

Violence Against Women in Colombia and Peru-The Implementation of the Convention de Belem do Para

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The Hierarchy of International Law Within the two Legal Systems

• PERU

1. Constitutional Court Ruling 00047/2004: International Human Rights Treaty constitute a constitutional parameter to interpret internal laws and constitutional rights.
2. Constitutional Court Ruling 00022/2009: International human rights treaties not only are considered the supreme law of the land but have constitutional status. Constitutional law norms and international human rights treaties should be interpreted in accordance with the jurisprudence of the inter-American court of human rights.

• COLOMBIA

- 1 Article 93 of the Constitution establishes the supremacy of international law and imposes that the rights granted by the constitution should be interpreted according to international law.
- 2 Human Rights Treaties function as Constitutional parameters and for certain procedures (such as amnesties) the Colombian Congress is subject to the limits imposed by international organs (like the Intern-American Court) [Constitutional Court rulings: 295/1993; 179/1994 et al.]

Implementation of the Convention de Belem do Para in Peru

Empirical Data

- ❁ 40% Of the women between 15 and 49 has been, at least once, victim of violence.
- ❁ 8.3% have been sexually violated.
- ❁ In 2009 there have been 139 cases of femicide and 64 attempted ones. In 70% of these cases the victim was either the spouse or the partner.
- ❁ Between 2007 and 2009, only 16.8% of the victims have asked for help to the relevant institutions; whereas 41.9% have asked for help to people close to them. In 2012 23.4 % of the victims have asked for help to the designated institutions.

Administrative Measures

- ❁ The Action Plan to Fight Violence Against Women (2009-2015).
- ❁ Data analysis of access to the relevant institutions.
- ❁ Train Police.
- ❁ Create a "Safe House"
- ❁ Free Counseling.
- ❁ Legal aid and free access to justice.

Legislative Measures

- ❁ Unified Code on intra-familial violence (law 26260/1997). Special police training and special power to the police to take the perpetrator of the violence out of the household.
- ❁ Art. 337 of the Civil Code of 1984. This article establishes that psychological and physical violence should be interpreted in accordance to local costumes, social norms.

Court Rulings and Implementation

- ❁ Even though the Convention has constitutional status it has not been used by lower courts.
- ❁ Constitutional Court ruling 00018/1996: article 337 of the Civil Code is partially unconstitutional because it violates among other principles the Convention de Belem do Para especially article 6.
- ❁ Lower courts decisions on violence against women: intra familial violence is: “any form of violence even when damages are not present or visible”. Nobody can give away his/her human rights, there can be no consent to intra-conjugal violence.

Implementation of the Convention de Belem do Para in Colombia

Empirical Data

- ❁ Almost 40% of the women in Colombia have been victim of violence at least once, the does not included those women affected by the internal conflict.
- ❁ 17% have been sexually violated.
- ❁ Only in the 1st trimester of 2013 there have been 514 feminicides in Colombia.

Administrative Measures

- ❁ There have been several localized measures; especially in the areas afflicted by the conflicts.
- ❁ “Women you have rights” plan: raising awareness and educate police and legal-personnel.
- ❁ Colombia integrated program on Gender Based Violence.

Legislative measures

- ❁ Contrary from Peru, Colombia has placed a sophisticated legislative mechanism to protect women from violence.
- ❁ Law ratifying the Convention (1996).
- ❁ Criminal Code provision which provide for aggravating factors for intra-familial violence.
- ❁ Under Law 1257/2008, a victim of gender-based violence has the right to:
 1. receive comprehensive, integrated care that is adequate, accessible, and of good quality
 2. guidance, legal advice, and legal assistance free of charge;
 3. clear, complete, timely, and accurate information regarding a victim's rights and the legal mechanisms and processes she may follow to vindicate those rights;

Court Rulings and Implementations

- ❁ Lower courts have relied on the international legislative provisions.
- ❁ Constitutional Court ruling 408/1996: The Convention and its ratifying law are Constitutional; given that they promote and are in compliance with the rights granted by the Constitution.
- ❁ Constitutional Court ruling 234/2012: Women human rights defenders are more vulnerable and their rights are protected by the Convention, among other international instruments. The State should provide special effective measures to protect them; given their status both as women and as human rights defenders.