



LATIN AMERICA AND CARIBBEAN
REGIONAL STRATEGY
ON WOMEN'S ACCESS TO JUSTICE
2011-2015



Secretariado para América Latina y el Caribe
de la Campaña del Secretario General
Ciudad de Panamá, Junio de 2012

Tel.: (+507) 305-4887
<http://www.unetelatinoamerica.org>
<http://www.english.unetelatinoamerica.org>

Graphic design and layout:
Paola Lorenzana y Celina Hernández

ISBN: 978-1-936291-77-9



REGIONAL STRATEGY

ON WOMEN'S ACCESS TO JUSTICE

2011-2015





TABLE OF CONTENTS

Presentation	7
Background	9
Objective of the UNiTE to End Violence against Women Campaign	13
Regional Strategy on Women's Access to Justice	15
Some Relevant Issues Regarding Women's Access to Justice in Special Situations	20
Political-Legal Foundation of the Regional Strategy on Women's Access to Justice	23
Objectives of the Regional Strategy	25
a. General Objective	25
b. Specific Objectives	25
Intervention Plan	26
Policies, Results and Strategic Operating Actions	29
Bibliography	33
ANNEXES	
Annex 1. Statistical Information on Violence against Women in Latin America and the Caribbean.	36
Annex 2. Regional and Sub Regional Mechanisms for Judicial Officials in Latin America and the Caribbean. March 2011	37
Annex 3. International and Regional Instruments for the Protection of Women's Rights.	38

PRESENTATION

We are pleased to present “The Regional Strategy for Access to Justice for Women 2011-2015” elaborated within the framework of the UN Secretary General’s UNiTE to End Violence against Women Campaign, which aims to support the States of Latin America and the Caribbean in fulfilling their duty to prevent, punish and eradicate all forms of violence against women and put an end to impunity.

We hope that this strategy promotes access to justice for women without discrimination and exclusion, recognizing that this right is possible only if the situation of each woman is taken into account in the judicial practice. The rules of Brasilia, which is a strategy we are helping to implement, guide the development of justice systems in order to provide the preconditions so that all women, without distinction due to age, gender, civil status, immigration status, or to social, physical, mental, economic, ethnic or cultural circumstances, are able to fully exercise their rights in the justice system.

This strategy has as its starting point the high rate of crimes committed in the region against women and the limited institutional response that results in high levels of impunity.

As stated by the Secretary General of the United Nations, Ban Ki-Moon, to enable women to enjoy their right to full human development, the free exercise of their citizenship and a life free of violence, the State has the obligation of ensuring women citizens the right of access to justice administration in accordance with the

principles of promptness, opportunity, proportionality, rationality of service and respect for the principles of non-discrimination. Only then, the authorities, institutions and political groups, will achieve legitimacy of their institutional political power toward its citizens in accordance to the essential purposes of the State: the common good and the achievement of social peace.

The resolutions of the 57th Session of the Commission on the Status of Women also aim to enhance the efforts of States to prevent violence against women and ensure that women and girls, victims and survivors, access to justice without hindrance as well as fair and effective redress for the harm they have suffered, not forgetting their duty to end impunity by ensuring perpetrators of these serious crimes against women and girls are accountable for their actions and punished under national and international law.

We hope that the implementation of this strategy in the region will support the achievement of these objectives.

Moni Pizani

Regional Director of UN Women for the Americas and the Caribbean and Representative in Panama

Nadine Gasman

Director for Latin America and the Caribbean of the Secretary General's UNiTE Campaign to End Violence against Women

1. BACKGROUND

Over the last decade violence against women¹ in Latin America and the Caribbean has increased considerably. This is evident in increased feminicides² and the increasing cruelty of the acts of violence against women and other aspects. Women in the region not only suffer the atrocities committed against them, but they must also face the indifference and inertia of some States and their administration of justice system regarding such actions, all of which produce a lack of protection. In 2009, impunity in cases of Feminicide reached 77% in El Salvador and Honduras and 90% in Mexico and Bolivia. Investigative processes were opened in only 20 of the 373 feminicides occurring between 2003 and 2004, a rate of impunity of 94.6%³.

This inability of the administration of justice system to investigate and punish acts of violence against women is an evident indication of the failure of the State to

comply with its obligation to protect and guarantee the fundamental rights of its citizens. It perpetuates a culture of impunity based on patriarchal models in situations of discrimination and inequality in which Latin American societies, particularly women, is immersed. In addition, we should consider the fact that in those countries in the region that underwent internal armed conflict, violence against women was committed as part of a strategic plan to annihilate the enemy. The bodies and the lives of women became a prized war trophy. These events have yet to be cleared up; further contributing to the consolidation of a culture of violence and impunity⁴

In view of this situation of violence and lack of justice, States are facing a challenge to comply with their duty to their citizens to respect and guarantee the free and full enjoyment of all their human rights. The Courts must guarantee that violations of the fundamental rights of

1 Article 2: Violence against women will be understood to include physical, sexual and psychological violence:

a. 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;

b. 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

c. that is perpetrated or condoned by the State or its agents regardless of where it occurs.

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Pará Convention) adopted in Belem do Pará at the twenty fourth regular session period of the General Assembly of the Organization of American States (OAS). Brazil, June 9, 1994.

2 The concept of feminicide will be used in this document using the meaning understood and applied by the Inter-American Court of Human Rights in its different decisions: "female homicide for gender reasons".

3 The numbers obtained were taken from the following sources: Amnesty International (<http://www.amnesty.org/en/node/22090> -<http://www.proceso.com.mx/rv/modHome/pdfExclusiva/71079>); Report by the National District Attorney, Santo Domingo, Dominican Republic; CLADEM: Monitoring of Feminicide / Female Homicide in the Dominican Republic; CLADEM: Monitoring of Feminicide / Female Homicide in Bolivia (2003-2004); <http://www.contrapunto.com.sv/cat-violencia/femicidio-asesinato-de-mujeres-en-la-impunidad>.

4 "The rape of women of all ages during a war was not invented in the former Yugoslavia; this abominable patriarchal exercise of power is a phenomenon that has been known since ancient times. What this war adds is rape as an instrument of "ethnic cleansing". This is not ... the raping of women as a consequence of or within the context of a war, but rape used as a weapon of war and of "ethnic cleansing"... these crimes against humanity have also occurred in our own Latin America... America's Watch and Amnesty International reveal in their reports... that in Latin America the raping of women has been used to humiliate and punish human groups. Because of this painful and incredible Latin American situation, when I hear of such atrocities and massacres perpetrated in Yugoslavia at the International Criminal Court, it begs the question of what situations and remedies there may be for Latin America for situations as those described. Odio, Elizabeth, Judge at the International Criminal Court for the Former Yugoslavia (1993-1995). Conference on the "Protection of the Human Rights of Women" from the first course on the International Protection of the Human Rights of Women. IIDH-CLADEM. San José, Costa Rica, 1996, Pg. 37.

citizens are investigated and punished, particularly the right to health, sexual and reproductive health, to work, to education, to equitable participation in the political system, etc. Accordingly, the right of women to have access to justice is fundamental for compliance with the other rights and must be prompt, effective and under conditions of equality. This requires, among others, the acknowledgement that asymmetric power relationships between men and women of all economic and social levels are also present in the administration of justice culture and judicial practices⁵, which makes it mandatory for the men and women responsible for institutions in the judicial sector to generate objective and subjective conditions so that such inequality is overcome when imparting public justice services.

In depth comprehensive change in the judicial culture of the States is necessary. It is not enough to approve new laws or pass favorable resolutions with a gender perspective. We must go beyond that. Public justice services must become a “transforming mechanism”⁶ to overturn current bureaucratic, sexist and discriminatory models prevailing in the culture of judicial officials and in their perceptions regarding the role of women. The incorporation of a larger number of women in political and judicial decision making posts and the definition of the State’s criminal policy are necessary to achieving this transformation

At the same time urgent work is needed to compile and analyze statistical and situational information. The study of this information will provide an understanding of the dimension of violence against women and the personal, social and political damage caused. It will give appropriate information to those in charge of the agencies within the system for the administration of

justice to be able to design and plan prevention policies and punishment for violence against women and to define actions aimed at the eradication of impunity from these acts. To that end, the Executive and Legislative Powers must approve more financial and technical resources for institutions in the justice sector to face these challenges.

In summary, Latin America and the Caribbean are in urgent need of executive and parliamentary authorities, as well as judicial powers and systems for administering justice with the capability and political will to guarantee and exercise independent jurisdictional authority abiding by the rule of law that also considers the vulnerability of women, so that women can enjoy their right of access to justice and integral human development.

In view of the high rates of violence against women, particularly increased assassinations and alarming rates of impunity for these crimes, the hierarchy in the administration of justice system in Latin America and the Caribbean must make the investigation of these cases a priority. They must demonstrate their political will and commitment to combat impunity. They must take efficient action to investigate and process cases of violence against women to overcome the failures of sector institutions and return credibility in justice and the Democratic State to their citizens.

It needs to be acknowledged that an important positive factor is the work activists, women’s groups and networks have done at different times and places in denouncing these crimes seeking solutions for dealing with situations of exclusion, discrimination and violence against women. Through their ongoing struggle women and some political leaders have achieved greater understanding and visibility of this phenomenon making

5 La humanidad de las mujeres está en proceso de construcción y para lograrla es necesario superar el reduccionismo de considerarlas en función de su sexualidad, lo que es equivalente a hacerlas inferiores y tratarlas como si aún requirieran protección. En otras palabras, tenemos que superar esta idea patriarcal, siempre presente en los legisladores latinoamericanos, de controlar el “desorden de las mujeres” a través de la expresión de Carol Pateman, confinándolas a la irracionalidad de la naturaleza y requiriendo un orden penalizador que no reconoce las condiciones reales del conflicto en las relaciones entre el mundo femenino y el mundo masculino. Acosta, Gladys. *Women in Civil Codes of Latin America and the Hispanic Caribbean*. Gender and Law (Facio, Alda/ Fries, Lorena). First Edition September, 2009

6 Facio, Alda. *Feminism, Gender and Patriarchy*. At: <http://www.centroantigona.uab.cat/docs/articulos/feminismo,%20género%20patriarcal,%20Alda%20Facio.pdf>

it possible for the State to define policies and actions to combat violence against women.

The United Nations System, its specialized bodies and particularly the General Assembly have made an important worldwide effort to combat violence against women. For more than three decades the United Nations has been committed to supporting state authorities and civil society to improve women's living conditions and has worked intensely in the promotion and protection of their human rights derived from the acknowledgement that: *gender violence is an action that violates the human rights of women*⁷.

7 In acknowledging the rights of women as human rights, it is very interesting to keep in mind that the latter is accomplished thanks to the actions and struggle of women's lawyers and activists organizations, Alda Facio remarks that "the decision to address the rights of women as human rights stems from the perception of experiences and the change in focus in Latin America. She adds: "There were considerable victories for the human rights of women and their defenders at the Vienna World Conference. First, violence against women is now on the human rights agenda as abuse that has to be eliminated, it is no longer considered a common crime or private action, in fact violence against women during armed conflict was identified both as a violation of human rights and in humanitarian legislation. Harassment, sexual exploitation and trafficking of women are all part of this image and at this same conference (1993) it was agreed that the human rights of women must be present in all UN human rights activities. Facio, Alda. The Optional Protocol of the Convention on the Elimination of all Forms of Discrimination against Women, Analysis of Cases before the CEDAW Committee. Inter-American Institute of Human Rights San José, Costa Rica, 2009, Pg. 53.





OBJECTIVES OF THE UNiTE TO END VIOLENCE AGAINST WOMEN CAMPAIGN

Progress has been made in recognizing situations of discrimination, inequality and violence suffered by women around the world, as a result of efforts by the United Nations System, the political will of some States and the demands of civil society, particularly women's organizations. Accordingly, state policies have been enacted and specific actions taken to overcome this situation. However, this development has not been the same in all regions of the world. Today, in a large number of countries, violence against women in public and private spheres has worsened. This deterioration is evident in their living conditions, in their enjoyment of economic, political, social and cultural rights and in respect for their dignity and personal worth.

In view of these challenges, acknowledging that state action is slow in most countries in 2008 the Secretary General of the United Nations Ban Ki-moon launched the UNiTE to end violence against women Campaign. The main purpose of this campaign is to build greater public awareness, increase political will and assign resources to prevent and respond to violence against women and girls.

This Campaign is based on the following conclusions of a 2006 In-depth Study on all forms of violence against women⁸ : a) violence against women is a widespread serious problem that affects the lives of countless women and constitutes an obstacle to achieving equality, development and peace in all continents; b) it endangers the lives of women and impedes full development of their capabilities; c) It obstructs the

exercise of their rights as citizens; it harms families and communities and reinforces other forms of violence throughout societies, often with deadly consequences. The study concludes that although States have made progress in approving laws and in promoting public policies to end violence against women, girls and adolescents; significantly more political will is required to give greater visibility to the problem and make the systematic violation of women's rights a fundamental priority of the State in order for state intervention and punishment to be *"comprehensive, systematic, well coordinated and properly resourced."*

In conformity with the above study, the Secretary General has declared that the eradication of violence against women can "no longer be postponed" in building democratic societies governed by the principle of equality. The **UNiTE to End Violence against Women Campaign** is a concrete multilateral strategy involving policies and actions to resolve the situation of exclusion experienced by more than 50% of the world's population. The Secretary General's Campaign will be in effect until 2015, coinciding with the period established by the States to comply with the Millennium Development Goals⁹ (MDGs), especially Goal 3 *"Promote gender equality and empower women"*. It is important to acknowledge the technical-political supplementary nature of these tools, because the MDGs will only be fulfilled, if efforts are simultaneously made to eradicate violence against women.

8 In Depth Study on all Forms of Violence against Women. Secretary General's Report. Sixty First period of sessions of the General Assembly, July 2006.

9 Millennium Declaration. United Nations Millennium Summit, New York, September 2000

The creation of UN Women in January 2011 has given the UNiTE Campaign additional support. As stated by the Executive Director, Michelle Bachelet, the institution is committed to working so that: *“the hope of millions of women and girls around the world of having a better world becomes a reality”*¹⁰ To that end, UN Women has established five priorities including the elimination of violence against women worldwide and support for States in the implementation of CEDAW¹¹ (Convention on the Elimination of All Forms of Discrimination against Women). This priority, in conjunction with other UN Women action areas, such as: economic empowerment, participation of women in politics and strengthening of leadership, are initiatives that will be decisive in contributing to overcoming the situation of inequality and violence experienced by women today.

Within the framework of the Campaign and specifically with regard to the Chapter on Latin America and the Caribbean, three pillars of action for development over five years (2011 to 2015) are given priority:



Pillar 1: STOP IMPUNITY: attention, protection, punishment and reparation.



Pillar 2: NOT EVEN ONE MORE: prevention.



Pillar 3: IT IS EVERYBODY'S RESPONSIBILITY: awareness and incidence.



10 "...UNWOMEN will concentrate on five areas: 1) Expand voices and leadership and the participation of women; 2) End violence against women; 3) Strengthen full participation of in conflict resolution and peace processes; 4) Increase the economic empowerment of women; and 5) Work to include gender priorities in national plans and budgets, including the capability to assist on all CEDAW related matters." Bachelet, Michelle. Remarks by the Executive Director ONU WOMEN inauguration ceremony. New York, February 24, 2010

11 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). adopted by the United Nations General Assembly, 1979.



REGIONAL STRATEGY ON WOMEN'S RIGHT OF ACCESS TO JUSTICE

This regional strategy is a response to Pillar 1 of the **UNiTE to End Violence against Women Campaign** in Latin America and the Caribbean:

STOP IMPUNITY: attention, protection, punishment and reparation.

This strategic plan regarding women's right of access to justice seeks to support States in their obligation to prevent, punish and eradicate all forms of violence against women and end impunity for acts that violate their fundamental rights.

The strategy enables women's access to justice without discrimination and exclusion of any kind; acknowledging that this right is only possible if judicial practices consider the conditions of each individual woman. The interpretation of the "Brasilia Regulations" considers that the justice system will offer the indispensable conditions for all women to fully exercise, before the justice system, the rights granted under the legal system, without distinctions for any reason related to age, gender, physical or mental condition, immigration status, marital status or social, economic, ethnic and/or cultural circumstances.

The strategy arises from the rate of crimes perpetrated against women in the region and the absence of effective institutional response by the State to eradicate such acts. Not only are women increasingly unprotected in situations of violence

and cruelty; but, in fact, in many countries of the region there is a general situation of citizen insecurity in the society as a result of non compliance with the obligation of the authorities to guarantee the fulfillment of the principles of the Constitutional Rule of Law.

One of the reasons for the existence of the State is precisely to keep peace in society and promote the development of its inhabitants. This obligation translates into the State's obligation to guarantee its citizens the enjoyment of freedom and to create the conditions and opportunities for all persons, men and women, without exception, to develop their human potential and their ability to be and to do. Non compliance with this political commitment of the State weakens the foundation of its existence, because its dysfunction and/or ineffectiveness determine the opinion of the inhabitants regarding the quality of services provided by the institutions. In the case of justice sector institutions, this dysfunctionality directly affects the perception of objective and subjective security of its inhabitants. This definitely leads citizens to question the pertinence of a State that only predicates the protection of the fundamental rights of its citizens in formal speeches. Finally, citizens lose trust in the State and its institutions, insofar as the latter does not comply with its duties to respect and guarantee their human rights and freedoms as recognized in international instruments and in internal legislation¹².

12 Case of González et al. (Campo Algodonero) V. México Inter-American Court of Human Rights San José, Costa Rica, November 16 2009.

As stated by the Secretary General of the United Nations, for women to be able to enjoy their right to full human development, to exercise freely their citizenship and to a life free of violence, the State has the obligation to ensure its citizen's right to access to administration of justice following the principles of promptness, opportunity, proportionality, rationality of service and respect for the principles of nondiscrimination. Only then, authorities, institutions and political-party groups, will achieve legitimacy before its citizen fulfilling the essential goals of the State: seeking the common good and peace in society.

It is understood that women's right of access to justice is not a right in itself, but rather "a means" to assert their other rights. The Inter-American Court of Human Rights decisions on women's right of access to justice¹³ has reiterated that: "*the obligation to investigate is an obligation of means and not results that must be taken by the State as its own legal obligation and not as a simple formality doomed to failure from the start.*"¹⁴ In this same way, the Report on Access to Justice for Women Victims of Violence in the Americas, defines the right of access to justice as: "*a right, an indication of effective citizenship, a public good that must be enjoyed equally by all human beings without discrimination. It is not subject to the existence of formal judicial resources, but rather these must be suitable for investigation, punishing and reparation of the of violations reported, access to justice is indispensable de iure and defacto*"¹⁵.

The final, and most important part, is the urgent need for authorities and or citizens to take responsibility of the consequences of the State's negligence in

complying with its duty to guarantee the exercise of the right of access to justice; because multiple effects are produced when the criminal courts do not punish the one responsible for aggression against women, including those that stand out in the area of criminal policies:

- The aggressor feels authorized by the system for the administration of justice to continue with the criminal conduct, the victim loses confidence in the State and there is an increase in the vulnerability suffered due to re-victimization because of omissions in the system itself (*the system for the administration of justice fails in its special prevention objective.*)
- The State, by tolerating the levels of criminality and impunity, sends a message to its citizens that violence against women and the damage produced in their lives is not a State priority. Citizens therefore perceive that this criminal conduct is authorized causing it to become generalized and to reproduce acts of violence against women, both in public and private spheres (*the system for the administration of justice fails in its general prevention objective.*)¹⁶

Another important factor is that violence against women is not only expressed through criminal illicit actions, but that violence is also manifested through conduct that constitutes a labor, civil, administrative or other type of violations. That is why it is important for actions, seeking to achieve the elimination of all forms of violence against women, to not only take the path of access to the system for the administration of justice, but to also strengthen women's access to other jurisdictional fields. This will contain conflicts that when not appropriately resolved

13 Ibid. Sentence, Case of González et al. (Campo Algodonero) V. México

14 Access to justice for Women Victims of violence, CIDH – OAS Report. Interamerican Institute of Human Rights March 2011

15 The Inter-American Court of Human Rights has pointed out that the "lack of judicial effectiveness when facing individual cases of violence against women fosters an environment of impunity that facilitates and promotes the repetition of violent crime in general and sends a message that violence against women can be tolerated accepted as a part of daily life. Decision, Case of González et al. (Campo Algodonero) v. México Inter-American Court of Human Rights San José, Costa Rica, November 16 2009.

entail increasingly more damaging consequences for women, until they cause irreversible damage (criminalization of social conflict).

If the system for the administration of justice worked effectively and comprehensively, it would most definitely avoid in today's world that: *"women continue to earn less than men for the same work... they have to face inequality of access to land and inheritance rights... And that they still hold only 19 percent of legislative posts,... there are only 28 women holding positions as heads of state or government."*¹⁷

Therefore, constitutional, labor, civil, family, agrarian and administrative justice is required to be accessible to women, with gender relevance for services, interpretations and applications of the law. It has been demonstrated that when family courts have expeditious mechanisms for processing child support payments, not only does this protect women and their families from economic vulnerability, but it also keeps women from facing tense situations with their ex-partner that in some cases end with threats and aggression against the liberty, dignity and physical integrity of women. A similar situation refers to the protection of women's right to work when pregnant, which can be easily and effectively protected through the use of constitutional redress avoiding patrimonial and emotional damage to women and their environment.

Constitutional justice should also be accessible to women as a way to resolve conflicts that guarantees them the enjoyment of their cultural, economic, social rights, the right to sexual and reproductive

health and the right to participation in politics under equal conditions, in other words their right *"to a life free of violence."*

In the case of Latin America and the Caribbean progress has been made with the approval of laws that formally guarantee the right of access to justice. The region has integrated into their systems instruments¹⁸ using international standards appropriate for the protection of the fundamental rights of women, including: the Convention on the Elimination of all Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Pará Convention)¹⁹. The challenge now is the ratification of the Optional Protocol to the CEDAW by some countries in the region, such as: Honduras, Nicaragua, Puerto Rico, Haiti, Jamaica, Trinidad y Tobago, and a large majority of Caribbean countries.

There has also been significant progress in adjusting national laws to international regulations. In some countries special laws have been enacted that typify femicide²⁰ and domestic violence. In addition they have approved laws that provide criminal or administrative sanctions for other equally serious conducts, such as sexual harassment. However, progress is also needed in the de-criminalization of a series of conducts that remain in Latin American penal codes and that constitute notorious violations of the principles of equality, liberty and dignity. These include laws referring to adultery, pardon of the victim in cases of rape and mediation in cases of crimes of violence against women, among others.

17 Bachelet, Michelle. Message of the Executive Director of UNWOMEN International Women's Day, March 8, 2011

18 Refer to Annex 3. International and Regional Instruments for the Protection of Women's Rights.

19 The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Pará Convention) adopted in Belem do Pará at the twenty fourth regular session period of the General Assembly of the OAS. Brazil, June 9, 1994.

20 Ídem. Refers to the "Campo Algodonero" decision by which the court, after hearing the reports on the serious situation experienced by women in Ciudad Juárez, decided on the use of the expression "female homicide for gender reasons" known as femicide, that consists of an extreme form of violence against women, the assassination of girls and women for the mere fact of being women in a society that subordinates them. Decision, Case of González et al. (Campo Algodonero) V. México November 2009 .Pg. 9.

However, the greatest challenge refers to matters relating to legal procedures, because the types of crime affecting women in the region today require a new procedural framework to allow effective investigation by the authorities of those crimes perpetrated using complex criminal structures²¹, and to provide better protection for victims and witnesses in the criminal process, as well as, access to special investigative methods.

We must underscore the fact that new forms of criminality against women, either conventional or non conventional, express a level of violence and criminal organization that require special investigative methods for eradication.

Some of these methods are covered in international instruments to investigate and uncover types and/or structures of crime that are extremely harmful to women and in some countries these have even penetrated the system for the administration of justice, thereby guarantying impunity.

At the same time, significant contributions have been made towards progress with regard to operating mechanisms to guarantee women's right of access to justice. One significant advance in this regard, is the approval in 2008, by the Judicial Powers and Constitutional Courts of Spain, Andorra, Portugal, Latin America and the Caribbean, of the Brasilia Regulations regarding access to justice for persons in conditions of vulnerability that *"offer effective protection for the rights of persons in conditions of vulnerability and require effective access to the system for the administration of justice, which is a*

*fundamental right; they include the responsibilities of the employees and operators of the justice system who must give persons in conditions of vulnerability appropriate treatment and prioritize actions to facilitate access to justice for these persons"*²². Some of the conditions of vulnerability mentioned in the Brasilia Regulations are: age, disability, belonging to an indigenous community or a minority, victimization, migration and internal displacement, poverty, gender and confinement.

In the case of women, the application of the Brasilia Regulations in judicial practice will be of vital importance because women are not only vulnerable due to their gender condition within a context of widespread violence, but also because in Latin America and the Caribbean they are the most affected by poverty, belonging to an ethnic group, migration, and others, all of which affects their ability to demand justice under equal conditions. It is also a fact that not all employees within the justice system have the sensibility and ability to handle these situations. Accordingly, mandatory compliance with these Regulations will have positive impact on the protection of women's rights.

An extremely positive action is the fact that in following the Brasilia Regulations, the XVI Summit of the Ibero-American Association of Public Prosecutors (AIAMP Spanish acronym) in 2008 approved the Santiago Guidelines on victim and witness protection. The main purpose of the guidelines is to *"promote effective improvement in the treatment of victims and witnesses by the prosecutor's office in order for them*

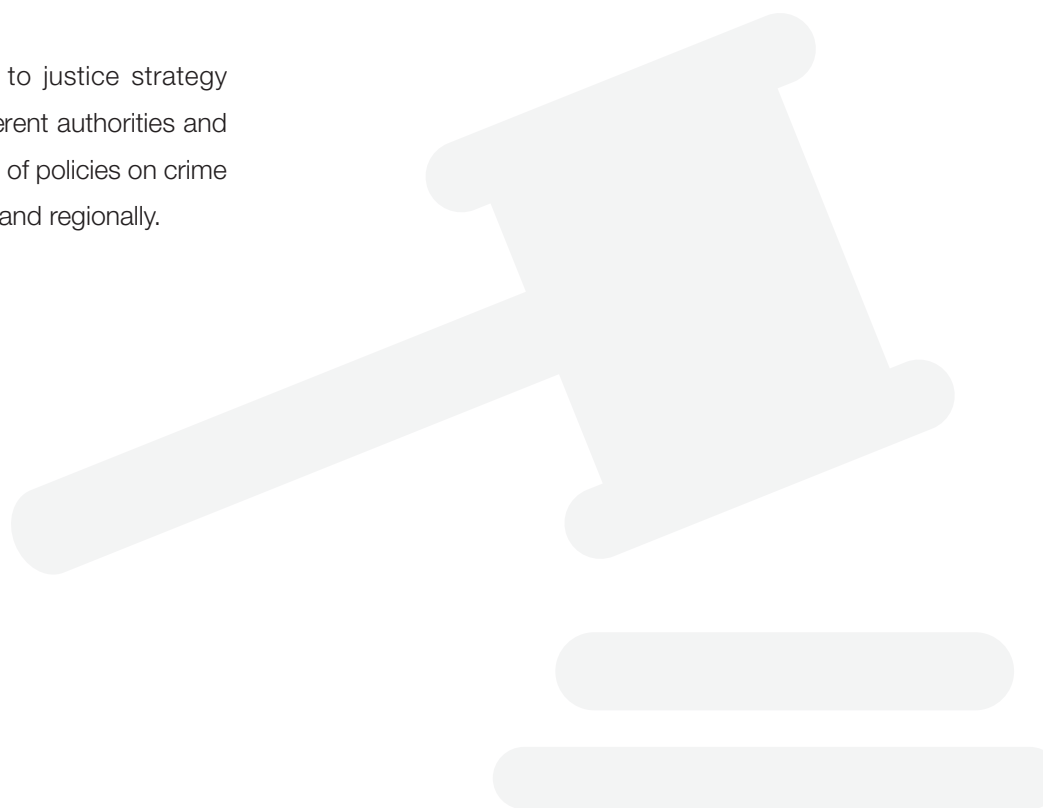
21 *"Records in Latin America show that there are specific types of sexual violence. A large proportion of feminicides and female homicides are related to sexual attacks and are a scenario for femicide, the violent death of women as a result of sexual harassment by men they know (neighbors, men from work, from church, etc...) several forms of sexual violence have been identified in other countries including threats to commit some type of sexual violence, sexually related insults, sexual nudity and forced unions... genital mutilation of females among the Embera People in the Department of Risaralda in Colombia is a form of sexual violence in these communities. Likewise other authors have highlighted the emergence of new vengeance scenarios among men related to drug trafficking and gangs"* Regional Strategy of the United Nations Population fund (UNFPA). Regional Office for Latin American and the Caribbean. December 2010

22 Brasilia Regulations on Access to Justice for Persons in Condition of Vulnerability, XIV Ibero-American Judicial Summit. Brasilia, Brazil, March 4, 2008.

to be part in the penal process and be much more effective and respectful of their particular situations of vulnerability and safety”. ²³

Both instruments, the Brasilia Regulations and the Santiago Guidelines were produced within the framework of the work done by regional mechanisms of meetings held among authorities in the justice system of Latin America and the Caribbean. The purpose of these spaces is to analyze and discuss the main challenges to justice and suggest joint actions to face them. For this reason it is important to maintain ongoing dialogue with these mechanisms so that the highest level authorities in criminal and judicial prosecution recognize and make violence against women unacceptable and a high priority matter that is also included when characterizing crime in the region.

It is fundamental for the access to justice strategy to include actions that link the different authorities and institutions that define the contents of policies on crime with their priorities, both nationally and regionally.



23 Santiago Guidelines on Victim and Witness Protection. Document approved at the XVI Regular Meeting of the Ibero-American Association of Public Prosecutors (AIAMP Spanish acronym). Dominican Republic, July 2008.

SOME RELEVANT ISSUES REGARDING WOMEN'S RIGHT OF ACCESS TO JUSTICE IN SPECIAL SITUATIONS

Of equal importance is that the UNiTE Campaign, and particularly the strategic plan for women's access to justice, define and implement specific actions aimed at guarantying the right of access to justice for women in situations of extreme vulnerability. This is the case of indigenous and afro descendent women and those who are victims of violent actions committed by members of organized crime structures and women who face penal processes and/or sentencing for crimes and that are exposed to acts of institutional violence.

Special attention has been given to legal penal situations in which some women are involved: victims of organized crime, indigenous and afro-descendent victims and women facing penal processes and/ or sentencing, because they are often subjected to severe cases of individual and institutional violence; in addition generally these women also suffer other vulnerability conditions such as disability, migratory situations, HIV/ AIDS, poverty, being a minority, and others that make their relationship with the system for the administration of justice even more difficult as demonstrated by different reports and studies conducted recently.

As far as indigenous and afro-descendent women are concerned, multiple studies have shown their particular vulnerability, not only because of their condition as women

but also because of their ethnicity and the condition of poverty experienced by this population in general.

Although the majority of the countries in Latin America and the Caribbean have approved ILO²⁴ Convention 169, by which the States agree to guarantee that: "*indigenous peoples have the right to (enjoy) the full measure of human rights and fundamental freedoms without hindrance or discrimination. The provisions of the Convention shall be applied without discrimination to **male and female** members of these peoples.*" (Article 3), there are still serious difficulties within the systems for the administration of justices in the region that impede respect for the human rights of these populations, including:

- That the authorities and the official justice system acknowledge and respect the rights of indigenous people. (*To the extent compatible with the national legal system and internationally recognized human rights, the methods customarily practiced by these people for dealing with offences committed by their members shall be respected ", Article 9 subparagraph 1).*
- That basic due process standards are respected along with protection of their specific rights considering their culture heritage, when these people are subject to official justice. (*"The customs*

24 Convention No. 169 on Indigenous and Tribal People in Independent Countries of the ILO Seventy Sixth General Labor Conference of the International Labor Organization June 07, 1989.

of these peoples in regard to legal matters shall be taken into consideration by the authorities and courts dealing with such cases “ Article 9 subparagraph 2).

Afro-descendent and indigenous women in the region, who are victims of crimes of violence, experience serious problems when they try to access official justice: lack of geographical access, difficulty in communicating with judicial operators in their own language, as well as the lack of their own financial resources. In addition, when the crimes are committed by State agents, either within the context of armed conflict or post conflict, it is even more difficult for these women to file complaints and access a system of equitable justice, because of the fear and lack of trust in official authority prevalent within these populations.

According to research conducted by the Inter-American Institute of Human Rights, obstacles to such access by indigenous women include: *“...-the state system does not legally or in fact recognize the rights of indigenous peoples or their own rights, -there is a lack of coordination between the state system and the indigenous authorities, -international provisions established for indigenous populations and women are not applied (ILO Convention 169, CEDAW, Belem do Pará), -implies displacement of the indigenous persons outside of their communities to attain access to justice, -they are not attended to in their own language, -service hours are inadequate, -legal processes are incomprehensible, -treatment is discriminatory because they are indigenous and women, -the process is expensive, -it is very difficult for indigenous persons to provide proof (certifications, certificates of legal standing, official papers), -the processes last too long, -male judges favor indigenous males (intercultural “machismo”), -they lack advisors, orientation and*

information, -the cultural context is not considered with regard to child support, -incarceration is used when in family matters this results in more difficulties” .²⁵

In addition and as a result of the new types of crime affecting the region, a large number of **women are kidnapped, tortured and assassinated by local crime bosses or members of criminal gangs as settlement between gangs.** In some of these cases of extreme violence against women, the practice of using women as a “war trophy” is reiterated as occurred during the period of armed conflicts. Generally there is a direct relationship between this violence and high rates of impunity, which affects the women’s perception that they are in a high risk situation that impedes their access to authorities to demand justice.

Also victims of these criminal actions are human rights activists, journalists, witnesses or the victim’s family and officials of the system for the administration of justice when they report or investigate crimes committed by persons linked to these gangs.

Special investigation methods contained in international instruments against organized crime and corruption have been proposed to deal with violence against women perpetrated by members of criminal gangs. It is also emphasized the need to strengthen international cooperation mechanisms related to the investigation and processing of crimes against women that are linked to organized crime,²⁶ as well as strengthening the victims and persons involved in judicial proceedings for continued filing of complaints and investigation of those responsible for such actions and to overcome the impunity typical of these situations.

With respect to women tried and condemned for committing crimes, the system for the administration of justice is often severe and indifferent to them. For

25 Rodríguez Oconitrillo, Javier. Pueblos Indígenas y Acceso a la Justicia (Indigenous People and Access to Justice). Interamerican Institute of Human Rights. Asuncion, Paraguay 2010

26 Garita, Ana Isabel. Proposal for the formulation of an international criminal convention to combat violence against women. Sweden, May 25, 2010

example, during the trial stage, sentencing criteria used for women by type of crime are generally more rigid than for men accused of the same crime, and the specific circumstances and motivation of women when committing such crimes are not considered.

In the case of indigenous and afro-descendent women, judicial officials violate basic due process standards, such as the right to a technical defense in line with their ethnicity and gender and access to proceedings in their own language and worldview.

During the incarceration stage and although the number of female prisoners is significantly less than males (*women represent approximately 6.5% of the total prison population in Latin America*),²⁷ women constitute an especially vulnerable group because of the typical prison environment and the *“failure to address the needs of women in prison”*. Normally,

minor children are incarcerated with them and, in the majority of countries there is a single prison for women, which means that they are separated from their family and social environment, causing situations of lack of defense, vulnerability and violation of their fundamental rights. Therefore, it is important to review sentencing legislation and the prison system rules in the countries, to guarantee respect for women’s rights in prison.²⁸

In recent years, an important change has occurred in the causes for the imprisonment of women. In some countries, more than 80% of women in prison have participated in crimes related to drug trafficking or crimes committed by criminal gangs. Therefore, we must develop concrete actions to determine the causes and to define preventive and support policies aimed at those women who are exposed to possible involvement with criminal groups.

27 Human Rights of Women in Prison with Emphasis on Health and HIV/AIDS Project Profile, United Nations Office on Drugs and Crime (UNODC). San José, Costa Rica, 2010.

28 When women are victims of crime they are not protected as persons, but rather as a vehicle of family honor and when they are determined to be active subjects of particular crimes, their possibility for making decisions and taking responsibility is restricted, as if they were lesser beings incapable of facing the consequences of their actions. Acosta, Gladys. Women in Civil Codes of Latin American and Hispanic Caribbean. Gender and Law (Facio, Alda/ Fries, Lorena). First Edition September, 2009



POLITICAL-LEGAL FOUNDATION OF THE REGIONAL STRATEGY ON WOMEN'S ACCESS TO JUSTICE

The political-legal foundation of the Strategic Plan for Access to Justice underscores the urgent need for States and their system for the administration of justices to take immediate action to fight violence against women in the Latin American and Caribbean region.

- Rates of violence against women have increased considerably in the region. In addition to this quantitative increase, there has also been a higher incidence of cruelty in violence against women such as strangulation, dismemberment, a larger number of underage victims and high rates of kidnapping and rape.²⁹
- In the Latin American region and in countries that record a higher number of violent deaths among women, the system for the administration of justice is slow to respond, it does not handle demands by victims and/or their families to investigate the crimes and does not consider the specific causes of such violence and the situations of vulnerability of the women in the face of their victimizers.
- The weakness of judicial institutions is evident in the high rates of impunity in cases of violent deaths of women, as well as in the absence of a comprehensive, effective state policy to prevent and punish these crimes. This absence of justice becomes a factor that sets off further violence and re-victimizes women who have suffered direct aggression.
- Violence against women is manifested in very different cultural, social and economic situations and conditions. Systematic updated information is necessary to appropriately combat violations of women's human rights produced by: Intrafamily violence, common delinquency, organized crime and crimes committed in situations of internal armed conflict and human disasters. This distinction is needed to appropriately define effective public, judicial policy and policies to effectively prosecute the different types of violence against women.
- Although it is true that violence against women and criminal offences have drastically increased and require greater response by the system for the administration of justice; this requires that the justice system be strengthened and all areas of operation adjusted to guarantee prioritized, pertinent attention for women who access the system in the different jurisdictions: labor, civil, family and constitutional.
- Work to strengthen the administration of justice in order to ensure that public services are available to women accessing the justice system, that they efficient and effective and contribute to the improvement of women's living conditions and family environment, as well as, to ensure peaceful co-existence and achieve social peace with justice for all.

29 Refer to Annex 1. Statistical Information on Violence against Women in Latin America and the Caribbean

In summary, this document develops the strategies and actions under Pillar 1 of the Campaign. **STOP IMPUNITY: attention, protection and reparation**, to be implemented in the next five years in Latin America and the Caribbean and encompasses the principles and provisions of international instruments on human rights and particularly in conventions on the protection of the rights of women and precedents in the Inter-American Court of Human Rights on the responsibility of the State to guarantee and protect the rights of women.

Therefore, **impunity** is understood to be the absence of justice in response to the violation of the fundamental rights of women because of a non-existent or inadequate response to these crimes by State courts. In view of this situation, the victim and women affected must be guaranteed the right of access to justice in order for these crimes and/or illegal actions to be duly punished to avoid repetition.

For this right of access to justice to be effective, the State must pay **attention** to its obligation to guarantee and protect the fundamental rights of women, whether the crimes are committed by individuals or by agents of the State.

Likewise, the State has the obligation to protect victims, families, witnesses and/or judicial officials to ensure that

the process is carried out, which means that measures must be adopted that are positive, determinative and appropriate to the needs of women to impede the violation of their rights during the investigation and prosecution of acts of violence to thereby guarantee the independence and physical integrity of judicial proceedings. Accordingly, it is understood that within the functional attributes that are legally vested in the Prosecutor's Office, there is the obligation to "*make the intervention of the victim in the process more effective*" which guarantees the actions of the Prosecution itself and the possibility of punishment and reparation for the damages caused by the crime. The Prosecutor's Office in conjunction with the State must implement a series of measures for comprehensive attention to the victim to protect her and accompany her throughout the trial.

In addition, sentencing must be well founded and a consequence of the measure and/or punishment imposed, it must incorporate reparation measures, suitable to a violation of a fundamental right that must be adequate and proportional to the material and immaterial damages caused. In certain cases, the sentence in itself is adequate reparation, but in other cases additional compensation is necessary, such as re-establishment of the prior situation and elimination of the effects produced by such violation of rights, as well as indemnification for damages.

29 Guatemala, Ley contra el Femicidio y otras formas de Violencia contra la Mujer: Artículo 12. Responsabilidad del Estado. En cumplimiento a lo establecido en la Constitución Política de la República de Guatemala y en los convenios y tratados internacionales sobre derechos humanos aceptados y ratificados por el Estado de Guatemala, el Estado será solidariamente responsable por la acción u omisión en que incurran las funcionarias o funcionarios públicos que obstaculicen, retarden o nieguen el cumplimiento de las sanciones previstas en la presente ley, pudiendo ejercer contra éstas o éstos la acción de repetición si resultare condenado, sin perjuicio de las responsabilidades administrativas o civiles.



A. GENERAL OBJECTIVE

Support the systems for the administration of justices of Latin America and the Caribbean to guarantee effective access to justice for women under conditions of equality, with a gender perspective and adjusting its operation to a comprehensive sustainable state policy to eliminate impunity and guarantee respect for the fundamental rights of women.

The purpose is to seek immediate action to raise awareness, acquire information, provide training, institutional strengthening, legal and administrative reform that will permit the development of a short, medium and long term plan to suppress impunity in cases of violent crime against women and guarantee an appropriate timely response by the justice system to family, civil, administrative, labor and other types of conflict experienced by women.

B. SPECIFIC OBJECTIVES

- Provide technical assistance for the strengthening of national authorities charged with the investigation and prosecution of justice in cases of violence against women to guarantee that women have efficient and sustainable access to public justice services in accord with the principles of respect and protection for their human rights.
- Promote within the system for the administration of justice the identification and awareness of situations of vulnerability and limitation of the right

of access to justice experienced by indigenous and afro-descendent women, victims of crimes committed by criminal gangs and women accused of crimes and those in prison.

- Support the system for the administration of justice to eliminate impunity in cases of feminicides so that all violent deaths of women are investigated and punished with imprisonment according to national and international laws that protect their right to life and physical integrity.
- Empower the capabilities of civil society, national and regional organizations experienced in litigation to participate as persons involved in judicial proceedings for the investigation and prosecution of cases of crimes against women, with both national and international authorities.
- Strengthen the systems for compiling statistical, judicial and police information and precedents on crimes of violence against women and the response by the system for the administration of justices so that such systems are reliable, timely and maintain a gender perspective.
- Promote the incorporation of relevant urgent issues associated with women's access to justice into agendas for discussion and analysis and into agreements on national and international mechanisms to affect the definition of public policies on administration of justice and human rights matters.

INTERVENTION PLAN

National plans have been prepared and carried out in Latin America and the Caribbean to implement the Secretary General's **UNiTE to End Violence against Women Campaign**. An increasing number of United Nations Country Teams are successfully engaging in action plans in coordination with state institutions, social organizations, academic centers and other relevant authorities.

United Nations Regional and National Offices are aware that interagency coordination and cooperation in conjunction with government authorities must play a fundamental role in implementing this Campaign. Accordingly the intervention plan seeks to encourage spaces for discussion, coordination and information exchange to supplement actions and obtain better advantage from available resources as part of the political organization of: "OneUN" or "Delivery as One". Accordingly, the actions promoted by the Interagency Group that coordinates the Secretary General's Campaign seeks to supplement and coordinate existing national and regional efforts and proposes the exchange of experiences and good practices among countries to empower their focal points; particularly on matters relating to the administration of justice and human rights as one of the pillars of the Campaign: **"STOP IMPUNITY"** using a regional organizational logic.

Take full advantage of installed capacity in the region, both in national institutions and regional authorities and of international cooperation and academic spaces

(Law Colleges, Professional Federations and Centers for Study and Research on Gender, Criminal Law and Human Rights) to optimize efforts already in effect and thereby reach the proposed Campaign objectives for a greater regional impact.

The Campaign also proposes granting **recognition** to those programs and institutions in the justice sector within the Latin American and Caribbean Region that are implementing concrete effective actions in line with the objectives of the Campaign and related to combating impunity and attaining access to justice.

To do this, the Regional Coordinator for the Secretary General's **UNiTE to End Violence against Women Campaign** proposes an ongoing information exchange and coordination mechanisms with the United Nations System and authorities within the system for the administration of justice and activists from civil society organization on the subjects of the rights of victims/survivors and access to justice under conditions of equality for the women in each country. Particular emphasis will be given to those organizations that actively work with populations of women who are especially vulnerable, as in the case of indigenous and afro-descendent women and women in prison. Emphasis will be placed on work for the **promotion of national legal reform** that permits adjusting legislation to international conventions and to new types of violence against women, particularly sexual violence and femicide. Regional intervention and dialogue

will be maintained with high level State authorities to encourage these reforms and to support and coordinate with the United Nations System, Parliaments, social organizations involved with the issues in each country to accomplish pertinent legislation in defense of the rights of women as soon as possible.

The Regional Office proposes to reach a **strategic Inter-institutional alliance** with the United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders (ILANUD Spanish acronym) to take advantage of their installed capacity and their experience working in the region.

At the same time, to supplement this, the Regional Office proposes to coordinate the Secretary General's **UNiTE to End Violence against Women Campaign** with already existing regional and sub-regional authorities in the area of the administration of justice, including Ibero-American Judicial Summits, Meetings between Judges from the Highest Judicial Levels, the Ibero-American Summit of Ministers of Justice, Ibero-American Meetings of Prosecutors, the Ibero-American Federation of Regional Ombudspersons and Central American Judicial Summits, the Central American Council of Public Prosecutors Offices and Public Defenders, on a sub-regional level for Central America

It will also encourage **strategic alliances** with universities and academic centers specializing in research and study on justice and gender emphasizing access to justice for women under conditions of equality (particularly the Carlos III University in Spain and the Justice and Gender Foundation (Fundación Justicia y Género) of Costa Rica that have collaborated at Judicial Summits and Meetings of Judges).

The Regional Office also proposes **advancing and strengthening the adoption of a comprehensive gender equality policy** within **institutions of the system for the administration of justice** and the

establishment of units to administer this policy, as well as to promote the appointment of women officials to high political decision making positions within the administration of justice.

Equally necessary is the establishment of mechanisms and types of work in conjunction with national, sub-regional and regional civil society organizations with capability and experience in investigations and in the filing and legal assistance with regard to paradigm cases before national, regional and international jurisdictional organisms responsible for the administration of justice and protection of human rights, with special emphasis on those countries in conflict and post conflict and those with the highest rates of impunity.

Another central working issue is to motivate academia and regional centers for legal and gender studies to **review national legal frameworks** to show progress in their adjustment to international standards with regard to the matter and incorporate new criminal offences and the investigation methods required by new types of crime. In addition work will be done to compile relevant national and regional precedents with regard to cases of violation of the rights of women in constitutional, civil, family, labor, agrarian and criminal areas. The purpose of this is to build a reference database to disseminate new ways of interpreting legal provisions with regard to gender and create greater discernment among justice operators when resolving concrete cases.

To put this methodological strategy into effect, the Regional Coordinator for the Secretary General's Campaign and the Interagency Gender Group have engaged in the creation of an Advisory Council comprised of recognized experts, jurists and human rights activists with regional and sub-regional criteria that incorporates indigenous and afro-descendent women, victims of armed conflict and that orients the Regional Office in planning, execution, follow up and monitoring strategic actions approved by this Office.



POLICIES, RESULTS AND STRATEGIC OPERATING ACTIONS

<p>POLICY: I. Establishment of a specialized state criminal justice prevention, investigation and prosecution policy to end impunity, particularly in cases of serious violence against women, such as feminicides and assassinations, and encourage pertinent legal reform, both nationally and internationally.</p>	
<p>RESULTS: By 2015 the countries of Latin America and the Caribbean will have policies in place for the investigation, prosecution and for obtaining justice, as well as binding legislation that guarantees the right of access to justice for women and will have eradicated the high rates of impunity in cases of feminicides /female homicides.</p>	
STRATEGIC ACTIONS	OPERATING ACTIONS
<ul style="list-style-type: none"> • Inform the UNS of regional action under the Stop Impunity pillar, developed by the Regional Office. • Identify national UNS agencies, civil society organizations, parliamentary authorities and special commissions specializing on the issue to coordinate the work related to progress with criminal policies and national and international legislation directed at the prevention and eradication of violence against women. • Support initiatives by civil society organizations that work to combat impunity in countries with high rates of violence against women and high rates of impunity. • Coordinate with regional and national mechanisms responsible for incorporating the Brasilia Regulations on access to justice for persons in conditions of vulnerability and the Santiago Guidelines for the protection of victims and witnesses within the systems for the administration of justice and support affirmative action. • Encourage and strengthen within institutions in the justice sector a comprehensive gender equality policy and the establishment of management units to implement them. • Promote the appointment of women officials from any ethnic group or origin to high level political decision making positions. • Identify indigenous men and women who work with the system for administration of justice and associate them with regional and sub-regional mechanisms. 	<ul style="list-style-type: none"> • Coordinate concrete urgent actions with UNS agencies to combat impunity in particular countries and maintain ongoing dialogue with the Regional Office of UN Women. • Identify the specific actions implemented at each one of the sub-regions and coordinate support for them. <ol style="list-style-type: none"> i. Central America. ii. Andean Countries. iii. Southern Cone Countries. iv. Caribbean. • Support efforts made by the agencies in the field of access to justice for women to guarantee the continuity and sustainability of these programs • Promote regional actions by UNS agencies, the NGOs and national authorities to ratify the Optional Protocol to the CEDAW. • Establish agreements with academic and regional research institutions that provide input for authorities, agencies and NGOs to sustain the debate on legal reform from a regional perspective. • Encourage legal reform on issues related to changes in types of crime, criminal prosecution mechanisms, reforms to penitentiary systems and criminal procedures. • Disseminate approved reforms and their jurisdictional interpretation within the regional mechanisms for Latin American and Caribbean judicial powers, Ministries of Justice, Prosecutor's Offices, Public Defenders, and Professional Federations. • Disseminate the CEDAW Optional Protocol and support national authorities to achieve compliance by the States. • Support UNS agencies in the dissemination of the Brasilia Regulations and Santiago Guidelines • The UNS agencies will continue to support horizontal cooperation initiatives between countries in the region. • Hold simultaneous Campaign closing activities in four countries within the region, with the attendance of the Secretary General and the highest level authorities at UN Women and other UNS agencies to disseminate achievements and pending challenges in the Latin American and Caribbean Systems for the Administration of Justice.

POLICY: II. Support and promote national and regional organizations defenders of human rights of women working with jurisdictional authorities to empower their capabilities as associated plaintiffs, particularly in those countries with high rates of violence, and provide them with technical advice regarding litigation strategies and the handling of special mechanisms (expert opinions, videoconferences, witness protection, providing evidence, victim and witness assistance, effective collaboration) and for access to international authorities and international jurisprudence.	
RESULTS: By 2015 regional women's organizations will accompany and provide specialized effective legal assistance to victims of violence against women during investigation and criminal proceedings and to act as associated plaintiffs during the process.	
STRATEGIC ACTIONS	OPERATING ACTIONS
<ul style="list-style-type: none"> • Identify the civil society organizations with successful practices in participating at trials for the assassination of women in countries with high rates of violence and identify and select paradigm cases following criteria regarding procedural viability, safety and protection of persons involved in judicial proceedings. 	<ul style="list-style-type: none"> • Support women's organization in handling special investigation and information mechanisms within the trial process to guarantee the effectiveness of the investigation and the criminal proceeding. • Prepare specialized manuals / protocols and guidelines for the interpretation and application of laws related to the protection of the human rights of women. • Promote the use of special investigative mechanisms: expert testimony, videoconferences, witness protection, providing evidence, victim and witness assistance and effective collaboration. • Disseminate and provide training on case handling for civil society organizations in the countries affected by high rates of impunity and promote case studies in judicial training courses. • Provide training for the victims, associated plaintiffs and human rights organization in the use of international jurisdiction for human rights issues.

POLICY: III. Encourage actions within the criminal prosecution policy of Prosecutor's Offices in the region and with associated plaintiffs that guarantee the right of access to justice under conditions of procedural equality, with ethnic and gender focus, in order to contain violence against women using the legal system	
RESULTS: Prosecutor's Offices in Latin America and the Caribbean will duly comply with their obligation to investigate and prosecute cases of violence against women, especially femicide / female homicide providing protection for the victims, witnesses and judicial officials, and using specialized investigative mechanisms effectively.	
STRATEGIC ACTIONS	OPERATING ACTIONS
<ul style="list-style-type: none"> • Identify the Public Prosecutor's Offices in the region that have good practices in the investigation and prosecution of crimes against women, promote horizontal exchange of experiences and support concrete effective actions within the criminal justice systems to solve cases of femicide. • Identify the Institutions, NGOs and indigenous and afro-descendent women leaders whose purpose is to fight for access to justice for indigenous women and who have experience in handling such cases. • Identify the criminal justice systems in the region that must face and carry out process for historical clarification and prosecution of crimes against humanity committed against women or groups of women in countries at war, undergoing internal armed conflict and/or human crises. 	<ul style="list-style-type: none"> • Encourage activities involving professional education and training on the subjects of gender equality and justice for officials in the regional and sub-regional judicial sector, receiving support from already established institutions such as the Central American and Caribbean Center for Judicial Training • Support UNS agencies to implement a scholarship plan for studies by judicial officials at regional training centers that have programs of study relating to gender. For example, The Judicial School of Costa Rica. • Promote practical case studies on the subject of access to justice during training courses and do comparative analysis of current laws in each country and international standards. • Support victim and witness protection programs. • Encourage protection mechanisms for judges and prosecutors that hear and try high social impact cases and promote concentrated and specialized competent jurisdiction.

...(Continuación)...

POLICY: III. Encourage actions within the criminal prosecution policy of Prosecutor's Offices in the region and with associated plaintiffs that guarantee the right of access to justice under conditions of procedural equality, with ethnic and gender focus, in order to contain violence against women using the legal system	
	<ul style="list-style-type: none"> • Promote the removal of operating obstacles that make women's access to justice difficult in all spheres of the system for the administration of justice, such as: <ul style="list-style-type: none"> - Have an interpreter or translator on hand for women who do not understand the language in which the case is heard. - Have pertinent medical forensic services available. - Establish specialized offices that provide attention to women and family members at offices for the administration of justice. - Ensure that women have legal assistance and public defenders for the defense of their rights at all court jurisdictions. • Support the development and implementation of a mechanism for monitoring officials and employees in the justice system when providing assistance to women users of the justice system. • Support the establishment of a mechanism for administrative and/or criminal sanctions against employees of the system for administration of justice who practice harassment or sexual harassment or do anything else to victimize women.

POLICY: IV. Promote within the system for the administration of justice the identification and awareness of situations of vulnerability and limitation of the right of access to justice experienced by indigenous and afro-descendent women, victims of crimes committed by criminal gangs and women accused of crimes and those in prison.	
RESULTS: The system for the administration of justice will undertake the institutional, cultural and operating changes required to give women in special situations the ability to exercise their right of access to justice without discrimination, under fair and equal procedural conditions.	
STRATEGIC ACTIONS	OPERATING ACTIONS
<ul style="list-style-type: none"> • Identify and provide technical support for paradigm cases regarding the sentencing of women that have violated the principles of due process equality under the law and non discrimination • Select paradigm cases of women victims of crimes linked to organized crime according to criteria of procedural viability and protection of persons involved in judicial proceedings. • Identify and provide technical support for paradigm cases of indigenous and afro-descendent women that are evidently hindered in the exercise of their right of access to justice. 	<ul style="list-style-type: none"> • Review legislation and criminal prosecution and court practices in order to adjust them to the Belem do Pará Convention, to ILO Convention 169 and to the rulings of the Inter-American Court of Human Rights • Review conventions on organized crime and corruption and apply them to crimes against women committed by local crime bosses or members of organized crime. • Identify the main obstacles to access to criminal justice for indigenous and afro-descendent women • Identify good administration of justice practices associated with the protection of human rights and access to justice for indigenous and afro-descendent women. • Analyze international precedents and that of national constitutional authorities related to the rights of indigenous and afro-descendent women to use their own systems for conflict resolution, provided they are compatible with human rights. • Select paradigm cases of women victims of crimes linked to organized crime according to criteria of procedural viability and protection of persons involved in judicial proceedings and the possibility of impact to the criminal justice system. • Study paradigm cases of condemned women where the principles of due process and equality of all under the law and non discrimination may have been violated. • Directly support programs and actions by national and regional institutions that promote access to justice for indigenous and afro-descendent women.

POLICY: V. Promote at the regional and national level at the court and police, a model (academic, practical) comprehensive statistical information system with timely and reliable standards that allows the measurement of the dimension of violence against women and the response of the system for the administration of justice and analyze the factors that affect the high rates of impunity.	
RESULTS: Establishment of a up-to-date judicial information system containing information disaggregated with gender and ethnicity indicators.	
STRATEGIC ACTIONS	OPERATING ACTIONS
<ul style="list-style-type: none"> Strengthen the judicial information systems: statistical, jurisprudence, standards, academic and practical. Include adequate indicators that, in the case of the assassination of women, will permit the determination of situations that produce violations against women, identify the different types and factors that provoke them in order to design prevention and investigative strategies, as well as victim protection measures. 	<ul style="list-style-type: none"> Support the development of updated detailed statistics on women in prison according to the following category: <ul style="list-style-type: none"> Judicial situation Type of crime (conventional delinquency or organized crime). Location within the penitentiary system. Location of prison. Length of the preventive imprisonment and/or sentence. Support the preparation of a manual compiling and analyzing relevant national and international precedents that establishes the obligation of the State to guarantee respect for the human rights of women and their access to justice. Compile and conduct comparative analyses of decisions by Constitutional Chambers or Courts in the region that have ruled on the exercise of women's human rights in the different spheres

POLICY: VI. Achieve permanent and proactive participation in mechanisms involving dialogue, cooperation, integration and formulation of sub-regional and regional policy in the area of administration of justice that permit inclusion of the objectives of the Secretary General's Campaign in their agendas, particularly those actions oriented towards compliance with the Stop Impunity pillar and following up on those actions.	
RESULTS: The Campaign objectives are incorporated into the operating plans of regional mechanisms and of judicial officials to guarantee women's right of access to justice.	
STRATEGIC ACTIONS	OPERATING ACTIONS
<ul style="list-style-type: none"> Participate in Ibero-American Judicial Summits and preparatory meetings to facilitate the adoption of resolutions aimed at implementing the Brasilia Regulations on access to justice for persons in conditions of vulnerability. Work jointly with the Ibero-American Association of Public Prosecutors (AIAMP Spanish acronym) to implement the Santiago Guidelines and eradicate impunity in cases of violence against women and particularly in cases of femicide. Collaborate with the Conference of Ministers of the Interior and/or Justice from Ibero-American Countries (COMJIB Spanish acronym) in the management of prison systems for women and attending to their special needs. Collaborate with the Ibero-American Federation of Human Rights Ombudspersons to formulate actions for State surveillance and control of policies, focusing on gender and ethnicity, that guarantee women's access to justice under conditions of equality and in full enjoyment of their rights (political participation, reproductive health, labor rights, property rights, and prevention and sanctioning of harassment and sexual harassment, etc.) Collaborate with Meetings of Judges from the Highest Courts of Ibero-America in the formulation of intervention strategies and actions for women's access to justice under conditions of equality. 	<ul style="list-style-type: none"> Institutionalize regional and sub-regional mechanisms by judicial officials as spaces for privileged dialogue to guarantee efforts made in the area of women's access to justice and to guarantee their fundamental rights. Participation at regional and sub-regional meetings and summits of judicial officials. Sign technical cooperation agreements Create a UNiTE Campaign acknowledgement to celebrate the programs that guarantee women's access to justice and that contribute to ending impunity. Support UNS agencies in their technical assistance work and cooperation with national justice systems urging horizontal cooperation actions between countries in the region. Meeting of Women Heads of Latin American Public Prosecutors Offices. Meeting of Latin American Presidents and Women members of the Justice System: Chief Justices of the Supreme Court of Justice, Heads of Public Prosecutors Offices, Heads of Public Defenders Offices, Heads of the Legislature and Human Rights Ombudspersons. Support for meetings of Justices from the Latin American region.



BIBLIOGRAPHY

1. ACOSTA, Gladys. *La mujer en los códigos penales de América Latina y el Caribe hispano {Women in the Civil Codes of Latin America and Hispanic Caribbean}* (FACIO, Alda/ FRIES, Lorena). Género y Derecho {Gender and Law}. First Edition September 2009.
2. BACHELET, Michelle. UNWOMEN Inauguration Ceremony. Executive Director's Remarks U.S.A. 2010.
3. BACHELET, Michelle. International Women's Day. Remarks by the Executive Director of UNWOMEN U.S.A. 2011.
4. FACIO, ALDA. Feminism, Gender and Patriarchy. At:<<http://www.centroantigona.uab.cat/docs/articulos/feminismo,%20género%y%20patriarcado.%20Alda%20Facio.pdf>>
5. GARITA, Ana Isabel. Proposal for the preparation of an international criminal convention to combat violence against women. Sweden May 25, 2010
6. INTERAMERICAN INSTITUTE OF HUMAN RIGHTS Access to Justice for Women Victims of Violence in the Americas, Report of the Interamerican Commission on Human Rights (ICHR) Organization of American States (OAS). Costa Rica 2011.
7. INTERAMERICAN INSTITUTE OF HUMAN RIGHTS Conference on the "Protection of the Human Rights of Women" from the first course on the International Protection of the Human Rights of Women (IIDH-CLADEM). Costa Rica 2009.
8. INTERAMERICAN INSTITUTE OF HUMAN RIGHTS The Optional Protocol of the Convention on the Elimination of all Forms of Discrimination against Women Analysis of Cases before the CEDAW Committee. Costa Rica 2009.
9. UNITED NATIONS Millennium Summit Millennium Declaration. U.S.A. 2000.
10. UNITED NATIONS Sixty first session period. In Depth Study on all Forms of Violence against Women. Secretary General's Report. U.S.A. 2006.
11. UNITED NATIONS Latin American and Caribbean Regional Population Fund Office. Regional UNFPA for Latin American and Caribbean to Prevent and to Address Sexual Violence against Women. 2010.
12. UNITED NATIONS Office on Drug and Crime (UNDOC). Human Rights of Women in Prison with Emphasis on Health and HIV/AIDS Project Profile. Costa Rica
13. RODRIGUEZ, Javier. *Pueblos Indígenas y Acceso a la Justicia {Indigenous People and Access to Justice}*. Interamerican Institute of Human Rights. Paraguay. 2010.

International Treaties:

1. Convention No. 169 on Indigenous and Tribal People in Independent Countries of the ILO. Seventy Seventh General Labor Conference of the International Labor Organization June 07, 1989
2. Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). Adopted by the United Nations General Assembly, 1979
3. Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Pará Convention). Adopted in Belem do Pará at the twenty first regular meeting of the Brazil General Assembly on June 9, 1994.
4. Santiago Guidelines on Victim and Witness Protection. Adopted in the Dominican Republic on July 9 and 10, 2008 during the XVI Regular Meeting of the Ibero-American Association of Public Prosecutors (AIAMP Spanish acronym)
5. Brasilia Regulations on Access to Justice for Persons in Condition of Vulnerability. Adopted in Brasilia from March 4 to 6, 2008 during the XIV Ibero-American Judicial Summit.

Precedents

1. Inter-American Court of Human Rights Case of González et.al. (Campo Algodonero) V. México Fund, Reparation and Costs. November 16, 2009 Ruling
2. Constitutional Court of the Supreme Court of Justice of Costa Rica. Writ of Habeas Corpus in favor of Olivia Bejarano Bejarano. August 11, 2010 Ruling



Annexes

ANNEX 1.

REGIONAL AND SUB REGIONAL MECHANISM FOR JUSTICE OPERATORS IN LATIN AMERICA AND THE CARIBBEAN. MARCH 2011

Regional and sub-Regional Operator Networks	Geographic coverage	Co-Sponsored
Conference of Ministers of Justice from Ibero-American countries (COMJIB Spanish acronym)	Latin America, Spain and Portugal	AECI
Ibero-American Judicial Summit	Latin America, Spain and Portugal	EUROSOCIAL
Brasilia Regulations Follow up Sub Commission		ILANUD, IIDH
Meeting of Latin American Justices	Latin America	Fundación Justicia y Género, ILANUD
Consejo de Escuelas Judiciales de Centroamérica y el Caribe {Council of Central American and Caribbean Law Schools}	Central America and Dominican Republic	ILANUD
Ibero-American Association of Public Prosecutors (AIAM Spanish acronym)		EUROSOCIAL
Consejo de Fiscales Centroamericano {Council of Central American Prosecutors}	Central America, Mexico, Dominican Republic, Puerto Rico and Cuba	ILANUD, UNODOC
Central American Council of Chief Justices	Costa Rica Headquarters	SIECA
Network of Public Prosecutors of the Southern Cone		
Network of Public Prosecutors of Andean Countries		
Ibero-American Federation of Ombudspersons	Latin America, Spain and Portugal	
Central American Council of Prosecutors and Public Defenders	Central America	Fundación Justicia y Género {Justice and Gender Foundation}
Central American Parliament	El Salvador, Guatemala, Honduras, Nicaragua, Panama. Headquarters: Guatemala	
Central American Court of Justice	Guatemala, Honduras, El Salvador, Nicaragua	
Sistema de la Integración Centroamericana {Central American Integration System} (SICA)-Dirección de Asuntos Políticos y Jurídicos {Directorate of Political and Legal Matters}	Central America	

ANNEX 2.

INTERNATIONAL AND REGIONAL INSTRUMENTS FOR THE PROTECTION OF WOMEN'S RIGHTS.

1. **Universal Declaration of Human Rights** Approved by the United Nations General Assembly. Resolution 217 A (III) on December 10, 1948.
2. Approved in San José, Costa Rica, on November 22, 1969.
3. **Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)**. Adopted by the General Assembly in Resolution 34/180 on December 18, 1979.
4. **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** Adopted by the General Assembly in Resolution 39/46 on December 10, 1984.
5. **Convention No. 169 on Indigenous and Tribal People in Independent Countries** Adopted at the 76th Meeting of the International Labor Conference, Geneva, in June 1989.
6. **Convention on the Rights of the Child** Adopted by the General Assembly in Resolution 44/25 on November 20, 1989.
7. **Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Pará Convention)**. Approved in Belem do Pará, Brazil at the Twenty Fourth Session of the General Assembly on June 9, 1994-
8. **Beijing Declaration and Platform for Action**. Approved at the Fourth World Conference on Women held on September 4 to 15, 1995
9. **Rome Statute of the International Criminal Court** Approved by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of the International Criminal Court on July 17, 1998.
10. **Optional Protocol of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)**. Adopted by the General Assembly A/54/4 on December 10, 1999
11. **Convention on the Rights of Persons with Disabilities (CRPD)**. Approve by General Assembly 61/106 on December 13, 2006.
12. **Brasilia Regulations on Access to Justice for Persons in Condition of Vulnerability**. Approved by the XIV Edition of the Ibero-American Judicial summit held in Brasilia, Brazil in March 2008.
13. **Santiago Guidelines on Victim and Witness Protection**. Adopted at the XVI Regular Meeting of the Ibero-American Association of Public Prosecutors (AIAMP Spanish acronym) on July 9 and 10, 2008.

ANNEX 3.

RELEVANT PRECEDENTS IN DECISIONS OF THE INTERNATIONAL HUMAN RIGHTS COURT

CASE	DATE OF DECISION
Rosendo Cantú, et.al. V. Mexico	August 31, 2010
Fernández Ortega et.al. V. Mexico	August 30, 2010
Case of González et.al. (Campo Algodonero) V. Mexico	November 16, 2009
Penal Miguel Castro Castro V. Peru	November 25, 2006
Massacre Plan de Sánchez V. Guatemala	April 29, 2004





This publication is part of the editorial production of the UN Secretary General's Campaign UNiTE to End Violence against Women in Latin America and the Caribbean, specifically under Pillar " Stop Impunity " which aims supporting States to develop, reform and implement the legal and comprehensive national plans to eliminate violence against women.