

Curbing Domestic Violence: Two Decades of Action

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Political and social violence has been an ever-present factor in Latin American and Caribbean countries. It is only in the last generation, however, that violence against women became a matter of public concern. This violence includes sexual aggression and rape, sexual harassment at work, abuse of women belonging to ethnic minorities, trafficking in women, prostitution, pornography, violence in the media, and physical, sexual and psychological abuse in the home by partners or spouses.

This chapter is concerned specifically with gender violence against women by a spouse or partner in the context of domestic relations. The objective is to systemize the various actions and strategies adopted by social agents in recent decades in Latin America and the Caribbean. Of course, it is difficult to sort out a host of activities undertaken by different agents in various spheres of influence. Moreover, the need for urgent action, combined with scant resources, often hinders the process of recording and disseminating useful experiences.

Section one discusses how the concept of violence has shifted from a psychopathological and individual view, to a social view of a multi-causal problem. Section two briefly summarizes the results of the main qualitative and quantitative studies conducted in the region. The third section describes programs implemented in the region, ranging from changes in the law to intersectoral and inter-institutional programs. The fourth section outlines priority actions for the future.

Definition of Domestic Violence and Evolution of Strategies

The various societies and countries of Latin America do not agree on how to define ‘violence.’ The differences are even greater when it comes to defining ‘domestic violence.’ The main difficulty is that tolerance and acceptance of violence vary from one individual to another, from one country to another, from one sociocultural context to another. This makes it very hard to establish a common and universally accepted definition of domestic violence.

Existing definitions disagree with respect to which behavior and manifestations they consider to be violent. Some include only physical violence, while others extend to psychological aggression and severe neglect. Some consider a single episode to be sufficient for violence to exist, while others believe that the behavior has to be repeated.

Different definitions also stress different aspects of domestic violence. Some stress the impact of violence;¹ others stress the cultural values involved in violent behavior;² others describe the different types of aggression that occur in domestic violence.³

The issue of violence against women has recently been included on the agendas of many national governments and several international organizations. Women’s groups of the region have been a prime force behind this. Another contributing factor has been international agreements urging the elimination of violence against women. A summary of the treatment of domestic violence in international forums is presented in Table 5.1.

Evolution from the idea of domestic violence to gender violence signifies a change in the conceptualization of violence against women and an understanding of the risk factors associated with gender violence. The view that violence against women is gender violence is based on the assumption that the asymmetrical power relations between men and women is a relevant factor in the scale of seriousness of violence. "The difference between this kind of violence and other forms of aggression and coercion is that the risk or vulnerability factor is

simply being female.”⁴ Thus, strategies to combat domestic violence must be rethought.

Domestic Violence Research

"In Latin America and the Caribbean," writes a leading researcher, "women are vulnerable regardless of their social class or professional lives. ...[T]hey share the concrete possibility of being the victims of violence. Discussion of aggression against women has been taboo... in particular, domestic violence has been condemned to social invisibility, the silence of the privacy of the home, and justified by cultural customs and traditions" (Rico 1992).

Research on domestic violence in Latin America and the Caribbean began in the 1980s, approximately a decade later than in the United States, Canada, and Europe. The early studies were primarily conducted by NGOs, with the central objective of drawing public attention to an issue that had been shrouded in silence. Later, as government programs were implemented, more systematic records were kept, chiefly of complaints made to the police, hospitals, or victim assistance centers.

In the 1990s, studies were conducted on the prevalence of violence in representative population samples. Some very recent studies have evaluated public policies, particularly the application of new legislation. Over 100 studies have been published to date, containing a wide variety of information from different countries that is often difficult to analyze and compare. This chapter classifies the research in two categories: descriptive studies, using information from health, justice, or assistance facilities; and studies of prevalence.

Descriptive Studies

In 1989–1990, Isis International inventoried existing research and government policies on domestic violence in 22 Latin American and Caribbean countries.⁵ Twenty studies based on quantitative data were found. Most were descriptive and systematized the information provided by women who had made complaints to the police or other institutions.

Qualitative research has been conducted as well, using in-depth interviews, life histories, content analysis and discussion groups. Although this type of research does not establish the frequency of violence in the population, it provides valuable background on the nature of violence. It describes forms of abuse, the most frequent responses to violence by women, the characteristics of the aggressors, and the prevailing culture in the different countries. In addition to illustrating specific aspects of the linkage between violence and health, it allows us to understand why some women are reluctant to file charges or have great difficulty in leaving violent relationships.

The main findings of these descriptive studies are the following:

- **Women are at greatest risk in the home. Injuries, aggression, sexual abuse, and homicides are mainly perpetrated by the husband or partner in the context of a relationship.**
- **There has been a major increase in complaints, particularly in the last three years, which often coincides with the passage of specific legislation. An increase in the number of cases reported is also related to factors such as greater visibility of the issue, campaigns by women's and feminist organizations, and the opening of specialized centers.**
- **Studies conducted at centers offering assistance (not specifically for violence) detect high percentages of abused women, when women are questioned specifically about this subject. Since many institutions do not ask women such questions, however, there is probably significant under-reporting by these centers, particularly emergency health services.**

- **Women are at highest risk between the ages of 24 and 45, especially during pregnancy and the postpartum period.**
- **The most frequently detected forms of violence are psychological aggression and less severe physical violence. In general, when physical violence is serious or sexual abuse occurs, it is accompanied by psychological violence.**
- **Some studies describe financial abuse as a specific type of violence, in which the most frequent conduct is failing to support the children, controlling family money, throwing the woman out of the house, and refusing to let her have her belongings.**
- **The causes of violence mentioned by the victims are frequently related to control by their partners.**

Prevalence Studies

Prevalence studies using representative population samples have begun in the last five years. They give an idea of the real dimensions of violence, overcoming the limitations of earlier studies that dealt only with victims who reported violence and did not extend to the entire universe of victims.

To date, prevalence studies have been published in Colombia, Costa Rica, Chile, Mexico, Nicaragua, Peru and Uruguay.⁶ Fifty-two percent of women in Managua experienced psychological, physical and/or sexual violence in the 12 months preceding the survey; in Santiago, the figure was over 40 percent, while it was 22.7 percent for women in Montevideo and Canelones in Uruguay. Thirty-five percent of the women in Costa Rica stated that they frequently experienced this type of aggression, while in Lima 88 percent of women suffered from some type of aggression by their partner. In Colombia, 20 percent of women were physically abused, while 33 percent were psychologically abused. Violence against women is clearly a serious problem that affects a large part of the female population, cutting across class lines and affecting the family group as a whole.

Most of the studies have been conducted in the capitals or large cities and are not representative of an entire country. Moreover, the diversity of instruments used to evaluate violence, and different criteria in selecting the samples, mean that the results are not strictly comparable from country to country. Despite these limitations, prevalence studies are a relevant contribution to the design of public policies in the different countries. They have also demonstrated that it is feasible to obtain reliable data on the magnitude of a phenomenon as complex as domestic violence.

Programs to Combat Domestic Violence in the Americas

As recognition of the impact of gender violence has grown, so has the variety of approaches taken to combat the problem. A large number of factors influence those responses, such as the social and political context in which the issue is discussed; the strength and leadership of women's movements in various countries, including their professional resources and organization; and the capacity for dialogue between the state and civil society.

The large number of programs in different countries of the region cannot be described in this chapter. What follows is a survey of selected programs and policies in five areas: the legal response; the police response; services to assist female victims of domestic violence and their aggressors; training for professionals who deal with domestic violence; and prevention.

The Legal Response

Reaching a consensus on the concept of gender violence in general, and domestic violence in particular, has been difficult in Latin American and Caribbean countries. Individual rights have been counterpoised against the institution of the family, which is defined in most legislation as the basic unit of society.

Various countries have taken different stands on the issue as they have enacted legislation. Some have viewed violence as an attack on the individual human rights of family members. Others have deemed that the ultimate goal is to preserve family unity.

Before the passage of special laws on domestic violence, most Latin American countries shared a similar approach to its treatment. In criminal law, domestic violence was generally classified as physical injury, whether minor, intermediate, or serious. Threats were classified as misdemeanor offenses. In civil law, physical or verbal abuse became grounds for divorce or separation.

For several reasons, this treatment was unsatisfactory. First, it ignored the nature of the problem. Bringing criminal charges involved lengthy and complicated procedures, and such charges were difficult to prove. Furthermore, this approach permitted secondary victimization by the police or the courts; it failed to protect the victims; and it handed solution of the problem back to the family—often with increased risk to the woman.

In view of these considerations, legislation has been proposed that could solve some of the fundamental issues. To accomplish this, however, certain conceptual and practical difficulties need to be resolved.

First, it is necessary to determine the legal good to be protected: the family unit, or the physical, psychological and sexual integrity of the victim. Should the law protect women (statistically the most frequent victims) or refer to all legal and de facto family relationships? Second, which courts should be required to intervene? Should the problem be approached as a domestic conflict (and so dealt with in family courts) or an offense (and thus relegated to criminal courts)?

Third, it is important to determine how to establish victim protection agencies that can act rapidly, effectively and broadly. This is especially important because the aggressor has free access to the victim if they live under the same roof. Fourth, it must be determined how to sanction the aggressor, considering that frequently the victim wishes only to end the violence—not to end the relationship. Finally, it is necessary to establish a streamlined procedure to respond effectively to victim's needs and avoid secondary victimization—that is, mistreatment of the woman by the system ostensibly designed to aid her.

These issues have been treated in a variety of ways in regional legislation (see Table 5.2). Even after laws have been enacted, however, enforcement remains a concern. Protective measures are not always ordered quickly enough because magistrates wish to hear the "other" party, or their generally temporary nature may leave victims with no protection after they expire, without having solved the problem. These problems are compounded by many victims' ignorance of the law and the reluctance of magistrates to proceed on their own. The provisions for conciliation or mediation in many laws have been strongly criticized. A fundamental element for all negotiations is equity, but the relation between the abuser and the abused is essentially unequal and asymmetrical, and thus contrary to the principles of equity.

Moreover, sanctions—when they do not involve incarceration—are difficult for welfare or specialized treatment agencies to enforce because of their limited capacities. Appropriate mechanisms to monitor protective measures have not been found, nor have alternative punishments that do not involve incarceration or fines.

Despite these criticisms, the existence of specific laws in the field of domestic violence is a sign of progress, since the legislation sends communities and members of the justice system a message that change is required. Improvements will follow as more experience is gained and

adjustments can be made to ensure that states can honor their commitments to eliminate domestic violence and afford tangible protection for human rights (see Chapter 10 on Costa Rica's efforts to enact legislation and train its judiciary).

The Police Response: Special Women's Units

Improved legislation by itself is insufficient if police are not responsive to abused women. Early studies found that women were frequently ignored or their complaints not acted upon. This problem was compounded by the fact that, during the 1980s, a number of countries in the region were governed by dictatorships in which the police were active agents of repression. A mistrust of women in general and of the victims of domestic violence in particular was common under these regimes.

Because victims usually contact the police before reaching the judicial system, the response of the police is crucial in enabling women to continue their cases and halt the violence. In view of the importance of that role, the women's movement began to promote special women's units, to be established and staffed with female officers who, it was hoped, would be more understanding of the victims.

The first and most significant effort along these lines was in Brazil, which set up the National Women's Rights Council in 1985. The Council advocated support for a national program to combat violence against women and for the establishment of integrated assistance centers for women at risk of domestic and sexual abuse. The first special women's unit was established in Sao Paulo in 1985. Similar units quickly spread to other parts of the country. (See Chapter 9 on the special unit in Rio.)

The special women's units work mainly with female victims, advising them on different aspects of criminal, civil, and labor law—and, in cases of legal separation, on the division of property, child custody, alimony, sexual education, and psychological counseling. To carry out their various functions, the special units have sections for investigation, counseling, protection, and response to rape.

Creation of these units was undoubtedly the best contribution to addressing the serious problem of violence against women in Brazil. A driving force behind their creation were volunteers in the so-called SOS–Mujer groups, which began to assist victims of abuse who did not receive acceptable treatment from ordinary police units. The evidence gathered by the SOS groups on the difficulties that women encountered in reporting violence was instrumental in establishing the specialized women's units.

The importance of the units is confirmed by data about their use. In Rio de Janeiro alone between 1991 and 1996, for instance, 43,929 cases of abuse were reported to the five units then in existence.⁷ These cases account for 42 percent of all reported instances of physical aggression against women in Rio (104,182 cases).

In Peru, the first special women's unit of the national police force was opened in Lima in 1988. Between 1993 and 1996, units were established in Arequipa, Piura, Chiclayo, Tacna, Puno, and Moquegua, and specialized sections were set up in the cities of Trujillo, Cusco, and Iquitos, the departments of Ica and Cajamarca, and a barrio of Lima, Villa El Salvador. In addition to receiving complaints, the units provide psychological counseling and legal and social services.

Other countries have added their own special women's units. Argentina and Uruguay launched their first units in 1988. The following year, a special Police Inspection Office for Family Protection opened in Cali, Colombia. Today, the country has close to 200 offices. Ecuador inaugurated its first women's unit in 1994. Today, Ecuador has two specialized units in Guayaquil, as well as units in Quito, Cuenca, Portoviejo, and Esmeraldas. Campaigns have been held in different Ecuadoran cities to draw attention to legal aspects of domestic violence

and to create more specialized women's units.

The units frequently work in conjunction with NGOs that have experience with domestic violence cases, have credibility among women, and can provide legal advice, as well as social and psychological services. This is the case in Brazil, Peru and Ecuador, for example.

Despite some success, criticisms have been made about units' shortage of staff, inadequate infrastructure, and lack of social and psychological support teams. The units require training and mechanisms to provide emotional support for staff as they cope with the impact of working with abused women. Further research is needed to learn about the impact of the special units on the problem of domestic violence, but the ultimate success of the units will depend on obtaining sufficient resources and establishing a suitable system for referral and followup..

Services for Female Victims of Violence and Aggressors

Even before the passage of legislation on domestic violence in various Latin American and Caribbean countries, a significant number of programs for victim assistance and protection had been established and carried out by women's NGOs. The centers frequently provided help during crises, as well as legal advice and psychological support.

Today, numerous approaches exist. To accommodate the large number of programs and the variety of methods used, the discussion that follows groups them according to the type of services provided: 1) crisis services, including telephone hotlines and shelters and 2) psychological, social, medical and legal services, including group therapy, municipal programs, medical services and work with male abusers.

Crisis Services

Telephone hotlines. Emergency telephone lines have been introduced in Argentina, Chile, El Salvador, and Uruguay. In addition to providing support for female victims of violence, they are frequently the first step in bringing charges against abusers. In Argentina, the hotline in Buenos Aires was a factor in demonstrating the size of the domestic violence problem in the capital. In the first half of 1997 alone, the hotline received 15,060 calls. In Chile, the Justice Ministry has established a telephone service that provides women with information about the steps a female victim of domestic violence can take to seek assistance. In El Salvador, the hotline covers 13 districts of San Salvador and has serviced over 22,000 callers in its two years of operation (see Chapter 7.) In Uruguay, the Montevideo municipal government's telephone hotline for victims of violence involves a joint effort by women's NGOs and the members of the city's Women's Commission. The program is carried out under an agreement between the Municipality of Montevideo and the Fundación Plenario de Mujeres del Uruguay (PLEMUU).⁸ A limiting factor of hotlines, however, is that much of the population—particularly in rural areas—does not have access to telephones.

Shelters. Most shelters are the result of nongovernmental initiatives. The protection provided by the shelters in removing women and children from violent situations is crucial, but most offer more than protection—including support and training to enable women to become independent and self-sufficient so they will not have to return to violent situations. The region has not been unanimous in viewing shelters as a policy priority for protecting the victims of violence. In some countries, the relatively high cost of shelters, combined with a lack of financial resources, has made the provision of other victim services a higher priority.

Psychological, Social and Legal Services

The first centers to assist victims of violence were established by women's organizations. These centers conducted research, designed models of attention and articulated demands that governments establish specific policies for prevention and suitable treatment. Significant progress in designing working methodologies has been made in the last twenty years.

The gendered approach to the issue of violence taken by NGOs implies that interventions should provide assistance for specific episodes of violence, within a context of supporting changes in the lives of the victims. Work with women should consist mainly of an empowerment process to help them take responsibility for their own lives and personal security.

From this standpoint, treatment for abused women is not limited to halting the violence, but also seeks to help the women identify their problem as part of their subordinate condition in society. Thus, special emphasis is placed on participation in discussion groups that help women change different aspects of their lives, particularly the relationships that have led to violence. Most programs include legal, psychological, and social support provided in a coordinated and comprehensive manner.

***Group therapy.* The vast majority of victim support groups believe that group therapy is an important factor in surmounting abusive situations. Each member of the group can identify with peers who are experiencing the same problems. The group helps women break out of their isolation, which is the product of shame, self-recrimination, and fear. Through their own experiences and the experiences of others, the women become aware of their individual and collective resources. Group therapy is an important element in work with battered women, and offers them the possibility of reinforcing their achievements and speeding up the pace of personal change.**

***Municipal and provincial programs.* As awareness of the problem of violence has grown, governments have intensified their search for an institutional response. In some countries, municipalities and provinces have established assistance centers, often copying models developed by NGOs. The centers take a comprehensive approach, forming part of an institutional network that provides referrals to other sectors (health, justice, police), as well as helping solve the social problems of victims, such as housing, jobs, and child care. Examples of municipal and provincial centers include the Abuse Victim Assistance Center in Buenos Aires, Argentina; the Center for Assistance and Prevention of Domestic Violence, in Santiago, Chile; and the Center for Assistance for Victims of Domestic Violence of the State of Mexico.**

The government of the state of Rio de Janeiro established a women citizens program in 1996. Based on that program, the State Council for Women's Rights of Rio de Janeiro (CEDIM) prepared a Convention on Effective Citizenship for Women. The Convention aims to establish an alliance between the state and municipal governments to enforce state laws on the equality of men and women. To combat violence against women, the Convention provides for the establishment of women's assistance centers that offer legal, psychological, and social help for women and families who are the victims of abuse.

In Costa Rica, the National Plan for Intra-Family Violence (Plan Nacional de Violencia Intrafamiliar, or PLANNOVI) states that one of the strategies for implementing the plan is to establish municipal women's offices. Their purpose will be to "provide information, guidance, and assistance for women, with emphasis on domestic violence and information on rights."⁹

The initial evaluations of municipal centers are positive, since they provide a comprehensive response, allow for work in local networks, and facilitate prevention. (See Chapter 6 on building a network in Monterrey, Mexico.) In some countries, universities and governments have entered into agreements to establish centers for victims of abuse. The advantage of these centers is that they include research on the causes and consequences of violence, and they train future professionals in the area of domestic violence. A pioneer in this area was the Public Health School of the University of Buenos Aires, which established a

project to assist battered women in 1985.

In Mexico, the Faculty of Psychology of the National School of Professional Studies (Escuela Nacional de Estudios Profesionales—ENEP at Acatlán) has an interdisciplinary program to assist abuse victims (see Chapter 6). Relations with the government have been good and a series of assistance centers have been opened in the state of Mexico. The most important aspect of this cooperation is that the program was designed to include research.

Medical services. The health system occupies a strategic position in identifying victims of violence and referring them to other institutions for help. "It is the only institution that probably interacts with all women at some stage in their lives" (Heise 1994). In the last five years, specific responses to domestic violence have begun to be designed by the health system in Latin America and the Caribbean. Yet the health sector's response to domestic violence has been insufficient, focusing almost exclusively on immediate care for injuries. Even with this narrow focus, coverage is incomplete and access to services is limited. Where large-scale programs have been implemented, assistance has been extended according to a traditional model that stresses individual therapy or medication. Preventive actions have been scarce and, in general, limited to isolated experiences. Finally, little attention has been paid to the theoretical developments and comprehensive intervention proposals designed over the last twenty years by women's groups and NGOs.

Work with violent men. Several factors are responsible for the emergence of treatment programs for violent men. These include interactional analyses of violence (working with both the victimizer and victim, not just the victim); the fact that many victims who participate in individual or group therapy remain with their partners but demand that they take responsibility for curbing their own violence; the rise in recent years of a new approach to the role of men in society that questions the machismo that prevails in the region; and the fact that legislation often includes the requirement that men participate in therapy, either as a prerequisite for participating in mediation or as an alternative sanction to criminal prosecution. Work with violent males aims at achieving a new balance of power between men and women "and a careful examination of gender stereotypes underlying the male systems of beliefs that legitimize violence toward women" (Corsi 1995).

Work with men who are violent toward women began in the region only in the 1990s. The first program was launched in 1991, in Argentina. In Mexico, the Men's Collective for Equal Relations (CORIAC) offers discussion groups and workshops for male abusers (see Chapter 8). Costa Rica and Jamaica also have programs that target men to curb domestic violence. In Trinidad and Tobago, a program to teach skills in conflict resolution to male abusers who face restraining orders has been implemented.

Two group levels—beginner and advanced—are often used. In the first level, work is done in an groups for varying lengths of time. To advance to the second level, a man must have stopped committing acts of violence and must express the need for change as his own decision. In the second level, men are given training in gender relations, impulse control, and nonviolent conflict resolution.

Three strategies are especially effective: (i) passage from an individual to a group approach; (ii) passage from therapy in a private space to an institutional space; (iii) use of specific theoretical and technical models for dealing with violence (Corsi 1995). Most programs do not offer couple therapy unless both members of the couple have previously received individual therapy.

Training

The complexity of interventions in domestic violence makes specific education and training for professionals working in this area critical. This is particularly important since the subject

has not been widely taught at universities and therefore few professionals working in the field have had any systematic training on violence. This lack of training often leads to new victimization, in which "false and often victimizing responses in the form of inappropriate advice, risky therapy, or expert reports... are injurious to the victims" (Corsi 1997).

Training was initiated in the region in the 1980s. Early courses were intended to train community leaders and were provided by NGOs as part of their strategy to raise awareness and empower women. Later, the NGOs provided training for public employees—in particular, for police who later joined the special women's units. As national women's agencies developed, they began to train public employees, often with support from NGOs or universities.

In Costa Rica, PLANIVI provides for a process of theoretical and conceptual training for all individuals and institutions with responsibility for implementing the plan. It has designed a permanent education program as a learning tool to facilitate thinking about and dealing with the problem of domestic violence and sexual abuse outside the family.

Two postgraduate training programs are active in the region. In 1989, the Faculty of Psychology at the University of Buenos Aires established an interdisciplinary program in domestic violence. The general objective of the program is to promote specialization by researchers, teachers, and university professionals in the field of domestic violence. The program is interdisciplinary and is targeted to psychologists, social workers, anthropologists, physicians, and lawyers. It lasts for 512 hours—equivalent to 32 academic credits. Students are required to perform 64 hours of field work, 64 hours of in-house training, and 64 hours of research. Graduates obtain the diploma of specialist in domestic violence. To date, there have been about 300 graduates.¹⁰

Since 1994, the Department of Psychology of the University of Chile has offered a postgraduate program in domestic violence intervention strategies. Its objectives include systematic and comprehensive training for professionals, from the anthropological, psychological, social and legal standpoints. The program is targeted to psychologists, sociologists, social workers, anthropologists, journalists, occupational therapists, physicians, nurses, lawyers, teachers, and early childhood educators, and includes 100 hours of training.

Prevention

While action needs to be taken to reduce risk factors that produce violence, few resources are available for prevention activities and consequently relatively few actions have been undertaken. The principal tools used to date in prevention have been media campaigns, educational initiative, and local prevention networks.

Many materials, booklets, posters, radio programs and television spots have been produced to teach the public how to recognize violent behavior, provide information on how to lodge complaints, and promote changes in relationships between couples. (See Part III on the role of the media.) These materials have raised awareness of the problem. However, few evaluations measure their impact on changes in power relations between men and women.

In Jamaica, for example, theater is used to educate an audience to fight gender violence (Chapter 12). Three groups have joined forces in Jamaica. The group called Sistern uses interactive workshops and street theater to encourage discussions about violence. The Women's Media Watch uses drama with young people. Teens in Action uses dramatization to promote critical thought in communities on sexuality, male-female relations, and rape (Population Education Research Group 1992, cited by Heise 1994).

A second line of preventive action centers on schools, and works to promote equality between the sexes and peaceful conflict resolution. A program in Canada, for example, works at both the elementary and secondary level; it includes elements of professional development

for school staff and innovative curricular modules that teach nonviolence (Chapter 11). A third line of work is the establishment of local networks and community organizations to engage in violence prevention—although these networks usually offer services to victims as well (Chapter 6).

Conclusion

After more than 20 years of efforts to tackle the scourge of domestic violence, the results are contradictory. On the one hand, serious effort, dedication, and commitment have brought the problem to light and generated responses from all sides. However, the issue continues to be marginal, resources are insufficient, and laws are often not enforced.

Thus the question is, how can we continue to make progress? How can we ensure that actions lead to a real reduction in violence? How can we transform the issue from a marginal one into one of the priorities of public policy in the countries of the region?

Rico (1996) suggests that policies to curb domestic violence in the region should undertaken within the framework of a country's development, human rights and cultural policies. Combating violence should clearly be part of a country's development policy, because domestic violence has social, economic, and political consequences for society as a whole. It is necessary to stress this aspect and to demonstrate the impact of violence on employment, health, and education of victims and their families. From a broader perspective, however, a development model that increases inequalities, contributes to poverty, deepens inequities, and limits public spending on social policies, will have a negative impact on individuals and facilitate violent responses.

Policies to stamp out violence also should be a part of a country's human rights policy. It is necessary to recognize that "broad exercise of citizenship is severely restricted today to compliance with a series of social duties, and in order to exercise democracy in daily life it is necessary to consolidate a firm government policy to recognize the rights of all members of society. The sociopolitical context of domination and inequality in which domestic violence takes place must not be disregarded."¹¹

Finally, antiviolence policies should comprise an important element of cultural policy. Unfortunately, few steps have been taken to promote cultural change that questions hierarchical and authoritarian family structures or discriminatory institutions. Violence, however, cannot be overcome unless there are deep changes in social and family structure in our countries. In particular, an urgent task is change societal perceptions of women and to teach creative solutions to conflictive situations which are the source of all aggression.

The actions of civil society will be crucial in combating domestic violence, especially in light of the vicissitudes of public policy that result from political changes. Given the prevalence of the phenomenon in many countries, however, it can no longer remain the exclusive responsibility of NGOs. Government policies for comprehensive treatment should stress participation by the health sector, not only because domestic violence is in part a public health issue, but also public health prevention and intervention methods have proven effective in dealing with the problem.

As governments begin to address the issue of domestic violence, they must be careful not to overload the already strained services of NGOs by referring victims to these organizations without a concomitant channeling of financial resources. While there are currently no government strategies to boost the funding of NGOs (Ellsberg 1996), such actions are potentially very effective, especially in an era of reductions in international aid.

Another problem area in government–NGO relations is the growing competition for funds between public agencies and NGOs. International agencies that previously funded the latter

may channel their support to the former. This is a serious issue, since the capacity built up by people with a great deal of experience in this area is being dismantled. Paradoxically, as laws are passed in many countries, the organizations that made them possible are disappearing and the resources needed for assistance are being reduced.

Whether efforts are undertaken by governments or NGOs, more emphasis should be placed on the prevention of domestic violence, in addition to treatment for its victims. To date, no consistent work has been done in the field of prevention. Efforts have been piecemeal and scattered, with little impact. Preventive measures should consider the cultural and socioeconomic realities in which humans develop. Prevention of child abuse, spousal abuse, school desertion, delinquency, and drug addiction will have important impacts in terms of reducing future levels of domestic violence. In addition, preventive policies should look at models for rearing children that will redefine gender socialization in future generations and provide nonviolent methods for resolving conflicts, while allowing for differences and appreciating diversity.

Programs that offer assistance to victims of domestic violence will continue to be important and should form an integral part of human rights and development policies. Comprehensive proposals are needed to provide women with the tools they need to establish equality and exercise their civic rights. Finally, more research should be carried out to gain a reliable idea of the extent of abuse in the region, using instruments that produce comparable data and can measure the progress of policies and their impact.

Table 5.1 Discussion of Domestic Violence at International Forums

First World Conference on Women, Mexico City, 1975. The issue of conflict within the family is mentioned.

UN General Assembly, 1979. The Convention on the Elimination of All Forms of Discrimination against Women is approved. Violence against women is dealt with only tangentially. No definition is given for gender violence.

Second World Conference on Women, Copenhagen, 1980. Equality, Development and Peace. Problems of battered women and domestic violence are discussed directly, and a resolution on "battered women and domestic violence" is adopted. These issues are later addressed by the Economic and Social Council, the Commission on the Status of Women, the Division for the Advancement of Women, and the Committee on Crime Prevention and Control.

ECLAC Fifth Regional Conference, 1991. A resolution on "women and violence" is adopted. Subsequently, various documents mention gender violence as one of the obstacles to equitable development.

World Conference on Human Rights, Vienna, 1993. Violence against women is recognized as a human rights violation, and the final declaration includes a proposal to appoint a special rapporteur on violence against women.

UN Declaration on the Elimination of Violence against Women, December 20, 1993.

Recognizes the urgent need for universal application to women of the rights of all human beings, with regard to equality, security, liberty, integrity, and dignity. 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 the arbitrary deprivation of liberty, whether occurring in public or private life." Article 2 lists acts that are understood as violence:

- 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.

Inter-American Convention on Prevention, Punishment and Eradication of Violence Against Women, Belém do Pará, June 9, 1994. Proposed by the Organization of American States through the Inter-American Commission of Women, it considers that "recognition of and full respect for all rights of women is an essential condition for their development as individuals and for the creation of a more just, united, and peaceful society." It repeats the definition of violence contained in the United Nations Declaration and defines violence against women as "any act or conduct based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere," and establishes that "The Party States condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence...."

Fourth World Conference on Women, Beijing, 1995. Defines the phrase "violence against women" as used in the UN Declaration of December 20, 1993.

Table 5.2 Legislation on Domestic Violence in Latin American and the Caribbean

ARGENTINA

Definition

No. 24.417 Protection Against Family Violence (December 7, 1994). Any person who suffers injury or physical or psychological abuse at the hands of a member of the family group may report these actions. "Family group" is that arising out of marriage or consensual unions (Art. 1).

Jurisdiction

Family judge (Art. 4)

Precautionary measures

Unlimited. The law establishes procedures. May be requested by anyone who is a victim of domestic violence or a crime committed within the relationship of a couple. Some of the measures: provisional custody of minors to the petitioner. Order of mandatory departure from the conjugal home. Prohibition of harassment, persecution, molestation, or intervention in the custody of minors. Prohibition of entry into the place where the petitioner and minors in his/her custody are located. Order to pay support. Order to stop disposition of common property or that belonging to the victim or to annul transactions. Provisional measures concerning use of the parties' residence or common property.

Procedure

Summary and urgent. Oral or written charges. Personal participation of the parties. Hearing of the parties and the Public Ministry within 48 hours. Judge may request and have experts conduct "diagnosis of family interaction" to determine physical and psychic injury to the victim, degree of danger, and the social and environmental setting. Impose precautionary measures without separate proceedings. Within 48 hours of the decree, the judge may call a mediation hearing, ordering the parties to attend. Crimes have established penalties restricting freedom. Violation of protective orders constitutes a crime and authorizes the police to make an arrest. Restriction of release on bond of those who have violated restrictive orders, of permission to leave the country or of parole of those convicted of this law.

BOLIVIA

Definition

No. 1.674 Law Against Family or Domestic Violence (December 15, 1995). Aggression of any kind involving relations between couples of any type, formal or informal, whether living or having lived together, as well as those who have had children together, to produce injuries to the victim or his or her property

Jurisdiction

Various officials may investigate charges and impose protective measures. National Police, Public Ministry, communal authorities, national officials of native peoples, judicial authority, family assistance brigades.

Precautionary measures

Unlimited. Prohibition or limit of the aggressor's presence in the home. Authorization for the victim to leave the common residence. Arrange for the immediate surrender of personal effects. Prohibit or limit the presence of the accused from the place of study or work of the victim. Duration: may not exceed 60 days and specifically temporary.

Procedure

Following complaint to the judicial authority, which may be oral or written, a hearing is scheduled within 24 hours. The parties must appear with all their evidence. At the hearing, the judge may order precautionary measures and must issue a sentence, which can be appealed.

Sanctions

Compensation for injury to the victim. Arrest for up to four days. Community service.

CHILE

Definition

No. 19.325 Establishes norms of procedures and sanctions for acts of family violence. August 19,1994. Any abuse that affects the physical or psychological health of any adult who is the relative, spouse, or cohabitant of the aggressor, or any minor or handicapped individual who is a relative, adopted, a ward, or collateral relative to the fourth degree, or who is in the care or a dependent of the family group living under the same roof. Any one who carries out such actions, even if not living with the family group, will be punished as provided by Article 4 of this law.

Jurisdiction

Judge of the civil bar unless the actions constituting family violence are crimes, in which case the judge of the criminal court is authorized to order precautionary measures.

Procedure

Anyone with knowledge of the violent deed may bring charges. Initiated by oral or written charge or complaint. The complaint is presented to the carabineers, investigatory police, or directly to the court. Personal appearance may be made without attorney or judicial representative. At the request of the parties, the judge may order precautionary measures. The judge calls the parties to a hearing for reconciliation and discovery. The parties must attend with all available evidence. At the hearing the judge establishes the bases for reconciliation. If reconciliation occurs, the proceedings end and there is agreement on means to guarantee the proper joint existence of the nuclear family and the physical and psychological integrity of the victim. If there is no reconciliation, discovery begins. There is no prohibition of witnesses who are relatives or dependents of the parties. The judge calls the parties to hear the sentence within three working days, and may order measures for better resolution, including expert investigation of the evidence that he considers appropriate.

Sanctions

Required attendance at counseling or family orientation programs for no more than six months. Fine to the benefit of the community for the equivalent of one or 10 days of daily income. Imprisonment at any level. Application of the penalty should consider as aggravating circumstances any failure to obey precautionary measures that have been ordered. The law provides for the establishment of a special register, showing the action and punishment, of persons who have been convicted of family violence

COLOMBIA

Definition

No. 294 Norms for the Prevention, Relief, and Sanction of Family Violence (July 16, 1996). Anyone who physically, psychologically, or sexually abuses any member of his/her nuclear family.

Jurisdiction

Family Judge

Precautionary measures

Unlimited. Judges may order them immediately and permanently. Basis for sentencing. Removal of the aggressor, prohibition of visits; temporary protection and support; educational and therapeutic treatment; special protection for the victim.

Procedure

Any person may request a precautionary or protective measure of any type within eight days of an occurrence of family violence. Upon receipt of the report, within four hours the judge may order protective measures warning the aggressor to stop the violence. Call for a reconciliation hearing and testimony; invitation to find a formula to resolve the conflict. Failure of the aggressor to appear constitutes acceptance of the plaintiff's charge. Dismissal. At the end of the hearing, judge issues the sentence, which may be appealed.

Sanctions

Those indicated as permanent protective measures. Failure to comply with the measures is punished by fines and arrest in case of repetition. Deprivation of freedom if the violence constitutes a crime.

COSTA RICA

Definition

No. 7.586 Law against Domestic Violence (April 1996). Reference is made to violence against physical integrity, emotional health, personal development or psychological self-determination, behavior to obtain sexual contact for oneself or other parties, and that exercised against property, personal documents, or the inheritance of the victim. The law protects couples, whether of marriage or common law union, and those connected through kinship, affinity, or the relationship of guardianship, tutelage, or curatorship.

Jurisdiction

Family court judge unless the action constitutes a crime, in which case it goes to criminal jurisdiction.

Precautionary measures

Unlimited, including order of official entry and search, according to the code of criminal procedure, in cases of domestic violence. Confiscation of weapons of the alleged aggressor. Provisional suspension of guardianship, care, and education of the children by the aggressor. Attachment of the property of the alleged aggressor for up to three months. Order of economic compensation for injury. Issuance of an order for police protection. They may last for one to six months and may be requested by the victim or public or private institutions with programs for the protection of human rights and the family. They are supervised by domiciliary visits of social workers.

Procedure

When the charges are brought, the judge convenes the parties within 72 hours and, at the hearing, orders protective measures. If there is an appeal, it should be resolved within 15 days but enforcement is not suspended. They are lifted if there is a reconciliation. If there is a bond, a final judgment that there be no repeated offenses by the aggressor. There are no sanctions other than those established for actions constituting crimes.

ECUADOR

Definition

No. 839 Law against Violence to Women and the Family (November 14, 1995). Any action or omission constituting physical, psychological, or sexual abuse by a family member against the wife or other members of the nuclear family. There is no special type to which the Penal Code

applies.

Jurisdiction

Family Judge, *Comisarias* [police offices] for women and families police, provincial authorities, national police, municipal authorities, and criminal judges or courts.

Precautionary measures

Limited, with reliance on the police. Removal of the aggressor from the household.

Prohibition of access to the person's place of work or study. Return of the victim to the home, removal of the aggressor, protection of the children. Treatment for the family and orders of assistance for the victim. Avoidance of acts of intimidation by the aggressor or other parties against the victim and victim's family.

Procedure

Any person may bring charges. Within eight days, judge calls the parties to a hearing of response and reconciliation. If there is no reconciliation, the case is opened for a discovery period of six days. At the end of the discovery period and upon receipt of the reports, the judge issues the sentence.

Sanctions

Compensation to the victim. Replacement of property destroyed by the aggressor, replaced by community service if the aggressor lacks means.

EL SALVADOR

Definition

Prevention of Family Violence (November 1995). The violence to which the law refers may be physical, psychological, or sexual but in the last case, it only regulates behavior that is not characterized as a crime by the criminal laws. It is considered necessary to characterize violent acts because this characterization allows identification of means for adequate protection of victims.

Jurisdiction

Judge of the Criminal Court

Precautionary measures

The measures are not limited and are the same as those of Costa Rican law, except those concerning official entry and search and the confiscation of weapons of the alleged aggressor, which are not included. It adds the prohibition against consumption of alcohol or drugs by the violator, the requirement that the violator and victim attend counseling, and the payment to the victim of the expenses of moving, medical treatment, and therapy. Temporary measures, and the judge decides the duration.

Procedure

Anticipates reconciliation.

Sanctions

Failure to comply with protective measures constitutes a crime. Repeated offenses are also punished.

MEXICO

Definition

Law of Assistance and Prevention of Family Violence, April 26, 1996. Establishes that the objective is to eradicate violence among family members related through kinship or civil affinal bonds of marriage, concubinage, or common law unions.

Jurisdiction

The law is considered to be administrative, through amicable settlement, because it provides

no sanctions against the aggressor.

Precautionary measures

Unlimited. Aggressor prohibited from approaching the victim. Exclusion of the aggressor from the home.

Procedure

No rules have been issued for special procedures; general rules are applied to all procedures.

NICARAGUA

Definition

No. 230 Modification of the Penal Code (October 9, 1996). Acts of physical or psychological aggression committed against members of the family, considering these to be the spouse or companion in a stable union with children, the woman or man in his capacity as father or mother, alone or living together with the sons and daughters, and collateral relatives to the third degree of kinship or affinity (Art. 237 of the Penal Code).

Jurisdiction

Judge of the Criminal Court

Precautionary measures

Unlimited. Establishes protective measures such as prohibition of access by the accused to the home or place of work of the victim; return of the victim to the home; granting of medical, psychological, or psychiatric care to the victim and/or the accused; order of physical and psychosocial examination of minors involved in family violence; request of adequate guarantees by the accused for the injuries caused the victim; confiscation of weapons in the possession of the accused; temporary award of custody of the minors.

Procedure

Criminal procedure augmented by the authority of the judge to decree protective measures.

Sanctions

No alternatives are presented to those of the criminal system.

PERU

Definition

No. 26.260 Law on the Policy of the State and Society toward Family Violence (December 12, 1993). Acts of physical and psychological abuse between spouses, cohabitant, or persons who have had children without living together, and of parents or guardians toward minors for whom they are responsible. The crime of family abuse is specially characterized. Better characterization of the crime of injuries that damage mental health.

Jurisdiction

The law authorizes, without distinction, various state agents to investigate these causes and impose sanctions. A civil judge (Art. 9 and 10) may adopt precautionary measures. A judge of the criminal court may intervene in cases of crime. A judge of minors is subject to the provisions of the Code of Children and Adolescents.

Precautionary measures

Unlimited. Some measures: orders to remove the aggressor from the home. Admission of inventory to preserve property if the victim leaves the home.

Procedure

Comisariás [police offices] for women or minors receive reports and conduct investigations.

Recommendation for specialized personnel to hear complaints. Public Ministry: arrange couples mediation and order precautionary measures when deemed necessary.

Sanctions

Crimes of homicide, injury, against honor, coercion, kidnapping, violation of sexual freedom, when these involve persons to which the law refers. Treatment of the aggressor when circumstances so indicate.

PUERTO RICO

Definition

No. 54 For Prevention and Intervention in Domestic Violence (August 15, 1989). An ongoing pattern of behavior using physical force or psychological violence, intimidation, or persecution of a person by the spouse, former spouse, the person with whom s/he lives or has lived, or with whom s/he maintains or has maintained a consensual relationship, or with whom s/he has had a child, causing physical injury to the person, his or her property, or to another person, or causing him or her serious emotional harm. (Art. 1.3k).

Creation of new penal categories: crimes of abuse, aggravated abuse, abuse by threat, abuse by restriction of freedom, and spousal sexual aggression.

Jurisdiction

Criminal court judge; for protective orders, any judge of the Court of First Instance of Puerto Rico, including district and superior court judges.

Precautionary measures

Limited: Exclusion of the aggressor from the conjugal home. Prohibition of entry by the victimizer into the home or the place of work or study of the victim. Return of the victim to the home. Establishment of temporary support. Child custody and visits.

Procedure

For prosecution of crimes, ordinary proceedings. For protective orders procedure is flexible. May be requested orally or in writing, on standard forms. Upon receipt of the request, within five working days the judge calls the parties to a hearing to rule on them. The judge may also rule without summons or notification if legal requirements are met.

URUGUAY

Definition

No. 16.707 Article 18 of the Law of Citizen Safety Modifies the Penal Code. July 12, 1995. Domestic Violence (Art. 321, Penal Code) One who, through repeated violence or threats, causes one or several personal injuries to a person with whom s/he has or has had ties of affection or kinship, regardless of the existence of legal bonds

Jurisdiction

Judge of a Criminal Court

Procedure

Crime subject to official prosecution through ordinary procedures for investigation and punishment of crimes.

Sanctions

In accordance with penal assumptions, the penalty imposed is from 6 to 24 months of imprisonment. If the victim is a woman, a minor less than 16 years old, physically handicapped, or psychologically diminished, who is a relative or cohabitant of the aggressor, the penalty is increased by one third to one half.

EXAMPLE:

ARGENTINA

Definition No. 24.417 Protection Against Family Violence (December 7, 1994). Any person who suffers injury or physical or psychological abuse at the hands of a member of the family group may report these actions. 'Family group' is that arising out of marriage or consensual unions (Art. 1).

Jurisdiction Family judge (Art. 4)

Precautionary measures Unlimited. The law establishes procedures. May be requested by anyone who is a victim of domestic violence or a crime committed within the relationship of a couple. Some of the measures: provisional custody of minors to the petitioner. Order of mandatory departure from the conjugal home. Prohibition of harassment, persecution, molestation, or intervention in the custody of minors. Prohibition of entry into the place where the petitioner and minors in his/her custody are located. Order to pay support. Order to stop disposition of common property or that belonging to the victim or to annul transactions. Provisional measures concerning use of the parties' residence or common property.

Procedure Summary and urgent. Oral or written charges. Personal participation of the parties. Hearing of the parties and the Public Ministry within 48 hours. Judge may request and have experts conduct "diagnosis of family interaction" to determine physical and psychic injury to the victim, degree of danger, and the social and environmental setting. Impose precautionary measures without separate proceedings. Within 48 hours of the decree, the judge may call a mediation hearing, ordering the parties to attend. Crimes have established penalties restricting freedom. Violation of protective orders constitutes a crime and authorizes the police to make an arrest. Restriction of release on bond of those who have violated restrictive orders, of permission to leave the country, or of parole of those convicted of this law.

BOLIVIA

Definition No. 1.674 Law Against Family or Domestic Violence (December 15, 1995). Aggression of any kind involving relations between couples of any type, formal or informal, whether living or having lived together, as well as those who have had children together, to produce injuries to the victim or his or her property

Jurisdiction Various officials may investigate charges and impose protective measures. National Police, Public Ministry, communal authorities, national officials of native peoples, judicial authority, family assistance brigades.

Precautionary measures Unlimited. Prohibition or limit of the aggressor's presence in the home. Authorization for the victim to leave the common residence. Arrange for the immediate surrender of personal effects. Prohibit or limit the presence of the accused from the place of study or work of the victim. Duration: may not exceed 60 days and specifically temporary.

Procedure Following complaint to the judicial authority, which may be oral or written, a hearing is scheduled within 24 hours. The parties must appear with all their evidence. At the hearing, the judge may order precautionary measures and must issue a sentence, which can be appealed.

Sanctions Compensation for injury to the victim. Arrest for up to four days. Community service.

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(English) 18 October 1996.

Endnotes

1. Antony and Miller stress the impact of violence, defining it as an “act committed within the family, by one of its members, which seriously threatens the life, limb, psychological integrity, or freedom of another family member.”
2. Astelarra stresses the cultural values involved in violent behavior, noting that violence “is the product of patriarchal traits in society and the family which generate a new gamut of conflicts when they clash with the values of equality and liberty.”
3. Mayer describes the different types of aggression involved in domestic violence, defining it as “abuse that occurs between members of the family, the couple, or between people who have lived together at some point in their lives. This abuse almost always takes place at home and consists of: (a) physical aggression, including minor and major assault; (b) sexual abuse; and (c) emotional abuse, which includes psychological degradation, verbal humiliation, continuing threats of abandonment, threats of physical aggression, economic blackmail, and reclusion in the home.”
4. Rico, N. "Violencia de género: Un problema de derechos humanos," *Serie Mujer y Desarrollo* No. 16, ECLAC.
5. The United Nations Development Fund for Women (UNIFEM) provided support for this project.
6. The sources for the prevalence data are:
Chile: Larrain 1994.
Colombia: PROFAMILIA 1990.
Costa Rica: Quiroz and Barrantes 1994.
Nicaragua: Ellsberg et al. 1996.
Peru: Gonzales and Gavilano (see Chapter 2).
Uruguay: Larrain 1997.
7. The data were provided by the Statistics Office of the Civil Police Force of the State of Rio de Janeiro (Chapter 9).
8. Information on the agreement, figures on assistance, and working methods can be found in "Un telefono que da que hablar. 414177," a publication of the Municipality of Montevideo and the PLEMUU Foundation, 1995.
9. Plan Nacional para la Atención y Prevención de la Violencia Intrafamiliar: Plan Operativo, 1996–1998. San José, Costa Rica.
- 10 The distribution of students by profession is 50 percent psychologists, 35 percent social workers, 10 percent lawyers, 2 percent physicians, and 3 percent other professions (anthropology, sociology, psychopedagogy). Ninety percent of graduates are women and 10 percent are men.
- 11 This is a direct quote from the background paper prepared by Ana María San Juan.