



ENGLISH only

In 1958 Luisa Delia, who had reached only elementary education, a pleasant, bird loving dreamer, considered by all to be happily married, decided to leave her family home to search for a life that would correspond to her dreams of freedom. She was reported for abandoning her home and forced to give up her patrimonial rights resulting from marriage. She later returned humiliated, exhausted and ostracized by social, legal and economic punishment, inflicted upon her for having sought her own freedom. Her daughter, who achieved a secondary education, made the decision to become a single mother and was therefore dismissed from her job as a teacher. It was the seventies and she was involved in the labor union movement and as such was reinstated in the midst of discrimination, later completing studies in a specialized profession. One of Luisa Delia's granddaughters was married and, as a result of violence inflicted upon her, left her husband, who never suffered legal consequences. The other granddaughter reached the university despite her ever-absent father's opposition and chose to live as a single woman.

All of them have experienced violence, inflicted on them for one reason or another: the elder was judged and punished for wishing to be free; her daughter was punished because she was her mother's daughter; and the granddaughters were abused because of their mother and grandmother's past, their desire to study or the absence of masculine paternal control. They all have something in common: their bodies carry the marks of historical violence inflicted upon women in public and in private, of not being recognized as women in possession of rights, and also of the progress which allowed the granddaughters to make decisions which were impossible for Luisa Delia.

Their life stories, similar to those of other women with worse experiences, are a reflection of political and legal progress accomplished in Latin American and Caribbean counr52 Twe me ma







important role in the law, rather the law acts as a validating mechanism for dialogue with one belligerent actor or another who participate in the conflict.

### **Effectiveness of these Measures**

Legislative reform, especially that which focuses on equality, was a key factor in raising women's educational level. Gloria Bonder explains in her article "Gender and Education", published in the *Iberian American Magazine on Education*<sup>3</sup>, that a phenomenon of expansion in formal education within the region shows a significant increase in women's as well as men's schooling for the period between 1980 and 1990. Moreover, legislative reform and implemented mechanisms have created a scenario in which women can report acts of violence against them, as well as allowing women to increase their levels of participation. Argentine representative for the Social Progress Party in the province of Santafé, Miriam Isabel Benitez, interviewed for this document, states: "In the course of my work I have observed that, no matter the limitations, legislation has created possibilities for the women of the region in terms of access to education, participation and presence in public corporations. In the case of Argentina, the Constitutional reform of 94 made headway in formally equaling women's rights and had consequences in reforming the exercise of parental authority, which went on to be shared by father and mother where before only the father possessed it and the mother was consulted only in specific aspects such as marriage of minors. A very positive legislation was the creation of the Women's Police Station, which is a space or office belonging to the Police with female personnel, exclusively dedicated to receiving claims of violence against women."<sup>4</sup>

It is precisely legislative progress in the region that has made differences in terms of women's well being evident. An indicator is the annual report on the gender gap published by the world economic forum which for this year, 2008<sup>5</sup>, placed Argentina and Cuba in the list of the best countries for women; two countries which, as explained above, implemented reform to strengthen equality for women and men.

---

<sup>3</sup> Organization of Iberian American States for Education, Science and Culture. *Iberian American Magazine on Education*, September-December 1994. Author: Gloria Bonder:  
<http://www.Tc0u9fd2f2o86s.AverG2ár2o86s.ndein4.m-90.029gani28168.0ion>

ENGLISH only

Some of the consequences of these legislative modifications, especially in punitive terms, tends to be an increase in claims, inclusiveness in judicial information systems, and recognition that violent acts are violations of human rights. These are important tools when working directly with women on self-identification as bearers of rights and victims, as well as on strengthening their independence as they limit the acts of violence inflicted upon them.

With the laws on domestic violence great progress was made in recognizing violence perpetrated private, to the point where currently more women recognize that they can count on protective resources and can report acts against them.

Legislative progress has been a tool, serving to strengthen women as bearers of rights, and a tool for change as they have been useful for transformation of women in reference to how women see themselves and how they exercise their citizenship and independence. Moreover, political recognition of legislative tools for eliminating violence towards women as acts against them simply because they are women widens the positive scenario for revealing acts of violence inflicted on women in their everyday lives. Legislation has also allowed government institutions and mechanisms for generating public policy related to women's issues to become stronger. An example of entities which exist today in every country, designing policies, plans and programs for women is the Family Police Station.

One of the significantly effective tools for concretion of women's rights is the interpretative activity carried out by Constitutional Courts at all levels. Respectively, the Colombian Constitutional Court has brought forth important breakthroughs in protection for victims of violence, even in the context of armed conflict. It was a Court ruling which forbade investigation of a victim's past and intimate life in the process of criminal investigation on sexual violence. Likewise, it is the Court which has acknowledged women's situation as vulnerable, a situation which is exacerbated in the context of armed conflict.

### **Obstacles for the Effectiveness of these Measures**

Numerous difficulties confront women concerning legislation to protect them from violent acts. These obstacles can be seen when dealing with victims in the context of armed conflict.

The approach of some legislations, whether in civil or criminal law and specifically that which is responsible for protection within the family nucleus, is not structured on acknowledgement of women human rights but on traditional family structure, which preserves unfair relationships of subordination and oppression between family members. Even after implementation of regulations that punish domestic violence, the struggle to make violence inflicted on women in

EGM/GPLHP/2009/EP.13

11 May 2009



ENGLISH only

of insecurity, as well as a persistent distrust of women towards the administration of justice system. Such deficiencies translate into a number still negligible of oral trials and guilty verdicts that fail to correspond with the prevalence of the problem<sup>1671</sup>. That challenge and its consequences were uniformly identified by representatives of the States, the justice administration, the civil society, the academic sector, and by women from the various ethnical and racial groups who participated in the implementation of this project, and have been confirmed through the information received by AICHR by applying the interamerican system's mechanisms.

125. Likewise, IACHR was able to confirm that violence and discrimination against women are still accepted facts in societies across the American continent, which reflects in the response of the justice administration officers towards women victims of violence and the way cases are handled. There is also a tendency to see cases of violence against women as household conflicts that must be resolved without the State's intervention.”<sup>6</sup>

### **Regarding situations of armed conflict**

The armed conflict is a scenario where violence against women is exacerbated. Women are subjected to violence manifested in all expressions: Discrimination on the grounds of ethnic group or race, physical, psychological, sexual violence, disappearances, tortures, sexual and labor slavery, forced prostitution and displacement. Latin America and the Caribbean regulations for the protection of women within the armed conflict are ineffective. In a study by the Latin America and the Caribbean Committee for the Defense of Women's Rights published in March, 2007, involving monitoring on sexual violence in armed conflict in Colombia, El Salvador, Guatemala, Honduras, Nicaragua and Peru, sexual violence in armed conflict was found to be a systematic practice, a war strategy, and an expression of deeply rooted cultural patterns exerted by all actors involved, most of them State agents. This study highlights the importance of advancing in processes of truth, justice and repair to end the perpetualness of violence committed in this connection.

The report concludes that the Latin American setting lacks proper political conditions to protect both men and women, and this lack of protection was mostly evidenced in the cases of conflicts

---

<sup>6</sup> Acces to Justice for Women Victims of Violence in the Americas, Chapter II. OEA/Ser.L/V/II. Doc. 68. January 20, 2007. <http://www.cidh.oas.org/women/Accesso07/cap2.htm>

ENGLISH only

in the countries studied, and significantly affected women due to their conditions of oppression and subordination.

It also examines the form in which conflicts changed male and female roles, since women had to take on the responsibility for the families, became combatants or social actors for peace and development. According to this report, post-conflict conditions in the countries undergoing this stage did not serve as a tool to transform women's conditions, but actually facilitate increase of other forms of violence such as femicide<sup>7</sup>.

Generally speaking, although there have been international advances aimed at protecting civil population in armed conflict situations and sexual crime is specifically condemned, protection of civil population is not a priority for governments, and women are seen as war instruments and booties.

**Recommendation:**

One of the challenges the legislation is faced to is facilitating the mechanisms for society to advance in recognizing women as subjects of rights and admitting that women are victimized on the sole basis of being women, which implies that violence against women continues throughout their entire lives and takes place in the different settings in which their lives unfold. Thus, the law must serve to disclose and evidence the expressions of such tolerated and legitimated violence in order to continue on its way to erradicating such practice.

Women's redress may only take place in a democratic scenario, so it is important to strengthen the internal mechanisms of justice and debate of each of the countri

ENGLISH only

Whilst protection measures are developed, such as Casa de Albergue (Shelter House), laws must focus on the restitution of rights so that acts of violence may transcend prevention or attention measures.

Laws should include a communicative component to facilitate the diffusion of communicational

## BIBLIOGRAPHY

- Organización de Estados Iberoamericanos para la educación, la Ciencia y la Cultura: Revista Iberoamericana de Educación, número 6 Género y Educación, septiembre-diciembre de 1994: <http://www.rieoei.org>
- Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer CLADEM: [www.cladem.org](http://www.cladem.org)
- Comisión Interamericana de Derechos Humanos: Relatoría sobre los derechos de la Mujer: <http://www.cidh.oas.org/>
- World Bank. "The Global Gender Gap Report 2008". Washington, DC: World Bank, 2008. <http://www.rieoei.org/Generacionales/Mujer/ForoCIDH/EstadGlobalDerechosMujer/Doc/Relatorio2008.pdf>
- Hausmann, Laura D. Tyson, Saadia Zahidi. <http://www.weforum.org/>
- PNUD. America Latina Genera. Mecanismos de Igualdad. <http://www.americalatinagenera.org>
- República de Argentina. Consejo Nacional de la Mujer: <http://www.cnm.gov.ar/>
- Bolivia, Estado Plurinacional. Viceministerio de asuntos generacionales: <http://www.viceministerio.gub.bo/>

ENGLISH only

- República del Perú. Ministerio de la Mujer y Desarrollo Social:  
<http://www.mimdes.gob.pe/>
- República de Uruguay. Instituto Nacional de las Mujeres, INAMU.  
<http://www.mides.gub.uy/inamu/index.html>
- República Bolivariana de Venezuela. Instituto Nacional de la Mujer INAMUJER:  
<http://www.inamujer.gob.ve/>