

# GUATEMALA

## **Follow-up - State reporting, including reports on missions Action by State party**

**CEDAW/C/GUA/CO/7/Add.1 (2010)**

### **Information provided in follow-up to the concluding observations of the Committee**

### **Report in follow-up to the seventh periodic report of Guatemala: measures adopted by Guatemala to combat violence against women**

#### **I. Introduction**

1. This report on violence against women in Guatemala is issued in response to paragraph 22 of the concluding observations on Guatemala's seventh periodic report, in which the Committee on the Elimination of all Forms of Discrimination against Women requested information on implementation of the Act on Femicide and other Forms of Violence against Women; and in relation to gender-sensitive training on violence against women for public officials, particularly law enforcement personnel and health-service providers, to ensure that they are sensitized and can respond effectively to all forms of violence against women.<sup>1</sup> The report also describes the steps taken to modify social and cultural attitudes which are the root causes of most forms of violence against women, in particular murders motivated by gender prejudice.

2. To be able to produce a comprehensive report, technical assistance was requested from the Office of the United Nations High Commissioner for Human Rights and the Presidential Commission set up to coordinate the Government's human rights policy (COPREDEH) to decide on how the relevant inputs should be obtained.

3. The process of preparing the report methodology involved the institutions mentioned in the foregoing paragraph, along with the Presidential Secretariat for Women (SEPREM) and the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women (CONAPREVI).

4. The methodology consisted of compiling information from various institutions, and holding workshops with State institutions working on issues of violence against women, and with civil society organizations. The workshops were also attended by representatives of COPREDEH, the Public Prosecutor's Office, the Social Institute (*Bufete Popular*) of the San Carlos de Guatemala University, the Human Rights Prosecution Department, CONAPREVI, the Legal Assistance Department of the Institute of Public Criminal Defence, the National Police Force, the Ministry of Governance and the Judiciary, among others.

5. Participants were made aware of the purpose of the workshop and were asked to fill out a questionnaire; plenary meetings were held to unify the information.

6. Apart from the methodology, it is important to note that the report's main findings highlight legislative progress in the form of the Act against Femicide and other Forms of Violence against Women, the Act on Domestic Violence and the Act on Trafficking in Persons.

---

<sup>1</sup> CEDAW/C/GUA/CO/7, paragraph 22.

7. Another important event was the launch of the United Nations Secretary-General's campaign, "unite to end violence against women" in Guatemala City, in which SEPREM, the Office of the First Lady, and the Social Communication Secretariat of the Office of the President, among other entities, all played significant roles.

8. The report had a specific scope and a number of limitations, of which the latter included the absence of several institutions from the data compilation workshops, and the dispersion of the data. Despite the compilation process, some institutions did not submit information on their progress for inclusion in the report.

## **II. Progress in implementation**

### **A. Coordination mechanism for enforcing the Act against Femicide and other Forms of Violence against Women**

9. Achieving the progress reported in this document required active intervention from various institutions, including the Ministry of Governance, the National Police, the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women, the Judiciary, the Ministry of Health, other institutions involved with the issue of violence against women, and SEPREM in its public policy advisory and coordination role.

10. It is important to draw attention to the existence and functioning of CONAPREVI, which is a top-level institutional coordination mechanism that supports and promotes public policies for the prevention, punishment and eradication of violence against women. CONAPREVI has direct powers to verify fulfilment of the Act against Femicide and other Forms of Violence against Women, not only by virtue of its legal status but also because of the functions attributed to it in that law.

11. It also advises on, follows up and monitors training on violence against women for public officials, in particular justice workers - a process that is being undertaken in coordination with the institutions that form part of the mechanism, including SEPREM. It is also responsible for promoting the creation of Comprehensive Support Centres for Women Survivors of Violence (CAIMUs), and for supporting, assisting and monitoring the specialized women's organization managed by them. The five CAIMUs that currently exist are the outcome of the struggle by women's organizations, with the support and active responsibility of the State of Guatemala.

### **B. Budgetary appropriation for implementing the Act against Femicide and other Forms of Violence against Women**

12. The budgets of the various institutions suffered sharp cuts in 2008 and 2009, owing to the international economic crisis; and this had a direct effect on government agencies and a substantial impact on institutions dealing with topics such as women's issues.

15. Efforts were also made to obtain support from Office of the United Nations High Commissioner for Human Rights and the United Nations Development Fund for Women (UNIFEM), to strengthen implementation of the Act against Femicide and other Forms of Violence against Women, and fulfil the corresponding legal mandates.

16. The law requires the State to provide funds to set up and operate CAIMUs; and the five existing centres, located in Guatemala, Quetzaltenango, Escuintla, Suchitepéquez and Rabinal, receive State budgetary funding amounting to Q8million quetzals per year.

17. At the present time 12 initiatives being promoted by women's organizations are receiving assistance, advisory services and technical and institutional support from CONAPREVI. Their aim is to create CAIMUs in: San Juan Sacatepéquez, Huehuetenango, El Quiché, Jutiapa, Petén, Zacapa, Izabal, Sololá and San Marcos. Insufficient funding from the State budget is one reason for delay in the creation, functioning of sustainability of CAIMUs.

### **C. Implementation of the Act against Femicide and other Forms of Violence against Women**

18. The Act against Femicide and other Forms of Violence against Women entered into force on 15 May 2008. It defines crimes of violence against women, specifies the respective sanctions, and makes clear that such crimes have legal consequences entailing imprisonment.

19. To understand the current status and progress made in implementing the Act against Femicide and other Forms of Violence against Women, it is necessary to provide a summary of the Guatemalan penal system. As from 1994, the system changed from an inquisitorial model to an accusatorial one - a change that brought with it a new form of penal justice administration, reflecting new principles and trends. This involves greater decriminalization of offences; and more discretion for the judiciary in choosing those considered of relevance and social impact, to initiate penal processes. These developments in the way justice is administered in the accusatory system are justified by a penal policy of heavier punishment and more retribution, based on the *extrema ratio* principle.

20. A significant step forward is the creation of the National System of Information on Violence against Women, called for under Article 20 of the Act. CONAPREVI is making progress on this, in conjunction with the National Institute of Statistics (INE).

21. To have suitable tools available to collect data to feed into the information system, CONAPREVI is adapting the Single Register Card to the crimes defined in the aforementioned law.

22. Along the same lines, the Legal Assistance Programme of the Institute of Public Criminal Defence (IDPP) is working to raise awareness of the legislation in question, which it recognizes

is inadequately enforced owing to ignorance. Thus far, just one case of femicide has reached the sentencing phase.

23. The past year was important for gender training and awareness-raising, particularly in terms of improving knowledge of the legislation that protects women victims of violence. An example of this is the diploma course implemented by the Judiciary Gender Unit, which has now been institutionalized through the continuous training programme.

24. This programme is intended for judges in courts of first instance, for whom attendance is mandatory. Gender mainstreaming is a crosscutting policy: the three gender modules are mandatory, and the aforementioned diploma course on femicide and violence against women was attended by 52 judges of first-instance and sentencing courts, both male and female. Despite the existence of the training unit and programme, only a small number of judges have completed the specific diploma course.

25. A challenge to be met in this process is to have more judges trained and, in particular, evaluated, to guarantee objective rulings in cases of violence against women.

26. The programmes run by the Ministry of Public Health include the Victim Care Protocol, which is expected to be implemented nationally and will involve awareness-raising actions, workshops and training courses. The Judiciary and Public Prosecutor's Office accompany working meetings and awareness-raising processes.

27. Similarly, the Public Prosecutor's Office has implemented the "Care model" which contains specific actions for women and girls, including: the 24-hour, 365 day service provided by the Women's Ombudsman, the Permanent Service Office and the Victim Care Office.

28. The care model has reduced the time taken to provide protection for women; previously it could take up to 20 days for safety measures to be requested after a woman files a complaint; the new model reduces the period to a matter of hours, because the measures are granted to women one hour after having reported the act of violence, or, in exceptional cases, 24 hours later.

29. Medical and psychological treatment is also provided to victims of sexual violence, without the need for hospital referral; urgent investigations are begun, with arrests made on the same day as the complaint; and forensic evidence is obtained on the injuries caused by the aggressor. This is helping to streamline processes and provide better care.

30. Women who file complaints know which prosecutor will investigate the case on the same day as the complaint is presented to the Public Prosecutor's Office; a female psychologist is assigned, and the victim is referred to the follow-up network for the complementary treatment needed for her psycho-biosocial recovery.

31. Progress was made with the Ministry of Governance in reducing bureaucratic steps that impede the speedy execution of safety measures.

32. Alongside that, other government institutions have been specializing in care for women, including the National Institute of Forensic Sciences, the Office of the Prosecutor General of the

Nation, the Human Rights Prosecutor, including the Women's Ombudsman's Office, and the Ministry of Governance, the Judiciary and the follow-up network.

33. In the accusatory system, the courts interpret and apply the law in the specific place and time, dealing with procedural issues and handing down sentences. They are responsible for controlling the process (they accept or deny petitions such as the application of security measures, arrest orders, etc.). They are also responsible for fitting the facts to the specific crime in question and passing sentence.

34. An important step by the Supreme Court in implementation of the law is the creation of Criminal Courts of First Instance and Sentencing Tribunals, specializing in the crimes of femicide and other forms of violence against women.

35. The Public Prosecutor's Office, as the body responsible for criminal prosecution, investigates the act of violence to collect traces, signs or evidence with which to establish the conditions under which the crime was committed and to identify the perpetrators. An interesting aspect is the bilateral nature of the current law, which underlies the accusatory penal system, concerning the rules governing the reproduction of evidence in criminal cases, which are compiled by the Public Prosecutor's Office. The criteria used is that evidence must be applicable to both parties, in other words it can be used to benefit the defendant, if appropriate.

36. The rules of penal procedure are usually applied where the community of evidence is established; parties to the process are not excluded. The institution's staff argue that the role played by the Public Prosecutor's Office in criminal prosecution is objective, so the evidence will provide the basis for an appropriate procedural solution to the crime in question, with graduated penalties according to the seriousness of the offence.

37. These criteria applied in the accusatorial system in criminal policy, restrict and bias the *bona fide* application of the law in letter, spirit and time. In general, crimes of violence against women still go unpunished, and only very few reach the final "*debate*" stage and receive sentence, as can be seen in the statistical charts.

38. The Women's Prosecutor's Office in the capital city is making a major effort to implement the law in question, by requesting reports or expert certification in the investigation phase; these serve to strengthen criminal prosecution by providing justification for petitions and can be presented to the court as evidence, in the procedural phase of the case. These reports or expert opinions are produced by CONAPREVI and specialized women's organizations. Nonetheless, it is clear that district prosecution offices need greater specialization to criminally prosecute the crimes specified in the Act against Femicide and other Forms of Violence against Women.

39. The existence of a comprehensive care model in the Public Prosecutor's Office is useful for implementing the law in question. This is considered by its creator as an integrated response by the various units of the Public Prosecutor's Office and other institutions that respond to violence against women. Reducing secondary victimization, shortening the time taken to provide protection and ensuring immediate investigation have produced qualitative and quantitative results.

40. Nonetheless, this progress has only been perceived in the central region of the country, so the time is ripe to expand the care model throughout the Republic to have a genuine impact on women's access to justice.

41. The Guatemalan State structure has no specific institution providing legal support and free comprehensive care to women survivors of violence. Given this shortcoming, the aforementioned law called for the CAIMUs to be strengthened, both those already operating and those to be created in the future, to adequately meet the demand for this type of comprehensive support from the survivors of violence. Nonetheless, to ensure stability of existing CAIMUs and strengthen the creation of new ones requires greater budgetary funding.

42. The IDPP was created as part of the peace accords, with a mission to provide free legal assistance to persons identified as having committed a crime.

43. When the aforementioned law came into force, the IDPP was tasked with providing free legal assistance to women victims of crimes of violence, which it does through the programme of free legal assistance in cases of domestic violence. This programme covers Guatemala, Mixco, Villa Nueva, Escuintla, Cobán, Quetzaltenango, Jutiapa and Salamá.

44. Legally, the National Civil Police (PNC) has an auxiliary role in the penal process, ensuring citizen safety, receiving complaints and implementing safety measures, among other functions; it also executes arrest orders and makes arrests of persons found committing criminal acts. Nonetheless, there is insufficient training and awareness of women's human rights and knowledge of specific laws that address such functions, which is compounded by resource constraints (insufficient staff, patrols, fuel, etc).

45. The Ministry of Governance has implemented a number of specific actions on violence against women, including the following:

(a) Since 2008, 8 million quetzals (Q 8,000,000) have been allocated from the government budget to subsidize the CAIMUs. This budget was authorized by the Congress of the Republic during its approval of the national budget.

(b) A pilot plan for "Violence-free areas" [*Territorios libres de violencia*] has been set up in the municipalities of Sacanilla, Alta Verapaz; Nahuala, Solola, and in the markets of Guatemala City. The new element involves working with men to inform them of the Act against Femicide and to raise awareness that abuse of women is a scourge for their families and society at large. The "Violence-free areas" plan is premised on the belief that "a society that does not protect its women cannot achieve development and well-being for its population". This project also includes games and cultural activities, together with sport and artistic expression. It is well-known that sport exerts a significant cohesive force, in addition to strengthening social fabrics and socialization.

(c) Victim Care Offices in police stations are being strengthened, to provide better services to women who lodge complaints of acts of violence. A further aim is to improve facilities and

implement an awareness-raising campaign among police officers. An dedicated radio patrol is expected to requested to provide rapid assistance to women victims of violence.

#### **D. Training on violence against women with a gender perspective**

46. As part of their training programmes, several institutions have promoted external and external training activities; and CONAPREVI has held training events in compliance with the National Plan for Prevention and Eradication of Domestic Violence and Violence against Women (PLANOVI) 2004-2014, in both the justice and other sectors and among other key stakeholders nationally. Quantitative information on training actions is presented below. SEPREM has supported training activities for judges, particularly on legislative issues.

47. The total number of workshops and training events held on the Act against Femicide and other Forms of Violence against Women

WORKSHOPS HELD					
ACTIVITY	QUANTITY	TOPIC	INSTITUTIONS	LOCATION	NUMBER OF PARTICIPANTS
	31	Workshop on the Act against Femicide and other Forms of Violence against Women	PNC, OJ, MP, IDPP, PDH, community leaders, community councils, development councils, civil society women's organizations	Guatemala, Quetzaltenango, Amatitlán, San Juan Sacatepequez, Amatitlán, Puerto Barrios, Retalhuleu, San Marcos, Quiché, Zacapa, Chimaltenango, Nahualá	1352
	3	Gender defence strategy	IDPP	Guatemala	60
	2	Implementation of the Protocol on Sexual Violence	Ministry of Health	Retalhuleu, Quetzaltenango	100
	17	Training workshop for completing the Domestic Violence Statistical Record Card	MP, OJ, PDH, PNC	Guatemala, San Marcos, Santa Rosa, Puerto Barrios, Escuintia, Chimaltenango	716
Workshops	1	Workshop:	Representatives of	Quetzaltenango	60

		Analysis of the application of the Act against Sexual Violence, Exploitation and Trafficking in Persons	public institutions and		
	1	Analysis of reforms to the political constitution of the Republic of Guatemala	Representatives of public institutions and civil organizations forming part of women's organizations	Quetzaltenango	31
		* in coordination with ANH			
	23	Implementation of CAIMU	Municipal councils, leaders, women's organizations	Amatitlán, San Juan Sacatepquez, Amatitlán	121
Total	78				2440

48. Training events have been held with participation from CONAPREVI member institutions and organizations, which include the Non-violence against Women network. The Women and Gender Analysis Unit was set up in the Judiciary, with the following objective, systematic gender mainstreaming in the judiciary, built into the process of planning and execution of activities in the various units:

(a) One of the working strategies developed by the Judiciary involves promoting women's human rights, particularly the right to a life free from violence. This aims to guarantee women access to justice, offering them services with a human face, as part of the ethical and committed institutional response to prevent, sanction and eradicate the social problem of violence faced by women. For this purpose, the Women's Unit, in coordination with the Institutional Training Unit, has incorporated gender into the following programmes:

(b) Initial training programme (targeting candidates for justices of the peace and judges of courts of first instance)

(c) Continuous Training and Updating Programme, as part of the permanent training of magistrates, judges, and administrative staff. The various training activities include: "Workshops on gender and women's human rights"; workshop for community judges on the Act against Femicide and other Forms of Violence against Women; self-care workshops for staff dealing with cases of violence against women; and workshops using the *Caminando en tus zapatos* [Standing in your shoes] methodology.

(d) In 2009 a pilot project was implemented for the semi-attendance diploma course entitled "Updating and specialization on femicide and other forms of violence against women in the human rights framework", targeting judges of first instance, sentencing judges, justice of the peace and family court judges, together with social work and psychology staff of the departments of Guatemala, Sacatepéquez and Chimaltenango. A total of 53 people graduated

from this activity, and work is currently ongoing to prepare the second edition of the diploma course, which will be aimed particularly at the staff of courts specializing in the crimes of femicide and other forms of violence against women.

49. The Women and Gender Analysis Unit of the Judiciary has implemented an obligatory diploma course for judges in courts of first instance, which is being institutionalized through a continuous training programme. The course provides training on women's human rights standards, and on national and international law; it has three gender modules, and is seen as progress in terms of implementing the aforementioned law.

50. The statistical data accompanying this report clearly show that training events are insufficient in themselves to guarantee the enforcement of the law being discussed in this report. Necessary measures include the implementation of verification mechanisms to follow up training; the use of disciplinary regime administration systems to verify the service that justice workers provide to survivors, and the protection they provide to legal rights and/or the extent to which those rights are susceptible to impairment owing to negligence or impunity.

51. SEPREM has followed up the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, and the enforcement of the Act against Femicide and other Forms of Violence against Women. On that issue, and in coordination with CONAPREVI, steps have been taken to eradicate, prevent and punish violence against women, including a number of actions in PLANNOVI- 2004-2014, as follows:

(a) Training for public officials on violence against women and on the Act against Femicide and other Forms of Violence against Women.

(b) Regional and national training of the use of the single record card (*Boleta Única de Registro*)

(c) Advisory services for organizations on providing specialized services for comprehensive care for women survivors of violence.

(d) Investigations into the causes and consequences of violence against women.

(e) Compilation of statistics and other relevant information on the causes and consequences of violence against women.

(f) Assistance in conceptualizing violence against women, domestic violence, and international law on the subject.

(g) Participation in the monitoring mechanism of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, known as the Belém do Pará Convention.

(h) In the light of these actions, commitments by SEPREM as the President's representative in CONAPREVI and the mechanism responsible for overseeing the fulfilment of international agreements and treaties on behalf of women, has promoted its institutional strengthening and has provided political support to achieve its objectives. The main contributions include:

(i) The various PLANNOVI strategy lines, particularly actions for which the Government is responsible.

(j) It has supported training processes in the framework of the Act against Femicide and other Forms of Violence against Women, for prosecutors and assistant prosecutors in the Public

Prosecutor's Office, and candidates as judges of first instance. The workshops were held nationally and regionally.

(k) Support and advisory services were provided in preparing a protocol for dealing with victims of sexual violence, implemented by the Ministry of Public Health and Social Assistance.

(l) As a technical support proposal, a comparative table was prepared to highlight the differences in application between the Act against Femicide and the Domestic Violence Act, the materials being prepared as part of the methodology applied in training workshops. Advisory services have been provided in the commissions for implementing PLANOVI in its various strategic areas.

(m) As a member of the Research and Statistical Analysis Commission, it provided support in coordination meetings to prepare the National System of Information on Violence against Women. Participation in the review of the violence module of the Mother-Child Health Survey 2009.

(n) Advisory support provided in forming the Interagency Network against Violence against Women in the municipality of Amatitlán, an action that was coordinated by SEPREM and CONAPREVI. This network consists of representatives of the Judiciary, the Public Prosecutor's Office, the Ministry of Public Health and Social Assistance, the Municipality of Amatitlán, the Municipal Secretariat for Women, the Women's Organization, *Mujeres Amatitlánecas Organizadas Rompiendo el Silencio* (MAORS) [Organized Amatitlán Women Breaking the Silence], SEPREM and CONAPREVI.

(o) Support for the campaign on "Zero tolerance of violence against women", which aims to mainstream the women's human rights approach in public institutions.

52. As part of its mandate to participate in coordination mechanisms where required, SEPREM participated in the technical roundtable on violence coordinated by the Social Works Secretariat of the First Lady (SOSEP). The roundtable provided support for a diagnostic study on the institutional response to violence against women.

53. The technical roundtable on violence participated actively in launching the United Nations Secretary-General's campaign for Latin America, the aim of which was to put an end to violence against women, in a comprehensive approach towards violence against women and girls. As part of that launch, a campaign against violence against women was implemented in conjunction with the Social Communication Secretariat of the Office of the President, targeting public officials.

54. Support has also been provided for the problem of human trafficking, in which SEPREM participated in the Interagency Commission to Combat Trafficking in Persons. In 2009, actions were coordinated to implement the Strategic Public Policy Plan against Trafficking in Persons, after a legal ruling had been issued on the viability of a specific law on the subject. As part of that coordination process, SEPREM also supported the government decision approving that policy and its to create an interagency commission.

55. As one of the members of the Central American Council of Ministers for Women (COMMCA), SEPREM presented the "Regional study on laws relating to human trafficking in Central America and the Dominican Republic and their application in Guatemala" and "The experience of women victims of trafficking in Central America and the Dominican Republic, and institutional actions", as a contribution to making visible and denouncing the serious human rights violations suffered by an indeterminate but growing number of Central American and Dominican women.

## **E. Measures to change the social and cultural attitudes that are the fundamental causes of most forms of violence against women**

56. CONAPREVI undertook a baseline study of social images on violence against women, and of the knowledge that men and women have on what should be done in cases of violence. Initially this was carried out in seven departments: Guatemala, Escuintla, Quetzaltenango, Alta Verapaz, Baja Verapaz, Chiquimula and Jutiapa. The study forms the basis of the National Campaign of Prevention and Awareness-Raising on Violence against Women that began in November 2009.

57. The campaign is expected to be permanent and is currently funded through international cooperation. Nonetheless, given the current situation of budget cuts and resource constraints, the campaign currently does not have sufficient funds to guarantee its permanency, to bring about change and impact on the population.

58. SEPREM has also been implementing media campaigns aimed at changing social stereotypes and dynamics. This strategy line directly targets the harmonized legislative agenda, in accordance with international treaties and conventions on women, which made it possible to develop the communications strategy by including concrete actions with the following objectives: improve information and knowledge on women's rights by promoting them in the population at large, particularly among Guatemalan women, and decision-makers, to build greater awareness and knowledge of women's rights and the laws and mechanisms that exist to ensure they are fully guaranteed and effective for Guatemalan women in all their diversity. For that purpose, local campaigns and actions were implemented with a view to changing social and cultural images that strengthen discrimination and exclusion.

## **III. OTHER CONTRIBUTIONS**

### **A. Important activities**

59. In February 2008, the United Nations Secretary-General, Ban Ki-moon, launched the global campaign: "UNiTE to end violence against women", in response to an international consensus in favour of eliminating violence against women and girl children. The campaign calls upon Governments, civil society, the private sector, communications media and the United Nations system itself to work together to prevent and eliminate violence against women and girls.

60. The regional chapter of the Secretary-General's campaign "UNiTE to end violence against women" was held in Guatemala City. In that process, an important role was played by SEPREM, the Office of the First Lady and the Social Communications Secretariat of the Office of the President and other entities.

61. The basic objectives for the launch of the campaign in Guatemala were to call upon States to show responsibility for:

- (a) Enforcement of the laws.
- (b) An increase in government funds to implement laws, and the provision of comprehensive services.
- (c) Establishment of administrative reforms and reforms of the judiciary to eradicate impunity.
- (d) Support and response for women victims and survivors of violence in any of its forms.

62. Generate public awareness to build an egalitarian and non-violent society through:

- (a) Publicity for all forms of violence against women, including new types.
- (b) Citizen awareness-building that “Each and every one of us are protagonists of change.”
- (c) Construction of societies free from violence against women.
- (d) Promotion of greater action by the public and private sectors.
- (e) Involvement of children, adolescents and young people.

#### **IV. Challenges and obstacles**

63. The process of preparing and negotiating the Act against Femicide and other Forms of Violence against Women revealed the need to include crimes of sexual violence. Nonetheless, the text of the law only creates the crime of violence against women, listing among its manifestations sexual violence (sexual humiliation, forced prostitution, denial of the right to use family planning methods or adopt methods of protection against sexually transmitted diseases), but not including other types of offence in which sexual violence is perpetrated against women.

64. There is a contradiction in issuing regulations that provide legal protection for sexual freedom and security, without a women’s human rights approach, since these are conservatively and traditionally applied and interpreted with no specialization for women. Such is the case of the Act against Sexual Violence, Exploitation and Trafficking in Persons. As the victims of these crimes are, to repeat, mostly women and girls, the biased application and interpretation of this law is a disadvantage.

65. The Act against Sexual Violence, Exploitation and Trafficking in Persons (the VET Law) created the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons (SVET), which is responsible for all actions to combat sexual violence, exploitation and human trafficking. Nonetheless, interagency coordination of the secretariat with the lead agency on violence against women (CONAPREVI) is virtually non-existent; and there is an overlap of functions between the two institutions, which weakens them and creates obstacles in dealing with violence against women.

66. Women victims of the crimes covered by the VET Law suffer from the lack of a comprehensive care programme, lack of knowledge and awareness among justice workers, the invisibility of the problem, and lack of access to justice, among other problems.

67. An example of a lack of awareness in applying the VET Law is the Ministry of Governance practice of carrying out operations (raids) to verify the legality of activities in nocturnal entertainment centres. As prostitution is not a crime in Guatemala, these operations are undertaken more as part of a policy to repatriate migrant women (deportation) who engage in this type of work, for citizen safety purposes. The operations in question target women found to be working in these places without identification documents. They are then taken to shelters run by the General Migration Department, where they are held until deportation. This is a violation of women’s human rights, particularly in the case of migrant women from neighbouring countries who do not have a home in Guatemala or the means to ensure their protection or safety.

68. When evidence of trafficking in women is uncovered in these operations, the women in question are often exposed to further violence as a result of a lack of coordination and allocation

of resources by the State apparatus. The victims are repatriated and taken to the border areas by the authorities. Nonetheless, owing to a lack of adequate monitoring and suitable mechanisms to provide security in conjunction with the authorities in the women's countries of origin, in many cases they fall victim again to the same crime at the hands of the same perpetrators or their networks. The exploiters or their accomplices wait for the women and bring them back to Guatemala, but in worse conditions and more exposed to danger.

69. Guatemala needs to upgrade its capacities to effectively sanction the crimes contained in the VET law; and this requires greater interagency coordination between SVET and CONAPREVI, adequate budgetary appropriations, and political will to strengthen the rule of law. Currently Guatemala needs institutional and budgetary strengthening to dismantle networks that traffic and exploit women and girls, because there are very strong links between these networks and drug trafficking, which fuel corruption and make it hard to punish those responsible, with impunity prevailing for the women.

70. Interagency coordination needs to be established through CONAPREVI with SVET and the Interagency Commission to Combat the Trafficking in Persons, which is chaired by the Ministry of Foreign Relations, to interpret and implement the Act against Femicide and other Forms of Violence against Women, and the Law against Sexual Violence, Exploitation and Trafficking in Persons, with a women's human rights approach.

## **V. Related statistical data**

71. One of the main challenges in statistics on violence against women is to unify the data generated by the various institutions that produce information on the subject. Each institution produces its own data within its jurisdiction; and sometimes, such as in the PNC, there are various units within institution that produced statistical information, such Victim Services, which collect data on domestic violence and rape, and the Joint Operational Division which has data on crimes against life and property, although the latter collect data from police stations nationwide. Of institutions that receive complaints of violence against women, the Judiciary produces quarterly information on cases of femicide and violence against women, cases initiated in the various courts across the country, data on the courts in which they are initiated and the region and department, as well as the sentences handed down, and whether the victims are women or young girls and adolescents.

72. The Public Prosecutor's Office publishes other information including processes, the accused and victims, the number of women suffering physical and economic violence, by age level and department, and also information on cases that the institution has taken to the final "*debate*" stage of the process.

73. The INE, which is the lead information agency, is currently working with CONAPREVI, to create a national system of information on violence against women, because currently the INE only holds information on domestic violence. It is also proposed to reform the single record card of information on domestic violence; although, as INE notes, an attempt was made before the Act against Femicide came into force, but institutions that produce information on violence rejected the reform.<sup>2</sup>

74. Lastly, another problem in producing statistics on violence is that institutions such as INE and PNC have resource constraints that prevent them employing the equipment and staff needed to generate information in question.

75. These limitations make it difficult to clearly represent the magnitude of the problem, namely the real number of victims of violence against women. Accordingly, justice workers firstly need to understand the Act against Femicide and other Forms of Violence against Women;

and then criteria need to be unified, which requires good will on the part of all institutions that collect information on the problem.

---

<sup>2</sup> Report on workshop held on 26 January, producers of statistical information on violence against women, SEPREM.

### **Violence against women**

76. The figure below provides information on cases that have been initiated in the various criminal courts in 2008 and 2009, according to the National Legal Documentation and Analysis Centre (CENADOJ). From the entry into force of the Act against Femicide until 2009, the date of the most recent consolidation of figures provided for this report, there has been no increase in the number of cases of violence against women in the country's courts, which would suggest that the Act against Femicide is being increasingly applied.

77. In magistrates courts (Juzgados de Paz), where the complaints are received, the number of actions initiated in 2009 was up by over 2,000 in relation to the previous year's figure; and, although this is not the same comparison period, it shows that women's complaints are increasingly being treated as violence against women.

78. Sentencing and criminal courts dealing with drug trafficking and crimes against the environment are the courts in which sentences are handed down; but not all of the cases initiated between the entry into force of the Act against Femicide and September 2009 necessarily reach the final stage.

Figure I

79. 2008, only one case of violence against women reached the final stages, in the second court of Chiquimula, and the defendant was acquitted. In 2009 there were 20 convictions in the Criminal Sentencing Courts dealing with drug trafficking and crimes against the environment, five of them in the courts of the Department of Guatemala, and the others in the courts of the departments of Chiquimula, El Progreso, Chimaltenango, Jalapa, Quiché and Suchitepequez.

80. In the criminal courts first instance dealing with drug trafficking and crimes against the environment, there were 10 convictions on violence against women, of which three were handed down in the Department of Guatemala and seven in other departments.

Figure II

### **Economic violence**

80. Of the 306 cases of economic violence initiated in the country's courts from 2008 until September 2009, a total of 29 reached the sentencing court, Court of penal sentence and criminal instance of drug trafficking and crimes against the environment. Only one case was initiated in courts of first instance (mixed branch) in 2008.

Figure III