



THE PERMANENT REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C.

September 10, 2014

Dr. Emilio Alvarez-Icaza
Executive Secretary
Inter-American Commission on Human Rights
Organization of American States
Washington, D.C. 20006

Re: Access to Information in the Americas from a Gender Perspective

Dear Dr. Alvarez-Icaza:

I have the honor to transmit to you the enclosed materials in response to the questionnaire submitted by the Inter American Commission on Human Rights (IACHR) regarding Access to Information in the Americas from a Gender Perspective. Please note that this report was also sent in response to a similar request from Inter-American Commission on Women.

Please accept renewed assurances of my highest consideration.

Sincerely,

A handwritten signature in blue ink that reads "Carmen Lomellin". The signature is fluid and cursive, with a large initial "C" and "L".

Carmen Lomellin
Ambassador

Enclosures: As stated

The United States continues to make progress in eradicating barriers to women's success. We recognize that women make up a growing share of our workforce, and are serving at the highest levels of all branches of the United States Government. Despite this progress, we remain aware of the inequalities and issues that persist. In response, the following have been the guiding principles of the Obama Administration as they pertain to women's issues: ensuring economic security, promoting work-family balance, supporting women's health, and preventing violence against women.

Legal, Political and Socio-Economic Situation

Supporting Women and their Families

In his 2012 Budget, President Obama put forward a clear plan to help American families win the future:

Support for Child Care The Budget includes \$6.3 billion for the Child Care and Development Fund, an additional \$1.3 billion, to support 1.7 million children with child care subsidies. At the same time, the Budget invests in improved quality: proposing principles for child care reform that focus on improving quality, protecting health and safety, and strengthening early learning; and supporting proposed regulations to strengthen Head Start by requiring low-performing programs to compete for funding.

Child Support Reform. The Budget provides \$1 billion over ten years to encourage States to pass through child support payments to families rather than retaining those payments so that more of the non-custodial parent's support reaches their children.

Prevent Hunger and Improve Nutrition. At a time of continuing need, the Budget provides \$7.9 billion for discretionary nutrition program support. Funding supports 9.6 million participants in the Special Supplemental Nutrition Program for Women Infants and Children (WIC) program, which is critical to the health of pregnant women, new mothers, and their infants. The Administration supports implementation of the Healthy, Hunger-Free Kids Act of 2010, strengthening the child nutrition programs and increasing children's access to healthy meals and snacks. In order to combat food deserts, the Departments of Agriculture, Health and Human Services, and Treasury have partnered to make available approximately \$400 million in financing to community development financial institutions, other nonprofits, public agencies, and businesses with sound strategies for addressing the healthy food needs of communities

In February 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act of 2009, which includes a number of provisions of particular concern to women. The Act provides US\$325 million for the Violence Against Women Act (VAWA) and the Victims of Crime Act (VOCA). This funding will supplement the Federal VAWA and VOCA dollars that flow to communities every year, and enable States, local governments, tribes, and victim service providers to retain and hire personnel that can serve victims and hold offenders accountable. These funds will also bring relief to victims seeking a safe place to live for themselves and their children.

In June 2009, a White House Advisor on Violence against Women was appointed to work with government agencies to ensure that violence against women was treated as a priority and that greater efforts are made to hold perpetrators accountable.

On March 11, 2009, President Obama signed an Executive Order creating the first White House Council on Women and Girls. The mission of the Council will be to provide a coordinated federal response to the challenges confronted by women and girls and to ensure that all Cabinet and Cabinet-level agencies consider how their policies and programs impact women and families.

The Council's priorities will be:

- Improving women's economic security by ensuring that each of the agencies is working to directly improve the economic status of women.
- Working with each agency to ensure that the administration evaluates and develops policies that establish a balance between work and family.
- Working hand-in-hand with the Vice President, the Justice Department's Office of Violence Against Women and other government officials to find new ways to prevent violence against women, at home and abroad.
- And, helping to improve women's health care and build healthy families. For further information, go to www.whitehouse.gov/issues/women

U.S. Department of State

At the Department of State, the position of Ambassador-at-Large for Global Women's Issues was established in 2009 to prioritize the political, economic, and social empowerment of women around the globe. The Secretary's Office of Global Women's Issues (S/GWI) is committed to advancing the rights of women and girls as a central focus of U.S. diplomatic, development and defense interests.

The work of the office is organized based on four pillars: 1) Promoting the full engagement of women in the political and economic spheres; 2) Mitigating the impact of violence against women; 3) Addressing underlying socio-economic problems, including women's access to health and education, food security, and global problems such as climate change; and 4) Ensuring that women are integrated as equal participants in reconciliation, post-conflict reconstruction and development in areas affected by conflict.

The office implements its policy vision for these four pillars through programming all over the world, focusing strategically on these policy areas: integrating women into peace and security efforts, addressing gender-based violence, improving education and leadership opportunities for women and girls, advancing women's economic empowerment, improving health outcomes,

promoting women's political participation, and integrating women in the fields of climate change and promoting food security. (www.state.gov/s/gwi) This past August, the office led the release of the first whole-of-government Strategy to Prevent and Respond to Gender-Based Violence Globally as well as an accompanying Presidential Executive Order to set it into motion. The strategy lays out concrete objectives and actions to marshal the United States' expertise and capacity to address gender-based violence, and represents a multi-sector and whole of government approach – one that includes the justice, legal, security, health, education, economic, social services, humanitarian, and development sectors.

The goals of this strategy also complement the National Action Plan on Women, Peace and Security, which Secretary Clinton launched in December 2011. The National Action Plan prioritizes 1) increasing the participation of women in decision-making and peace processes; (2) protecting women from violence; (3) providing women with equal access to humanitarian relief and recovery; (4) using gender-sensitive analysis for conflict prevention and early warning systems.

The *Administration for Children and Families* promotes the economic and social well-being of families, children, individuals, and communities through partnerships with individuals, front-line service providers, communities, American Indian tribes, Native communities, and states. It administers the **Family Violence Prevention and Services Act** (see Section II.d.), which was passed originally in 1984 and has been reauthorized by Congress several times since then.

Measures Undertaken to Prevent, Punish, and Eradicate Violence Against Women

On August 10, 2012 the President issued an Executive Order, which accompanied the release of the United States Strategy to Prevent and Respond to Gender-based Violence Globallyⁱ.

This Executive Orderⁱⁱ creates an interagency working group co-chaired by the Secretary of State and the Administrator of the U.S. Agency for International Development (USAID). It directs departments and agencies to implement the new United States Strategy to Prevent and Respond to Gender-based Violence Globally. This Strategy was developed by the Department of State and USAID in coordination with other relevant U.S. Government departments and agencies.

The Executive Order will ensure that agencies prioritize this issue in their implementation of U.S. foreign policy, and that work in this area is evaluated. Recognizing that this is a long-term commitment, the Order directs the interagency working group to update or revise the Strategy after three years.

- The Strategy outlines a comprehensive, multi-sector approach to prevent and respond to gender-based violence through:
 - Increased coordination of gender-based violence prevention and response efforts among United States Government agencies and with other stakeholders;
 - Enhanced integration of gender-based violence prevention and response efforts into existing United States Government work;

- Improved collection, analysis, and use of data and research to enhance gender-based violence prevention and response efforts; and
- Enhanced or expanded United States Government programming that addresses gender-based violence.

The Violence Against Women Act of 1994 (VAWA)

Violence against women and girls remains a global epidemic. The *Violence Against Women Act*, originally authored by Vice President Biden, plays a key role in helping communities and law enforcement combat domestic violence, sexual assault, and stalking.

The Violence Against Women Act of 1994 (VAWA) is a U.S. Federal law. It was passed as Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act of 1994 HR 3355 and signed as Public Law 103-322 by President Bill Clinton on September 13, 1994. VAWA was designed to improve criminal justice responses to domestic violence, sexual assault, and stalking and to increase the availability of services for victims of these crimes. It provided US\$1.6 billion to enhance investigation and prosecution of the violent crime perpetrated against women, increased pre-trial detention of the accused, imposed automatic and mandatory restitution on those convicted, and allowed civil redress in cases prosecutors chose to leave unprosecuted. Congress reauthorized the VAWA in 2000, and again in December 2005.

The Office on Violence Against Women (OVW) within the Department of Justice (DOJ) implements provisions of VAWA, VAWA 2000 and subsequent, related legislation, administers the grant programs created by the federal legislation and provides national leadership on issues such as domestic violence, sexual assault, and stalking. Since its inception, OVW has launched a multifaceted approach to implementing VAWA. By forging state, local, and tribal partnerships among police, prosecutors, the judiciary, victim advocates, health care providers, faith leaders, and others. OVW grants help to build a coordinated community response to violence against women. The work of OVW is guided by two key principles: the importance of ensuring the safety of victims and holding perpetrators of violence accountable for their acts.

Within the US Department of Health and Human Services, Administration for Children and Families, the **Family Violence Prevention and Services Program** was authorized by the Family Violence Prevention and Services Act in 1984. The Program awards grants to State agencies, Territories, and Tribes for the provision of shelter to victims of family violence and their dependents, and for related services, such as emergency transportation and child care. These funds supplement many already established community-based family violence prevention and services activities. Services supported by the Program include Battered Women's Shelters and Services; National Resource Centers; and the National Domestic Violence Hotline.

Department of the Interior

Under President Obama's leadership, the United States has increased consultations with tribal governments on combating violence against women. These include major annual tribal consultations stipulated by the Violence Against Women Act, most recently in December 2011 that involved key Federal agencies including the Department of Justice, Department of the Interior, and the Department of Health and Human Services.

The Bureau of Indian Affairs (BIA), has conducted domestic violence training for law enforcement officials who are responding to domestic violence calls and focusing on recognizing and diffusing potentially lethal situations surrounding domestic violence. Date of adoption: 2011

In 2011, The Bureau of Indian Affairs provided one-time funding to help tribes hire domestic violence prosecutors, and is enlarging its Victim Witness Program to assist victims in many new places. Department of the Interior is working with the Department of Health and Human Services, specifically the Indian Health Service, to coordinate the sexual assault protocol with law enforcement throughout Indian Country.

Additionally, The Bureau of Indian Affairs has instituted a new program which provides training on how to prosecute the difficult domestic violence cases in Indian Country. The Bureau provides a three-day training to tribal prosecutors focusing on using tribal domestic violence codes and charging suspects. Moreover, this training focuses on trial techniques needed to be successful in using both tribal and federal legislation on domestic violence. The title is: Trial Advocacy Skills in the Domestic Violence Case, this was initially adopted by the Bureau in August 2011 and continues to be implemented around the country.

The Bureau of Indian Affairs' Victim Witness Advocacy Program provides assistance to those victims of domestic violence whose cases are prosecuted in tribal court, as well as assisting the Department of Justice Victim Witness Specialist, who assists victims of domestic violence whose cases are prosecuted on a federal level.

With regard to social work with the victims of violence, The U.S. Code of Federal Regulations "Indians" 25 CFR has detailed instructions regarding the protection of Indian Children, Elderly and Families per 25 CFR Part 400 – 404. Although not specifically tied to authorizing legislation such as VAWA, it can and does offer similar protections. These regulations were published in 65 FR 63159, October 20, 2000, the protective services means "those services necessary to protect an Indian who is the victim of an alleged incident of abuse, neglect or exploitation or who is under the supervision of the Bureau in regard to the use and disbursement of funds in his or her Individual Indian Money (IIM) account. Service to Children, elderly and families means " social services, including protective services provided through the social work skills of casework, group work or community development to assist in solving social problems related to children, elderly and families. These services to not include money payments."

Recognizing that elder women are the backbone of traditional culture, the Bureau of Indian Affairs' Tribal Courts Division financially supports specific pilot programs which focus on the importance of women in the tribal community. One such pilot program has re-created a women's society specific to young Native women at risk. The long term aim of this program is to assist women in standing firm to prevent domestic violence in their own communities and to help them realize their importance to their tribe. In 2012, this society (called a "talking circle") was extremely successful. Of 35 young women designated as truants and ordered to the talking circle pursuant to the tribe's juvenile justice code, 5 graduated from high school.

Department of State

- Ensuring economic security for survivors of violence: Federal agencies are launching new efforts to empower domestic violence survivors by helping them achieve financial independence

through credit counseling, microfinance support, and education on financial literacy and employment rights.

ⁱ U.S. Strategy to Prevent and Respond to Gender-based Violence Globally can be found on the following link: <http://www.state.gov/documents/organization/196468.pdf>

ⁱⁱ The Executive Order: Preventing and Responding to Violence Against Women and Girls Globally can be found on the following link: <http://www.whitehouse.gov/the-press-office/2012/08/10/executive-order-preventing-and-responding-violence-against-women-and-gir>



INTER - AMERICAN COMMISSION ON HUMAN RIGHTS
COMISION INTERAMERICANA DE DERECHOS HUMANOS
COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS
COMMISSION INTERAMÉRICAINÉ DES DROITS DE L'HOMME



ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C. 20006 U.S.A.

March 19, 2014

RE: Access to Information in the Americas from a Gender Perspective

Excellency:

I write to you on behalf of the Inter-American Commission on Human Rights (IACHR) to send you a questionnaire with the goal of collecting information regarding the main challenges that women face in their proper access to information managed by the State in the fields of violence and discrimination. This initiative will include the publication of a report on access to information in the Americas from a gender perspective identifying challenges, best practices, and a set of recommendations for Member States of the OAS on how to improve their compliance with existing human rights standards relevant to the issue of access to information. It will primarily focus on the administration of justice and areas related to this sector, such as legislation, public policies, and services.

I respectfully request that Your Excellency's Government take the measures necessary so that the Inter-American Commission may receive the required information before April 21, 2014.

If you require additional information regarding the questionnaire, please contact Rosa Celorio, Attorney of the IACHR, by telephone: 202-370-9028 or via email: rcelorio@oas.org.

I take this opportunity to express to Your Excellency the assurances of my highest consideration.

Emilio Álvarez Icaza L.
Executive Secretary

His Excellency John F. Kerry
Secretary of State
VIA Her Excellency Carmen Lomellin
Ambassador, Permanent Representative of the United States to the
Organization of American States
Washington, D.C.

Annex



Access to Information in the Americas from a Gender Perspective

Introduction

The present questionnaire has been prepared as part of the work plan of the Rapporteurship on the Rights of Women,¹ with the goal of collecting information regarding the main challenges that women face in obtaining access to information managed by the State in the fields of violence and discrimination. This initiative will include the publication of a report, identifying challenges, best practices, and a set of recommendations for States on how to improve their compliance with existing human rights standards relevant to the issue of access to information. It will primarily focus on the administration of justice and areas related to this sector, such as legislation, public policies, and services.

Information available to the Commission - in the form of petitions received; the findings of regional initiatives; data provided in thematic hearings by State and non-State actors; and communications with different women's rights organizations - indicates that violence and discrimination are still widespread and alarming issues in the Americas and require consistent attention from the Rapporteurship. Most of the petitions received by the Inter-American Commission on Human Rights in the realm of women's rights are still centered on the issues of violence and discrimination.

The Commission has adopted a number of regional reports focused on the issues of access to justice, violence against women, and discrimination, but has just begun to look closely at access to information from a gender perspective.² It has underscored that access to information is closely linked to the attainment of other key human rights of women, such as their right to personal integrity, to privacy, to protection of the family, and to live free from violence and discrimination.³ Therefore, a failure to respect and guarantee this right for women can lead to the infringement of their civil, political, economic, social, and cultural rights.

Within the framework of this initiative, the Rapporteurship will examine the main roadblocks faced by women in obtaining basic information managed by State entities in relation to various areas, among others:

¹ The Latin America and Caribbean component of this initiative is being executed thanks to the support of the Swedish International Development Cooperation Agency – ASDI-SIDA – in the framework of the project *Freedom of Expression in the Americas*.

² IACHR, *Access to Justice for Women Victims of Violence in the Americas* (2007); IACHR, *Access to Maternal Health Services from a Human Rights Perspective* (2010); IACHR, *The Work, Education, and Resources of Women, The Road to Equality in Guaranteeing Economic, Social and Cultural Rights* (2011); IACHR, *Legal Standards Related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application* (2011); IACHR, *Access to Information on Reproductive Health from a Human Rights Perspective* (2011); IACHR, *Access to Justice for Women Victims of Sexual Violence in Mesoamerica* (2011); IACHR, *Access to Justice for Women Victims of Sexual Violence: Health and Education* (2012).

³ IACHR, *Access to information on Reproductive Health from a Human Rights Perspective*. 2011, para. 1.

- The processing by the justice⁴ system of cases of violence and discrimination against women; the functioning of the legal process in general; and ways to avail themselves of basic guarantees and protections provided by law;
- Existing legislation, services, and programs designed to prevent and mitigate the effects of violence and discrimination against women;
- Measures available to victims or potential victims of violence such as the existence of protection and/or restraining orders; shelters; and other social services;
- The quality of statistics available on the issue of violence against women and the lack of disaggregation of such statistics on the basis of race, ethnicity, age, and other grounds;
- The availability of public spaces for women, victims, and the organizations that represent them to access information about the development of current legislation and public policies pertaining to the issues of violence and discrimination, and to have a voice in the design of interventions.

The Commission invites respondents to submit quantitative and qualitative information related to the areas referred-to above. The information submitted can include analysis, graphs, statistics and budgetary data, as well as other documentation and/or material. It is requested that the information includes insight into the situation at the national, local, urban, and rural levels. In federal states, information is needed for all states and provinces. Information is welcomed concerning the specific situation of women particularly affected by barriers in access to information, including girls, indigenous and afro-descendent women, and women who are socio-economically disadvantaged, among others, in the terms indicated in Article 9 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará).

QUESTIONNAIRE

General: Protection and prevention of violence and discrimination against women

1. Specify whether the State collects data and figures related to the issue of violence against women. If so, please identify which government agencies and instances collect this information.
2. In regards to any data or figures managed by the State in the realm of violence against women:
 - a. Which are the actual figures of all types of violence against women at the national and local levels?
 - b. What types of statistics are actually available for the different types of cases, including intra-family, sexual and psychological violence, among others?
 - c. Is there a uniform State system to collect information on violence against women?
 - d. How can persons access information about the figures managed by the State?
 - e. Is there a mechanism in place to control the quality and integrity of the information available? To periodically update the information available?
 - f. Explain in detail any measures adopted by the State to disaggregate the public information available on the basis of sex, age, race, and ethnicity, among other factors, in the terms described under Article 9 of the Convention of Belém do Pará.
 - g. Describe any measures adopted to ensure that women receive information in their own language and in a way that respects their culture.

⁴ In this questionnaire, the administration of justice is defined broadly, including the ordinary judicial branch (all of its instances, tribunals, and administrative divisions), and the police and forensic medicine services, in urban and/or rural zones, with national and/or local competency.

3. Describe the existing legal framework regulating the access to information managed by the State in the fields of violence and discrimination against women. Regarding this framework, please provide the following details:
 - a. Procedures which must be followed in order to request public information.
 - b. Limitations in the access to certain kinds of information prescribed in the law.
 - c. The scope and coverage of these laws to the different branches of the State – legislative, executive, and judicial.
 - d. Government organ/organs which are responsible for monitoring compliance with these laws, and the quality and integrity of the information provided.
 - e. Legal avenues which are available in the following cases:
 - i. In order to obtain review decisions adopted by public officials denying the information requested.
 - j. In order to report the non-compliance with the existing legislative framework.
 - k. In order to report the distortion and lack of quality in the information received.
 - l. In order to report silence after the information has not been provided within the specific time period provided for in the law.
 - f. Specify whether this framework is applicable to information managed by the administration of justice system.
 - g. Describe any training programs in place for public officials in order to promote the proper compliance with the legislative framework referred to.
4. Which are the existing legal norms to prevent and sanction violence against women of national and/or local application? In regards to the mentioned laws, please provide the following information:
 - a. Which types of violence are included in these norms?
 - b. Do these laws contemplate protection measures against imminent acts of violence? Are there any mechanisms in place for women to access information related to restraining orders, shelters and other services?
 - c. Are there national and/or local programs to prevent, sanction, and/or eradicate violence against women?
 - d. Do existing laws related to violence against women address the situation and specific needs of indigenous women?
 - e. Which types of advances have been made in the past 5 years in the reform of the content of laws to prevent, eradicate and sanction violence against women?
 - f. Which mechanisms are in place for women to access information relevant to the enforcement of these laws and legal developments.?
 - g. Are there any training programs offered to public officials on existing laws and changes related to these in the realm of violence against women?
 - h. Do public libraries carry information related to existing legislation focused on violence against women?
5. If the State has ratified the Convention of Belém do Pará, has the State created any mechanisms to provide information related to the dispositions and implementation of the mentioned Convention?
6. Specify whether any public spaces have been created involving the participation of State agencies and women's rights organizations with any of the following objectives:
 - a. Incorporate their role and voice in decision-making related to access to information; and
 - b. Collaborate in the production of information and statistics related to violence, discrimination, and other gender equality issues.

7. Is there any information available on budgets allocated to different sectors working on issues pertaining to violence against women?
8. Are there mechanisms in place to access information about existing sexual and reproductive health services?

Administration of Justice: Investigation, Prosecutions, Monitoring and Accountability

1. Describe procedures in place to offer victims and their family members information related to their cases of violence and discrimination against women being processed in the civil and criminal systems. Specify whether these programs contain measures to impart information in different languages.
2. Are there public legal assistance programs? Are these programs free? In what measure are these programs used in cases of discrimination or violence against women? Is there a specific procedure designed for victims and family members to obtain information regarding these programs?
3. Can it be identified how many complaints have been received in the last 5 years of violations of the rights of women, above all in cases of discrimination and violence? How many of these cases have reached the sentencing stage?
4. Do women who do not speak the official language have access to any interpretation services when they are presenting their complaints?
5. In regards to ongoing investigations, are there mechanisms in place to access information about the progress of these investigations? Is there any information available to the victims and their family members about protocols applicable to cases of violence against women?
6. Are there programs that systematize or review case law by theme, either public or private? Do these programs include case law related to discrimination and violence against women? Is this information available to the public?
7. Is there any data publically available related to the operation of the justice sector. Please specify whether there is any data available related to the following aspects:
 - a. Arrests, prosecutions, and convictions.
 - b. Restraining orders granted.
 - c. Judgments and decisions.
 - d. Time taken in the adjudication of cases.
 - e. Gender composition of judiciary.
 - f. Any internal monitoring and accountability mechanism.
8. Has there been any evaluation of the judicial system response to cases related to violence and discrimination?