



To the Committee on the Elimination of All Forms of Discrimination against Women CLADEM's contributions on the Draft update of General Recommendation No. 19 (1992) on gender-based violence against women

The *Latin American and Caribbean Committee for the Defense of Women's Rights* (CLADEM)¹, considers that updating General Recommendation No. 19 is an important step forward and takes advantage of the opportunity to contribute to its development from our regional experience.

This document with contributions to the proposed Draft update of General Recommendation No. 19 that we are sharing with you is the result of a consultation among national chapters of our network², references to human rights reports like those produced by the Follow-Up Mechanism to the Belem do Para Convention³, and research on the topic. These contributions broaden the scope of the update, are consistent with regional developments that have identified different forms of violence against women and with women's demand that States fulfil their responsibilities in relation to public laws and policies to effectively address human rights violations related to gender-based violence against women.

Proposal

Scope

Paragraph 12: Please add the following spheres to those in which gender-based violence against women occur: *sexual and reproductive health; women's political participation*⁴.

General obligations of States parties under the Convention relating to gender-based violence against women

Paragraph 13. a) Responsibility for acts or omissions of State actors. We propose to expand item ii. and add an item iii. with the following responsibilities:

¹ Regional feminist network www.cladem.org

² CLADEM is made up of national networks from Argentina, Bolivia, Brazil, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, and Uruguay.

³ Follow-Up Mechanism to the Belem do Para Convention <http://www.oas.org/en/mesecvi/library.asp>

⁴ Gender-based political violence from a gender perspective is an issue that still needs deeper analysis and action in a regional context in which democratic processes are being weakened. This becomes particularly visible in the different manifestations and serious cases of violations to women's right to access and participation in public and political life that is equal, free from violence and discrimination that are happening in several countries. There are several international and regional documents relevant to this issue; the most recent ones include "Declaration on Political Harassment and Violence against Women" (MESECI, 2015); "Norma Marco para consolidar la Democracia Paritaria" (PARLATINO, 2015); and Tercera Ronda de Evaluación Multilateral del Mecanismo de Seguimiento de la Convención de Belém do Pará (MESECVI): ACCESO A LA JUSTICIA, NIÑAS MADRES Y SITUACIÓN DE DEFENSORAS DE DERECHOS HUMANOS. Paragraph 19, pages 7-8 and footnotes in pages 16, 17, 18, 19, 20 y 21 from CLADEM's Informe Regional Alterno al Comité de Expertas (CEVI). CLADEM 2016.



ii. *To this end, State Parties commit to implement certification and specialization programmes for State actors, particularly in the areas of health and justice; to develop specialized protocols in all State care facilities and for punishing all forms of violence against women as well as overseeing its effective application; to demand that States performance meets the minimum standards⁵ set by international women's human rights laws.*

iii. *With an aim to move forwards the goals of providing assistance, punishing and eradicating all forms of violence against women, State Parties must develop among others, public policies, plans and programmes incorporated into national and regional citizens' and human security policies; evaluation and follow-up systems for all dispositions in General Recommendation No. 19 including progress indicators⁶; and establish State mechanisms that allow transparency and social auditing or monitoring on policies, plans, programmes and budgets for the different issues related to all forms of violence against women.*

Paragraph 14. b) At the executive level, we recommend adding the following to the services State Parties must provide *comprehensive and specialized assistance centres for women facing violence equipped with the necessary infrastructure, staff, capacity and institutional coordination to be able to work as a network avoiding re-victimization and developing national coverage accessible to all populations⁷.*

Recommendations

Paragraph 15. Prevention. Subparagraph b). Among the measures that State Parties must develop to strengthen the fulfilment of their obligations related to prevent violence against women by addressing stereotypes, prejudices, customs and practices, we recommend including the following:

iii. *To guarantee the prevalence of secular States, independent from religions that are restricted to specific sectors, groups or individuals. Religious practices, orientations and beliefs must be seen as belonging to the private sphere. No interference from religious institutions or groups that stops women and girls from fully exercising their human right to a life free from violence must be allowed by States. In particular, the influence of religious groups and ideas on the educational system must be avoided as it prevents young women and girls access to scientific information in order to make free and informed decisions about their sexuality. Likewise, any interference of this kind with State powers to block progress on public laws and policies and particularly on those related to sexual rights and reproductive rights, must not be tolerated or allowed⁸.*

⁵ Examples are "Brasilia Regulations Regarding Access to Justice for Vulnerable People" (<http://www.osce.org/odihr/68082?download=true>) and the Bangkok Rules on women deprived of their freedom (https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf.)

⁶ Practical Guide to Use the System of Progress Indicators for Measuring the Implementation of the Belem do Para Convention. 2015. CIM-MESECVI. <http://www.oas.org/en/mese cvi/indicators.asp>

⁷ Paragraph 16. Page 12. Informe Regional Alternativo al Comité de Expertas (CEVI). Tercera Ronda de Evaluación Multilateral del Mecanismo de Seguimiento a Convención de Belém do Pará (MESECVI). ACCESO A LA JUSTICIA, NIÑAS MADRES Y SITUACIÓN DE DEFENSORAS DE DERECHOS HUMANOS. CLADEM. Agosto 2016

⁸ Paragraph 85. Page 28. Informe Regional Alternativo al Comité de Expertas (CEVI). Tercera Ronda de Evaluación Multilateral del Mecanismo de Seguimiento a Convención de Belém do Pará (MESECVI). ACCESO A LA JUSTICIA, NIÑAS MADRES Y SITUACIÓN DE DEFENSORAS DE DERECHOS HUMANOS. CLADEM. Agosto 2016.



Under **Subparagraph J, i.**, after child marriage we recommend adding: *and forced child maternity and pregnancy.*⁹

Still on State responsibilities for **Prevention**, we recommend adding a subparagraph **M:**

M) To incorporate the different forms of violence against women into national legislations and identify them as crimes. This should not have a restricting nature. In different countries, new conditions create new forms of violence against women or imprint new features on the most known manifestations. The effort to identify those new forms of violence is linked to improving access to justice for women, reducing impunity and the urgent need to deepen focalized and specialized public actions for prevention, assistance, due punishment and reparation. Identifying by name those forms of violence against women also has a direct impact on institutions and on individuals within the different social spaces both in the public and private spheres.

These forms of violence against women include the following:

- i. **Femicide and/or Femicide:** Some States¹⁰ have incorporated the crime of femicide or feminicide into their penal laws. Others¹¹ have increased penalties in crimes against life when violent death is caused because of the victim's gender or "because she is a woman"¹². "Every femicide/femicide constitutes a State failure to have prevented it through the coordination of bodies exerting public power, in coordinated efforts to dismantle the power structures reinforcing gender-based discrimination. This failure makes evident how States have not fulfilled their due diligence obligations. The Inter-American Court has said that feminicides result from "a structural situation and a social and cultural phenomenon entrenched in customs and minds" and that these situations are grounded "in a culture of gender-based violence and discrimination"¹³.
- ii. **Forced child pregnancy:** Occurs when a girl child faces an unwanted, unsought pregnancy and the possibility to interrupt her pregnancy is denied, hampered, delayed or obstructed.¹⁴

⁹ Child Mothers. Child Pregnancy and Forced Child Maternity in Latin America and the Caribbean. Executive Summary (full report available in Spanish) CLADEM. 2016.

¹⁰ Patronos de Violencia contra la Mujer en América Latina y el Caribe. Report submitted to the UN Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo. Pages 4-5. CLADEM. November 2014. <http://www.cladem.org/pdf/Informe-Relatoria-de-Violencia.pdf> (in Spanish). See also Paragraph 22, page 11 in Informe Regional Alternativo al Comité de Expertas (CEVI). Tercera Ronda de Evaluación Multilateral del Mecanismo de Seguimiento a Convención de Belém do Pará (MESECVI). ACCESO A LA JUSTICIA, NIÑAS MADRES Y SITUACIÓN DE DEFENSORAS DE DERECHOS HUMANOS. CLADEM. August 2016.

¹¹ Paragraph 22. Page 11. Informe Regional Alternativo al Comité de Expertas (CEVI). Tercera Ronda de Evaluación Multilateral del Mecanismo de Seguimiento a Convención de Belém do Pará (MESECVI). ACCESO A LA JUSTICIA, NIÑAS MADRES Y SITUACIÓN DE DEFENSORAS DE DERECHOS HUMANOS. CLADEM. August 2016.

¹² *Idem*. Paragraph 22. Page 11.

¹³ "Patronos de violencia contra las mujeres en América Latina y el Caribe". Report submitted to the UN Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo. CLADEM.

<http://www.cladem.org/pdf/Informe-Relatoria-de-Violencia.pdf>

¹⁴ Page 17, Balance Regional: Niñas Madres. Embarazo y Maternidad Infantil Forzada en América Latina y el Caribe. CLADEM. 2016. <http://www.cladem.org/pdf/nin%CC%83as-madres-balance-regional>



- iii. **Forced child maternity:** Occurs when a girl child is forced to become a mother without having wanted or sought it.¹⁵
- iv. **Child marriage:** refers to marriages in which one of the parties is under 18 years in countries where the age of majority is reached earlier or after marriage¹⁶.
- v. **Gynaeco-obstetrical violence:** It can be defined as the kind of violence that a health practitioner exerts on women's bodies and reproductive processes. This kind of violence is mainly, but not solely, expressed in dehumanized treatment of pregnant women, in the trend to pathologize natural reproductive processes and in multiple manifestations that are discriminatory, negligent, humiliating or misogynist in the context of sexual health care including for pregnancy, delivery and post-delivery¹⁷. This form of violence can take place in public or private health facilities and might be linked to other spheres of women's sexual and reproductive health.
- vi. **Violence against reproductive freedom:** This is the violence of women's right to freely and responsibly make decisions about getting pregnant or not, the number of pregnancies and birth spacing¹⁸¹⁹. Acts of violence against reproductive freedom include, among others, any action or omission that discriminates or violates women's rights to access contraception including emergency contraception, as well as the criminalization of behaviors that can only be performed by women such as abortion, optional surgical or clinical procedures such as forced sterilization, hysterectomy, or the removal of an intrauterine device or any similar device without her informed consent. This obstructs women's right to enjoy the fruits of scientific progress in the area of reproductive health and their right to access infertility treatments or those that prevent mother-child HIV transmission²⁰.
- vii. **Institutional violence:** It refers to any act or omission by State officers, professionals, staff, agents or members of any public institution whose purpose or result is to delay, obstruct or prevent the enjoyment or exercise of women's rights to access services or their provision by treating them in a discriminatory way or in any way that undermines their personal dignity

¹⁵ Page 30. *Idem*.

¹⁶ Informe de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre Prevención y eliminación del matrimonio infantil, precoz y forzado
<http://www.acnur.org/t3/fileadmin/Documentos/BDL/2014/9585.pdf?view=1>

¹⁷La violencia obstétrica: otra forma de violación a los derechos humanos. Obstetric violence: another form of Human Rights violation. Laura F. Belli. Revista Redbioética/UNESCO, Año 4, 1 (7): 25-34, January-June 2013.
http://www.unesco.org/uy/shs/red-bioetica/fileadmin/shs/redbioetica/Revista_7/Art2-BelliR7.pdf

¹⁸ Observatorio de Violencia contra las Mujeres. Consejo Nacional de las Mujeres. República Argentina.
<http://www.cnm.gov.ar/ovcm/ObsViolencia.html>

¹⁹ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez. (B. Reproductive rights violations).
http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf.

²⁰ Comprehensive Bill on Forms of Violence Against Women's, Honduras.



and integrity²¹. This also includes any act of violence against women in political spaces, political parties, unions; business, sport and civil society organizations²².

- viii. **Symbolic violence:** It refers to those forms of violence that “through stereotyped patterns, messages, values, icons or signs conveys or reproduces domination, inequality or discrimination in social relationships, naturalizing women's subordination in society”²³.
- ix. **Media violence:** The publication, circulation or employment of messages, values, icons, signs or images, through visual or audiovisual means including the Internet and any other communications media, that are stereotyped or misogynist, directly or indirectly promoting relations of domination or discrimination towards women, attacking their dignity and integrity, regardless of their purpose. These acts promote and sustain socio-cultural patterns that produce violence against women.
- x. **Internet violence or cyber-violence:** Internet violence is a violation of the right to privacy^{24 25} that must be respected by the State or guaranteed by it against any arbitrariness perpetrated by third parties.²⁶ This form of violence occurs when personal or private messages or images are circulated as a way to exert power over a woman, without her authorization and employing extortion or threats against her emotional, psychological or economic welfare²⁷.

²¹ *Idem*.

²² Taken from Observatorio de Violencia contra las Mujeres. Consejo Nacional de las Mujeres. República Argentina. <http://www.cnm.gov.ar/ovcm/ObsViolencia.html>

²³ Ley 26.485. Ley de Protección Integral para Prevenir, Sancionar y Erradicar la Violencia contra las Mujeres en los Ámbitos en que Desarrollen sus relaciones Interpersonales. República Argentina. Article 5, paragraph 5. www.oas.org/dil/esp/Ley_de_Proteccion_Integral_de_Mujeres_Argentina.pdf

²⁴ Art. 11 American Convention on Human Rights. Right to privacy. 1. Everyone has the right to have his(her) honor respected and his(her) dignity recognized. 2. No one may be the object of arbitrary or abusive interference with his(her) private life, family, home or correspondence, or of unlawful attacks on his(her) honor or reputation. 3. Everyone has the right to the protection of the law against such interference or attacks. http://www.oas.org/en/iachr/mandate/basic_documents.asp

²⁵ Art.12 Universal Declaration on Human Rights and Art. 17 International Covenant on Civil and Political Rights.

²⁶ http://www.oas.org/en/iachr/expression/docs/reports/2014_04_08_Internet_ENG%20WEB.pdf

²⁷ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. Paragraphs 57; 68; 69. http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf