



Organization of
American States



**MECHANISM TO FOLLOW UP ON THE
CONVENTION OF BELÉM DO PARÁ (MESECVI)
FIRST SPECIAL CONFERENCE
OF THE STATES PARTY TO THE
CONVENTION OF BELÉM DO PARÁ**
October 23rd and 24th, 2014
Mexico City

OEA/Ser.L/ II.7.10
MESECVI/I-CE/doc.20/14
August 19TH, 2014
Original: Spanish

BARBADOS

**REPORT ON THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE
COMMITTEE OF EXPERTS (CEVI)
SECOND ROUND**

I. Introduction

1. This evaluation report on progress made by the State party to meet obligations under the Belem do Para Convention in accordance with recommendations made to Barbados in the Final Report¹ of the second multilateral evaluation round as well as progress indicators for measuring implementation of the Convention adopted by the Committee of experts on 21st May, 2013. Recommendations and indicators to be assessed in this present evaluation relate to the indicator framework and address obligations related to: legislation, national plans, access to justice, information and statistics and diversity.
2. The information received from the State party was submitted in two documents:
 - i. A narrative prepared in response the CEVI Committee questionnaire; and
 - ii. A Matrix prepared in response to the indicator matrix.
3. In both instances it was extremely difficult to determine correspondence with the recommendations that had been provided based in the previous report as well as in relation to actions taken since April 2012. The following has been gleaned from the submissions.

II. PROGRESS ON THE RECOMMENDATIONS

- **LEGISLATION – Articles 1, 2, 3 and 7, subparagraphs c), e), and g), of the Belém do Pará Convention**
4. Reception to the right or acceptance of the right is reflected in way in which rights protected under the Convention are built into the domestic legal system and public policies of the State party. The previous report shows that although there was some progress in this regard, several gaps persisted. All recommendations made in the previous Report therefore pointed to actions that should be taken to close the gaps and related specifically to:
 - 1) Evaluate current legislation that address issues of violence and discrimination to ensure that full rights and protection are granted to women;
 - 2) Include a comprehensive definition of violence against women in legislation addressing VAW;
 - 3) Draft and enact a comprehensive anti-trafficking law and mechanisms for its enforcement;
 - 4) Introduce a Sexual Harassment Bill;

¹ Mechanism of the Follow-up Convention Belem do Para (MESECVI) 4th Conference of States Parties, April 16, 2011, Washington, D.C. Final Report on Barbados. OEA/Ser.L/11.7.10. MESECVI -!V/docs.70/12 20 March 2012

- 5) Develop legislation to address rape and sexual violence within marriage (marital rape) and common-law unions;
 - 6) Ensure that the full range of sexual and reproductive rights of women and adolescent girls are addressed through appropriate legislative or other protective measures.
 - 7) Develop and implement a public awareness campaign to raise the visibility of the Convention in the State Party.
5. The information provided in the two documents submitted by the State party indicate that the follow-up to these recommendations was minimal and there is no clear indications that actions taken were, in fact, after April 2012. The following was determined:
- 1) No comprehensive legislative review to ensure that rights under the Convention are enshrined in the domestic legislation and, in this regard, to identify gaps;
 - 2) The information provided indicates that there is no comprehensive definition of VAW in their legislation but that the Domestic Violence Act includes a definition under sexual harassment. In fact, information from refworld² indicates that:
In 11 October 2012 correspondence with the Research Directorate, the Chairperson of the SAVE Foundation stated that the Domestic Violence (Protection Orders) Act is the current legislation in effect and that it has not been updated since 1992 (SAVE Oct. 2012). According to the CADRES report, the Domestic Violence (Protection Orders) Act does not define domestic violence as a crime and it is only a chargeable offence if the perpetrator violates a protection order (CADRES [2009], 29)
6. This constitutes a serious gap in the legislation and the protection of women's right to live a live free of violence and certainly encourages perpetrators to act with impunity because of the lack of criminalization of such acts. The treatment of violence against women in the legislation should be should addressed without delay and comprehensive legislation covering all forms of violence against women should be addressed without delay. This is of particular importance in situations where intimate partner violence is pervasive. In March 2013, the Permanent Representative of Barbados to the UN³ in a Statement made at the 57th Session of the Commission on the Status of Women acknowledged that: *Domestic violence, including intimate partner violence, remains a major form of violence suffered by women in Barbados, and the country continues to develop legislative and policy measures to combat this. Barbados is currently revising its Domestic Violence (Protection Orders) Act to address gaps in legislation to ensure that all victims are protected.*
7. The State must be held accountable in this regard.
- 3) In relation to trafficking of persons, particularly women and girls, as was evident in the previous report there is still lack of clarity in terms of what constitutes trafficking

² <http://www.refworld.org/docid/50b47bfc2.html>

³ <http://www.un.org/womenwatch/daw/csw/csw57/generaldiscussion/memberstates/barbados.pdf>

and there still is no legislation that directly addresses trafficking and exploitation of prostitution which is often associated with trafficking of women and girls.

- 4) The report indicates that there is now a draft Bill on sexual harassment but no information is provided on a timeline for its enactment.
 - 5) Rape and sexual violence in marriage is addressed in the 1992 Sexual Offences Act but the conditions under which a charge can be brought are very narrow and only protects women who have been divorced, separated or where an order has been imposed on the husband. The scope of the legislation needs to be broadened to include by a husband in a 'normal' marriage.
 - 6) No information is provided on the protection of the reproductive rights of women and girls.
 - 7) Information is provided indicates that no awareness campaigns that deal specifically with the Belém do Pará Convention had been held but issues related to the Convention had been addressed in other for a such as during the 16 days of activism following the observance of International Day against Violence against Women.
8. In relation to assessment of progress made on indicators related to 'financial context and budget compromises' or 'state capabilities' as these are identified in relation to legislation, no information is provided.

- NATIONAL PLANS – Articles 1, 2, 7 and 8, subparagraphs c) and d), of the Belém do Pará Convention

9. The main concern raised in the previous Report was that no comprehensive, multi-sectoral national plan had been developed and implemented by the government. It was noted that the plans that were in place seemed to have the issue of VAW as a secondary focus rather than as the primary focus of the programme and seemed to be fragmented rather than integrated. As a result two recommendations were made:
- 1) A comprehensive integrated national plan of action to holistically address all dimensions of violence against women and girls should be developed;
 - 2) A training programme should be developed and implemented for the range of agencies and stakeholders engaged in combating and eradicating violence against women.
10. The information provided in the current narrative report indicates that the situation remains unchanged.
- 1) Although there is a HIV/AIDS National Action Plan 2008-2013 and the development of a strategy to combat domestic violence is being currently developed, there is still no comprehensive national action plan or strategy to address the eradication of VAW. According to the report the thrust of the activities around domestic violence is undertaken by the NGO community. This is unacceptable. The Government has a responsibility for meeting obligations under internationally binding conventions

which it ratifies and although this can be undertaken in collaboration with civil society and the NGO community compliance cannot be regarded as the responsibility of these groups.

- 2) No reference is made to the development and mounting of a training programme for agencies and stakeholders engaged in combating VAW.

11. The recommendations, therefore, are still applicable to the State party in relation to implementation of obligations related to these aspects of the Convention.

- **ACCESS TO JUSTICE - Article 7, subparagraphs d) and f), and Article 8, subparagraphs c) and d), of the Belém do Pará Convention**

12. As with the other areas, several gaps were identified in relation to women's access to justice in the previous report and several recommendations were made to address these shortfalls which related to:

- Identifying factors that militate against the establishment of entities, other than the police, through which female victims of violence can register complaints;
- Establishment of additional administrative procedures to ease access to justice by victims;
- Establishment of mechanisms to protect victims, their relatives and/or witnesses;
- Established a protocol to guide the collection of data on protection orders which allows for the capturing of information on number of complaints, types and number of orders issued and the time frames;
- Establish a protocol of care for victims and mandate the police, prosecutors, health system personnel and others to adhere to the protocol in dealing with victims;
- Disseminate the Convention of Belem do Para to all branches of the Judiciary and educate them on State obligations under the Convention and how it might be applied in rulings and judgments related to cases of VAW.
- Commission a study to assess the impact of stereotypes, prejudices and myths as well as the personal history of victims on the prosecution of cases of violence against women and sentencing of offenders.

13. The information provided in the current report indicates that no action has been taken in relation to any of the above recommendations. The recommendations therefore still stand.

14. In relation to the financial context and budget compromises in relation to access to justice, no new information is provided. In fact, the same information is reiterated and as before the observation that a budget consistent with the extent of the problem needs to be allocated to support activities aimed at addressing the needs of victims, educating the public about prevention and eradicating the problem, remains relevant. No information was provided on indicators related to state capabilities.

- **INFORMATION AND STATISTICS – Article 8, subparagraph h), of the Belém do Pará Convention**

15. In the previous report three major gaps were identified in relation to the gathering of information and statistics on VAW leading to four recommendations, viz:

- 1) The findings of a survey on Prevalence and Characteristics that had been commissioned should be widely disseminated to all stakeholders and used to inform the design development and implementation of a comprehensive plan of action and programmes to address and eradicate VAW;
- 2) Indicators should be identified in relation to all programmes offered through government and non-government sectors and relevant, comprehensive, sex-disaggregated data on all aspects of the problem should be collected; and,
- 3) A coordinating mechanism for managing the collection, compilation and the development of a national database on gender-based violence and specifically violence against women should be urgently established.

16. Information provided in the current report indicates that in February 2012 a forum was organized by the Bureau of Gender Affairs to disseminate and discuss the findings of the survey. There is no indication, however, of ways in which the findings informed any follow-up action or a plan to address issues revealed by the survey. This continues to be of serious concern particularly since CADRES⁴, the agency that carried out the survey concluded that;

..... *the levels of domestic violence are in line with present international averages and that it is the deficiencies of the national response and underdeveloped cultural attitudes that have allowed domestic violence to thrive. It further concluded that there is a need to sensitize law enforcement officers and the public as well as a need for change in the legislation.*

17. In relation to the second and third recommendations that statistics gathered by police are not disaggregated by sex and permission would have to be sought to have access to such data.

18. No information is provided in the current report in relation to indicators of financial context and budget compromises and state capabilities in relation to information and statistics.

- DIVERSITY – Article 9 of the Belém do Pará Convention

19. This dimension of the indicator framework which relates to Article 9 of the Convention was not addressed in the first evaluation round and is therefore not covered in the report under consideration.

⁴ The Prevalence and Characteristics of Domestic Violence and their Implications for HIV Policies
Boyce, P., National HIV/AIDS Commission, Barbados.
<http://www.hivgateway.com/entry/fecce31741484d56cb82432b0c6d312d/>

1. Summary

20. Overall, the report under consideration does not differ substantially from the previous report and the recommendations have therefore not been comprehensively addressed, and, even where information is provided no direct correspondence with the indicator matrix can be identified. Any future action taken by the State party to implement the *Belem do Para Convention* should, therefore, be more closely aligned with the structural and process indicators identified for measuring implementation of the Convention which were adopted by the Committee of Experts (CEVI) on 21st May 2013. This would give greater guarantees that the expected outcomes as listed in that same matrix would be achieved thereby improving State compliance with obligations under the Convention. Attention to the following structural indicators is suggested:

➤ Legislation

Structural indicators

- 1) Legislative reform – R1
- 2) Comprehensive definition of VAW – R1, R2
- 3) Enactment of anti-trafficking legislation – R2
- 4) Enactment of sexual harassment legislation – R3, R4
- 5) Rape and sexual violence within marriage and de facto unions – R4
- 6) Protection of sexual and reproductive health – R9-R14
- 7) Public awareness campaigns – R16

21. Budgetary Commitments

Indicators – R1, R34, R35

➤ National Plans

Structural Indicators

- 1) Comprehensive integrated national plan – R17, R18, R20
- 2) Training of agencies engaged in combating and eradicating VAW – R19

22. Budgetary Commitments

Indicator – R36

➤ Access to Justice

Structural/Process Indicators

- 1) Entities for receiving complaints outside of the police – R23
- 2) Additional administrative procedures to increase access to justice – R23, R24
- 3) Protection measures for victims, families and witnesses – R26
- 4) Protocol for guiding collection of data – R6, R25, R40
- 5) Protocol for guiding care of victims

- 6) Disseminate convention to all branches of the judiciary – R 19, R28, R40
- 7) Study to assess impact of stereotypes on fostering violence and on sentencing of perpetrators – R1, R37

23. Budgetary Commitment

Indicators – R23, R30

➤ **Information and statistics**

Structural Indicators

- 1) Dissemination of data on VAW – R1, R38
- 2) Identification of relevant indicators – see relevant section of indicator matrix.
- 3) Coordinating mechanism for compilation of a national database – R1, R37, R39

24. Budgetary Commitments

Indicators – R1, R34

Prepared by:
Barbara Bailey, CEVI Expert
18-08-2014

Progress on the Recommendations

The Government of Barbados, through the Bureau of Gender Affairs, acknowledges receipt of the follow up Report on the Progress on the Recommendations .The Government of Barbados wishes to clarify and correct some inaccuracies which have been noted in the Report.

The Government of Barbados through the Bureau of Gender Affairs has sought to implement the recommendations of the Belem Do Para. Contrary to the follow up report for Barbados, action has been taken address the legislation on domestic violence.

The Bureau of Gender Affairs established the Domestic Violence Law Reform Working Committee in 2012 to do a comprehensive review of the Domestic Violence Protections Order Act (1992) with a view to identifying the deficiencies in the legislation.

The Committee met between the months of February 2012 and July 2012 and at the conclusion of the meetings, the Committee had made a number of recommendations which sought to strengthen the Act and make the legislation more relevant to the needs of victims and potential victims of domestic violence.

One of the recommendations which the Committee made in specific reference to the definition of domestic violence was that:

The Act should provide a comprehensive definition of “domestic violence”, which takes account not only of physical violence, but also sexual, emotional, physiological and financial abuse. It should speak directly to the underlying objective of many forms of domestic violence: the use of controlling or abusive actions that harms the health, safety or well-being of protected.

As far as the legislation to address rape and sexual violence within marriage (marital rape) and common-law unions, the Committee recommended the following:

The need for law reform to the Sexual Offences Act (cap 154) to remove all existing immunities for sexual assault perpetrated by husbands as presently exist under the sexual offences Act which provides that the offence of rape is committed by a husband if he has sexual intercourse with his wife without her consent where there is a) a decree nisi of divorce; b) a separation order; c) a separation agreement; or d) an order of non-molestation.

These two recommendations were part of a number of recommendations of the Committee that were presented to the Cabinet of Barbados and that were approved in principle by Cabinet. The draft of the new legislation has been prepared and within recent weeks the Bureau of Gender Affairs has been asked to provide feedback on the said draft.

Human Trafficking

The Government of Barbados, through the Bureau of Gender Affairs, has undertaken to enact legislation to combat the scourge of human trafficking.

In June 2011, the Government of Barbados established a National Task Force on Human Trafficking. The launch of the Task Force meant that Barbados' approach to trafficking became more coordinated and structured. This approach also saw the development Barbados operations guidelines for the identification and protection of victims of human trafficking and the prosecution of human traffickers.

The National Task Force on Trafficking in collaboration with the Bureau of Gender Affairs has also developed a work plan which includes training, public awareness campaigns and workshops. These efforts have seen Barbados placed at tier 2 in the Trafficking in Persons Report in June 2014.