

GENDER-BASED VIOLENCE: A HUMAN RIGHTS ISSUE

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ABSTRACT

While it is true that human rights violations are committed against men as well as women, their impact clearly differs depending on the sex of the victim. Studies of the subject indicate that all acts of aggression against women exhibit some characteristic or other that provides a basis for their classification as gender-based violence. This means that such violence is directly related to the unequal distribution of power and to the asymmetrical relationships that exist between men and women in our society, which perpetuate the devaluation of women and their subordination to men. What differentiates this type of violence from other forms of aggression or coercion is that the risk factor in this case is the mere fact of being a woman.

Gender-based violence can take many forms and, depending on the type of relationship that is its context and the type of power being exerted, this crime may therefore fall into any of the following categories: rape and incest, sexual harassment at work or at school, sexual violence against women detainees or prisoners, acts of violence against displaced women, trafficking in women and domestic violence.

The following study explores the last of these crimes in detail, but also discusses the other forms, since in recent years it has led to the establishment of new institutions and the adoption of legislative amendments that have served as a focal point for collective action by women.

The lack of the necessary statistical data to provide an accurate picture of this phenomenon in Latin America and the Caribbean constitutes an obstacle to a fuller understanding of the issues associated with gender-based violence. Although clearly it occurs much more frequently than is indicated by official records, studies on the subject suggest that the problem is actually one of epidemic proportions. Most of the data cited in this study have been drawn from research papers and documents prepared by non-governmental organizations and international bodies that have studied the subject in recent years.

The proposals presented here are based on the indivisible nature of women's rights, on the obligation of the State to protect and uphold those rights, and on the conviction that respect for human rights is also an essential condition for the development of our countries and the full citizenship of all their inhabitants. A case is also made for the necessity of analysing the subject of human rights and gender-based violence from a perspective that holds out the possibility of cultural changes of a structural nature that will entail respect for women's rights and will call into question the inevitability of violence as an element in gender relations.

I. HUMAN RIGHTS AND WOMEN: A NEW SET OF ISSUES?

Human rights, defined here as a group of ethical principles having a legal dimension, arise out of the need of each and every individual to enjoy the conditions essential for a decent life. These rights have been structured through a long process of change over the last two centuries. Although it is impossible to establish a linear historical sequence in the identification of these rights, an analysis of the history of debates on the question in international bodies shows that civil and political rights may be regarded as corresponding to the "first generation" of human rights; social, economic and cultural rights to the "second generation", and the right to peace, development and a healthy environment to the "third generation", while the rights of peoples represent a "fourth generation".

In recent years, as part of this evolution, a concept of human rights has been developing that calls into question the universal validity of androcentrism and of the model of Western man. This has led to an awareness of the need to have regard for the specific characteristics of individuals, whether in terms of gender, ethnic origin, age or any other trait. The recognition of this heterogeneity does not lead to the fragmentation or atomization of the human condition; on the contrary, it contributes to a true universalization of individuals and human rights based on the principle of pluralism and respect for differences and diversity.

At this time, it is imperative to analyse the question of human rights and gender-based violence against women from a perspective that offers the possibility of cultural change. To do so, it must be borne in mind that this issue is directly related to the unequal distribution of power in society and that radical changes are therefore needed in this area. The type of social change which demands that women's rights be upheld should cast women—with all their different ways of thinking, feeling and acting—as leading actors in this process of change. Their historical and day-to-day experiences should be taken into account in this substantive reformulation of human rights, since the definition and application of these rights must not be separated from people's daily lives.

The democratization processes now under way in Latin America and the Caribbean, after a period marked by numerous human rights violations, are shaping a broader social base for greater awareness, repudiation and solidarity in relation to these events. The process of democratizing gender relations is still in its early stages, however, although there is an increasing recognition of the need to move beyond the patterns whereby women occupy positions inferior or subordinate to men. The way aggression against women is conceptualized also has to be changed, and women's right to live without violence has to be recognized. In our countries, this implies an acknowledgement of the following: 1) that respect for human rights is an indispensable requisite for the development and full exercise of citizenship, and 2) that there are serious conflicts—conflicts that have to be resolved—between individual and collective rights and between the principle of equality and the right to be different.

Although human rights violations affect men as well as women, their impact and character clearly change according to the sex of the victim. Moreover, most of the

violations of the rights of women and the discrimination and abuse to which women are subjected are specifically attributable to their sex. Despite the existence of such factors as ethnic origin, social class, sexual preference, disabilities and political and religious affiliation which are factors in the victimization of women, generally speaking, every act of aggression perpetrated against a woman has some characteristic or other that identifies it as gender-based violence.¹

Gender-based violence is defined as violence that reflects the existing asymmetry in the power relations between men and women and that perpetuates the subordination and devaluation of the female as opposed to the male. This violence exists within the framework of the patriarchy as a symbolic system that engenders an array of day-to-day practices which deny women their rights and reproduce the existing imbalance and inequity between the sexes. The difference between this kind of violence and other forms of aggression and coercion lies in the fact that in this case the risk factor or source of vulnerability is the mere fact of being a woman.

Throughout history, various forms of violence have manifested themselves in society as a consequence of certain sectors' or groups' domination over others. In this context, gender-based violence is a key social mechanism for perpetuating the subordination of women, since male hegemony —power being considered the generic patrimony of men (Amorós, 1990)— is based on social control over women. Therefore, violations of women's human rights are directly or indirectly related to the gender system and to mainstream cultural values.

The violation of women's rights and gender-based violence are not new problems; they arise out of attitudes which, until very recently, were socially acceptable and, since they were generally limited to the sphere of private life, were little known. Nevertheless, it is clear that the racial mix (*mestizaje*) of Latin America and the Caribbean is founded upon a paradigm that has its roots in the rape of indigenous women. Historical studies in some countries show that physical violence or brutality committed by men against their wives was an accepted fact in the eighteenth and nineteenth centuries and that violence was accepted as a "punitive correction" in cases where women did not comply with social mandates (Cavieres and Salinas, 1991).

What *is* new is a concern for women who suffer physical, sexual or psychological aggression in the family, at work or in educational institutions. The problem is perceived somewhat differently today, as society begins to question, at an essential level, the consubstantiality between violence and gender relations, and as a negative attitude towards violence, in any of its manifestations in social life, becomes increasingly widespread.

Forms of gender-based violence which, depending on the relational and power structures in operation, regarded as criminal acts include rape, incest, sexual harassment in the workplace and in educational institutions, sexual violence against detained or imprisoned women, violence against displaced women and trafficking in women. However, in the region these expressions of extreme violence have not been widely

¹ According to the United Nations group of experts on violence against women, although anyone can be a victim of acts of violence, gender is one of the factors that significantly increases vulnerability. Some of the factors that back up the assertion that gender-specific violence exists are: a) most aggressors are men, whether the victim is a man or a woman; b) violence affects men and women in different ways, since the injury or damage suffered is normally determined by their sex; c) aggressors are usually motivated by gender considerations, such as the need to reinforce male power and privileges (United Nations, 1993a).

studied, and, for the most part, little or no research is being done on these issues. The most widely recognized problem is domestic gender-based violence. This study devotes special attention to this issue in view of the important institutional initiatives undertaken in this area, the substantial changes that have been introduced in the relevant legislation, and the collective actions that have been coordinated by women to address the problem.

Only a small proportion of the acts of violence that affect the lives of women in our countries is reported, but the studies that have been done indicate that such violence is common. In the region, systematic research on domestic violence began in the second half of the 1980s and has provided a good deal of information and analysis. This has provided some idea of the magnitude of the problem and has made the issue an object of public and governmental concern, although the degree of awareness differs from one social sector to another. However, these studies usually suffer from certain limitations: generally speaking, they reflect biased perspectives, most are descriptive or exploratory, and there is still a lack of coordination and a failure to observe common methodological standards, which makes it difficult to compare their findings or extrapolate from their results.

Moreover, although real progress has been made in estimating the prevalence of domestic violence, there are still no official statistics on the actual frequency of all the various forms of gender-based violence in the region. For this reason, the data presented in this study correspond to research and documents prepared by non-governmental organizations and international bodies that have worked on the issue in recent years.

There have also been a great variety of actions to prevent violence and provide attention and support to its victims, but such steps are usually taken without benefit of coordination and with limited resources, and have differing basic orientations. Consensus baseline analysis and methodological criteria are also lacking, so no comparable figures have become available to serve as a basis for policy-making. Follow-up and assessments of the projects undertaken, using accepted valid procedures, would provide more systematized and conclusive data.

The complexity of the relationships between men and women and of their causes and effects, the different forms of discrimination, the stereotypes that perpetuate them, and the violation of women's human rights are not limited to the problem of violence. Nonetheless, the various dimensions of social inequity cannot be analysed without considering this fact as a dramatic expression of gender-based inequality and asymmetry.

II. EVOLUTION OF THE ISSUE OF "GENDER-BASED VIOLENCE"

Over the past few decades, gender-based violence has increasingly come to be recognized as a serious problem at the international level, not only for women but also for the attainment of equality, development and peace (United Nations, 1986a). The issue has also become a priority for women's organizations in the region and a subject for feminist thought during the United Nations Decade for Women: Equality, Development and Peace (1976-1985), and in recent years Governments in the region have also begun to devote attention to the issue.²

Although in 1979 the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women,³ which incorporated women into the sphere of human rights, that instrument did no more than to touch on the problem of violence against women. One of its defects is precisely the lack of a clear definition of gender-based violence. Specific concern for this problem began to manifest itself in 1980, when the World Conference of the United Nations Decade for Women: Equality, Development and Peace, held in Copenhagen, adopted the resolution on "Battered women and violence in the family". Likewise, paragraph 288 of the Nairobi Forward-looking Strategies for the Advancement of Women (1985), issued by the Third World Conference, calls for specific measures to deal with violence against women.

Since that time, the United Nations has organized meetings of groups of experts on violence against women and has taken steps to bring the issue to the attention of the Commission on the Status of Women, the Economic and Social Council, the Division for the Advancement of Women, the United Nations Statistical Office and the Committee on Crime Prevention and Control. In 1989, the Committee for the Elimination of Discrimination against Women recommended that member States report on violence against women and the measures adopted at the governmental level to eradicate it.

At the Expert Group Meeting on Violence against Women held in 1991, it was determined that the existing instruments did not give due consideration to gender-based violence and that a specific definition of this crime was lacking. In the opinion of the group, the absence of a clear definition hindered the effective application of international human rights regulations aimed at solving this problem (United Nations, 1991a, b, and c). Accordingly, the expert group produced a draft declaration on the elimination of violence

² In the early stages, actions taken within the framework of the women's movement by non-governmental organizations were carried out independently of State institutions, but in 1990 the two groups began to collaborate on projects and programmes in this area.

³ It is important to note that Latin America and the Caribbean is the first, and for the moment the only, region of the world in which all the countries have ratified the Convention on the Elimination of All forms of Discrimination against Women. This, however, does not mean that all the countries in question have adapted every aspect of their legislation to the Convention, have adopted measures to eliminate de facto discrimination, or have complied with this obligation to report to the Committee on the Elimination of Discrimination against Women (CEDAW).

against women which was analysed in depth by the Commission on the Status of Women at its thirty-sixth session with a view to its adoption by the General Assembly.

At the region level, pursuant to the resolution entitled "Women and violence" adopted at the Fifth Regional Conference on the Integration of Women into the Economic and Social Development of Latin America and the Caribbean (ECLAC, 1991b) and General Assembly resolution 45/114 on domestic violence (United Nations, 1990), the documents and policy recommendations issued by the Economic Commission for Latin America and the Caribbean (ECLAC) have characterized the problem of gender-based violence as one of the obstacles that must be overcome in order to improve the status of women in the countries of the region and achieve development with social equity.

Women's groups in the region have carried out a variety of activities to promote respect for women's human rights. This process intensified during the preparations for the United Nations World Conference on Human Rights, held in Vienna in June 1993. At that Conference, the women's movement proposed that the Universal Declaration of Human Rights include specific references to gender-based violence and that the Declaration be reformulated from the gender perspective, which is not limited to the situation of women but rather encompasses all of society.

For their part, in the San José Declaration on Human Rights, which was adopted at the conclusion of the Regional Meeting for Latin America and the Caribbean of the World Conference on Human Rights held in January 1993 in Costa Rica, the Governments of Latin America and the Caribbean reiterated that the State should give priority to actions that promote respect for women's rights, their participation in national life under equal conditions, the eradication of all forms of hidden or open discrimination, and especially the elimination of gender-based violence.

The resolutions adopted at the World Conference on Human Rights emphasize the importance of ensuring that women are able to enjoy the highest possible level of physical and mental health throughout their lives and, to that end, recognize their right to accessible and adequate health care, a broad range of family planning services, equal access to all educational levels on an equal footing, and to a life free of violence. One of the achievements made possible by the proposals put forward by the women's movement of Latin America and the Caribbean was the inclusion in the final declaration issued by the Conference of a recommendation that a Special Rapporteur should be designated to report on the status of the situation as regards violence against women in all the countries of the world. In November 1993, the forty-eighth session of the United Nations General Assembly established that post.

Recently, two new international instruments have been proposed which would recognize that all forms of gender-based violence are human rights violations: declaration 48/104 of the United Nations General Assembly on the elimination of violence against women⁴ and an inter-American convention on the prevention, punishment and eradication of violence against women, which has been proposed by the Organization of American States through its Inter-American Commission of Women (IACW).

The Declaration recognizes the urgent need to extend to women the rights and principles concerning the equality, security, liberty, integrity and dignity of all human

⁴ Adopted on 20 December 1993. Given the nature, magnitude and seriousness of gender-based violence in our societies, this Declaration is the result of a consensus as to the need to define such violence clearly with a view to the adoption of modifications or the addition of new provisions in the legislation of the States that signed the Convention on the Elimination of All forms of Discrimination against Women (United Nations, 1994).

beings. Article 1 defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life". Article 2 states that "violence against women shall be understood to encompass, but not be limited to, the following: (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs" (United Nations, 1994).

In summary, progress has been made mainly in two areas: dissemination of information about violence against women and violations of their human rights, and the consideration of their interests and demands in United Nations instruments for the protection and promotion of human rights.

This growing international recognition of the problem is due to greater awareness at the world level of the rights of women and to the work of such organizations as the Latin American and Caribbean Network against Sexual and Domestic Violence,⁵ which have repeatedly said that gender-based violence is a priority issue for women the world over. Thanks to these efforts, the defenseless situation of victims is gradually changing and, today, most of the countries of the region have laws that defend women and places where they can seek shelter, support and assistance. Governments⁶ and non-governmental organizations are also organizing information and sensitization campaigns that help to make the problem known and offer various informational and preventive measures.

The media, too, are more open to publishing articles denouncing gender-based violence, editorials concerning the issue and the conclusions of studies on the subject. Gender-based violence is no longer reserved for the news sections devoted to sensationalist police reports. Other sections of newspapers carry women's viewpoints, although there is still no critical reflection on the responsibility of the media as regards the reproduction and perpetuation of violence against women and the dominant gender system.

Professionals and students of various specializations are also showing more interest in the problem. The academic world has been slow to study the causes, consequences and characteristics of gender-based violence, but the fact that it is now doing so is an important advance. In 1989, the National University of Buenos Aires established a degree programme focusing on family violence, and post-graduate courses on gender are given in universities in a number of countries, including Bolivia, Chile, Costa Rica, Mexico and Venezuela.

Even though public debate and dialogue on the issue have become more widespread

⁵ The Network held its first meeting in August 1992 in Olinda, Brazil, with the participation of 21 countries of the region. The Network is comprised of five subregions: the Caribbean, Central America and Mexico, the Andean subregion, Brazil and the Southern Cone.

⁶ An example of these activities is the television campaign carried out in 1993 by the National Women's Service of Chile (SERNAM), with spots entitled "War" and "Cries of Silence" and a radio show called "Diary of hope", which was comprised of 30 chapters of 15 to 20 minutes each.

and are delving more deeply into the problem, Governments still lack a defined policy for combating and preventing gender-based violence in all its forms. Despite the limitations that still exist, over the last decade there has clearly been an increasing awareness and social consciousness about problems affecting women. This is reflected in the existence of a greater concern about gender-based violence, especially at the international level, and the activities that have been carried out in the countries.

1. Gender-based violence as a human rights violation

Women enjoy the same rights and freedoms as men, and autonomy, under the terms of the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Elimination of All Forms of Discrimination against Women. In addition to respect for the rights enshrined in these instruments, voices have been raised in Latin America and the Caribbean calling for the recognition of the specific contextualized rights of women. For example, they demand the right to be agents and beneficiaries of development, in view of the intensification of social inequality and the impact of the crisis, the social cost of structural adjustment policies and the limitations of social policies in compensating for the effects of economic changes. They also demand the right to participate socially and politically within the framework of an equitable form of development that gives decision-making power to everyone. Reproductive rights are also called for, with such rights being understood to include a woman's right to receive suitable care during pregnancy, childbirth and puerperium, to have access to duly controlled contraceptives, to decide when she wants to have children and how many children to have, and especially to exercise control over her own body.⁷

Although since the 1970s women have participated widely and visibly in the movement to defend human rights, they have not always been able to place their gender-related demands at the centre of that struggle. It was not until the late 1980s that women became fully aware of their status as persons having a legal identity and began to act accordingly, questioning the essentialist view of social hierarchies and the "normality" of their subordination. In this context, their demands for human rights are also a consequence of their demands for new ways to exercise their citizenship and their desire to do so on an equal footing in accordance with the principle that the most basic right is the "right to have rights" (Lefort, 1987). Linking the issue of gender-based violence with human rights offers new possibilities for analysis and for the struggle to end discrimination against women.

Still influential, however, is the fact that the human rights paradigm was structured on the presupposition that public affairs form the context for individual civil and political rights, which leaves out violations that occur within the household. Thus, crimes against

⁷ A research project on women and human rights in Latin America and the Caribbean carried out by the Ministry of Justice of Costa Rica concluded that in the region the following rights of women are violated: the right to integrity, health and life to liberty, dignity and equality; to work, to equitable, decent, safe and hygienic working conditions and to equal pay for equal work; to rest and free time; to take decisions with regard to reproduction and to have access to suitable and available health care; and to participate in political life and occupy public office (Costa Rica, Ministerio de Justicia y Gracia, 1993).

women are considered as such to the extent that they can be associated with situations addressed in legal codes and treaties. For this reason, women began to fight for a redefinition and extension of internationally recognized rights, so that gender relations might be considered as a context in which inequality is manifested. They have also spoken of the need for a new interpretation of public and private spheres and hence, of the sphere of human rights, since this dichotomy has limited the citizenship of women.

Gender-based violence in the household is a flagrant transgression of the principles enshrined in the Universal Declaration of Human Rights. Among others, violence against women is a violation of the right to life, liberty and personal safety (article 3); of the right to not be subjected to torture or to cruel, inhuman or degrading treatment or punishment (article 5); of the right to equality before the law and to equal protection under the law (article 7); of the right to a fair trial (articles 8 and 10); of the right to freedom of movement (article 13), and of the freedom of assembly and association (article 20).

It has also begun to be recognized that gender-based violence is a violation of the right to identify, since it reinforces and reproduces the subordination of women to men, as well as leading to a distortion of the human being; of the right to affection, since violence is the antithesis of any expression of that sort; of the right to peace and enriching personal relations, since it is a negative form of dispute settlement; of the right to protection, since it creates a situation of defenselessness, not only *vis-à-vis* the husband and the family but also in terms of the State, which denies protection to women, and society, which denies that the problem exists; of the right to personal development, since its victims suffer a form of psychological paralysis which prevents them from developing their creative potential; of the right to social and political participation, because it inhibits activities outside the household (with the exception of the bare minimum of activities related to traditional roles), such as participating in organizations, groups or meetings; of the right to freedom of expression, and of the right to an optimum state of physical and mental health.

The United Nations General Assembly, at its forty-seventh session, agreed that the violation of the human rights of women was not limited to acts perpetrated or directly condoned by Governments, but rather that Governments bore a social and political responsibility for acts committed by third parties if they had not taken the necessary measures to prevent, investigate and punish acts of violence (United Nations, 1994). According to this criterion, the State becomes a *de facto* accomplice if it does not offer women the necessary protection from violations of their rights, or when it acts in discriminatory fashion by not preventing or punishing acts of gender-based violence, thereby denying women equal protection under the law. By the same token, the incapacity of the State to put an end to social, economic and cultural conditions that expose women to gender-based violence means that it is responsible for such violence, since it should actively contribute to eradicating injustices and inequalities that manifest themselves in gender relations. Nevertheless, the obligation of the State to protect the human rights of all citizens (women and men), under all circumstances, does not eliminate the conflict between the possibility of an arbitrary form of State intervention in people's private lives and the control of all that which prevents the establishments of equitable family relations; both alternatives deserve to be carefully analysed within the framework of personal freedoms.

Since human rights are indivisible, it is impossible to recognize or defend some of those rights but not others. Women's rights should receive the same attention as the rest and should be considered in conjunction with those regarded as being the most pressing or important. An integrated approach to human rights is the only way to ensure respect

for each and everyone of those rights and thus prevent them from being reduced to mere formal categories lacking in substance.

2. Legislation on domestic violence

Gender-based violence is a universal problem, but in order to better understand the patterns of violence and its causes and, hence, to eliminate them, the starting point should be a knowledge of the particular historical and socio-cultural factors at work in each specific context. Consequently, it is necessary to consider which civil rights and responsibilities women are recognized as having in each society, as compared with those of men, and the ways in which they relate to one another.

In keeping with their societies' mainstream values and with the Roman law and Napoleonic code on which they are based, until very recently the laws of Latin America and the Caribbean, upheld the notion of male ownership and male authority over women, who were legally considered as "permanent minors or incapacitated persons", and even ratified violence against them as a mechanism of punishment and control. In this sense, in fact, married women received the least legal protection. Even though the Organization of American States (OAS) had begun to take concrete measures against legally sanctioned gender-based discrimination as far back as the 1920s,⁸ the commonplace nature of gender-based violence in the home shows up the defects of the relevant legal systems which stem from their lack of legal definitions of forms of behaviour that constitute criminal acts, along with their failure to punish aggressors and protect victims. The lack of specific legislation may be seen not only as a legal void but also as a form of complicity on the part of the legal system with a societal pattern of discrimination against women which has contributed to the invisibility of the phenomenon.

Since 1977, the year in which the Regional Plan of Action for the Integration of Women into Latin American Economic and social Development was adopted, the need has been recognized to revise existing legislation and legal regulations related to sexual and physical violence against women. This Plan also recommends the adoption of measures to ensure that the investigations of such crimes will be confidential (ECLAC, 1977), and determined efforts have been made in the countries of the region to promulgate specific laws on the subject. In addition, the steps taken to reform the countries' penal and civil codes and other laws of a more general nature have caused the problem to be seen as a political issue.

A number of legal proposals and bills of law have been presented to prevent and penalize gender-based violence, and specifically gender-based violence in the home, based on the conviction that one of the concrete problems that victims face is an inadequate legal response. Argentina, Belize, Brazil, Colombia, Peru, Ecuador, Chile, Costa Rica, Honduras, Nicaragua, Guatemala, El Salvador, Venezuela and Uruguay are some of the countries which have already launched reform processes.

The specific nature of gender-based violence in the home is such that other, apparently less serious forms of behaviour may also be identified as acts of violence; these types of conduct include verbal and emotional aggression, deprivation of liberty, coercion, the infliction of physical injuries not severe enough to constitute serious bodily

⁸ The Fifth International Conference of American States, held in Santiago, Chile, in 1923, agreed that every programme of that body should work for the abolition of constitutional and legal provisions that deprived women of legal capacity in order to uphold their rights.

harm, and sexual abuse that does not constitute rape or ravishment. In this regard, the United Nations group of experts on violence against women has stated that the concept of "victimization" provides a clearer picture of victims' real needs for protection and should be included in all legislation, since the concept of violence traditionally refers to extreme cases (severe injury and femicide). A comparative analysis of legal proposals in the region reveals similarities and differences which are, for the most part, associated with two distinct models: 1) the consideration of mistreatment as a symptom of conflict, and 2) the consideration of mistreatment as a crime; the procedures proposed are based on one or the other of these two criteria (Chiarotti, 1993).⁹

The obvious progress made in the region in extending women's formal rights has yet to lead to a practical application of those rights on a day-to-day basis either within or outside the sphere of the administration of justice. Therefore, even though legislative progress has provided more coverage in a declaratory sense, women are still restricted in the exercise of their rights due to ideological resistance that perpetuates past discrimination and thus hinders the assertion of existing rights today.

Despite the fact that procedural law should be a logical consequence of legal mandates, in the countries that have already classified the crime, the existing penal statutes appear to be ineffective because they are designed to resolve situations produced by acts committed in public places and between persons not bound by affective ties or family relationships. It often happens that, even when women do bring charges, the ensuing legal proceedings do not prosper. Some of the reasons for this are the following: the use of arguments in defence of family stability by officials of the judicial system to persuade victims to drop the charges; the lack of "conclusive evidence" to begin proceedings; the lack of "objective" eye witnesses (children are not considered valid witnesses; moreover, it is unlikely that they will testify against the father on whom they depend emotionally and economically and from whom they fear reprisals); the slowness of the proceedings; the rigidity and complexity of penal processes that discourage victims from continuing; and the fact that many women do not want their husbands to be jailed but rather seek protection and support in order to escape from the situation of violence in which they find themselves.

With respect to this last point, there have been cases in Chile and Argentina in which judges have ordered aggressors to undergo psychological therapy, but these have been personal initiatives rather than general policies of promoting rehabilitation and preventing recurrence. However, the idea of remanding aggressors to individual therapy and ordering them participate in self-help groups for violent men is becoming increasingly widespread. For example, a group of professionals at the Agudo Avila psychiatric hospital, run by the municipal health department of Rosario, Argentina, are getting aggressors involved in the activities organized by the institution to assist women, based on the assumption that violent conduct is learned from and reinforced by society and that the resocialization of the aggressor is therefore vital in order to change his behaviour.

Studies indicate that it is essential for society's response to the phenomenon of

⁹ International bodies are constantly urging Governments to deepen their reforms and pay attention to the different aspects of gender-based violence. The Declaration on the elimination of violence against women (1990) recommends developing "penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered (article 4, paragraph (d)) (United Nations, 1993a).

gender-based violence to include the elimination of the institutional hurdles facing women which lead to "secondary victimization" (Viano, 1987), since when women seek help they are treated with hostility or in a negligent or discriminatory fashion by officials in charge of providing them with support. The victims are often blamed, and their version of the facts is placed in doubt; the severity of acts of aggression is often downplayed through associated with such factors as drunkenness and adultery, and there is a great deal of resistance to recent legal changes. A number of countries in the region have responded to the challenge of redefining the role that public officials can play in controlling and preventing gender-based violence and have launched programmes to train and raise the consciousness of personnel working in the justice system.

Throughout the world it is recognized that the police force plays a fundamental role with respect to violence within the family in terms of both prevention and assistance. It is considered to be a key element in a country's social response to this problem, inasmuch as it is the only institution that combines the coercive power of the State with accessibility, since in most countries it is the only service available 24 hours a day that offers comprehensive geographical coverage (Ahumada and Arancibia, 1993). The data that have been collected confirm that, in general terms, the police response to the demands of victims of gender-based violence is unsatisfactory and exhibits a tendency towards secondary victimization. In response, efforts have been mounted in the region to set up female police units and to provide training and instruction to police officers of both sexes.

In 1985, the first all-women force (police officers, detectives and social workers) opened its doors in São Paulo. In its first year in operation, the force responded to 200 calls, and in 1988 a single unit received 7,000 calls (Statiom, 1989). Following this example, by 1992 state governments already had 240 such units in Brazil, and by 1993 Colombia had 70 family police units, which promote negotiations between those involved as a means of overcoming violence within the family (ECLAC, 1993c). In Ecuador, on 9 March 1994 the Ministry of Governance and Policy approved the establishment of female police forces in four of the country's main cities (Quito, Guayaquil, Cuenca and Portoviejo); since then, women's organizations have been carrying out information and training activities in an effort to make these police units into effective instruments for the defence of victims. The existence of these institutions has also led to the provision of better care to victims, while the systematization of the statistical data collected has made it possible to identify the groups of women that have been the most severely affected and the different forms in which gender-based violence is manifested in the countries of the region.

It is important to point out that prompt reporting and effective penal and legal procedures play a significant role in putting a stop to aggression. A study undertaken by the legal team of the Centre for the Treatment of Domestic Violence, of the Municipality of Santiago, Chile, found that in 72.5% of the cases, aggressors who received a summons from police or legal authorities, or who learned that they were being investigated, stopped committing acts of violence as they became aware that they would no longer go unpunished, whereas 5% became more violent. In 22.5% of the cases, the reaction of the aggressor could not be ascertained because the women withdrew the charges or because the process had just recently begun (Ulloa and Vargas, 1991).

It is agreed that in Latin America and the Caribbean the mere promulgation of laws is insufficient; women first have to know what those laws are and what their rights are before they can assert them or feel protected by a legal system that will punish crimes committed against them and will not allow society to ignore them. This is the idea that

underlies the work of most centres for battered women and of legal aid offices funded by non-governmental organizations, such as the Centre for Legal Services to Women (CENSEL) of the Dominican Republic, The Women's Legal Office of Cochabamba, Bolivia, and the Women's House of Chimbote, Peru.

The Latin American Committee in Defence of Women's Rights (CLADEM), which was founded in Lima in 1987 and now has affiliated offices in more than 10 countries of the region, has made an important contribution to the legal analysis of violence. The Committee has organized seminars and debates and published studies on family legislation, constitutional and labour laws and human rights, applying the gender perspective to an alternative interpretation of law which takes into account the needs and interests of the women concerned.

The establishment, in most of the countries of the region, of government offices for women affairs, under the authority of different ministries or secretariats has, despite insufficient allocations of financial and human resources, done a great deal to advance national or provincial-level activities and programmes to deal with gender-based violence, especially within the home. Generally speaking, these institutions have played a key role in drafting legislation, creating greater public awareness and raising the consciousness of political figures and legislators. Given the multi-dimensional character of gender-based violence, which calls for integrated responses and cross-sectoral government measures, mechanisms to coordinate joint actions have been established, as in the case of the Interministerial Commission for the Prevention of Domestic Violence, founded in Chile in May 1992.

III. DOMESTIC VIOLENCE AGAINST WOMEN

The main victims of domestic and family violence are normally children, the elderly and women, but research shows that most victims are women; at the global level, at least one out of every 10 women has been attacked by their spouse or partner (United Nations, 1986c). International statistics indicate that 2% of the victims of acts of violence committed by a spouse or partner are men; 75% are women, and 23% are cases of reciprocal violence (Corsi, 1990). These data point up a number of the phenomenon's peculiar characteristics and underscore the vulnerability of all women, regardless of their age or socio-economic status.

Societies exhibit forms of violence that affect the entire spectrum of human relations; consequently, structural (social, political and economic) violence is also reflected in the family and in the gender relations that are routinely established at work and school. Thus, violence against women in the domestic sphere cannot be divorced from its social context, which reinforces and perpetuates sexist concepts and a discriminatory social order based on the historical production and reproduction of the gender system. This type of violence has many causes, including the types of socio-cultural conditions that breed it. The gender-based division of labour, on the one hand, and, on the other, the ideological and cultural attitudes acquired through the differential socialization process and the day-to-day learning process by which stereotyped roles and psychological traits are attributed to men and women and become integrated into their self-identities create conditions that contribute to violence.¹⁰ Aggression and mistreatment, then, are not isolated acts but instead form part of an interactive process driven by values linked to relationships of domination and submission and to inequality between the sexes.

Domestic violence calls into question the family as a social institution that provides security, protection and affection, as well as the roles and functions traditionally assigned to each of its members. It also reveals its paradoxical character. Even though, in our countries, the existence of different family structures and forms of cohabitation is recognized (ECLAC, 1993b) and these structures are now being subjected to a critical analysis, families are, for the most part, organized around the power of the male members at all hierarchical levels. It is structured, therefore, on the basis of strong bonds of domination and notably unequal power relations, all of which has an impact on women. The role assigned to women in conjugal life is based on submission, dependence and the acceptance of the indisputable authority of the man and of an array of norms and behaviour patterns that limit women's development. In this context, men can punish

¹⁰ The roles and characteristics that are culturally assigned to women restrict their options and their autonomy and are based on a repressive and symbolic form of violence that is expressed in the limitations imposed on them in terms of employment, social participation, decision-making and power at all levels; this is what is known as "invisible violence", which includes objective situations of aggression, either physical, psychological or sexual, direct or indirect (Giberti and Fernández, 1989).

women or control their forms of expression, mobility and sexuality. Violence in the home is used as a functional instrument of power to reinforce male authority and supremacy and to enforce women's fulfilment of the obligations that society imposes upon them within the family.

Research findings indicate, in general, that gender-based violence in the home cannot be attributed to individual pathologies or psychological problems, nor to factors derived from the socio-economic structure or the external environment, since aggression and abuse occur in all social strata.¹¹ The only major differences observed between social strata have to do with the prevalence of physical, psychological or sexual damage or injury. Alcoholism, unemployment, overcrowding and other such problems are not considered to be direct causes of violence but are instead thought to act as associated factors or trigger mechanisms.

Violence against women in the home has a number of particular characteristics that differentiate it from other types of aggression and abuse; these include the space in which it takes place, the actors involved, and the set of psychological factors that enter into play, all of which contribute to the complexity of the problem and may obscure its significance and perception. Gender-based violence can be analysed in different ways in theoretical and methodological terms. One such approach, from a descriptive viewpoint, refers to the "cycle of violence", which begins with minor aggressions that then build up to a climax, and then decrease. This is followed by a period of repentance on the part of the aggressor, after which the cycle is repeated. This analysis does not explain the causes of violence nor the mechanisms involved in its reproduction, and an overall perspective is therefore needed to recognize the gender oppression reflected in such events. The classification of domestic violence into physical, psychological, sexual and indirect violence¹² is an important contribution at the descriptive level, but raises problems from a conceptual viewpoint, since it makes it difficult to handle empirical information on this basis and divides a phenomenon that is unique and indivisible into artificial categories. The different kinds of gender-based violence found in the home combine and intertwine with one another, its segmentation has consequently had negative effects on the provision of assistance and on the design of preventive policies and programmes.

1. Research findings

Research on the prevalence of gender-based violence has been carried out in several countries of the region. Although the results are not directly comparable because different methodologies and data collection techniques have been used, they are nonetheless quite valuable because they clearly show the magnitude and intensity of the problem. Table 1 gives a summary of the findings of some of these studies.

¹¹ Resolution 1990/15 of the United Nations Economic and Social Council recognizes that violence against women in the family and society penetrates and crosses all social classes and cultures.

¹² "Indirect violence" occurs when the aggressor destroys personal objects or property of the woman, refuses to contribute to the support of the household, prohibits the woman from working or studying, prevents her from having social contacts and controls her activities and friendships, all as part of an effort to limit her freedom and her opportunities for taking decisions based on her own criteria and desires.

Table 1

**INFORMATION FROM STUDIES ON VIOLENCE AGAINST WOMEN
IN SELECTED COUNTRIES OF THE REGION**

COUNTRY	SAMPLE	FINDINGS	COMMENTS
Antigua ^a	97 women between 20 and 45 years of age	30% of the women have been physically mistreated	50% of the women say their mothers were physically mistreated
Barbados ^a	264 women and 243 men between 20 and 45 years of age	30% of the women have been physically mistreated	50% of the women and men say their mothers were physically mistreated
Chile ^d	1,000 women between 22 and 55 years of age, from three social strata, in relationships that have lasted more than two years	Two out of every three women say they have been victims of violence (26.2% physical and 33.5% psychological)	70% say they have been victims of abuse more than once a year (study conducted in Santiago)
Colombia ^b	3,272 urban and 2,118 rural women	20% report physical mistreatment, 33% report psychological abuse, and 10% say they have been victims of marital rape	Part of the prevalence, demography and health survey carried out in Colombia in 1990
Costa Rica ^d	1,388 women	54% report having been physically mistreated	Study sponsored by UNICEF and WHO
Ecuador ^e	200 working-class women in Quito	60% have been physically mistreated by legal or common-law husband	37% of such episodes were repeated every day for a month
Guatemala ^f	1,000 women from Sacatepequez	49% have been abused; in 74% of these cases, the aggressor is the partner in a stable relationship	Study funded by UNICEF and WHO
Mexico ^g	1,163 rural and 427 urban women from Jalisco	56.7% of urban and 44.2% of rural women have participated in interpersonal acts of violence	In more than 60% of the cases, the main aggressor was the legal or common-law husband

Table 1 (concl.)

- Source:** Lorie Heise, Jacqueline Pitanguy and Adrienne Germain, "Violence against women: the hidden health burden", working paper prepared for the World Bank, Washington, D.C., 1993.
- a Penn Handwerker, "Gender power differences between parents and high risk sexual behavior by their children: AIDS/STD risk factors extend to a prior generation", *Journal of Women's Health*, 1993.
 - b Association for Family Welfare (PROFAMILIA), *La violencia y los derechos humanos de la mujer*, Santa Fe de Bogotá, 1992.
 - c K. Chacón and others, "Características de la mujer agredida atendida en el Patronato de la infancia", *La violencia contra la mujer en la familia costarricense: un problema de salud pública*, Gioconda Batres and Cecilia Claramount (eds.), San José, United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, 1990.
 - d Soledad Larrain and others, *Estudio de prevalencia de la violencia intrafamiliar y la situación de la mujer en Chile*, Santiago, Chile, 1993.
 - e L. Barragán, A. Ayala and G. Camacho, *Proyecto educativo sobre violencia de género en la relación doméstica de pareja*, Quito, Social Planning and Study Centre (CEPLAES), 1992.
 - f Federico Coy (1990), in Delia Castillo and others, *Violencia hacia la mujer en Guatemala*, Primer seminario centroamericano sobre violencia contra la mujer como un problema de salud pública, Managua, March 1992.
 - g Juan Carlos Ramírez and Griselda Uribe, "Mujer y violencia: un hecho cotidiano", *Salud pública de México*, Cuernavaca, Instituto Nacional de Salud Pública, 1993.

In 1990 a UNICEF technical mission in Panama agreed to carry out a research project in Central America on domestic violence against women which would explore the covert way in which the problem is dealt with and the lack of awareness of its magnitude in the subregion. General research guidelines were adopted to determine the similarities and differences between countries, and exploratory studies were carried out in each of them, with the following main results: a) the most common form of domestic aggression is conjugal; b) acts of violence take place in the victim's own household, where the victim generally lives with her spouse or partner; c) most of the cases of aggression take place at night; d) the most common reasons why battered women seek assistance in health care or legal aid institutions are physical violence consisting of blows to different parts of the body and, to a lesser extent, psychological or sexual aggression.

Services that provide support to abused women are a source of valuable data on the magnitude and characteristics of gender-based violence because they possess information on the scope of the problem and on recurrence rates. For example, according to the telephone records of the Family Violence Prevention and Assistance Programme in Buenos Aires, the Programme receives 600 calls a month; of these, 66% are requests for care and information, and 40% are requests for emergency assistance. Women between 25 and 54 years of age comprise 97.4% of the relevant population group, which means that the problem affects women during the most productive period of their lives. In all, 85.5% of the calls were made by victims themselves, 9.1% by relatives and only 5.4% by other members of the community (mostly neighbours). This indicates that even though third parties may know about a woman being abused, they generally do not intervene or do anything to prevent or report it (Argentina, Subsecretaría de la Mujer y Solidaridad Social, 1993).

The systematization and evaluation of the services offered by the centres for battered women which operate at the municipal and provincial levels in many countries of the region will provide more and better statistical data in the future to serve as a basis for the formulation of policies for eradicating gender-based violence and strengthening social

support networks at the local level. These centres have interdisciplinary teams, comprised mainly of women psychologists, social workers, lawyers and group leaders who specialize in this field, to provide integral assistance to women seeking help, but their record-keeping systems are still inadequate or have only recently been set up. This points to the need to coordinate practices at the national and regional levels so that the different institutions will have comparable records on the types of acts of violence committed, the characteristics of the aggressor and of the victim, the relationship between the two, the circumstances in which the crime was committed, information on past episodes in cases of repeated aggression, and prior complaints or charges. This would contribute to a fuller understanding of the problem, and therefore to the adoption of more effective measures.

2. Main consequences of domestic violence

Gender-based violence in the household, when understood as an act that denies a woman the ability to exercise her rights, has social, economic and political implications for society, since it reproduces and perpetuates a system of discrimination against and subordination of more than half the population and constitutes a violation of human rights. It also reflects the absence of a socio-political structure characterized by the type of greater symmetry in social relations that would provide a substantive basis for the consolidation of democracy and directly or indirectly impedes the harmonious development of nations (Rico, 1992).

Acts of aggression against women have many negative consequences. The World Health Organization (WHO) considers gender-based violence to be a serious public health problem, since the following effects have been identified:

Physical injuries: fractures, burns, cuts, bruises, wounds, headaches, temporary or permanent disability, sexual abuse, gynecological problems, unwanted pregnancies, premature births, miscarriages, sexually transmitted diseases, transmission of the HIV virus, and the abusive consumption of alcohol, drugs and tobacco.

Psychological damage: depression, anxiety, anguish, eating disorders, stress, phobias, obsessions, compulsive behaviour, toxic substance, abuse, insomnia, hypersomnia, frigidity, low self-esteem, sexual dysfunctions, emotional instability, decreased productivity and reduction of cognitive and intellectual capacities. Two other phenomena which must be added to this list have fatal consequences: suicide and homicide.¹³ In view of the psychological vulnerability of the victims—who normally react to the situation with guilt feelings, low self-esteem, shame and fear—different State agencies and non-governmental organizations have set up "self-help groups", whose basic purpose is for the participants to give one another mutual emotional support so that they can escape from the silence and isolation in which they usually experience such aggression. One of the first to carry out this kind of activity was the "Women's Place", an organization headquartered in Buenos Aires that works with self-help groups comprised of victims of abuse. These groups offer interested women a place where they can share their experiences and learn to value themselves as persons while at the same time becoming

¹³ According to the Pan American Health Organization (PAHO) (1993), between 45% and 60% of homicides involving women victims are committed in the family environment, and in most cases the killer is the spouse. Moreover, these crimes are preceded by a history of repeated physical abuse. Suicide attempts are 12 times more frequent among women who are victims of violence than among those who are not.

more sure of themselves so that they will be able to break the destructive circle of violence.

Gender-based violence has particularly serious repercussions for children who live in households where it is habitual. Abused women say that their children become nervous, irritable and fearful, do poorly in school, and are often physically abused by the father or by the women themselves. Today, children who witness violence are also considered to be "battered children", since they exhibit the same psychological symptoms as do those who are the direct victims of abuse (Jaffe and others, 1986). Another factor that needs to be considered is that children depend emotionally and affectively on their parents, and that they tend to imitate the roles and behaviour they observe. Therefore, later on they may have problems establishing affective relations different from those they experienced in their childhood. Thus, children in such households tend to grow up to be violent men and battered women, and may also have greater tolerance for social and political violence.

Some countries have established shelters where abused women can go, together with their children, so that if they have no help from family members nor the economic means to look for another place to live, they can leave the scene of aggression and be in a place where they feel safe while they try to resolve the problem. An example of this is Refuge House, a shelter for abused women and children in Quito, which was founded as a result of an agreement between the Ministry of Social Welfare, represented by the National Women's Department, and the Ecuadorian Centre for Women's Advancement and Action (CEPAM). Over a 29-month period (1991-1993), this centre provided shelter to 245 women who had been battered by their spouses and counseling to another 120 non-residents, for an average of one case every 2.5 days (Vega and Gómez, 1993).

Gender-based violence is a cause of concern for a number of international organizations, not only because of its individual physical and psychological consequences, but also because it places greater demands on general health care and emergency services and has a high economic cost for the countries where it occurs. The 1993 World Development Report of the World Bank states that in market economies it is possible to determine the number of years of life in good health lost by women during their reproductive years (15-44 years of age) because of premature death or illness directly attributable to problems caused by domestic violence or rape. Although these problems cannot be considered as illnesses in and of themselves, they are clearly important risk factors that increase the incidence of such phenomena as injuries, depression, and femicide (World Bank, 1993).

Violence also inhibits women from playing a role in decision-making within the household, at work and in the political, economic and social spheres, and therefore directly influences their participation in public activities and, hence, the exercise of their citizenship. The social costs of gender-based violence also include the inaction of society when it fails to take measures to defend the human rights of women, since society is then ignoring events that take place on a daily basis and is denying a public discussion of these crimes, their political significance and societal means of redressing them.

3. Reporting of domestic violence

Ideological and cultural factors enter into play when women have to decide how they are going to deal with the aggression and abuse they undergo. Gender-based violence in the household is a behaviour pattern that has become assimilated as a type of marital relationship and, because of the existing bias against intervening in the privacy of married and family life, has been covered up by society and by the victims themselves. Women tolerate extremely harmful relationships and many women cannot imagine another way of living together, due, *inter alia*, to the following: a) they internalize social values that see female subordination as "natural"; b) they accept cultural norms that regulate the life of a couple and the roles of spouse and mother; c) they idealize the family and marriage; and d) they are under social pressure to accept the dominant cultural mandates (Rico, 1992).

Only recently have women begun to report aggression and mistreatment inflicted upon them in the home; this is partially due to the establishment of institutions where they can seek police and legal help, and partially to women's greater awareness of their rights as persons and citizens. Although the reporting of such acts is becoming increasingly common, it still is only a pale reflection of the actual state of affairs. Victims generally do not seek legal recourse because of such inhibiting factors as fear of being blamed for breaking up the family, fear of reprisals from their spouse, shame about airing their personal affairs in public, and a belief that police and legal agencies will not back the victims up and are ineffective. Another factor is the paradox that women usually blame themselves for the violence, since cultural norms tell them that they are responsible for maintaining the harmony of the family group and that they must therefore make greater sacrifices, since any failure or transgression may be grounds for punishment.

If the family and the couple are considered to be the only socially valid goals for women, it is difficult for them to do anything but aspire to establish and preserve a household of their own, even at the cost of their own integrity, since admitting failure in this sphere would be tantamount to admitting failure in life as a whole. According to some studies, most women who fail to report violence have small children, which indicates that this is one of the main factors that leads women to refrain from breaking up their family, even at the costs of their own suffering. According to telephone records of calls from abused women in the city of Buenos Aires, 73% of those who request help have been involved in situations of family violence for more than 10 years, while in only 2.6% of the cases does the caller seek intervention after the first episode (Argentina, Subsecretaría de la Mujer y Solidaridad Social, 1993).

Doctors in free emergency wards in Santiago, Chile, estimate that they treat only around 20% of the cases of violence with physical injury; the rest of the victims stay in their homes until the marks left by the aggression disappear. What is more, only 15% of the women who are treated report the fact to the police (Guerra, 1991). There are also cases of women who respond violently to aggression, which produces mutual violence. The murder of a man by his legal or common-law wife is normally an extreme defensive response to constant aggression.

Research projects in the region agree that many women put up with violence because they are economically dependent on the aggressor. The lack of services, problems in finding a well-paid job and socio-economic circumstances contribute to their indecision about reporting acts of violence. This suggests that priority should be given to employment and training for women in a wider variety of fields, since economic autonomy is thus one factor in providing protection against abuse.

The training of group leaders to act as community agents to help prevent and curb gender-based violence is based on a recognition of the need for the community itself to take measures to tackle the problem, stimulate collective changes and make possible the establishment of social assistance networks. Experience shows that the provision of support and information by other women whose living situations are similar to those of the victims helps to convince them to report the acts of aggression they undergo to the authorities and to act with more assurance and assertiveness.

IV. SEXUAL HARASSMENT IN THE WORKPLACE

The equality of opportunities for men and women in the labour force is jeopardized by the sexual harassment of women in the workplace, which is a violation of the right to equitable and satisfactory working conditions,¹⁴ as well as the right to sexual freedom. Sexual harassment in the workplace is understood to be any intentional sexual behaviour within the context of a working relationship, which influences the possibility of employment, job stability, performance or working conditions or atmosphere and which is distasteful or offensive to the victim. It entails blackmail, threats or pressure, and is manifested either directly or indirectly in acts that range from very subtle behaviour to open sexual aggression (Délano and Todaro, 1993). The exact extent of the problem is not known, owing to a lack of statistics (a problem that affects all the countries of the region), social concealment, a dearth of laws on the subject, and the guilt feelings and fear of the victims, but existing studies indicate that the practice is widespread.

Although sexual harassment is a highly complex problem that distorts interpersonal relationships and is difficult to identify and delimit, it is generally agreed that the power relation between those involved is unequal and abused. Since women generally occupy lower-ranking positions in the employment structure, they are more vulnerable to this practice, although cases where women harass men also occur. The elements that make sexual harassment possible are the total concentration of power in the hands of a male boss on whom a woman depends in order to obtain or keep her job and who determines her wages, job performance evaluation, possibilities for promotion, training, and the kind and degree of difficulty of the work she must do. There are also risk factors such as women's lower level of job skills, the lack of social recognition of the tasks they perform, the more dependent nature of their employment situation, and their lesser degree of autonomy and decision-making power. Besides these elements, there are also women's socially conditioned lack of assertiveness in resisting and reporting instances of intimidation and coercion and the socialization that leads them to think that seduction, overt or otherwise, forms part of any relationship with men.

Sexual harassment not only arises out of objective differences in the amount of power held in the workplace but also out of the "cultural power" which men exercise over women, in accordance with the predominant gender system which discriminates against women through the control, disposition and use of their sexuality and bodies. There are also cases, therefore, of sexual harassment among colleagues or on the part of lower-ranking employees of women managers. In these cases, harassment is a mechanism used to debase their role in the work place, their professional capabilities and their leadership abilities and to draw attention to their sexuality, while at the same time undermining the exercise of power of authority by women.

Research in Santiago, Chile, based on interviews with 1,200 female workers in

¹⁴ A right established in article 23 of the Universal Declaration of Human rights and in articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights.

different branches of activity and of varying ranks, skills, incomes, schooling and occupations, found that 84.3% of the women thought that sexual harassment in the workplace was a fact; 20% reported having been harassed themselves, 78.4% said that sexual harassment should not be regarded simply as a personal problem, and 88.3% stated that it was clearly different from seduction or attraction. The study points out that it is possible to distinguish between more direct forms of sexual harassment, which affect women in a situation of subordination to the hierarchical power of men, and the type of sexual harassment that consists of attempts to discredit women who occupy posts not traditionally held by women or other sorts of high-level positions, which takes the form of "putting the women in their place" (Délano and Todaro, 1993). In both cases, harassment performs the function of "disciplining" women in the working world.

Despite its negative character, many women put up with sexual harassment and suffer it in silence, with feelings of shame, confusion, anguish, fear of ruining their reputation or of reprisals, and with guilt feelings in a social environment that normally places the blame on them, based on the stereotype and myth of the "temptress". Research in Chile shows that most women do not dare to talk about it, and also that 15% of the victims of sexual harassment think that the situation will resolve itself, 6.3% say that will not ask for help because they are embarrassed, and 32% do not know where or to whom to turn for help (Délano and Todaro, 1993). It is difficult for victims to prove that they have been harassed, which heightens the negative consequences, not only for their mental health, but also in the workplace, since harassment affects female workers' efficiency and productivity, their attitude towards work, their professional development, and the overall atmosphere of the workplace.

Although sexual harassment takes place in all branches of work, it is much more likely to occur when women work without permanent employment contracts and in places where trade union activity is restricted. According to records of the number of complaints filed, sexual harassment is common, for example, in *maquila* industries in Honduras, El Salvador, Guatemala and the Dominican Republic. In Nicaragua, the first major strike in that sector was organized by more than 850 female workers who accused their supervisors of sexual harassment, physical mistreatment and constant surveillance (Bank and Criquillion, 1993).

All the countries in Latin America and the Caribbean have signed the three conventions on equality drafted by the International Labour Organization (ILO): Convention 100 on Equal Pay; Convention 111 on Discrimination in Respect of Employment and Occupation, and Convention 156 on Equal Opportunities and Equal Treatment for Men and Women: Workers with Family Responsibilities.¹⁵ However, thus far most of the labour codes and labour laws of the countries of the region have no specific provisions on sexual harassment, although in recent years some of them have incorporated regulations or legal clauses designed to prevent or sanction this manifestation of gender-based violence. It is important to mention that in all the countries these laws make reference to the possibility that in the case of sexual harassment the victims and aggressors can be either men or women.

In 1991, Mexico made sexual harassment an offense under title XV of its penal code, punishable by up to 40 days in prison. In Peru, the Job Stability Act (No. 24514) classifies sexual harassment as a serious violation on the part of employers or their representatives, but there is no provision in Peruvian law that clearly specifies how sexual

¹⁵ ILO Convention 100 dates from 1951, Convention 111 from 1958, and Convention 156 from 1981.

harassment is to be defined, nor are there any preventive mechanisms. Late in 1993, Argentina issued a decree to protect persons against sexual harassment in the nation's civil service. The legal definition of such conduct was set forth as "repeated acts of a sexual nature which are unwelcome to the person towards whom they are directed, are not reciprocated and affect the stability of employment or likelihood of promotion". Female public employees can therefore report any kind of sexual harassment to the human resources department of the relevant body; their complaints will be kept confidential and will be followed up by an investigation. The established sanctions, which vary according to the seriousness of the circumstances, include warning, suspension, and dismissal. However, since the problem of sexual harassment is normally related to the position women occupy in the hierarchical structure, policies and laws intended to prevent and penalize such conduct can be more effective if they form part of a broader strategy to promote equal opportunities in the workplace and to improve the status of women in general.

Sexual harassment is not limited to the workplace. This form of abuse of authority and blackmail is also found in educational institutions, where it consists of imposing undesired sexual activity on female students as a requirement for passing a course. There is a tremendous lack of statistical information on this form of harassment in the region, due to the absence of studies on the causes, forms and consequences of sexual harassment of female students. Furthermore, when incidents of this nature do become known, they are usually extreme cases of rape or abuse of minors.

V. OTHER FORMS OF GENDER-BASED VIOLENCE

Sexual freedom must be considered as a legal right requiring two different types of protection: positive protection of the right to exercise one's sexuality freely, and negative protection of every person's right to be free of any imposed form of sexual contact.

Rape is the most extreme form of sexual violence and is based essentially on the use of physical force and terror. It inflicts severe physical and emotional injuries on its victims. Some of its worst consequences, because they are irreversible, are the transmission of the HIV virus and unwanted pregnancy,¹⁶ since even in cases of rape, abortion is a punishable offence in most countries of the region.

The erroneous public perception of the phenomenon of sexual violence is a subject that merits discussion. There is a general perception that rapists are unknown to their victims, that they exhibit psychopathological and antisocial personality traits and that rape occurs in places and at times considered to be dangerous; in actual fact, studies reveal that a woman is more likely to be raped by a relative or an acquaintance than by a stranger. For example, study carried out by the Documentation and Information Centre on Social Movements of Ecuador found that, in 83% of the rape cases reported to the authorities, the rapist is a family member or an acquaintance of the victim (León, 1992).

Rape victims face not only the social stigmatization which lays the blame for the rape on them, but also a secondary, institutional form of victimization, should they report the rape or commence legal proceedings. A study conducted in Chile at the request of the National Women's Service (SERNAM) found that 75% to 80% of all cases of sexual abuse or violence go unreported and that of those cases which are reported to the appropriate authorities, 89% do not result in the conviction of the rapist (Avendaño and Vergara, 1992). Results of a survey of Mexican judiciary officials show that 64.28% of those polled tend to disbelieve reports of rape made by young women, whom they accuse of trying to hide a pregnancy resulting from a voluntary relationship; 47.61% consider it necessary to ask questions concerning the intimate sexual life of the victim; and 85.38% require that a medical examination be conducted (an unconstitutional measure) before they will process the charges (González, 1993).

Non-governmental organizations in a number of countries have set up shelters and information centres for rape victims. In 1983, a group of women concerned by the growing frequency of sexual abuse in Trinidad and Tobago set up a committee for rape victims, which in 1984 began to offer a telephone helpline and by 1986 had developed into a centre that offers these women assistance. The centre has also participated in the public debate on laws related to gender-based violence, and has proposed the inclusion of measures on marital rape in the Sexual Offences Act.

In the legal sphere reforms are urgently required in penal codes which employ discriminatory expressions such as "maidens" or "women of good or ill repute" and which

¹⁶ According to data compiled by a centre for rape victims in Mexico City, around 15% of the women seeking help had become pregnant as a result of the rape (COVAC, 1990).

provide penalties that vary depending on the characteristics of the victim and her sexual history; such penal codes are based on subjective criteria and are an affront to all the principles of equality before the law. In a similar fashion, a symbolic form of violence is to be observed in the judicial language which describes rape in the public sphere, as a crime against "decency", "honour", "modesty" or "respectability" when in actual fact it constitutes a crime against sexual freedom and the integrity of the individual. Several countries, such as Mexico, have now incorporated these concepts into the law, however. Nonetheless, in some countries the law still exonerates any man who marries the girl or woman he has raped, on the grounds that the marriage restores the "honour" of the woman and her family.

In this context, the sexual abuse and rape of children and adolescents (granddaughters, daughters, stepdaughters and sisters of the rapist) in their own homes demand special attention; all the more so if it is borne in mind that these crimes, which are classified as incest, have yet to be thoroughly analysed by government authorities. According to information provided by a public maternity hospital in Lima, 90% of mothers aged between 12 and 16 had become pregnant as the result of a rape perpetrated, in most cases, by a member of their immediate family (Rosas, 1992). Information provided by a non-governmental organization in Costa Rica painted a similar picture when it revealed that 95% of pregnant women under 15 years of age who received attention were the victims of incest (Treguear and Caro, 1991).

The sexual abuse and rape of women are also frequently used as a form of political reprisal, as has been documented in the case of dictatorships in the Southern Cone countries and armed conflicts in Central America and Peru. Sexual violence against female political prisoners is one form of torture used during punishment sessions or interrogations and is designed to denigrate the prisoner both sexually and physically. Women who are jailed or arrested for other than political reasons also often fall victim to sexual violence and, ironically, are in many cases assaulted by the very men who are responsible for their safety. One member of the Ecumenical Commission on Human Rights in Ecuador has stated that "the methods of investigation directed at women seek to assault their sexuality, so that rape, the threat of rape and sexual humiliation form the foundation of these investigations" (Vega and Gómez, 1993, p. 20). The Regional Plan of Action for the Integration of Women into Latin American Economic and Social Development (1977) calls for the adoption of measures designed to ensure respect for human rights as well as the physical integrity of women deprived of their freedom for whatever reason (ECLAC, 1977). Similarly, the Nairobi Strategies propose the adoption of initiatives designed to protect women from the physical violence and the sexual and moral harassment they face when jailed or arrested (United Nations, 1986a).

Displaced and refugee women, who find themselves obliged to leave their place of origin and move to other locations, whether in the same country or elsewhere, deserve special attention, in view of the specific forms of violence they suffer. Although political and military violence obliges men and women alike to leave their places of residence, and affects them in a similar way because they are both victims of the same kind of aggression, the experiences of men and women, and the meaning and connotations attached to these experiences, cannot be seen as independent from a gender-based analysis, especially considering the issue of rape and the mistreatment and assaults women suffer at the hands of the men who form part of those same displaced population groups. The Office of the United Nations High Commissioner for Refugees (UNHCR) has urged that measures should be adopted to protect women against violence in shelters and is promoting the establishment of oversight committees in refugee camps to which rape

victims can turn for help. In a similar vein, the UNHCR recommends that Governments accept refugees and, in cases where internal displacements have occurred, it recommends that Governments carry out investigations, to determine the extent of gender-based violence suffered by displaced women in all its various forms (Executive Committee of the High Commissioner's Programme, 1991 and FOREFEM, 1992).

Sex tourism, illegal trafficking in women and their exploitation through prostitution are other forms of gender-based violence which merit special attention, especially in the light of the increase of poverty and unemployment in the region, both of which are aggravating factors. The need to adopt legislative and other types of measures to combat these practices, particularly those which affect children and young women, is recognized both in the Declaration of Mexico on the Equality of Women and their Contribution to Development and Peace (1975) and in the Regional Plan of Action for the Integration of Women into Latin American Economic and Social Development (1977) (ECLAC, 1993). The Nairobi Strategies draw attention to the need to monitor the application of the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. In view of the fact that these are considered a violation of the human rights of women, it was decided at a meeting which took place in March 1994 in Caracas to establish the Latin American and Caribbean Network Against the Exploitation of Women and Children in Trafficking and Prostitution.

VI. PROPOSALS

It is vital that specific measures be taken to uphold the human rights of women and to address the gender-based violence to which they are subjected. One starting point in this regard is the need to reaffirm the irrefutable and enduring nature of the rights of women, together with the obligation to protect and guarantee these rights under all circumstances and to guard against any effort to subordinate them or annex them to a larger agenda which would undermine their substantive validity.

The seriousness of the different forms of gender-based violence, given the magnitude of this violence and its consequences for individuals and society, makes it imperative that urgent initiatives be taken to support and protect victims, and to ensure that women are able to assert and exercise their rights as human beings and that society has instruments at its disposal to punish aggressors. It is equally vital that preventive strategies be designed and implemented at the political, legislative, legal and educational levels; the positive effects of such strategies will become evident over the medium and long term.

Effective measures to deal with this problem cannot be adopted without taking into account the dominant cultural model and the processes of symbolic reproduction that confer legitimacy on gender-based violence. Because the roots of the problem are structural, it is essential to implement public policies which will modify the mechanisms that lead to the perpetuation and propagation of gender-based violence and will engender an environment that is conducive to equality between men and women and respect for the dignity of human beings.

In view of the differing forms which gender-based violence assumes and its multidimensional nature, a need exists for specific analyses and investigations and for different strategies that take into consideration the types of relationships in which women's rights are violated and the institutions and sectors involved in preventing and dealing with such violations. For example, sexual harassment in the workplace calls for action on the part of management and trade unions, whereas sexual harassment in educational establishments calls for an active response by the authorities, students and parents and teachers associations. Given the complexity of the phenomenon of gender-based violence, responses to the problem must necessarily be based on an integrated approach; furthermore, the effectiveness of measures and initiatives will depend on the degree of coherence and coordination associated with their design and implementation. Considered on the basis of these premises, the issue is one that affects a variety of social actors, who can join in the effort to eliminate gender-based violence. However, in the proposals which are outlined below, we shall concentrate on government action at all levels.

The origins of gender-based violence can be traced to a variety of socio-cultural factors, namely: hierarchial relationship between women and men; the differentiated socialization of boys and girls; the political, economic and legal discrimination faced by women; the use of violent means to resolve interpersonal conflicts; and unequal

symbolizations and valuations of women's and men's bodies and sexuality. As a consequence, it is vital to promote women's access to decision-making processes and to the exercise of power in its different dimensions, since strengthening their participation in these processes will surely contribute to the elimination of the violence women face and to an egalitarian distribution of the rights and responsibilities of all citizens, whether male or female.

By the same token, it is necessary that we seek to redefine the meaning and content of gender relations. The State should foster a national and regional discussion on the effects of discrimination against women, the violation of their rights as human beings and, in particular, the consequences for society of gender-based violence. Sensitization to this issue and the creation of a greater awareness of it should be accompanied by the establishment of institutional mechanisms which provide for participation in the discussion, along with the governmental sector, of representatives of civil society and organizations that have developed agendas for action and have delved into the issue, as well as the entire spectrum of women's groups and sectors, whose participation should be channelled through the organizations they have formed. This discussion should encompass an analysis of the ideological and cultural aspects which result in continued violation of human rights, so as to contribute to a collective recognition of the unacceptability of violence, within both the family and the wider community, and to the creation of a social climate which rejects acts of violence.

Since formal education plays a vital role in handing down values and attitudes, a major effort should be made to ensure that boys and girls undergo the same type of socialization in order to put an end to the perpetuation of violence from one generation to the next. The educational system should modify textbooks which foster rigid social and sexual roles and contribute to the existence of asymmetrical and hierarchial relationships within the family and society. School curricula should include topics related to human rights and, in the context of education for peace, students should be exposed to alternative methods of resolving personal and group conflicts which are based on negotiation and mediation instead of aggression and violence. In addition, teachers need to be trained so that they are able to detect incidents and situations of gender-based violence in the families of their students.

In technical institutes and universities, efforts should be made to incorporate the issue of gender-based violence and human rights into academic programmes for the professions whose future practitioners will probably come into contact with the victims of abuse and violence. The training of specialized personnel is vital if the programmes that are implemented are to be successful and if secondary institutional victimization is to be eliminated.

Governments must provide support to academic institutions in the form of scholarships and grants so that studies can be conducted on the incidence and prevalence of gender-based violence and research can be done on the ideological and cultural aspects which give rise to and perpetuate the phenomenon. In a similar vein, the execution and the impact of programmes must be assessed in order to provide the necessary background information for policy-making and planning. New methods for preventing gender-based violence must be explored and teams of researchers must be organized who are equipped to apply an integrated and multidisciplinary approach to the study of the different forms of violence. Such research should be conducted from a theoretical perspective that interprets the problem in the light of gender analysis and as a form of the violation of human rights. National health, demographic, population and household surveys should include questions that enable researchers to determine and quantify the prevalence of gender violence and

thus gain greater insight into the problem. In addition, Governments should incorporate data that are disaggregated by sex and should include a differential gender analysis in all reports they present on the human rights situation in their countries.

In view of the important role played by the media in the perpetuation of prevailing standards and values and the contribution they could make to raising the public's awareness and promoting changes in human relationships, the media should address the phenomenon of gender-based violence with the aim of acting as mechanisms of identification and education, by informing people about the magnitude of the problem, the forms it can take and the rights protecting women. In order for the media to play a positive role in preventing and eliminating gender-based violence, Governments must promote communications policies which make it possible to denounce acts of discrimination against the female population and to coordinate public awareness campaigns that portray any act of aggression against women or violation of human rights as unacceptable and as a crime.

With regard to laws and regulations, it is essential to eliminate all forms of discrimination enshrined in different countries' civil, criminal and labour laws, as well as those manifested in legal practices and procedures. Furthermore, the crimes associated with gender-based violence must be defined as such in the laws of each country and commensurate penalties established so as to put an end to the impunity enjoyed by aggressors and guarantee the judicial protection of their victims. In order for the law to play an effective role in defending the rights of women and curbing violence, it is imperative that mechanisms be established to monitor the enforcement of the relevant legislation and create awareness of gender issues in public institutions. To this end, judges, lawyers, police officers and public-sector officials in general should, irrespective of their sex, be trained to recognize sexism and discrimination as part of the performance of their duties, to facilitate the reporting of crimes and to provide protection and assistance to victims.

As a complement to the foregoing, women must be made aware of their rights and must assert them; this requires the publication and dissemination of information concerning the civil liberties and rights they enjoy under the terms of international conventions and national laws. Governments should, either through their own mechanisms or by supporting the efforts of non-governmental organizations, expand the network of legal aid offices to which the female segment of the population can turn for information and assistance. It is also necessary to support and promote educational initiatives, both in the formal and informal spheres, which will strengthen women's self-esteem, leadership skills and economic independence.

The healthcare system offers particularly appropriate tools for determining the extent and the prevalence of gender-based violence; consequently, in addition to training health-sector workers to detect, handle and refer cases of violence properly, steps should be taken to ensure that all women, whether living in urban or rural areas, have access to suitable services and care. It is also recommended that self-help groups for battered women be set up in health clinics and public hospitals. In the interests of attending to victims promptly, links between the health sector and the institutions responsible for forensic medicine need to be established since it is obvious that, for example, training and sensitizing forensic specialists plays an important role in facilitating the reporting of violent acts by female victims.

Government bodies responsible for improving the status of women must work together and coordinate their activities with other institutions, including ministries, local governments and non-governmental organizations; they should also contribute to the

creation of social support networks for the victims of gender-based violence, since the whole of society is responsible for eliminating such violence, and community participation is vital if the impunity of aggressors is to end. In addition, links need to be established to promote coordination and cooperation between the organizations which monitor the observance of human rights and the organizations which work for women's advancement; this step will require greater openness in terms of theory, practice and policy stances on the part of both sectors.

There is a strong connection between gender-based violence against women and a lack of equity in the economic, socio-cultural and political spheres; as a consequence, initiatives in this field must be of an integrated nature, should include complementary income-generation, housing and vocational training programmes for women, and should be accompanied by the adoption of policy measures concerning health, recreation and social and political participation.

As is to be expected, the recommendations presented in this document are not exhaustive. This is, above all, because achieving the goals of preventing the violation of women's human rights and eliminating gender-based violence in the countries of the region will require, at all levels and in all spheres where the problem is manifested, the political will of Governments and a commitment on the part of the entire population; these are essential if we are to create a more just and equitable society and achieve true development within a framework of peace.

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