Taking into consideration the important role that the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention plays in the reinforcing universal human rights standards, I would be very interested to receive your inputs and views on the following questions:

1. Do you consider that there is a need for a separate legally binding treaty on violence against women with its separate monitoring body?

The Committee of Experts of the Mechanism to Follow Up on the Implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women - Belém do Pará Convention - (MESECVI) considers that the adoption in 1979 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) reflected a new international model of respect for women’s human rights, with its own monitoring mechanism. The adoption in the inter-American region of a specific convention on violence against women in 1994, the Belém do Pará Convention, and the subsequent establishment of the MESECVI, brought the problem of violence against women to the forefront of international debates on human rights for the first time.

To achieve the same impact at the global level, the Committee proposes to stimulate the creation of a protocol, as a supplementary instrument to reinforce and promote what was already established by the CEDAW. By incorporating a principle of supplementarity in the text itself, protocols establish the obligation of the States Party to enact legislation to control violence against women based on the important international conventions already approved, as has occurred with the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, which supplements the United Nations Convention against Transnational Organized Crime (the Palermo Protocol), and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography.

Approval of the Protocol would strengthen the work that has been done by the members of the Committee of Experts of the CEDAW, especially their General Recommendations numbers 12 and 19; the provisions of the United Nations Declaration on the elimination of violence against women of 1993; the Beijing Platform for Action, adopted at the Fourth World Conference on Women in 1995; and of course the work of the Special Rapporteur on violence against women, its causes and consequences, which has the mandate to investigate and report on all aspects of violence against women. It will also promote the abovementioned Belém do Pará Conventoin and the Istanbul Convention of the Council of Europe, without weakening the implementation of those treaties and without contravening the provisions of other regional conventions on the subject.

In 2014, on the occasion of the Fifth Conference of States Parties of the MESECVI, the Republic of Italy signed the Convention of Belém do Pará, even before the entry into force of the Istanbul Convention. Similarly, Mexico wanted to sign the European treaty that was pending the entry into force of the Istanbul Convention. In this context, the Committee noted that the signing and ratification of other regional conventions on violence against women is another mechanism to strengthen State obligations and raise them to the international level.

1. Do you consider that there is an incorporation gap of the international or regional human rights norms and standards?

The Committee of Experts considers that there is a gap in national incorporation and is working to achieve the adoption and promulgation of juridical reforms that are consistent with international norms and standards. For this, it recommends that States examine their laws, practices, and policies to ensure that they follow principles of equality and nondiscrimination, and that they proceed to abolish, reform, or modify those that are contrary to these principles. The gaps between international norms and standards and domestic laws, policies, and practices must be closed. But in addition to improving and harmonizing existing domestic legislation with the conventions and treaties, it is necessary to pay greater attention to enforcement and application of the laws.

On this same matter, in the Latin American and Caribbean Region, the Inter-American Court of Human Rights has been insisting that the judicial branch should exercise “conventionality control” between domestic legislation applied in specific cases and the American Human Rights Conventions, including the Belém do Pará Convention. In this case, the judicial branch should take into account not only the treaties, but also the standards generated by the same Inter-American Court, which is the ultimate interpreter of the inter-American conventions. The Court has extended conventionality control to all State organs involved in the administration of justice, naturally in the framework of their respective jurisdictions and the corresponding rules of procedure.

1. Do you believe that there is a lack of implementation of the international and regional legislation into the domestic law?

The CEVI works through the Multilateral Evaluation Rounds with a system of indicators that enables it to analyze the different levels of commitment, efforts, and results of the States Party for the incorporation of the international obligations arising from the Convention in domestic law and public policies.

Based on this model, the CEVI developed a series of indicators that enabled it to follow up on the various efforts that have been undertaken in the region since the entry into force of the Convention, and specifically since the presentation of the 42 general recommendations of the Hemispheric Report of the MESECVI in 2012. The response to these indicators and the comparative exercise of the replies made in the evaluation phase were of great value in measuring progress in implementation of the measures.

With regard to the specific question, the structural indicators enabled us to measure the constitutional or legal recognition of the rights and reflect the State’s commitment to ratify or approve international juridical instruments in national or sectoral measures and plans. For example, the structural indicators identify if there are legal norms, strategies, policies, plans, programs, or public agencies devoted to implementing women’s rights in general, and specifically women’s right to live free from violence.

The last report published by the Committee, the Second Follow-up Report on the Recommendations of the Committee of Experts of the MESECVI[[1]](#footnote-1), the CEVI determined, based on replies by the States Party using the system of indicators, that there has been significant progress in the formal recognition of women’s rights.

The Follow-up Report showed that 8 of the 32 States Party to the Convention have a comprehensive law on gender or violence against women. All have laws that penalize physical, psychological, or sexual violence against women, except for Haiti and Jamaica, where the law penalizes violent conduct but does not distinguish whether the victim is a man or a woman, so there is no explicit recognition of the asymmetry of power and that gender violence disproportionately impacts women. These laws have permitted the coverage and jurisdiction of courts with competence in this subject, thanks to the formal recognition in legislation of violence against women and the establishment of protective measures, specialized services, and penalties.

Nevertheless, there is not enough implementation of these norms to the daily life of women, especially those who suffer from multiple discrimination factors, so the Mechanism has affirmed that formal recognition of women’s rights in the region has been insufficient to guarantee compliance with the rights established in the Belém do Pará Convention.

1. Do you think that there is a fragmentation of policies and legislation to address gender-based violence?

The CEVI has identified that the region lacks systematic development of public policies that identify the internal gaps between formal recognition of rights and their effective implementation through public policies, and also lacks progress to close them.

In the evaluation system developed by the CEVI, process indicators make it possible to identify, with reasonable objectivity, the gap between reality and the standard or goal desired. The process indicators quantify the measures of the public programs and specific interventions that a State is willing to adopt to carry out its commitment to achieving results that reflect enjoyment of a given human right. In this case, it is the human rights of women, girls, and adolescents that are specified in the Belém do Pará Convention. The progress indicators indicate the exercise of a human right. They seek to measure the actual impact of the State’s strategies, programs, and interventions to guarantee women’s rights. The progress indicators facilitate verifiable and comparable measurement of progressive exercise of the rights. Improvement in the progress indicators can be an indication of the suitability of the measures adopted and progress toward full enjoyment of the rights they seek to measure.

During the Second Evaluation Round, the lack of information on these indicators reflects that the States Party have not sufficiently organized their data collection systems in the area of application of the law and in the area of evaluation, exercise, and monitoring of public policies. Similarly, they have not established the capacity to collect reliable statistics that would permit more precise evaluation of the causes and consequences of violence.

Another major challenge identified by the Committee for closing the existing gap between formal recognition of women’s rights and their effective exercise is the lack of sufficient budgetary commitment for implementation of policies intended to prevent, punish, and eradicate violence against women. It is necessary to continue working so that public policies are accompanied by earmarked budgets.

5. Could you also provide your views on measures needed to address this normative and implementation gap and to accelerate prevention and elimination of violence against women?

The Committee seeks to close gaps and strengthen State capacities based on regional progress to prepare a general diagnostic study of the conditions in which women of the region exercise the rights established in the Convention in six areas: legislation; national plans; access to justice; specialized services; budget, information, and statistics; and diversity.

In this context the CEVI uses a mechanism to measure the processes, not only the results, which permits it to affect public policies. The abovementioned report is part of the efforts of the Mechanism as a multilateral organ to move ahead with accomplishments, reduce existing gaps between the formal recognition of rights and their effective exercise in the life of women and girls of the region, and at the same time is indispensable for understanding the complex factors and legal, political, and social frameworks that persist in our cultures and permit violence and discrimination to continue in the daily life of the women of the region.

The MESECVI is conscious of the complexity of the task proposed and the lack of systematized information on the situation of women’s rights in the region, as well as the uneven development of legal standards at the national level on the subject, and the different levels of participation of women in the processes of evaluation, monitoring, and selection of public policies.

Therefore, the MESECVI has prepared the Guide to the Application of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará Convention) (MESECVI, 2014), which aims to strengthen knowledge, interpretation, and application of the Belém do Pará Convention. The general objectives of the Guide are to facilitate States’ understanding of their obligations, highlighting the complementarity between Belém do Pará Convention and other human rights instruments, and to favor fulfillment of these obligations to address violence against women from the perspectives of prevention, care, punishment, and eradication; and the Practical Guide to the System of Progress Indicators for Measuring the Implementation of the Belém do Pará Convention (MESECVI, 2015), prepared to support the process of consolidating the Progress Indicators within the countries of the region and the use of indicators in each State Party to the Convention.

In addition, at the last meeting of the Mechanism held in October 2015 the CEVI identified the need to work on the implementation of recommendations with respect to education on stereotypes, and requested the Technical Secretariat to include some indicators on education on stereotypes to accelerate the prevention and elimination of violence against women in the document Progress Indicators for Measuring the Implementation of the Belém do Pará Convention. These have been included and will be evaluated in the Third Evaluation Round that is currently under way and will have reports published in 2017.

At the same meeting, the Committee agreed to move toward drafting a Comprehensive Law, having determined that comprehensive laws for the prevention, punishment, and eradication of violence against women are also an effort to reconcile norms and public policies at the national level.

The Committee of Experts recognizes that the definition of violence against women in Article 1 of the Convention has been totally or partially incorporated in domestic legislation, mainly in countries that have adopted comprehensive laws on violence against women or where the legislation has been updated in the past five years. This permits across-the-board attention to violence against women. Its insertion in comprehensive laws on violence favors a unified and consistent treatment of the various forms of violence against women in public policies, justice, investigation, and collection of data and statistics. In this way, the implementation of these laws is based on common principles and the coordination of various stakeholders responsible for their implementation.

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The Committee is working on a Draft Model Comprehensive Law for the Prevention, Punishment, and Eradication of Violence against Women for 2017. It is necessary to modernize legislation on violence against women by the use of comprehensive violence laws, which will permit unified and consistent treatment of the various forms of violence against women in public policies, justice, investigation, and collection of data and statistics.

1. MESECVI (2014), *Second Follow-Up Report on the Recommendations of the Committee of Experts of the MESECVI*. Available at: <http://www.oas.org/en/mesecvi/docs/MESECVI-SegundoInformeSeguimiento-EN.pdf> [↑](#footnote-ref-1)