



Organización de los Estados Americanos
Organização dos Estados Americanos
Organisation des États Américains
Organization of American States

REPORT ABOUT THE SITUATION OF ACCESS TO JUSTICE FOR WOMEN IN THE AMERICAS: QUESTIONNAIRE

INTRODUCTION

Objectives:

The present questionnaire has been prepared as part of the actual work plan of the Special Rapporteurship on the Rights of Women of the Inter-American Commission on Human Rights (IACHR). Its objective is to collect information about the main achievements and challenges women face to access justice in the Americas. The information provided will be analyzed and compiled in a report including concrete recommendations to OAS member States about measures that can be implemented to improve women's access to justice in accordance with their regional human rights obligations.

The IACHR and the Rapporteurship on the Rights of Women pay special attention to the rights of women, fairness, gender equality and equity. Since its establishment in 1994, the Rapporteurship has carried out the work of the IACHR to protect the rights of women by means of publishing thematic studies, assisting in the formulation of new jurisprudence through the individual case system, and supporting the investigation of different themes that affect the rights of women in specific countries of the region by means of on-site visits and country reports.

The current work program of the Rapporteurship is designed to address a priority challenge for the rights of women throughout the Hemisphere: how to ensure that women can effectively access justice, particularly when they have been subjected to violence and discrimination. Throughout the year, the Rapporteurship is undertaking a collection-gathering process, including this questionnaire and a series of consultations, with the following objectives:

- To identify and analyze the key obstacles women face in obtaining effective access to justice in the region, most particularly women that have been subjected to violence and discrimination;
- To collect information about new strategies and best practices within the region to confront these obstacles, as well as information as to why certain promising strategies have failed to produce the desired results;
- Prepare an analysis including specific recommendations designed to assist the member states in achieving enhanced compliance with their obligations under regional human rights instruments to guarantee that women have effective access to judicial protection and guarantees.

This consultation process includes a variety of sectors, including government, civil society, regional and international organizations and the academic sphere, among others.

Responses to this questionnaire should be mailed no later than October 31, 2005 to:

Inter-American Commission on Human Rights
Organization of American States
1889 F Street, NW
Washington, DC 20006
cidhoea@oas.org

Requested information:

The present questionnaire requests both quantitative and qualitative information. It is encouraged to submit reports and specific evaluations about the subject, graphs, statistical and budgetary information, among other types. As a matter of geography, we invite information applicable to the national, local, urban, and rural levels. In regards to federal countries, we request information about all States and Provinces. We invite you to present information specifically about the situation of women pertaining to groups particularly vulnerable to violence and discrimination such as afrodescendent, indigenous, young and elderly women, among others.

This questionnaire 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 in the private sphere. It is understood to include physical, sexual and psychological violence that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse; that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place; and that is perpetrated or condoned by the state or its agents regardless of where it occurs.

Discrimination against women is defined as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The questionnaire consists of four parts:

- In the first part, it is encouraged to present a detailed panorama of the legislation, national plans, policies and programs designed to prevent, eradicate, and/or sanction discrimination and violence against women. The objective is to obtain a complete description of the judicial and legal system of each country including information about how international law is implemented at the national level.

- The second part is centered on the implementation and real application of the framework described in the first part. We encourage you to submit detailed information about practices, institutions, monitoring mechanisms, services and programs established to prevent, sanction, and/or eradicate discrimination and/or violence against women and to collect statistical information about those subjects. It is welcomed to submit information pertaining to different sectors such as justice, police, health, education, among others, and a description of coordination initiatives among these sectors, where applicable. The objective is to obtain information about the national budget and the percentage dedicated to gender issues in the areas of justice, health, education and safety, among other spheres.
- The third part requests detailed information about the administration of justice and the incorporation of gender issues in its functioning and actions. In this questionnaire, administration of justice is defined broadly, including the judicial branch (all of its instances, tribunals and administrative divisions), the police and forensic medicine services, located either in urban and/or rural zones, with national and/or local competency. You are welcomed to submit a detailed description of measures, plans, programs, evaluations, studies and specific divisions created to address violence against women and discrimination, including capacity-building initiatives for personnel.
- The fourth part requests recent statistical information, ideally received within the last 5 years, about the prevalence of violence against women and discrimination. In regards to violence, we invite you to present information about the different types of violence, including physical, psychological and sexual, within the family and in the public sphere. Regarding discrimination, we welcome statistics of incidents in the sphere of justice, labor, health and education, among others. It is encouraged to submit information about the complaints received by judicial instances, their procedural stage and the resolution of these cases.

Some of the indicators that will be used to measure advances are the following:

- Existence of system or registry of statistical, qualitative or quantitative information about incidents of violence against women or discrimination
- Percentage of the national budget assigned to implement programs and policies specifically oriented to improve the condition of women
- Participation of civil society organizations in the design of policies and programs to advance the rights of women
- Number of public officials with training and/or a specialty in violence against women and/or discrimination
- Statistics about different kinds of violence against women and/or discrimination
- Numbers of complaints received in the past 5 years about violations of the rights of women, above all in cases of violence and discrimination

QUESTIONNAIRE

I. LEGAL FRAMEWORK AND POLICIES TO PROTECT WOMEN AGAINST DISCRIMINATION AND VIOLENCE

1. What is the application process at the national level of binding Inter-American instruments such as the American Convention on Human Rights and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, and international instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women? Can they be directly applied or is legislation required to facilitate the implementation process?
2. What are the existing legal norms to prevent and sanction discrimination and violence against women of national and/or local application? In the case of federal countries, are there similar norms in all states and provinces?
3. What types of violence and discrimination are included in these norms?
4. Is there a plan and/or national program to prevent, sanction and/or eradicate discrimination and/or violence against women? Are there national plans or programs to prevent, sanction and/or eradicate discrimination and/or violence against women at the local level?
5. Does the legal framework offer special protection to women pertaining to ethnic minorities, such as indigenous and afrodescendent women? What type of protection do indigenous and afro-descendent women receive, among others, within these laws?
6. What type of advances have been made in the past 5 years in the reform of the content of laws to prevent, eradicate and sanction discrimination and violence against women? What type of advances have been made in the past 5 years in the repeal of discriminatory laws?

II. INSTITUTIONS AND MECHANISMS TO IMPLEMENT LAWS AND POLICIES THAT ADVANCE THE RIGHTS OF WOMEN TO LIVE FREE FROM DISCRIMINATION AND VIOLENCE

7. What have been the greatest achievements and challenges in the implementation of laws and public policies to prevent, sanction, and eradicate discrimination and violence against women?
8. Describe the best and most innovative government practices to advance the rights of women and to improve their access to justice or the state response they receive. The answer can include examples of legal measures, reforms, publicity campaigns, and pilot programs, among others.
9. What mechanisms have been implemented to guarantee that a gender perspective is incorporated in the design and implementation of laws and policies in all spheres?

10. What types of monitoring mechanisms have been established to measure the progress in implementing laws and policies to advance the rights of women?
11. Is there a specific State entity that is in charge of protecting the rights of women? If there is one, what is its title, mandate, composition, and budget? What competencies does it have?
12. What types of services exist where victims of discrimination and violence can seek help, either in urban or rural areas? To what extent can the use of these services be quantified?
13. Is there any kind of system or registry of statistical, quantitative or qualitative information of incidents of violence against women or discrimination? Does the system disaggregate information on the basis of sex, age, race, ethnicity, educational level, among other factors?
14. What type of collaboration exists between different sectors (justice, health, education and others) to promote the rights of women and to attend violence against women?
15. What percentage of the national budget has been assigned to implement programs and policies specifically oriented towards improving the condition of women?
16. Are there any programs to facilitate access to justice for women particularly vulnerable to acts of discrimination and violence, for example young girls and women belonging to marginalized ethnic and racial groups, or economically disadvantaged, among others? Are there programs to facilitate that women living in rural areas access to justice in urban areas?

III. ADMINISTRATION OF JUSTICE

17. Are there tribunals specialized to address incidents of violence against women and/or discrimination?
18. Are there translation services to other languages spoken in the country? Are there programs for free?
19. What measures have the State taken to prevent, identify and correct the discrimination in the judicial system? For example, what type of capacity-building, education and sensitization programs have been created for justice officials, employees of judicial organs and the police to eliminate socio-cultural patterns that discriminate against women?
20. What are the actual figures of all types of violence against women at the national and local levels? What type of statistics are actually available for the different types of cases, including intra-family, sexual and psychological violence, among others?

21. Can it be identified how many complaints have been received in the last 5 years of violations of the rights of women, above all in cases of discrimination and violence? How many of these cases have reached the Sentencing stage?
22. What is the percentage of women that hold positions in second and third instance tribunals? In first instance tribunals? In administrative positions within the judicial branch?
23. Have institutions within the judiciary and the police been created to address gender issues? If so, what is their mandate and composition? What is their budget?
24. Has there been any evaluation of the judicial system response to cases with gender-specific causes?
25. Are there programs that systematize or review case law by theme, either public or private? Do these programs include a gender perspective?
26. Are there public legal assistance programs? Are these programs free? In what measure are these programs used in cases of discrimination or violence based on gender?
27. What type of training, education, and awareness-raising programs have been created for forensic medicine personnel to work with cases of violence against women? Is there specialized personnel within the forensic medicine system to work with cases of violence against women?