national life.

However, although there is no question over the criterion adopted by this document regarding the absolute interdependence between the objectives of Equality, Development and Peace, as this paper focuses on women and legislation, we shall briefly address those aspects of the Strategies relevant thereto, and specifically the contents of chapter I on Equality.

In this connection, it should be mentioned that the main stumbling block identified as preventing the full observance of equal rights for women concerns de facto gender-based discrimination. While the progress achieved in the legislative sphere, which constitutes an essential factor in the struggle to achieve equality is acknowledged, it is observed that the status of women is affected by "social, economic, political and cultural factors that have been justified on the basis of physiological differences" and it is further added that even though there is no basis "for regarding the household and family as the essential domain of women, for the devaluation of domestic work and for regarding the capacities of women as inferior to those of men, the belief that such a basis exists perpetuates inequality and inhibits the structural and attitudinal changes necessary to eliminate such inequality". It may be inferred from the text that the de facto resistance encountered, the lack of information regarding the law together with the limited possibilities of access to the means of making it effective, inter alia, lead indirectly

and in spite of legislative changes to a state of discrimination which prevents women from participating on an equal footing.

In respect of these observations, it is desirable to refer to two of the sections which make up the Nairobi document "Basic strategies" and "Measures for the implementation of the basic strategies at the national level", respectively. The latter include three fundamental aspects: constitutional and legal aspects, equality in social participation and finally equality in political participation and decision-making.

The section on basic strategies basically calls on governments to strengthen their political commitment to "establish, modify, expand or enforce a comprehensive legal base for the equality of women and men and on the basis of human dignity", an objective requiring the adoption of the necessary measures in respect of social and economic structures; guaranteeing equality before the law; establishing efficient institutions and procedure to, on the basis of up-to-date and reliable statistics, verify the status of women, identify the causes of discrimination against them and propose new means of putting an end thereto and finally eliminating hurdles arising from stereotypes, preconceptions and attitudes towards women which are detrimental to acknowledgement of her contribution to society.

These strategies are explored in respect of the measures required at the national level in order to render them effective. Thus, in the constitutional and legal sphere, governments are urged to: sign the Convention, to ensure its ratification or to accede thereto; to establish appropriate bodies charged with reviewing the national legislation concerned and with drawing up institutional procedure to ensure its implementation and effective control; to establish law-reform committees with equal representation of men and women to review all laws, propose amendments and new legislative measures; to adopt programmes and procedure for providing information on existing rights, with particular emphasis on the essential principles which must direct legislation in fields such as labour law, family law, penal and civil law, as well as the importance of determining the impact of customary law in respect of statutory law.

As far as the measures proposed to achieve "equality in social participation" are concerned, it is imperatively stated that "by the year 2000, all governments should have adequate comprehensive and coherent national women's policies to abolish all obstacles to the full and equal participation of women in all spheres of society". The following measures, inter alia, are proposed to achieve this objective: ensuring women the opportunity to represent their government at all levels on delegations to subregional, regional and international meetings, as well as in diplomatic posts and in the United Nations system; the inclusion in curricula, courses and seminars of study of the history of women and their role in society; education and mobilization of children and young people to act as stimulators for and monitors of changes in attitudes towards women, particularly with regard to the need for greater flexibility in the assignment of roles between women and men; the promotion of research activities to identify discriminatory practices in education and training which jeopardize equality in these spheres; the promotion of new teaching methods, particularly audiovisual techniques, to demonstrate clearly the equality of the sexes; encouragement for the full

participation of women in the whole range of occupations, in order to break down occupational barriers and taboos; substantial and continuing improvement in the portrayal of women in the mass media, portraying positive aspects of women's roles and combating pornography and other obscene portrayals of women and the portrayal of women as sex objects.

Finally, regarding "equality in political participation and decision-making", governments, political parties and other organizations (such as, for example, trade unions), are urged, in their respective spheres, to stimulate and ensure equality of participation by women in all national and local legislative bodies, as well as in high State posts, bearing in mind that at the local level the strategies should be pragmatic and bear a close relationship to issues of concern to women and take into account local needs and values; to ensure the inclusion of women in management in various forms of popular participation; to effectively secure participation of women in the decision-making processes at all levels through legislative and administrative measures; to promote broad awareness of women's political rights through many channels, including formal and informal education, political education, non-governmental organizations, trade unions, etc.; to increase women's participation in trade union structures. Finally, as stated in paragraph 92 of the document, a call is made for the establishment "of institutional arrangements and procedures whereby individual women, as well as representatives of all types of women's interest groups, including those from the most vulnerable, least privileged and most oppressed groups, may participate actively in all aspects of the formulation, monitoring, review and appraisal of national and local policies, issues and activities".

Following the World Conference held in Nairobi in 1985, whose Strategies in respect of "Equality" have been briefly mentioned above, the General Assembly and the Economic and Social Council adopted various resolutions in respect of the implementation of the strategies and laid down guidelines for the future in respect of the advancement of women. However, as paragraph 43 of the report clearly states, although much progress has been made in legislation, measures are necessary for effective implementation and enforcement, a view which is even more irrefutable in the light of the provisions of paragraph 50 of the document, which states:

"In some countries, discriminatory legislative provisions in the social, economic and political spheres still exist, including civil, penal and commercial codes and certain administrative rules and regulations. Civil codes in some instances have not yet been adequately studied to determine action for repealing those laws that still discriminate against women and for determining, on the basis of equality, the legal capacity and status of women, married women in particular, in terms of nationality, inheritance, ownership and control of property, freedom of movement and the custody and nationality of children. Above all, there is still a deeply rooted resistance on the part of conservative elements in society to the change in attitude necessary for a total ban on discriminatory practices against women at the family, local, national and international levels."

This statement may be understood by considering that once the exchange or deposition of instruments of ratification or adhesion has been made, the treaty or convention comes into force internationally and brings into being a

specific and immediately applicable obligation for the contracting parties, which is to "incorporate it" into the domestic system of law. Only thus is it possible for it to be applied by the courts and for the administrative authorities and private individuals —to whom the rights and obligations deriving from the convention will eventually apply— to become fully aware of its contents.

However, international public law does not impose any particular formality on States for incorporating its norms into national law; they are merely under the obligation to ensure the fulfillment of the rules of international law. Consequently, each State is responsible for deciding what these formalities shall be, but whatever system adopted by each State, they will all possess one common denominator: the effective divulgation through official channels of the full text of the agreement. It should be mentioned that most countries in Latin America make provision in their political constitutions, as an attribution of the Legislative Authority, of the faculty to approve or reject any international treaties or conventions signed.

Consequently, such incorporation into the domestic legal system constitutes the first stage in the process of execution or fulfillment thereof, and failure to do so constitutes a breach of treaty thereby involving the international liability of the State committing the infringement. This is so, as in this case international law prevails over domestic law and a State may not invoke its own provisions, nor their deficiency or absence, to justify non-observance of the obligations imposed by international law.

In this connection, the following part of the paper will concern itself with the present position of the legislation of the countries of Latin America and the Caribbean, together with the projects drawn up by some of them with a view to adjusting their domestic norms or to implementing plans in accordance with the Nairobi Strategies.

II. DOMESTIC LEGAL CODES IN THE COUNTRIES OF THE REGION

First of all, it needs to be mentioned that the information provided in this section in respect of the legal status of women in Latin America is based on domestic norms in force at the beginning of the 1980s.

In this respect, an analysis will be made of the manner in which the issue of women has hitherto been dealt with by the different legislations in the spheres of political, civil, penal and labour rights. Although the information is not up to date, it has been considered worthwhile to portray the situation which prevailed when there was no question of the co-ordinated action at the international level referred to in the previous section, since this makes it possible to define the tasks which lie ahead and to assess, on the basis of Nairobi, to what extent legislation and action on behalf of equal rights have gone hand in hand.

Subsequently, and in the same connection, observations will be made regarding those aspects of the relevant legislation which are most significant for the purposes of this paper.

A. POLITICAL RIGHTS

In order to analyse the status of women in respect of political rights it is necessary to determine what requirements are laid down by Latin American legal systems in order for citizens to possess such rights. In other words, it is necessary to analyse the manner in which women are granted equality before the law and how they acquire and exercise the right to nationality, to citizenship, to vote, to be elected to public office and to participate in political organizations.

Generally speaking, it has to be acknowledged that existing statute law does not embody any norms discriminating against women in so far as the exercise of political rights is concerned or which prevent them from actively participating in public office, provided they satisfy the requirements laid down for these rights to be granted.

1. Equality before the law

The principle of equality of the sexes before the law has been expressly or implicitly established by national constitutions themselves, a fact which is

implicitly of vital importance, since the provisions of the constitution define the framework to which legal and regulatory norms must be subordinated, and consequently they may not contain any regulations incorporating gender-based discrimination.

Express declaration of equality has taken various forms, such as: a norm prohibiting discrimination (El Salvador, Dominica, Guatemala, Honduras, Panama and Venezuela); a stipulation asserting equality, be it included with other characteristics (Bolivia, Brazil) or in a special article relating thereto (Mexico and Paraguay) and finally, in the form of a rule combining the prohibition against discrimination with the reassertion of the equality of men and women (Ecuador and Peru).

With regard to implicit recognition of the principle concerned, it may be inferred from the expressions adopted by certain constitutions: "all men", "all individuals" or even from a mention of nationality. Although such terms may give rise to misunderstandings, it is unlikely that in the present social and cultural context anyone interpreting the law will do so in a manner restrictive to only one of the two sexes. This group includes the constitutions of Argentina, Barbados, Costa Rica, Chile, Nicaragua and Uruguay.

2. Nationality and citizenship

Both nationality, meaning the legal bond between an individual and the nation, and citizenship, which allows citizens to exercise political rights, have been equally granted to women and men by Latin American legislations.

As far as law regarding nationality and its transmission to offspring born abroad is concerned, most national constitutions and laws relating thereto adopt generic terms which make no distinction as to sex, with the sole exception of those of Dominica and Jamaica, which do make a distinction, although this is attributable to extremely special circumstances and to the existence or absence of a marital bond, respectively.

What does exist is a difference in the manner in which the effect of marriage on nationality has been dealt with, as only the constitutions of Dominica, El Salvador, Guatemala, Mexico and Peru grant both spouses the possibility of transmitting their nationality. In contrast, in all other cases a distinction is made, either by guaranteeing women who marry foreigners the right to keep their original nationality (Bolivia) or granting them the right to choose the nationality of their husband (Venezuela), with no provision for the possibility that the woman might transmit her nationality to her foreign husband.

As far as citizenship is concerned, the differences between legislations in respect of the requirements which women have to meet in order to possess citizenship has now been overcome; consequently, either by expressly recognizing the right of both men and women to acquire and exercise citizenship, or by adopting expressions relating to the requirements necessary to hold citizenship which implicitly include women, all countries now recognize the right thereto of all subjects over a given age.

The absence of discrimination against women in these areas entails recognition of their equality through full exercise of the political rights inherent to the status of citizen, the right to stand for election and to vote, and the possibility for them to take part in all spheres of national life, as well as their right to stand for public office, position or functions and to join political parties.

B. CIVIL LAW

It has been shown how Latin American legislations have recognized equal rights before the law and the full capacity of women to exercise political rights. This equality extends to the field of civil rights and women's capacity is unaffected provided they meet the age requirements and remain single.

A mere change in civil status still entails a series of consequences restricting a woman's capacity or placing her at disadvantage to men, and even though certain cases are attributable to unpleasant carryovers from customary norms or social conventions (use of family name or choice of family home), this is no reason for them to constitute discriminatory factors. However, the fields in which the capacity of married women is most affected are those connected with marital authority, the system of administration of property within marriage and paternal authority.

The implications of marital authority, meaning the set of rights exercised by the husband over the person and goods of his wife, are undoubtedly detrimental to the legal equality of spouses within marriage. Such equality, which is reflected in regulations relating to mutual faithfulness and reciprocal assistance and protection, has been recognized by most Latin American legislations and thus been incorporated into the law of countries such as Colombia, Peru, Uruguay and Venezuela.

However, those systems which maintain provisions such as those of Chile, Ecuador, El Salvador and Haiti, under which a wife owes obedience to her husband, in exchange for his protection (the first characteristic of marital authority), may contain other restrictions on the capacity of women. Thus, in Chile, marital authority entails the relative incapacity of married women who consequently may not appear in court alone, enter into contracts involving property or be appointed tutor or guardian, as they are legally represented by their husband.

It needs to be mentioned that even the institution of separate property for married women, as provided for in the Chilean Civil Code, is inadequate to eliminate the diminished position of women. This is the case, since although this provision allows such property to be considered separately from that acquired with the earnings from a job, office, profession or industry, thereby endeavouring to offset the excessive power of the husband under joint ownership of property by husband and wife, the duty of obedience is maintained, as the husband is simultaneously authorized to request the court to prohibit his wife from carrying out any activity of her own.

With regard to the system of administration of property within marriage, some legislations introduce inequality before the law between spouses by authorizing the husband alone to administer the goods which make up jointly owned marital property (Chile, Ecuador, Peru, Haiti). In others, the parties are allowed to choose between the different systems and to reach agreement, by marriage articles, on the system to be adopted in respect of property and administration thereof (Brazil, Costa Rica, El Salvador, Guatemala, Honduras). Finally, other systems are based on equality of the spouses, and grant them similar powers over the administration of goods, in certain cases with a restriction on the right to dispose of real estate, under which the express agreement of both parties is required (Bolivia, Colombia, Uruguay).

The final significant form of discrimination against married women concerns the exercise of paternal authority. Although a satisfactory trend may be discerned, since most legislations, with one variant or another in the case of conflict between the spouses or dissolution of the marriage, attribute both spouses rights and obligations over the person and goods of minors, there are still others in which it is the father who exercises such rights, while the mother only does so subsidiarily (Chile, Panama).

C. PENAL LAW

It is in penal law more than in any other area that the unequal legal treatment given to men and women is apparent, a circumstance which is not solely attributable to the fact that penal codes or the laws complementing them have for the most part undergone no essential changes in recent years, and have maintained offenses which nowadays deserve to be classed in another category, or because they have failed to incorporate acts which ought to be punished by the law. What is rather more the case is that the persistent inequality in matters such as adultery or parricide is attributable to the huge social and cultural pressure which exists and which has a detrimental impact on any effective review of norms which have clearly become out of date and discriminatory.

In so far as crimes against life are concerned, and specifically in the case of parricide, i.e., the murder of an ascendant, descendant or spouse, the murder of a spouse caught in the act of adultery by the other spouse is not punishable by law (Ecuador, Panama, Dominican Republic, Uruguay) or is punishable by the penalty corresponding to mitigated homicide (Mexico, Nicaragua), except in the case of Venezuela, where this penalty only extends to the male spouse and parents or grandparents who find their single daughters or granddaughters committing adultery.

In the above circumstances, there are also some legislations which to a certain extent justify the crime on the grounds that it constitutes a defence marital fidelity, and at an extreme certain legislations deem that homicide committed by the husband who takes his wife in the act of adultery is not punishable by law, as is the case in Haiti, Honduras and Paraguay.

Furthermore, regarding infanticide, i.e., the murder of a newborn child,

Costa Rica, Guatemala, Honduras, Mexico, Peru and El Salvador only consider the crime in respect of the mother. Most legislations take into account considerations in respect of the author, such as fear, questions of honour, psychological disturbance, etc., which affect the applications of the penalty, and which reduce it if other circumstances are present. In some countries, this reduction of the penalty can even be extended to close relatives.

The other crime against life considered here is abortion, which is defined as criminal conduct leading to the intentional death of the foetus while it is still in the mother, or by its untimely expulsion.

The penalty applied in respect of an abortion is lighter than that laid down for the crimes of parricide and infanticide, a circumstance which some commentators have justified on the grounds that in this case there is only "the promise of life... and less social disapproval of the act". With virtually no exceptions, Latin American legal codes punish abortion as a crime against the legal possession, life, except in Chile where it appears among the "crimes and offenses against the family order and public morality".

Furthermore, if the act has been committed without the consent of the pregnant woman or if she suffers serious injury or death, the crime is aggravated. The "question of honour" is invoked as a mitigating circumstance in Chile, Ecuador, Honduras, Mexico, El Salvador and extends to third parties if they act with the consent of the woman in Costa Rica, Bolivia and Nicaragua. In turn, the Uruguayan Penal Code even authorizes the judge to remit the penalty in specific cases, and considers certain circumstances such as rape, serious reasons of health, economic anguish and the fact of acting without the consent of the woman as grounds for a diminution of the penalty.

Finally, most legislations authorize therapeutic abortion, i.e., an abortion carried out to avoid a threat to the health of the mother or her death, as well as the termination of a pregnancy when this is the result of a rape (abortion on emotional grounds).

As far as the sexual crime of rape is concerned, in all legislations the penalty depends on the age of the victim and the relationship of authority which might exist between the author of the act and the victim. Generally speaking, the law extends its protection to "virtuous women", when the author has resorted to seduction, promise of marriage, and when his victim is of a given age (Brazil) or when he has resorted to seduction, promise of marriage or deceit and when the victim is a virgin (Chile).

Attention has been drawn to the term "virtuous", as it is difficult to understand that some countries tacitly invoke this assumption as grounds for considering that prostitutes deserve less protection against this type of crime, a fact which leads to a reduction of the penalty (Colombia, Paraguay, El Salvador, Venezuela). If it is assumed that rape is a crime against sexual freedom, such a distinction undermines the principle, i.e., the right of a person not to be forced into the sexual act.

The crime of adultery has yet to be considered. Even though some countries do not classify it as a crime (Bolivia, Colombia, Costa Rica, Cuba

and Uruguay), the general trend is to treat it either as a crime against the family (Brazil, Chile, Guatemala) or as a sexual offense (Argentina, Ecuador, Honduras).

It needs to be stressed that in this type of crime, whatever the nature of the legal possession protected may be, all legislations make a distinction as to the seriousness of the act, depending on whether the act is perpetrated by the husband or wife. The sole exceptions to this rule are the legal codes of Brazil and the Dominican Republic, under which the penal category merely corresponds to that for an act of sexual infidelity, without distinction, and the same penalty applies to both spouses.

Those legislations which do make a distinction generally require that concubinage, i.e., public knowledge of his behaviour, be established, in order for a man to be guilty of adultery, whereas in the case of a woman a single act of infidelity is sufficient to constitute the crime. There is a further difference: the unequal application of the penalty, which is always lighter in the case of a man.

D. LABOUR LAW

Traditionally women have been put on the same footing as children by labour law, and humanitarian reasons, based on physiological aspects as well as the moral, family and cultural order have been invoked to justify the need to adopt protective legislation. Consequently, by means of a series of norms, which, as they relate to public order, may not be waived, regulations have been laid down covering, *inter alia*, questions such as the length of the working day, working conditions with a view to preventing risks to health, and a prohibition against women performing certain activities.

If we accept that the right to work is a fundamental individual right recognized as such by constitutions, and that as has been shown, the constitutions themselves have prohibited gender-based discrimination, attention needs to be directed towards preventing regulations resulting from this desire to protect from leading to unequal treatment on the basis of sex thereby hampering effective participation by women in the economic and social life of their country.

An outline is given below of some of the main provisions in respect of working women which are governed by the labour law of the countries of the region.

In so far as remuneration is concerned, in practice the conventions adopted by the International Labour Organization (ILO) regarding the ban on night work and on heavy and unhealthy work have led to restrictions on the job opportunities of women and to their relegation into poorly-paid jobs. However, the principle laid down in Convention No. 100 of the International Labour Organization concerning equal remuneration for men and women workers for work of equal value (equal pay for equal work), has been agreed upon, accepted and expressly included into almost all national legislations, except into those of Barbados and Guatemala, where, in any case, non-discrimination may be inferred

from their own legislation. Only in Trinidad and Tobago are women on an unequal footing in this respect, since they are subject to the regulation of the minimum wage as a consequence of their position on the lowest rungs of the wage ladder.

A further factor which needs to be taken into account in the labour relationship is that concerning the definition of the working day, which is defined as the time during which the worker is at the disposal of his employer and which he is consequently unable to use for his own benefit, and which has almost unanimously and in accordance with ILO proposals been set at eight hours per day or 48 hours per week (Argentina, Brazil, Haiti, Mexico, Nicaragua, Uruguay). A different definition of the working day is in force in Bolivia (40 hours per week of daytime work), Honduras (eight hours per day or 44 hours per week, equivalent to 48 hour's wages) and the Dominican Republic.

It should be mentioned that the general regulations in respect of the working day mentioned above have been imposed without distinction on both men and women, without prejudice to the reduction of these periods in the case of night work or work in unhealthy environments, or to restrictions in respect of the length of overtime. While these also affect both sexes, in certain cases (Brazil) women are only authorized to extend the normal working day by a maximum of two hours.

However, in spite of the recognition of equality before the law, there is no doubt as to the existence of grounds, essentially of a physiological nature, which have given rise to a set of regulations specifically concerning female workers. Of these, we shall mention two: those relating to night work and work which is harmful to the health and to maternal protection.

In respect of night work, there is in principle, and in accordance with the International Labour Code, a prohibition on women working during the night. In practice, while it is nowadays possible to find greater flexibility on account of the changes which have taken place both as a result of economic and technological development and of the awareness which has developed as to women's role in society, this prohibition still remains in force, except in respect of certain jobs (nursing, communications, domestic work and others) or in the case of management or supervisory positions.

As part of the regulations designed to preserve the health of women, legislations have also imposed prohibitions on their working in unhealthy environments or performing particularly heavy or arduous jobs, either by specifying the type of job prohibited (Bolivia, Haiti), by defining it (El Salvador), or by incorporating, in addition, a residual regulation in respect of work "in dangerous or unhealthy jobs, or in those requiring great effort" (Colombia).

With regard to maternity protection, it first of all needs to be mentioned that even though the number of ratifications is not very high, most national legislations in this sphere are based on the provisions contained in ILO Convention No. 3 of 1919, which, *inter alia*, prohibit pregnant women from working during the period from six weeks prior to and six weeks following childbirth and establish their right to some form of economic compensation from the State or the Social Security.

This Convention was superseded in 1952 by Convention No. 103, which extended its coverage not only to women working in industrial firms, but also to women carrying out "non-industrial work", a more generic term than the previous one ("commercial"). Consequently, both salaried domestic workers and women working in agricultural firms are also covered.

It is also important to mention that in defining the terms "woman" and "child" these conventions state that the terms cover any person of the female sex, whatever her age or nationality, be she married or not, and any child, whether he be legitimate or not.

However, the aspects generally dealt with by national legislations concern maternity leave, maternity allowances and wages during the period of leave, a prohibition on dismissal, and the nursing period.

Maternity leave is generally granted providing certain conditions have been satisfied regarding the calculation of the expected date of birth, in order to establish the periods of leave prior to and following the birth. In certain countries provision is also made for an extension of the leave on the grounds of illness resulting from childbirth (Argentina, Barbados, Chile, Panama).

As far as the right itself is concerned, some legislations deal with it as part of labour law, as a responsibility of the employer, while others include it within social security legislation. This latter solution is unsatisfactory since in some countries the social security system does not cover certain sectors of the active population, such as domestic employees, who represent the highest percentages of the female labour force in Latin America and the Caribbean.

However, maternity leave has been incorporated by all countries as an inalienable right of women with certain variations in respect of the total duration of the leave (90 days in Argentina and Peru; 12 weeks in Chile and Mexico), or its compulsory nature during the pre-and-post childbirth periods.

Another feature in respect of which legal protection is provided for pregnant women concerns the maternity allowance, which, whether it is provided by the social security systems or by labour law, enables a pregnant woman to receive a supplementary sum of money as a contribution towards the expenditure involved in caring for and maintaining her child (Chile). Other systems have established a form of maternity wage, which generally makes it compulsory to pay full wages equal to those of a worker on the job, or, as in the case in Bolivia and El Salvador, equivalent to a percentage thereof.

Recognition of these rights would be without effect if legislations had failed to establish norms to protect the fundamental right of pregnant female workers to job stability. As a result it has been necessary to provide for compensation to be paid by employers who infringe the prohibition against dismissal on the grounds of pregnancy.

Argentine and Colombian legislation, among others, establish a period during which it is presumed that the dismissal was on the grounds of pregnancy, thereby making it impossible to claim other grounds, and establish

heavy compensation payable by the employer, which may represent the equivalent of one year's wages, in addition to compensation for unjustified dismissal (Argentina) or equivalent to 60 days wages plus eight week's paid maternity rest, if the woman has not taken this previously (Colombia).

The other right which is generally established by national legislations as part of maternity protection concerns the granting of special rest periods to mothers in order for them to nurse their child, and which obviously provides implicit protection for both mother and child.

The duration of these rest periods varies, although they are generally one hour long, divided into two periods, as in Argentina, Colombia, Chile, Guatemala, Honduras, Mexico, Paraguay, Peru, Uruguay and Venezuela. The rest is granted for a period which varies from the first six months of the child's life (Brazil, Colombia) to nine months (Ecuador) and one year (Argentina).

Finally, an examination will be made of the norms regulating two activities generally performed by women; domestic service and home work (seamstresses, dressmakers), and which, on account of the nature of the labour relation, make it difficult to exercise generally recognized labour rights. It is in this type of activity that the greatest deficiencies in respect of control over the length of the working day, the system of compensation, wages and coverage against work accidents, illness, maternity, etc., are to be found, while in addition it may prove more difficult for the worker to undertake action to claim his legitimate rights which have been undermined.

This area has been dealt with by the different legislations within their labour codes (Costa Rica), by specific laws (Argentina), by general laws (Mexico) or, in the case of Colombia, by special laws which refer to the labour code as a suppletory norm, thereby guaranteeing the same rights as those enjoyed by other workers.

As far as the benefits provided are concerned, it should be mentioned that they include, inter alia, the following rights: limitation of the length of the working day, whether this is inferred from the time established for rest (Argentina, Venezuela) or expressly established (Costa Rica); sick or maternity leave; annual vacation, either depending on the length of time worked (Argentina), or of a given length (Brazil, Costa Rica); remuneration which is either set by special bodies (Mexico), on the basis of the area in which the service is provided (Argentina) or equivalent to those of other workers; in respect of the minimum wage to be paid, part of which is in money and part in the form of food and lodging (Colombia).

III. ACTION AND PLANS AT THE NATIONAL LEVEL

It has already been pointed out that the main hurdles detected in respect of the objective of "equality" of the Nairobi forward-looking strategies for the advancement of women arise from the existence of discriminatory legislative provisions, the ineffective application of those which exist and from de facto discrimination, inasmuch as this signifies inequality in respect of the responsibilities and opportunities for participating actively in the development processes. In these circumstances, as will be remembered, measures were proposed to implement the basic strategies at the national level, in the legal and constitutional spheres, in respect of social and political participation and, finally, through the adoption of decisions.

In this connection, it should first of all be mentioned that analysis of the different domestic regulations has led to the conclusion that generally speaking no provisions may be found in the legal field constituting pronounced de jure discrimination against women, and that, in any case, there are sufficient constitutional grounds to make it possible to make legislation more egalitarian.

National constitutions guarantee equal rights to both men and women and prohibit gender-based discrimination, and also provide for similar treatment in the field of political rights; most countries have incorporated the principle of equal opportunity and of equal pay for equal work into their labour laws, and have guaranteed non-discriminatory access to all levels of education.

However, with certain exceptions, considerable inequalities still persist in the area of civil and penal law, and have acquired institutional form, on the one hand, through regulations relating to the administration of property within marriage, parental authority, the transmission of nationality to children born within or outside wedlock, the choice of domicile of the married couple, the adoption of the husband's surname by his wife or her decision to keep her own, and, on the other hand, in the definition of certain crimes or the failure to draw up laws in respect of others which particularly affect women, as well as in the different penalties imposed for crimes, depending on whether the author is a man or a woman.

While recognizing the significance of the review of those norms containing discriminatory provisions, for the purposes of the topic with which we are concerned it needs to be taken into account that law merely provides a legal basis for initiating or pursuing action designed to eliminate hurdles obstructing women's access to equality. Consequently, in addition to these

norms, there are social, economic, political and cultural factors which have so far been used in our countries to justify de facto discrimination and which represent the main hurdle on the path towards effective participation by women in society and fair recognition of her ability.

It would be beyond the scope of this paper to carry out an exhaustive analysis of these factors, although we are fully aware that, as a whole, the causal factors which have contributed towards maintaining this state of discrimination essentially spring from social and cultural stereotypes and from the lack of awareness and understanding of the nature and significance of issues relating to women, largely on account of the priority which has been given to the search for solutions to the continuing economic recession.

However, it has to be acknowledged that in spite of the above difficulties, in recent years governments have devoted greater attention to the problems of women, and consequently adopted plans and policies which have led to efficient measures designed to ensure equal opportunities, in accordance with their international commitments.

Consideration will now be given to the most significant action and plans carried out in certain countries in the region. Without wishing to diminish the importance and significance of non-governmental organizations in promoting measures for the advancement of women, the following analysis will essentially focus on those measures adopted by the formal government structure, since it is States which have undertaken to institutionalize women's issues, to guarantee the systematic adoption of complementary measures and to allocate the necessary human and financial resources to achieve the desired objectives in this field.

In order to provide a better grasp of the achievements made, a presentation will be provided of, on the one hand, the actual results achieved and, on the other, the plans and programmes for action over the medium term, carried out in Argentina, Costa Rica, Uruguay and Venezuela. It needs to be borne in mind that the fact that only information from these countries has been taken into account in no way signifies that they are the only ones to have adopted measures in this respect. This restriction is attributable to questions of time and communication which have hampered access to other sources.

A. CONCRETE RESULTS

1. The creation of a national mechanism

The establishment of a national mechanism responsible for the advancement of women has been one of the objectives proposed by the Strategies which has found broadest acceptance among the countries of Latin America. Most countries have set up or adapted a government agency with responsibility for formulating national plans and policies, for ascertaining the progress made, carrying out research into the situation of women and evaluating the data gathered, proposing programmes designed to achieve effective participation by women in

the social, economic, cultural and political life of the country, and for furthering their rights, etc.

As far as the place of this agency within the State administrative apparatus is concerned, in most cases it is assigned to specific ministries, with the category of an under-secretariat, a department, a division, etc., and generally falls within the sectors of the family, health and welfare and planning and economic development.

As a result of recognition of the need for these national mechanisms to reach out into the regional and local spheres in order to bring about policies in accordance with existing needs, some countries have made progress in this respect by creating offices or strengthening others at the local level, thereby making it possible to promote throughout the country programmes for the promotion of women, and to incorporate properly co-ordinated regional plans into national plans.

Nevertheless, the importance and efficiency of these agencies will, in particular, depend on the extent of their authority and decision-making power, as well as on the scope of their responsibilities and on an adequate allocation of funds to allow them to fulfil their basic objectives. Consequently, it is encouraging that they should have become so widespread, that in many countries they are the principal body involved in the formulation of plans and policies in respect of women and in others, they have begun to participate in the co-ordination of programmes and national budgets.

2. Legislative reforms

While it is true that this study has demonstrated the continued existence of discriminatory features towards women in national legislations, it has also shown the growing interest which has emerged at all levels in recent years for the adoption of measures to overcome this state of affairs. In this connection, legislative reform committees have been set up under the terms proposed by the Strategies, and projects have been drawn up for the purpose of promulgating or amending provisions which undermine women's rights in various spheres. Whether these be laws actually in force or projects under discussion or awaiting approval, both are of equal significance for the purposes of verifying the actual results obtained, provided they reflect efforts and co-ordinated action undertaken in the field under review here.

As far as laws which have been promulgated are concerned, attention will be drawn, by way of illustration, to those in force in Argentina and Venezuela in the sphere of Civil and Family Law. Thus, the following areas have been covered by legislation in Argentina:

- Paternal authority and filiation (Law 23264 of 1985), in virtue of which, both father and mother are given equal rights and responsibilities in respect of their minor children, while at the same time the equality of children before the law is established, whether they have been born within or out of wedlock, and both paternal and maternal responsibility are promoted by the provisions established by

the law. Regulations are laid down in respect of, inter alia: procedure to obtain paternal recognition in respect of children registered as being of father unknown; the presumption of paternity, in the absence of proof to the contrary in the case of children conceived during concubinage, and the hierarchization of biological proofs establishing filiation.

- Reform of the System of Family Law and the introduction of divorce (Law 23515 of 1987). As far as marriage is concerned, the law establishes the equal rights and responsibilities of husband and wife and the principle of joint choice of conjugal domicile; it also allows a wife not to use her husband's family name and permits either spouse to request the separation of jointly owned property should the other be guilty of maladministration. In respect of separation and divorce, it incorporates the grounds of prolonged de facto separation and affections causing behavioural disturbances which make it impossible for a couple to continue living together (alcoholism, drug addiction, serious mental illness).
- The right of a common law wife or concubine to a pension (Law 23226 of 1985). This recognizes the right to a pension provided administrative or judicial proof is given that the couple lived in a state of marriage during a minimum period of five years immediately prior to the death of the partner; this period is reduced to two years if recognized offspring are alive or if the constituent is single, widowed, legally separated or divorced.
- On 26 July 1982 the Congress of the Republic of Venezuela adopted a set of reforms to the Civil Code in order to guarantee the principle of equal rights and obligations within marriage. As a result of these changes, women are now able to share responsibility for the management of jointly owned property, to share paternal authority and to decide with her husband as to the conjugal domicile.

As far as draft laws relating to the legal equality of women are concerned, proposals have been made in respect of the following areas:

Family Law 4/

- Maternal leave for an adoption.
- Establishment of the Family Forum within the judiciary, to operate in two distinct areas: mediation and family advice and family tribunals.
- Fund to provide security for the payment of alimony. The purpose of this fund would be to guarantee receipt of fixed alimony payments or those established by court sentence, for the benefit of minor and/or handicapped children and the spouse.
- The introduction of compulsory pre-marital courses as a requirement for marriage, covering legal, psychological and social aspects of marriage, with a stress on the concept of family democracy, the

correction of stereotyped roles and the rights and obligations of matrimony and parenthood.

Labour Law:

- The inclusion of domestic service within the Law on work accidents (Argentina).
- The status of women in society and at work, equal treatment and opportunities for both sexes (Uruguay).

Among other features, this proposes non-discrimination in respect of contract, promotion, transfer, dismissal or suspension from employment; a prohibition on advertisements restricting jobs to one sex, except when there are manifest grounds for doing so; equal wages for men and women performing equal work.

- Reforms to the Labour Law (Venezuela). This project incorporates a number of articles designed to eliminate or prohibit discrimination against women on grounds which restrict her access to employment. Specifically, this concerns those prohibitions which exist regarding certain types of work and against night work, as well as protection for maternity as a feature of the female condition rather than as a social function. This aims to provide the working woman with freedom to enter different spheres of work; to increase the duration of the period of pre-and-post natal leave for both the natural and adoptive mother; to prohibit the dismissal of pregnant women and to promote the provision of a broader range of services to provide integral child care.

Penal Law:

- The elimination of adultery as a crime (Argentina).
- Reform of the Penal Code in respect of the family and women (Venezuela).

These proposals for reform are designed to adapt the provisions of the Penal Code to the problems facing women and the family at the present time and concern the following points: abuse of punishment, excessive discipline and cruelty in the family (maltreatment); crimes against the person (abortion), against decency and proper behaviour (rape, seduction); crimes against public decency (incest) and crimes against the family (adultery).

The "Law on Real Equality", proposed in Costa Rica, deserves to be mentioned in its own right. In its preambular paragraphs, it invokes the "Convention on the Elimination of all Forms of Discrimination against Women" and the National Development Plan 1986-1990, the latter of which states the need to "overcome all existing economic, legal and political inequality and to pursue action in the fields of culture and education to promote changes in discriminatory patterns of behaviour, on the grounds of the equality of the sexes and of joint responsibility in the home".

Consequently, on the basis of the principle of the equality of men and women, contained in article 33 of the Political Constitution, it is proposed to process the above law, which reformulates those issues considered urgent in order to achieve the desired change.

Thus, with regard to political rights, mechanisms are established to bring about an increase in the number of women in positions filled by popular suffrage and in the internal organization of political parties; in respect of social and economic rights, the law seeks to guarantee equal right of access to credit and property; the right of women with minor children to work is promoted by the establishment of child-care centres, which are compulsory in State institutions and optional in the private sector, where firms are offered the alternative of replacing them by an employer's bonus; further protection is provided in respect of sexual crimes, through the protection of a woman's right to privacy in penal cases and it is prohibited to grant pardons for these crimes; in the educational field the imperative need to eliminate, at all levels, stereotyped male and female roles is established, and finally, the Office of the Attorney for Women is set up, attached to the Office of the Attorney General of the Republic, with as its prime function to oversee full observance of the laws and to take rapid action against discrimination affecting women.

B. PLANS AND PROGRAMMES OF ACTION

Attention has been drawn to the significance of the creation of national mechanisms responsible for formulating policies, plans and programmes in respect of women's problems as well as to the way in which this mandate from the Nairobi Strategies had been adopted in general by the countries of the region.

The challenges facing countries during this phase of reformulation of women's role in society involve the proposal of efficient measures designed to implement action adapted to the most pressing needs, guaranteeing the full equality of women and their incorporation into the development processes in all sectors and at all levels of activity.

An outline will be provided below of the main projects and plans developed in this connection by: a) the Under-Secretariat for Women of the Secretariat for Human Development and the Family of the Ministry of Health and Social Action of the Argentine Republic and b) the Report by the Advisory Commissions --1984 to 1988-- on "national policy for the development and advancement of women in Venezuela", submitted by the Ministry of the Family, Division for the Advancement of Women (March 1988).

1. Characteristics of projects pursued and encouraged in Argentina

The types of project promoted and supported by the above Under-Secretariat in 1987 have been divided into eight groups of measures:

- a) Projects to provide forms of care and attention for children, the offspring of working families (kindergartens, day-care centres, family support centres, child minders and other forms of care).
- b) Programmes to provide support, care and assistance for single female heads of household, by means of training, temporary subsidies, hostels and other forms of solution.
- c) Programmes for the advancement of women, leading to operational forms of participation, reflection, groups, courses, day sessions, seminars, etc.
- d) The promotion and partial finance of research to contribute towards a deeper knowledge of the status of women in the spheres of work, legislation, health, education and daily life.
- e) The preparation of outreach material on the topic of women, their rights and problems, using written, radio and television media (videos, films, broadsheets, periodicals and all types of publication).
- f) Programmes to disseminate knowledge of the problems of battered women: assistance and prevention programmes, self-help groups and the establishment of hostels.
- g) Productive projects and projects to create employment in non-traditional activities for women from low-income sectors: production and management training and start-up equipment.
- h) Integral family advancement and participation programmes as a form of integration for women.

For 1988, the Under-Secretariat for Women has given priority to different tasks within the following jurisdictions: provinces, municipalities and public-sector bodies.

In this respect, the grounds for financing the above sectors are expressed in the following terms: "on the basis of the concept of the role of the State, of the municipality and of the community, and taking into account standards in virtue of which it is our role to legitimate public policies in respect of women and to include the issue within both the sphere of governments and of society as a whole, we have broken down the tasks and allocated priority thereto through the different sectors or jurisdictions.

"In so far as possible, we wish to ensure that provincial government policy in respect of women is not essentially based on assistance and does not merely consider women as the object of policies nor merely conceive them in their role as mother.

"Nevertheless, we are aware that it is the responsibility of municipalities to encourage forms of advancement and/or assistance, as they are the institutional body with the closest links with the user and interested party.

"We consider public bodies to be the most suitable sphere for planning promotional and organizational tasks, although they must always do so in co-ordination with municipal and provincial authorities."

The priority projects proposed at the provincial level fall into the following areas:

- a) Projects to strengthen the provincial organization. Training of officers in policy formation and the study thereof.
- b) The organization of courses, day sessions and workshops dealing with the status of women in the provinces.
- c) Campaigns to disseminate knowledge of women's rights. Enhancement and extension of the existing services. Outreach campaigns on topics such as violence in the family, family planning, stereotyped roles, etc.
- d) Performance of diagnoses on different provincial and/or regional circumstances.
- e) Programmes for the advancement of women who desire operational forms of participation: groups, talks, courses, etc.

The following have been selected as essential projects to be carried out by the municipalities and public sector bodies:

- a) Projects to provide forms of care and attention for the children of working families (kindergartens, family support centres, child minders, etc.)
- b) Programmes for the advancement, care and assistance of single female heads of household, by means of training, temporary subsidies and other alternatives.
- c) Programmes for the advancement of women who desire participational activities: groups, talks, workshops, activities to further family integration and integration in the community, etc.
- d) Programmes of prevention and assistance for battered women: self-help groups, legal and social advice and psychological help.
- e) Productive projects and projects to create employment in non-traditional activities for young women from low-income sectors. Training in production and management, feasibility studies and start-up equipment.

Finally, it is worth drawing attention to a specific project to bring into operation a planning and training unit dealing with social policies, planning and assessment of steps taken in respect of women, attached to the Under-Secretariat for Women.

This project is designed to be a vehicle for support and strengthening of the institutional capacity of the Under-Secretariat for Women, the Secretariat

for Human Development and the Family of the Ministry of Health and Social Welfare, so as to improve the following: social policy formulation, planning and decision-making, diagnosis and preparation of programmes and projects, training and information, management and operation and follow-up and evaluation of processes and results.

The overall aim of the project is to contribute towards maximizing the human and financial resources of the Under-Secretariat for Women in order for it to adequately carry out its mission and role, and its specific objectives are the following: to contribute towards improving the political, technical and administrative decision-making process and to provide support for planning, operation and evaluation of the activities for which the Under-Secretariat is responsible.

The proposed lines of action concern the following aspects:

- Collection and systematization of basic but adequate data in the required areas of the rural and urban environments (women in culture and social organization; health, food and nutrition; work; education; legislation, the exercise of rights, etc.).
- Analysis of the reports produced in the different thematic areas, pinpointing priorities and proposals for action. This material will be used to draw up a global report as a basis for the formulation of policies and for specific decisions in different provinces and municipalities.
- Establishment of an integrated system of ongoing statistics relating to women.
- Adaption of existing policies and of programmes under way. Research into the social circumstances of women in different social strata and geographical regions. Analysis of family dynamics.
- Preparation of a module for research into the social status of women in the course of a round of the Ongoing Household Survey.
- Development of programmes and projects in cases where, whether a diagnosis has been carried out or not, the Under-Secretariat identifies certain priority issues requiring specific programmes and projects, i.e., systems of infant care, survival strategies as a response to the crisis, and the specific nature of the forms of participation adopted by women.
- Information and action centre. Development and implementation of a centre to allow women to channel their demands, become acquainted with their rights and find the necessary support to exercise them.
- Development of new research and action projects based on the diagnosis made.
- Creation of a system of monitoring and evaluation.

- Definition of yardsticks for institutional and functional analysis of the Under-Secretariat.
- Training: training and retraining for technicians and administrative staff at the central, provincial and municipal levels in planning and formulation of programmes and projects; promotion and execution of projects; research, follow-up and evaluation, as well as management and technical and financial management.
- Dissemination: all the activities of the Under-Secretariat, whether they bear on specific studies and research or action must be disseminated by means of broadsheets, publications and graphic publications.

In addition measures will be adopted to develop sensitivity and awareness among public opinion through the mass media (radio and television), by means of campaigns, videos, special programmes, etc.

In order to carry out the above, an interdisciplinary team will be set up to provide support at the various operational levels.

In terms of duration, it should be mentioned that while the objectives and lines of action sketched out above are of an ongoing nature, the project aims to establish a mechanism and system to rationalize from the very beginning planning and management of the tasks for which the Under-Secretariat for Women is responsible. It is planned that once the system has been incorporated into the technical and administrative structure and into the Under-Secretariat's day-to-day work, the support module provided for by the project will cease to exist. The duration of the basic stage will be three years.

2. Report by the Division for the Advancement of Women of the Ministry of the Family, Venezuela

As stated above, this section will be devoted to an analysis of the report published by the Division for the Advancement of Women of the Ministry of the Family of Venezuela, based on the study carried out by the advisory commissions appointed in 1984 by the predecessor of this ministry, the Ministry of Youth, for the purpose of drawing up proposals for action to provide a basis for the policy for the development and advancement of women in Venezuela.

This report presents the results of the research, bearing on the areas of political participation, legislation, health, employment, education and mass media. As the proposals put forward by the commissions in each specific area are interconnected and constitute part of a single social reality, the report sets out the general pattern within which they fall.

Briefly, the proposals for action formulated in respect of each of the areas mentioned are the following:

a) Education

Encouragement for effective participation by women at all levels of formal and informal education. To achieve this, the following measures are proposed, among others:

- Contributing to the elimination of illiteracy among the population, with a special emphasis on women; maximizing efforts to facilitate the inclusion of low-income women into permanent education; promoting attitudinal changes in respect of the choice of careers and professions on the basis of sex; education and job training for low-income women, the organization of cultural programmes to raise their educational level; encouraging women to take advantage of the alternatives offered by informal education, to participate in the development of culture and make proper use of their free time for recreation, physical, personal and social development.
- Promotion of changes in the traditional sexual stereotypes attributed to men and women and reinforcement of those which lead to the adoption of positive characteristics, particularly by women. To achieve this, the following recommendations are made: alterations to the syllabuses of basic and medium-level education, the elimination of stereotyped messages embodying the concept of sexual inequality from school texts and programmes; taking advantage of the impact of education as a multiplying, moderating and catalyzing factor for the promotion of the positive characteristics which both sexes need to adopt, with a stress on women: creativity, self-fulfillment, responsibility, assertiveness; providing the teacher-guide with the basic skills and reflexes to help to eliminate all forms of gender-based discriminatory treatment; the integration of family education at all levels of study within informal education, including sexual education and psychosexual development, in order to prepare the population for living in couples and for responsible parenthood; promoting changes in the sexual stereotypes of men and women; fostering the development of awareness within the family to allow women to perform other family and social roles than those traditionally considered as befalling her; sponsoring proper appreciation of a woman's role in the home and developing an awareness of the need for the family to share domestic tasks.
- Encouraging participation by women in the furthering of education for peace, within the family, among the neighbourhood and the community. In this respect, the planned action must be aimed at encouraging women to participate in the social development of the country, and encouraging the development of opinions on the main problems in the sphere of international relations and the possibilities for peaceful solutions thereto.
- Sponsoring and promoting ongoing research into all areas relating to women: this requires the promotion of regional research into the problems of women, support and encouragement for research as well as studies and practical work designed to develop an understanding of the nature of the institutions and centres devoted to attending to women.

b) Legislation

In this area, the relevant commission has carried out the following specific measures:

- Workshop on the draft civil registry law prepared by the Ministry of Justice and on the proposal for the civil registration of births, prepared by the legal consultancy of the Ministry of the Family.
- The first seminar on family legislation.
- Study of the features of the reform to the Income Tax Law for the benefit of those families and taxpayers with handicapped dependents.
- The preparation of agreements to be signed with the metropolitan police, the office of the public prosecutor of the republic and the work inspectorates, to guarantee genuine defence of women's rights.
- Examination of the projects for reform of the Labour Law and of the Penal Code in respect of women, and submission of proposals incorporating a number of articles designed to prevent discrimination against women.

In turn, the following programme of work is proposed for the present year (1988):

- Preparation of guidelines in the field of tax legislation for the benefit of women who are the sole family support.
- Preparation of guidelines relating to the economic value of domestic work in order to include housewives within social protection programmes.
- Continuation of study into the guidelines for the reform of the income tax law for the benefit of those families and households with handicapped family dependents.
- Supervision over the fulfillment of legal provisions in respect of the creation of child-care centres and insistence that official bodies set them up in all organizations in which more than 30 women are employed.
- Continued support for the Ministry of the Family in its efforts to obtain congressional approval for draft reforms to the Labour Law and the Penal Code.
- Preparation of the second seminar on family legislation.
- Preparation of a project for publications by the Ministry of the Family on women's and family rights.

c) Employment

The main proposals put forward to the Ministry of the Family for channelling refer to the following aspects:

- i) With regard to labour legislation, a broad-reaching campaign to disseminate the rights and benefits contained in legislation on women; the submission of a proposal to the Commission on Legislation regarding examination of situations in which the entry of women into the labour market is subject to particular discrimination, as is the case of regulations on home work and domestic service, selling from home and other traditional female activities; reinforcing, providing support for and disseminating information on the legal assistance services for women; gathering and disseminating information on the most frequent violations of labour legislation affecting women.
- ii) Concerning support services for working women: preparation of an inventory on existing services, estimation of their effective scope and proposal for their extension into areas identified as deserving priority.
- iii) Concerning specific policies and programmes: the employment commission has supported the execution of research into the participation of women in unions, at present under way; it has been recommended that women be given greater union training, and that research be carried out to provide support for designing programmes on the labour status of women in the rural environment; the impact of new technologies, particularly those connected with office work, on the working conditions of women; the application of the Social Security System to Women; the working conditions of traditionally female professions; special attention to training for women, in order to prepare them to enter areas traditionally reserved for men, and dissemination of information on the study opportunities available through INCE. Finally, the Employment Commission has given special priority to consideration of support for the development of microenterprises managed by women, through the provision of management, training and access to credit. In this respect, assistance was provided to the programmes being carried out by the Ministry of the Family in this area.

d) Health

In this respect, the Health Commission put forward the following proposals: preventative measures in the sphere of women's health in general; an inventory of the existing resources providing attention to women; design of workshops in the area of health, aimed at the community and channelled by the training of personnel to propagate knowledge about health, and the preparation of a guide to health for women.

In addition to these general proposals, the commission has examined a number of specific aspects of health in Venezuela, with particular emphasis on women.

These do not only link the action undertaken by the Ministry of Family to other institutions, but also to the need for action and legal reforms. In this respect, the Health Commission proposes:

- i) To submit proposals for legal reforms connected with attention for adolescents in health dispensaries, particularly family planning dispensaries; protection for pregnant women, regardless of their age or status; surgical sterilization of mentally defective women, and finally, a review of legislation in respect of abortion.
 - ii) To establish contacts with the media, in order to obtain air time for the Ministry on the Radio and Television as well as space in written media, to facilitate broader and more effective dissemination of its plans and programmes.
 - iii) To organize a health fair, the basic document for which has already been prepared by the commission. At this event, all governmental and non-governmental agencies would be represented and provide information relating to the health services provided by them.
 - iv) To take into consideration, as a key feature of any health policy, the need to provide information in respect of genetic risk.
 - v) To highlight the importance of couples being aware of the significance of pregnancy, the care necessary during pregnancy, and in particular, during high risk pregnancies and the determining factors therein.
 - vi) To make all possible efforts to bring about a reform of the Penal Code in respect of abortion. It is vital to provide a solution to the problem posed by interrupting pregnancy in those cases when severe fetal illness is diagnosed during the pre-natal period (eugenic abortion) as well as the need to provide for the possibility of abortion when pregnancy has been caused by rape as well as when there are psychological motives for terminating pregnancy.
- e) Social communication

The commission has put forward the following proposals in this sphere:

- i) A recommendation to the Ministry of the Family concerning the organization of a meeting with the main executives from the mass media, producers from television channels, radio stations, directors, heads of information and chief editors from the printed media as well as influential representatives from advertising firms. The aim of this meeting would be to provide an opportunity to reflect on the responsibility of the media in the task of introducing positive changes in collective behaviour and eliminating deeply rooted stereotypes therefrom. In respect of women in particular, the Ministry will provide information relating to its programmes and objectives, and emphasize the role of the mass media as powerful means of achieving solutions to these problems and meeting the objectives. Stress must be placed on the need to validate a new image of women,

replacing the sexual stereotype largely created by advertising and television serials.

- ii) The implementation of an outreach plan in respect of the Office for Women of the Ministry for the Family. In this connection, the commission proposes to publish a weekly broadsheet to be sent to the different mass media in the capital and in provinces, as well to international agencies.
 - iii) Urging the National Executive to abstain from providing financial and logistic support or from facilitating participation of sectors of the national armed forces in beauty contests. Furthermore, it is particularly important that the provisions of the Guardianship Law relating to Minors be used in respect of frivolous competitions, fancy-dress contests, dances and competitions involving physical adroitness promoted with child competitors.
 - iv) The organization of a meeting between officials of the Ministry and heads of schools of journalism in Venezuela to urge them to include the topic of women in their programmes and the compulsory establishment of a specialized chair on the subject.
- f) Political participation.

The Commission on Political Participation, with support from distinguished Venezuelan women's leaders has sent a document to the country's political parties, with the following specific proposals:

- i) That each party regulates the representation of women by percentage quotas in proportion to the number of women militants in its ranks, on the basis of a minimum percentage of 30% in decision-making positions and with a strong possibility of their being elected.
- ii) Establishing conditions to ensure responsible and equal participation by women, and which must in turn be sustained by the programme of government proposed by each candidate.
- iii) That political parties intensify efforts to promote and ensure equal participation by women in all national and local legislative bodies in order to achieve equality in the nomination, election and promotion of women to high positions in the executive, legislative and judicial spheres.
- iv) That in elaborating policies, plans and programmes for women, a broad appeal be made to all bodies and individuals committed to the advancement of women, as is the case at the present time with the Advisory Commissions of the Ministry of the Family in the spheres of legislation, health, employment, education, mass media and political participation.

- v) That the incorporation of women into management and leadership posts in the country's professional and union organizations be encouraged and facilitated.
- vi) Dissemination of knowledge on and encouragement for the training provided for women through programmes such as those carried out by the Division for the Advancement of Women in the areas of self-esteem and leadership.

These proposals are designed to provide a more powerful or more decisive impetus to the process of advancement of women as active political agents, capable of organizing and speaking on behalf of national public opinion and playing a role in running the country's political and institutional process.

IV. PROPOSALS FOR ACTION

The purpose of analysing in this study the legal status of women both internationally and under the domestic legislation of countries of Latin America and the Caribbean has been to endeavour to stress those aspects which still entail unequal rights, in the terms identified by the Convention on the Elimination of all Forms of Discrimination against Women, and which the Convention aims to do away with. Consequently, it has been considered essential to illustrate in this document, by means of the plans and programmes referred to, the efforts undertaken in two countries in the region with a view to eliminating discrimination and ensuring the full insertion of women into economic, political, social and cultural development.

It is possible to infer from these plans that they correspond to the measures proposed by the Nairobi Strategies, which, as observed, lay down guidelines for identifying those features which hamper progress towards equality and to propose efficient action to eliminate the existing restrictions on the basis of detailed, carefully documented and overall studies into the status of women.

These considerations compel us to acknowledge that it is both impossible and unnecessary to put forward original suggestions in this respect, and we shall consequently restrict ourselves to specifying and identifying such action as is considered essential and urgent for the development of a co-ordinated policy in favour of women.

In this respect, it should first of all be mentioned that in order to ensure the efficiency of such policies, whatever they may be, it is necessary to establish, on the basis of national circumstances, which objectives are to be achieved in each area, to define which activities will make it possible to achieve them and to designate the organization or organizations responsible for carrying them out, and to provide them with adequate human and financial resources.

The suggestions set out below bear in mind these considerations, and consequently cover the areas requiring priority attention, which are, legislation, education, work, health, political participation and the mass media.

- i) Fuller incorporation of the constitutional principle of equality into legislation and more satisfactory application of existing legislation in favour of women.

- ii) Promoting access by women to higher levels of education, information, training and culture.
- iii) Identification of the actual inequalities which exist in the educational system, in order to ensure that equality of access becomes a reality.
- iv) The elimination of gender-based labour segregation and improvement of the working conditions of women and the social protection provided for them.
- v) Improvement of health care, particularly in the case of high-risk groups of women.
- vi) The design and implementation of measures to facilitate increased political participation by women and their insertion at decision-making levels.
- vii) The promotion of changes in the sexual stereotypes traditionally assigned to men and women in both the public and private spheres.
- viii) Improved and deeper knowledge of the social status of women and of the incidence thereon of social and economic policy measures, through improved statistics, surveys and research in general.
- ix) Assigning to the mass media their true role in the dissemination and transmission of messages contributing to the transformation of social behaviour and the dissemination of policies for the development and advancement of women.

Notes

1/ ECLAC, Regional Plan of Action for the Integration of Women into Latin American Economic and Social Development (E/CEPAL/1042/Rev.1), Santiago, Chile, November 1977; p. 9, paragraphs 17, 18 and 19.

2/ United Nations, The Nairobi Forward-Looking Strategies for the Advancement of Women adopted by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985. See paragraphs 60 to 76.

3/ 34/180 of 18 December 1979.

4/ All the draft laws mentioned here are from Argentina.

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