

Gender-based Violence in the Americas and the Caribbean: A National Perspective
Christine Brendel¹ and Catherine Wolf²

Summary

Gender-based violence constitutes a violation of human rights that affects millions of women all over the world and knows of no nationality, social class, culture or age. Violence towards women is a global phenomenon, yet it presents variations in terms of figures and specific manifestations that are a function of the individual situation in certain regions. In Latin America and the Caribbean, figures are alarming, and the specific forms taken on by gender-based violence impact the region's economy and full development.

This paper presents and discusses social and cultural patterns driving gender violence in the region, which result from a patriarchal system marked by (post) conflict, discrimination, and inequality.

A national strategy against gender-based violence in Latin America and the Caribbean must necessarily focus on social/cultural changes, and on the effective implementation of public policies. The stringent penalization of violence against women must necessarily be accompanied by awareness-raising campaigns addressed at the population, and by training sessions for those responsible for implementing and enforcing legislation and public policies.

Additionally, it calls for a revisitation of existing regulations so as to provide a legal framework that has a gender approach and which does away with gender stereotypes and chauvinist concepts typical of our patriarchal societies. Comprehensive legislation calls for engaging in an intersectoral, participatory process that mainly involves civil society organizations.

Parliaments will only contribute to eradicating gender-based violence if they take into consideration the propositions developed by different sectors when formulating, passing, and enacting laws. Only then will they be complying with the obligations their States have at both a national and at an international level, namely promoting the fundamental rights of their women citizens, and supporting regional development within the framework of a violence-free life for men and women alike.

¹ Regional Director of the *ComVoMujer - Combatir la violencia contra la Mujer en Perú, Bolivia, Ecuador y Paraguay* Programme (Fighting Violence against Women in Peru, Bolivia, Ecuador and Paraguay) – of *Cooperación Alemana al Desarrollo-GIZ*, the purpose of which is to develop measures to improve cooperation between Government and non-Government players to fight and prevent gender violence, especially towards rural, indigenous and Afro-descendant women.

Brendel started her professional career in 1983 in Western Africa. She has been working in Latin America since 1988. Until 2002 she cooperated with over 10 Latin American countries in the areas of gender, corporate development, planning, project monitoring and assessment, and promotion of democracy.

She worked in Germany for the Federal Ministry for Economic Cooperation and Development, GIZ, the *Servicio Alemán al Desarrollo* and InWent (2002/2004). She worked in and from Washington D.C. in the period 2004-2007. She has been responsible for managing the Gender Programme at the GIZ Head Office in Germany. She has been part of the Executive Board of the OECD-DAC GenderNet since 2009.

² Junior Advisor to *ComVoMujer - Combatir la violencia contra la Mujer en Perú, Bolivia, Ecuador y Paraguay (Fighting Violence against Women in Peru, Bolivia, Ecuador and Paraguay)* – a programme of *Cooperación Alemana al Desarrollo-GIZ*

Ms. Wolf is a legal writer specialized in International Law and Human Rights (LL.M. King's College London). She first worked in Germany, France and Peru, where she gained experience working for the German Ministry for Foreign Affairs, the University of Potsdam Human Rights Centre, and Amnesty International, among others. Her areas of interest are human rights, with a focus on women's rights, governance and access to justice.

She has been taking part in the Training Programme of the Federal Economic Cooperation Ministry offered to future men and women experts and leaders from international organizations for development cooperation.

1. Introduction

Gender violence is a global phenomenon cross-cutting cultures, nations, ages and social classes and affecting millions of women in all countries. It differs from other forms of violence in that the risk factor or the source of vulnerability is simply their condition as women. As defined by the UN in 1994, violence against women is "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." This definition indicates that gender-based violence may adopt numerous forms and variations: battering, intimidation at work, harassment in the street or rape, as well as the failure to act by the State.

Whether it be physical, sexual, psychological, economic, private, political or public, violence against women constitutes a crime. The (cultural, social, economic and political) origins of violence are tied to the patriarchal nature of all societies, irrespective of the political or economic regime in question, whether it is an industrial nation, a developing country or original peoples. This is why former UN Secretary General Kofi Annan considers violence against women as "perhaps the most shameful human rights violation. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace." Though constituting a global epidemic, the high rates of gender-based violence, and the prevalence of specific forms such as femicide, political violence and women trafficking are particularly alarming in Latin America and the Caribbean.

Femicide is the most extreme form of violence against girls and women. Etymologically speaking, femicide is the feminine form of homicide. Diana Russell and Jane Caputi note that "it is the murder of women by men motivated by hatred, contempt, pleasure, or a sense of ownership of women." Figures in the region are daunting: Peru officially reported 130 femicide victims between January and December 2010. Through *Observatorio Manuela* (Manuela Observatory), Bolivia recorded 96 cases in 2011. In Quito, Ecuador, 1831 femicide cases were reported between 2000 and 2006.³

It should be noted that in addition to being a flagrant violation of human rights, gender-based violence is a major roadblock to the region's development: It impoverishes women, their families and communities, and it generates high costs for the State on account of health and legal services, as well as of the increase in child mortality rates, and the decrease in GDP caused by the reduction of labour productivity and human capital.

The absence of effective strategies to fight gender-based violence shows the little political will existing among States to honour their legal and political commitments both domestically and internationally, as well as the charters, treaties and conventions to which they are signatories (such as the Convention of Belém do Pará or the Millennium Development Goals).

Much is at stake for women and for the region if we look at "the costs of gender-based violence for States". The International Labour Organization (ILO) estimates that labour losses resulting from violence and stress account for 1% to 3.5% of GDP. In 2003, the Colombian Government spent over 184 trillion pesos to prevent, detect and offer services related to violence against women. In Peru, gender-based violence impacts the wages of affected women (between 1,150 and 1,500 soles/year).⁴

It is important to look into the specific circumstances of gender-based violence in the region in order to find relevant and effective solutions. A first step towards this goal is to understand the general concepts of (post) conflict, socioeconomic inequality, racism and patriarchy, which are the source of the specific manifestations of gender-based violence in Latin America and the Caribbean.

In a second stage, this conceptual framework, and the challenges met will be used as the basis for developing recommendations for an effective national approach to fighting gender-based violence in countries in the region. Finally, a national strategy against gender-based violence in Latin America and the Caribbean will be put forward which will need to focus on social-cultural changes and on the effective enforcement of legislation through a gender-focused participatory and intersectoral approach.

³ GIZ-ComVoMujer and MESAGEN (2011), *La violencia contra las Mujeres en Latinoamérica, Femicidio/Feminicidio: Una Muerte Anunciada*, Lima.

⁴ GIZ-ComVoMujer and USMP (2011), *Marco conceptual ¡Combatir la violencia contra las mujeres es también un asunto empresarial!*, Lima.

2. Social Rules giving rise to Gender-based Violence in Latin America and the Caribbean

Although understated, gender-based violence rates in the region are alarming. Despite their global scope, the manifestations of and solutions to violence against women vary as a function of the specific situations prevailing in certain regions such as Latin America and the Caribbean.

i. (Post) Conflict and the Culture of Violence

We should first note that this problem takes place in a society that generally accepts violence. Various countries and sub-regions have suffered bloody internal conflicts in the past few decades, some of which still exist. In these conflict and post-conflict situations, violent experiences mostly relate to acts of violence in general, and to violence against women, in particular. In addition, centuries of colonization and post-colonialism have led to power being identified with force and violence. Many internal conflicts have already come to an end, but (organized) crime still remains, and peace has not necessarily been translated into improved living conditions for most people in the region. Much to the contrary, there are high levels of discrimination, unemployment, poverty and inequality.

ii. The Many Faces of Discrimination and Exclusion

Latin America and the Caribbean stand out in most international studies as⁵ the region with the greatest socioeconomic inequality in the world, with a general trend towards a correlation between the highest violent crime rates and inequality levels.

Racial exclusion only adds to exclusion on socioeconomic grounds. These two elements go hand in hand, and they reinforce each other. Racism is an integral component of the history of this region. The declaration that all people are equal before the law did not translate into the abolition of discrimination against Afro-descendants and indigenous peoples. Racism has continued to prevail among the elites in power for ideological reasons, but also on account of economic and political power. Under the disguise of the myth of racial equality and the alleged equality before policies and before the law, exclusion and discrimination against Afro-descendant and indigenous peoples have become invisible, have far from disappeared. To this date, ethnicity is a key factor in the class structure in the region.

Often times, discrimination and exclusion lead to significant frustration among their victims; to rejection of their origin and their identity among youngsters, and to a feeling of impotence. Weak institutions in the relatively new democracies lack comprehensive, long-term laws that serve the common weal, promote citizen security or reduce racial and socioeconomic inequality.

iii. The Patriarchal System

The three conflict areas mentioned above – (post) conflict, inequality and discrimination – reinforce each other within the framework of a patriarchal paradigm based on the supremacy and control of men over women. In this regard, the Fourth World Conference on Women held in Beijing in 1995 defined gender violence as “a representation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement.”

Patriarchy may be traced back to Greek and Roman law, where the *pater familiae* exercised absolute legal and economic power over members of his family. Today, patriarchy refers to male domination institutionalized through cultural, political and social life.

Gender-based violence is a reflection of social rules that derive from this combination of social/political concepts inherent to our societies. This explains the high rates and specific manifestations of violence against women in the region.

⁵ Ferranti *et al.* (2003), *Inequality in Latin America and the Caribbean: Breaking with History?* World Bank, Washington D.C.

3. A Participatory Intersectoral Strategy to Fight Gender-based Violence against Women

With a specific, ratified instrument to prevent, punish and eradicate violence against women (the Convention of Belém do Pará), Latin America and the Caribbean is indeed the region with the most advanced legal framework in the world as far as gender-based violence is concerned, and all countries have laws in place that punish domestic or family violence.

Despite the above, the wording of national legislations, their inadequate enforcement or other reasons result in their failure to adequately respond to gender-based violence, as evidenced by the reality faced by women, the high rates of violence and the impunity with which these acts are committed.

Presented below are a series of recommendations to improve the prevention of and attention to gender-based violence in Latin America and the Caribbean.

i. Comprehensive and Participatory Processes for the Drafting of Legislation

Parliaments are the key players in the development of a national strategy to fight gender-based violence since, in the protection and realization of human rights, they play a triple role of passing legislation, approving budgets and exercising surveillance of Government actions. In this regard, men and women parliamentarians need to clearly define the objectives of these laws, namely preventing gender-based violence for women at large, and ensuring proper enforcement of the law in the enquiry, prosecution and punishment of perpetrators in the course of proceedings that do not allow the re-victimization of women.

In furtherance of these objectives, it is essential to involve all stakeholders that will be affected by and/or will enforce the legislation.

The Maria da Penha Law in Brazil has been drafted by an intersectoral working group formed by women organizations and representatives from various ministries under the leadership of the Special Secretariat of Policies for Women. The proposal was submitted for discussion in public hearings all over the country before the bill was actually brought to Congress. This law constitutes a major conceptual development, as it incorporates the gender perspective by enlarging the definition of gender violence and including women in same-gender groups.

• The Stakeholders

The stakeholders identified as having an interest in the passage of legislation against gender-based violence are the individuals and institutions working in the judiciary and in the penitentiary system, including health care staff, all social organizations and women networks who take care of victims, State-run institutions (especially national schemes for the advancement of women), members of the education system, men and women who are community leaders and media representatives, as well as national statistics offices and, needless to say, victims themselves.

Involving non-governmental organizations working in this area is equally important.

Violence as a representation of power imbalance is mostly targeted at vulnerable people. Indigenous and Afro-descendant women are at the centre of the different forms of discrimination on account of race, gender and socioeconomic level. Laws and policies are required to fight gender-based violence, of which many highly vulnerable women fall victims, in order to ensure the rights of all women. National legislations consider women as a homogeneous group, unfortunately, and laws and policies fail to acknowledge the specific situations faced by certain groups of women, especially those who are poor, who live in rural areas, who constitute a minority group, and those who suffer from disability and are subject to or the victims of discrimination, distance, illiteracy and lack of access to justice, among others problems.

No legislation against gender-based violence that focuses only on a privileged sector of the population may be effective, however. It is therefore very important to allow women, indigenous peoples, Afro-descendants, human rights and other organizations to partake in the legislative process so that they may represent the interests of their members, exercise a constructive and critical surveillance role and, first and foremost, contribute their knowledge of the reality facing women, sometimes ignored by political elites.

In fact, one of the key success factors for the Inter-American Commission of Women is the inclusion of civil society in the conduct of its activities.

- **Participatory Processes – Advantages and Procedures**

Having a participatory process is not only a fundamental principle of governance; it also ensures the necessary conditions are in place for legislation to be comprehensive, suitable and successfully enforced.

- It is first necessary to be familiar with the demands and realities of all women, so that responses may be equally appropriate.
- Secondly, it is important that legislation be based on clear evidence on the extent, prevalence and incidence of all forms of violence against women, their root causes, and their consequences.
- Thirdly, it is necessary to identify women, as well as all those responsible for implementing the law, so that it is duly and effectively enforced and applied.
- Lastly, budgets need be allocated so that legislation may be effectively implemented.

Citizen participation and consultation must take place at various levels, such as the development of a baseline through intersectoral working groups or a women expert committee that take part in the drafting of the law. It is also important to exchange best practices with other countries, especially within the same region.

The Maria da Penha Law in Brazil is one of the several good examples of participatory and intersectoral processes to draft legislation against gender-based violence.

- ii. **Guiding Principles for the Drafting of Effective Legislation Protecting Women against Gender-based Violence**

Any legislation on gender-based violence should focus on discrimination and human rights violations. It is therefore not a matter of States granting women certain privileges, but of responding to their duty to exercise due diligence in the protection of and respect for the fundamental rights of women.

With a view to preventing crimes against women, laws and policies should ensure gender-based violence is understood as a civil responsibility that admits no exceptions and that calls, above all, for a change in social standards.

- **Towards Change in Social-cultural Patterns**

The idea is to overcome gender roles and to leave behind the acceptance of violence in general as a tool for gaining access to or retaining power. A two-pronged prevention strategy is required so that perpetrators will not feel legitimated in their actions, and so that these will not simply be faced with ignorance or silence: Gender violence must be penalized strictly as a criminal act, and there must be awareness-raising and training programmes addressed at the general population in schools, companies and the media, as well as other mechanisms to perform a social-cultural change in society at large. Concurrently, it is necessary to take actions to empower women and to promote public and private security.

The private sector may support this process within the framework of corporate social responsibility by offering training and care to its female employees and by engaging in awareness-raising campaigns. By doing so, they respond to the negative impacts of gender-based violence on the productivity of their male and female employees.

A study conducted in Australia showed that, on average, companies afford 40% of the costs caused by violence, whereas the perpetrator only bears 15% of such cost.⁶ Additionally, companies are an important space for social interaction and exert a significant influence on the lives of their employees, both men and women.

Clearly, this social-cultural change is not possible if laws maintain the *status quo*. Numerous laws and policies in the region unfortunately continue reinforcing social rules and traditional concepts because they lack a gender perspective. By way of example, many pieces of legislation focus on domestic or family violence, while failing to acknowledge other forms of gender-based violence taking place outside the home. As a result, there is the misconception that violence affects all family members alike; additionally, women welfare is conditioned to the existence of a family behind them. Domestic violence is frequently punished as a tort and not as

⁶ *Op.cit.* n2.

a criminal offence, or else it is resolved through conciliation, a method which is acknowledged as unviable in the area of gender-based violence. Many laws are still discriminatory and sexist: It suffices to say that they define rape as a “crime against decency/morality”, with no reference being made to the woman’s integrity. One significant step forward that men and women parliamentarians should take is to revisit and amend existing laws.

- ***Focusing on Implementation to make Violence-free Life a Reality***

It is essential to avoid re-victimizing victims when looking into cases of gender-based violence. The effective implementation of national laws and plans must therefore be an integral part of this strategy.

The Organization of American States has for several years now expressed its regret for the fact that our legal institutions stand out for their high level of inefficiency and impunity, which are both a result of the lack of regulations, training, protocols and other resources. Added to this is the discrimination against victims and their families on account of race and gender. The above is further reinforced by the fact that women, especially those in a vulnerable position, are unaware of their rights.

It is therefore essential to train the institutions responsible for enforcing laws, ranging from police stations, shelters and health care professionals to community justice authorities, courts and prosecutors' offices.

The implementation of laws and policies in all institutions involved in looking after the victims of gender-based violence at all government levels should be coordinated and have a gender approach, with special attention being paid to poor and rural areas. The idea in these institutions is to overcome traditional chauvinist conceptions, stereotypes and myths so that women may trust the system that looks after them and report the crimes committed against them. It is therefore necessary to have support mechanisms in place for the men and women who report these crimes, such as care centres and legal counsel. This also implies the adoption of urgent and preventative measures for women who are immediately at risk.

Lastly, it is necessary to continuously monitor and assess law enforcement and the figures on gender-based violence and to amend rules as a function of the new knowledge and developments in the field of women’s human rights.

- ***Women in Latin America and the Caribbean: Resources for a Better Future***

These measures certainly demand the allocation of adequate resources for the institutions involved. Any man or woman parliamentarian will nevertheless consider these resources have been well invested if they compare them to the annual cost of preventing, detecting and responding to gender-based violence and assisting its victims, and to the ensuing corporate losses. Summing up, the question lies in investing in the region’s development and in the respect for the fundamental rights of women in Latin America and the Caribbean.