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Between legal equality and de facto discrimination

Recommendations of the Committee on the
Elimination of Discrimination against Women (CEDAW)
for the States of Latin America and the Caribbean

Line Bareiro

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Recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW) for the States of Latin America and the Caribbean

Line Bareiro



This document has been prepared by Line Bareiro, consultant with the Division for Gender Affairs of the Economic Commission for Latin America and the Caribbean (ECLAC), in the framework of the component of the ECLAC-AECID cooperation programme 2015-2017 relating to support for the preparatory process and follow-up of the thirteenth session of the Regional Conference on Women in Latin America and the Caribbean. Gratitude is expressed to Nicole Bidegain Ponte, and Pamela Villalobos, Social Affairs Officers of the Division for Gender Affairs of ECLAC, for comments on the document.

The views expressed in this document, which is a translation of an original that did not undergo formal editorial review, are those of the author and do not necessarily reflect the views of the Organization.

United Nations publication
LC/TS.2017/134
Distribution: L
Original: Spanish
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Printed at United Nations, Santiago
S.18-00187

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Abstract

The States of Latin America and the Caribbean have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Nonetheless, achieving substantive equality between men and women in Latin America and the Caribbean remains a major challenge. The present study examines the concluding observations and recommendations made by the CEDAW Committee to the region's countries. The first section presents a methodological and conceptual introduction to the subject of women's autonomy, empowerment and rights as dealt with by CEDAW. The second chapter examines progress and challenges in the effort to guarantee women's rights by analysing the observations and general recommendations made by the CEDAW Committee to the countries of Latin America and the Caribbean. Lastly, some conclusions based on the reflections in the preceding chapters are presented.¹

¹ This document was prepared as a contribution to the debate at the three subregional preparatory meetings of the thirteenth Regional Conference on Women in Latin America and the Caribbean: the meeting with Mexico and Central American and Spanish-speaking Caribbean countries (Mexico City, 2 and 3 June 2016), the meeting with South American countries (Santiago, 4 and 5 July 2016) and the meeting with English- and Dutch-speaking Caribbean countries (Port of Spain, 26 and 27 July 2016).

Introduction

The States of Latin America and the Caribbean have ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Furthermore, governments have adopted political commitments from a women's human rights perspective over the 40 years for which the Regional Conference on Women in Latin America and the Caribbean has been held. As part of the preparatory process of the thirteenth Regional Conference on Women in Latin America and the Caribbean, it was considered relevant to analyse the women's rights situation on the basis of the CEDAW Committee's concluding observations and recommendations for each of the countries.

The CEDAW Committee monitors compliance with the Convention, and the observations and recommendations are the outcome of constructive dialogue between the Committee and each State party. The Committee also listens to civil society organizations. Consequently, the observations and recommendations are prepared on the basis of government reports to the Committee, shadow reports by civil society organizations and the main messages from the constructive dialogue between the State and the Committee. They constitute, then, a source of information for all countries in the region about progress and ongoing challenges in relation to the implementation of public policies to reduce gender inequalities and guarantee women's rights.

The feminist movement and broader women's movement and the institutions and agencies committed to achieving gender equality have understood that laws, which by definition have to be obeyed in any State governed by the rule of law, are the most important guarantee of the application, continuity and follow-up of measures to end discrimination and move towards equality. This is why much of the effort to attain equality has concentrated on formalizing women's rights, both in the form of laws and other rules and in institutions. Perhaps because women are newly invested (Bareiro, 1996), they have learned that problems are first identified and brought to light, after which proposals are made and socialized then shaped into laws or plans, policies and actions whose adoption is sought. Once they have been enacted, the phase of oversight begins to ensure they are applied, followed by monitoring and evaluation of how this is done, after which the cycle probably begins again.

To implement a programme of far-reaching global transformation like the 2030 Agenda for Sustainable Development in coordination with the Regional Gender Agenda, it is first necessary to know the situation of Latin American women and societies and thus be able to gauge the degree of

progress or see where matters have stood still or gone backwards. Besides the CEDAW recommendations, the region has the Regional review and appraisal of implementation of the Beijing Declaration and Platform for Action (ECLAC, 2015), government and civil society Beijing+20 reports² and data and reports from the Gender Equality Observatory for Latin America and the Caribbean.³ The legislative progress made has been one of the region's greatest achievements these past 20 years. It should be said, though, that progress has not been even across countries and that in some areas there is a risk of ground being lost. In addition, gaps have been identified between laws passed and their actual implementation. From the perspective of the CEDAW Committee, accordingly, it can be said that there is some distance between legal equality and substantive equality.

The first section of this study presents a methodological and conceptual introduction to women's autonomy, empowerment and rights as laid out in CEDAW. The second chapter analyses the general observations and recommendations presented and debated at the preparatory subregional meetings of the thirteenth Regional Conference on Women held with Mexico and Central American and Spanish-speaking Caribbean countries (Mexico City, 2 and 3 June 2016), with South American countries (Santiago, 4 and 5 July 2016) and with English- and Dutch-speaking Caribbean countries (Port of Spain, 26 and 27 July 2016). Lastly, some conclusions based on the reflections in the preceding chapters are presented.

² See, for example, CDE and others (2015).

³ The Gender Equality Observatory for Latin America and the Caribbean (ECLAC, 2017b) is a good example of monitoring organized around types of autonomy [online] <http://oig.cepal.org/es>. Observatories for various fields with a public, private, local, national or global perspective have been set up in the region, providing a source of recent and historical information. See, for example, the legislative database of the Inter-Parliamentary Union (IPU, 2017) [online] www.ipu.org.

I. CEDAW: observations and recommendations by the Committee

CEDAW was adopted by the United Nations General Assembly in 1979 and came into force in 1982. CEDAW is the most important international instrument for women's human rights. Although the Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man, adopted in 1948, were drafted in the spirit of rights for all, they did not explicitly include the specificity of women's rights, except possibly as regards free consent to marriage.

This consideration also applies to the earliest binding instruments of the States parties, such as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both adopted by the United Nations General Assembly on 16 December 1966. The former came into force on 3 January 1976 and the second on 23 March the same year. These covenants were a milestone for positive human rights law. Although human rights are indivisible and interdependent, the strains of the Cold War were instrumental in creating a division between civil and political rights and economic, social and cultural rights. Other binding instruments were subsequently adopted, an example being the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the United Nations General Assembly on 21 December 1966 and came into force on 4 January 1969.

The International Women's Year Conference held in Mexico City in 1975 had many important results, foremost among them the mandate to prepare for a Convention on Women to be presented to the United Nations General Assembly. The outcome was CEDAW, which:

- (i) Defines discrimination against women as the impairment or infringement of rights for any reason.
- (ii) Establishes that discrimination may be the effect of actions intended to discriminate or of actions that result in discrimination. The Committee speaks of direct and indirect discrimination.
- (iii) Encompasses civil and political rights and likewise economic, social and cultural rights, re-establishing the indivisibility and interdependence of human rights.
- (iv) Establishes an obligation for States parties to change their culture if this inimical to women's human rights, doing away with any idea that one sex is superior to the other.

- (v) Urges the adoption of temporary measures to accelerate the attainment of de facto equality between men and women.
- (vi) Establishes an obligation to adopt measures to give women access to family planning services. The article in question has opened the way to recommendations about sexual rights and reproductive rights.
- (vii) Includes a specific article about rural women, reiterating the obligation for the rights in the Convention to be guaranteed to all women in the State party. This article is an aid to identifying which women are disadvantaged in order to avoid discrimination against them and advance towards equality.
- (viii) Empowers the Committee to interpret the Convention and make general recommendations that States parties must take account of when reporting.

Article 17 establishes a Committee on the Elimination of Discrimination against Women to review progress in applying the Convention. The Committee is composed of 23 experts elected by States parties from among their nationals and serving in a personal capacity. They are elected by the Assembly of States Parties, which meets every two years. The CEDAW Committee has three procedures for collaborating with States parties on compliance with CEDAW. The first is the constructive dialogue provided for by the Convention, to which end States parties must submit an initial report to the Committee a year after ratifying the instrument and then every four years. The other two procedures are the ability of women to submit individual cases if the State party has breached their rights and an investigation procedure that the Committee may decide to use if it learns of serious and/or systematic violations of the Convention rights.

A total of 189 States have ratified CEDAW, while two have signed but not ratified it (the United States of America and Palau) and five have neither signed nor ratified it (Iran, Niue, Somalia, South Sudan and Sudan). It is the most ratified of all human rights treaties after the Convention on the Rights of the Child, which only the United States has not ratified.

The CEDAW Committee draws on three sources to prepare its concluding observations and recommendations: its constructive dialogue with the State party; the government's report and answers to the list of questions put by the Committee; and data and observations supplied by non-governmental organizations working within the countries and internationally. It also uses other sources such as reports from country teams and specialized agencies of the United Nations, recommendations to the State party by other bodies and the Universal Periodic Review of that State by the Human Rights Council, while in some cases it also considers material deriving from the Inter-American System for the Protection of Human Rights, ranging from rulings and protection measures to denunciation of the American Convention by a State party.

The concluding observations and recommendations of the CEDAW Committee are divided into the following parts: (1) Introduction, thanking the State party for submitting the report and the delegation of the State party, among other things; (2) Positive aspects, listing the aspects on which the Committee considers progress to have been made on women's legal and substantive rights; (3) Principal areas of concern and recommendations by CEDAW article dealt with in the dialogue; (4) Final paragraphs. In point (4), the first paragraph deals with the concluding observations and recommendations to be reported on in the medium term, i.e., after two years, and the second singles out aspects for the next report, setting a date for this to be submitted.

The present study reviews the concluding observations and recommendations produced by the CEDAW Committee for the region's countries up to its sixty-seventh session (between 3 and 21 July 2016), prior to the thirteenth Regional Conference on Women.

The main source for this document are the latest concluding observations and recommendations of the CEDAW Committee for the region's countries. Exceptionally, data from the last two concluding observations are taken, mainly in the case of countries that held their dialogue

when the consultation process had already begun. Data have been added to the main source in some cases, e.g., updated information from the Inter-Parliamentary Union,⁴ the ECLAC Gender Equality Observatory and recent research carried out to prepare this document.⁵

A. Core concepts

To address the situation of women's rights, four concepts will be conjoined: non-discrimination, equality, empowerment and autonomy. The first two are the judicial principles and parameters used by the CEDAW Committee to analyse the progress of States parties, with which it collaborates to apply CEDAW. Equality and empowerment are the goals for women and girls in the 2030 Agenda, and autonomy has been the guiding concept for the governments of Latin America and the Caribbean in the context of the ECLAC Regional Conference on Women in Latin America and the Caribbean.

Article 1 of CEDAW defines the concept of discrimination, and all the articles of the Convention are to be interpreted with reference to it. It reads:

“For the purposes of the present Convention, the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” (United Nations, 1979, art. 1).

It should be noted that while the article 1 definition refers only to discrimination based on sex, the Committee used the power of interpretation granted to it by the Convention itself to issue General recommendation 28 interpreting article 2 of the Convention, considered the most important, as follows:

“Although the Convention only refers to sex-based discrimination, interpreting article 1 together with articles 2 (f) and 5 (a) indicates that the Convention covers gender-based discrimination against women. The term sex refers to biological differences between men and women. The term gender refers to socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women. This social positioning of women and men is affected by political, economic, cultural, social, religious, ideological and environmental factors and can likewise be changed by culture, society and community. The application of the Convention to gender-based discrimination is made clear by the definition of discrimination contained in article 1. This definition points out that any distinction, exclusion or restriction which has the purpose or effect of denying women the exercise of human rights and freedoms is discrimination even where discrimination was not intended. This would mean that an identical or neutral treatment of women and men might constitute discrimination against women if such treatment resulted in or had the effect of women being denied the exercise of a right because there was no recognition of the pre-existing gender-based disadvantage and inequality that women face. The views of the Committee on this matter are evidenced by its consideration of reports, its general recommendations, decisions, suggestions and statements, by its consideration of individual communications and by its conduct of inquiries under the Optional Protocol” (United Nations, 2010, para. 5).

⁴ See IPU (2017) [online] www.ipu.org.

⁵ See UN Women (2015a and 2015b).

It should be noted that the Committee's General recommendation 27 on older women refers to discrimination by both sexual orientation and gender identity.

With regard to equality, this study will reference the concept of substantive equality developed by the CEDAW Committee in its General recommendation 25 on temporary special measures to support the achievement of equality, paragraphs 8 and 9 of which define both substantive equality and equality of results:

"...a purely formal legal or programmatic approach is not sufficient to achieve women's de facto equality with men, which the Committee interprets as substantive equality. (...) Pursuit of the goal of substantive equality also calls for an effective strategy aimed at overcoming underrepresentation of women and a redistribution of resources and power between men and women" (United Nations, 2004, para. 8).

"Equality of results is the logical corollary of de facto or substantive equality. These results may be quantitative and/or qualitative in nature; that is, women enjoying their rights in various fields in fairly equal numbers with men, enjoying the same income levels, equality in decision-making and political influence, and women enjoying freedom from violence" (United Nations, 2004, para. 9).

Empowerment is understood as a process of acquiring power. Sustainable Development Goal 5 (SDG 5) is to achieve gender equality and empower all women and girls by 2030. Women's autonomy involves them acquiring power over themselves and being empowered economically personally, within the family, in the community, professionally, institutionally and in any other sphere.

Likewise, empowerment is fundamental for autonomy and has many meanings. First, it is the power for women to take decisions about their own lives and their own bodies without tutelage of any kind, and it also means being empowered to be listened to and respected by others.

The distinction made by Benavente and Valdés Barrientos (2014) is helpful here. They explain that "empowerment involves an awareness of the need to alter or challenge power relations between the genders in both private and public contexts" (Benavente and Valdés Barrientos, 2014, p. 18). Meanwhile, "the concept of autonomy refers to people's capacity to take free and informed decisions about their lives, enabling them to be and act in accordance with their own aspirations and desires, given a historical context that makes those possible" (ECLAC, 2011, p. 9), and it is vital for guaranteeing the exercise of human rights in a context of full equality. The freedom of concrete individuals to be, act and dispose of goods in a particular society, individuals who are part of different sections of society and whose voices have to be heard, is a crucial yardstick of the quality of democracy. Regarding gender, autonomy has been defined as "the degree of freedom a woman has to be able to act on her own rather than others' choices" (Benavente and Valdés Barrientos, 2014, p. 19).

For the purposes of analysis and indicator use, women's autonomy has been grouped into three dimensions, explained as follows:

"Women must have autonomy in their private and public lives if the exercise of their human rights is to be guaranteed. The capacity to earn their own income and control assets and resources (economic autonomy), the right to exercise control over their own body (physical autonomy) and their full participation in the decisions affecting their lives and their community (autonomy in decision-making) are the three pillars for building gender equality in the region" (ECLAC, 2010).

B. How women's autonomy and empowerment are linked with articles 1 to 16 of CEDAW

Empowerment is related to the dimensions of autonomy. In this context, empowerment for physical autonomy involves women taking decisions about themselves. In the case of CEDAW, this is connected to article 5, article 6 and article 12 of the Convention, to which should be added the Committee's General recommendation 19, since at the time the Convention was adopted not a single

country was willing to support an article on violence against women.⁶ Consequently, the CEDAW Committee adopted two general recommendations on violence, numbers 12 (1989) and 19 (1992).⁷ The latter is the one currently used as the basis for government reports on the subject. The reports of all States parties include sections on violence against women.

Table 1
CEDAW articles and CEDAW Committee general recommendations relating to women's physical autonomy

Dimension of autonomy	Directly related CEDAW articles and CEDAW Committee general recommendations
Physical	Article 5: equality within couples, sexual division of roles and responsibilities. Stereotyping General recommendation 19: violence against women Article 6: traffic in women and exploitation of prostitution Article 12: health, family planning, sexual rights and reproductive rights General recommendation 24: women and health

Source: Prepared by the author.

Empowerment for economic autonomy means, as ECLAC puts it, the ability to generate one's own income and resources. It is also connected to the ability to decide what to do with those resources, how to spend them and what to invest in. This autonomy relates both to access to paid work on the same footing as men and to the right to earn income or decide what to do with it and to access credit, land and other property, and likewise public services, under the same conditions as men. It is closely tied both to the property regime of marriage and de facto unions and to their dissolution. But it is also connected to the consideration given by society and the State and in statistics to reproductive and care work, to both sexes' time use and to the value set on their unpaid economic contribution.

Table 2
CEDAW articles and CEDAW Committee general recommendations relating to women's economic autonomy

Dimension of autonomy	Directly related CEDAW articles and CEDAW Committee general recommendations
Economic	Article 11: eliminate discrimination in the field of employment to ensure the right to free choice of profession and non-discrimination on the grounds of marriage or maternity General recommendation 13: equal remuneration for work of equal value General recommendation 16: unpaid family work Article 13: the right to family benefits, bank loans and recreation Article 14: rural women, all rights of all women plus the right to land and to participation in development planning. Creates an opportunity for disadvantaged women to enforce their rights General recommendation 34: rural women Article 16: property regime of marriage and its dissolution General recommendation 29: economic consequences of marriage and its dissolution

Source: Prepared by the author.

⁶ Interview with the Mexican ambassador, Aída González, on 20 September 2010. Ambassador González was a member of the CEDAW drafting committee. Her remarks concerning this refusal by all the countries in the United Nations General Assembly were confirmed by Esther Véliz, a Cuban expert who was also on the committee and was interviewed by the author on 15 February 2015.

⁷ See General recommendations 1 to 34 of the CEDAW Committee (United Nations, 2017a) [online] <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx>.

Empowerment contributes to decision-making autonomy. Autonomy means acquiring public power by participating in the forums where decisions affecting communities, populations and nations are taken. It means participating in the different State authorities and at the different territorial levels (including the foreign service and multilateral agencies), in transformation processes in supranational mechanisms, in regional integration processes and in inter-State networks. The power of the institutional framework to further gender equality is crucial to the overall process of empowerment. The set of international instruments mandating equality is not confined to CEDAW but includes the Optional Protocol to that instrument, which expands access to justice for women (United Nations, 1999), and other instruments and mechanisms in the United Nations human rights protection system and the Inter-American System, chiefly the Convention of Belem do Pará and rulings by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

Table 3
CEDAW articles and CEDAW Committee general recommendations relating to women's decision-making autonomy

Dimension of autonomy	Directly related CEDAW articles and CEDAW Committee general recommendations
Decision-making	<p>Article 7: equality and non-discrimination in political and public life General recommendation 23: political and public life</p> <p>Article 8: ensure to women the opportunity to represent their countries on equal terms and without any discrimination</p> <p>Article 3: mechanisms and public policies for equality General recommendation 6: effective national machinery at a high level of government</p> <p>Article 4: temporary special measures aimed at accelerating de facto equality General recommendation 25: temporary special measures</p>

Source: Prepared by the author.

Table 4
CEDAW articles and CEDAW Committee general recommendations relating to all three dimensions of women's autonomy

Dimension of autonomy	Directly related CEDAW articles and CEDAW Committee general recommendations
Physical Economic Decision-making	<p>Article 2: condemns discrimination against women and approves the principle of equality between sexes in countries' constitutions, laws and policies, and in access to and administration of justice</p> <p>General recommendation 28: clarifies the scope and meaning of article 2</p> <p>Article 5: requires States parties to alter sociocultural patterns associated with the superiority or inferiority of one sex over the other, stereotyping</p> <p>Article 9: equality in acquisition, maintenance, change and transmission of nationality</p> <p>Article 10: eliminate all discrimination against women and ensure equality in the area of education</p> <p>Article 14: rural women as disadvantaged women, addressing a variety of situations of disadvantage that prevent different groups from enjoying equal rights</p>

Source: Prepared by the author.

Also identified was a set of articles affecting all dimensions of women's autonomy, such as article 2 (constitution, laws, administration of justice), part of article 5 (stereotyping), article 9 (nationality), article 10 (education), article 14 (disadvantaged women) and article 16 (marriage and family relations). It should be noted that some articles have sections bearing directly on one of the three dimensions of autonomy and other sections affecting all its dimensions. In the shared family responsibilities section of article 5, for example, the Committee refers to violence against women, and this is accordingly included under physical autonomy, but the section dealing with stereotyping affects all dimensions of autonomy. The same is true of article 14, as the part dealing with access to land and

development concerns economic autonomy, but rural women are disadvantaged relative to urban women in respect of numerous rights affecting all dimensions of women's autonomy. Education, meanwhile, strongly affects all three dimensions of autonomy.

Once the CEDAW Committee's concluding observations and recommendations to the countries had been reviewed, there were found to be a number of matters that are not strictly provided for in the articles of the Convention but are important for guaranteeing women's rights, such as the positive aspects noted by the Committee, publicization of the Convention, its Optional Protocol and the concluding observations on the country, and the need for disaggregated and analysed statistical data in reports. These subjects usually come up in general recommendations, examples being General recommendation 9 on statistics and 10 on dissemination of CEDAW.

The human rights bodies established are charged with monitoring one or more specific instruments. However, not only are rights interrelated, but so are human rights mechanisms. Thus, for example, CEDAW Committee dialogues with States parties are an opportunity to look at compliance with rulings by the same protection system or another one. Likewise, there are judgments by the Inter-American Court of Human Rights grounded in declarations or acknowledgements they could not obtain from any country but could from a United Nations body. An example is the lack of due diligence in the "Cotton Field" case. This case has the title of *González and others v. Mexico* and it ended in Mexico being ruled against over 400 women and girls killed in Ciudad Juárez, whose disappearance was not investigated by the State party. In 2005, the CEDAW Committee carried out an investigation procedure in compliance with article 8 of the CEDAW Optional Protocol. It was the appearance of the bodies of four women in a cotton field that gave the name to the case taken up by the inter-American system for the protection of human rights. The judgment of the Inter-American Court of Human Rights is from November 2009 (Inter-American Court of Human Rights, 2009). The keywords in the case illustrating the issues and rights analysed are: sexual assault, right to honour and privacy, right to physical integrity, rights of women, rights of children, dignity, legal and procedural guarantees, judicial protection, international responsibility of the State.

1. Aspects of CEDAW affecting the multiple dimensions of women's autonomy

An observation about the region to be borne in mind is the differences in the systems used to incorporate international human rights law into domestic legislation. Latin America has monist systems while the English-speaking Caribbean has a dualist system. A monist system is one in which international human rights law is incorporated into domestic legislation simply by the instrument being ratified. In dualist systems, conversely, incorporation takes place only if a domestic law containing the provisions of the instrument ratified is passed and enacted.

(a) Principles of equality and non-discrimination

The CEDAW Committee systematically asks States parties not to confuse the terms equality and equity. This is important for two reasons. The first is that the mechanism makes it clear that the obligations stemming from CEDAW are non-discrimination and the generation of formal and substantive equality, with a view to equality of outcomes. The second reason is that the region's constitutions adopt the principle of equality, and it is this principle that has to be carried forward. Indeed, the Committee directly recommends (i) that the State party's constitutions and laws should define discrimination in accordance with article 1 of the Convention and (ii) that it should engage in dialogue to clarify the conceptual difference between equality in its different forms and equity.⁸

⁸ Equity is an idea developed by Aristotle, who equates it with justice (to each their own), while equality is the Enlightenment idea that different people have the same worth. The Aristotelian idea of equity is developed in book V, chapter 10 of the *Nicomachean Ethics* (Ross, 1955).

States parties usually profess themselves willing to define discrimination, both direct and indirect, in accordance with CEDAW. This does not seem to be easy to put into practice, however. The Committee also accepts broader definitions, i.e., those that while incorporating the elements of article 1 of the Convention also include those of other human rights instruments to define any form of discrimination for social, economic, cultural, political or religious reasons or by reason of sexual orientation, gender identity or any other condition and not only discrimination by sex or gender or against women.

(b) Stereotyping

CEDAW contains a number of pioneering articles, including the provision that discrimination occurs when the result of some measure is discriminatory even if there is no intention to discriminate, and the obligation to actively promote cultural change when the culture is inimical to women's equality. The Committee sees gender stereotypes as underlying the perpetuation of the sexual division of labour and the exclusion of women from political decision-making. For CEDAW, and thus for the Committee, discrimination and inequality can never be justified by culture, established usages or customs.

The Committee strives to make specific recommendations to States parties that are appropriate to the particular country. For example, it would not recommend adopting a parity law in a country where women had never had the vote.

(c) Statistics

A problem that consistently comes up in CEDAW Committee observations and recommendations to countries has been with the collection, analysis and dissemination of data disaggregated by sex, age, race, ethnicity, geographical location and socioeconomic context. In fact, the greatest problem is that even if the countries have data (and they often report that they do), they do not manage to submit statistical information associated with women's rights. This is why the Committee has exhorted States parties to use measurable indicators to evaluate progress towards substantive equality in all the areas covered by the Convention, specifically drawing attention to the issue in General recommendation 9.

2. Rights associated with physical autonomy

(a) Violence

Violence against women deserves special attention. When CEDAW was adopted in 1979, no country in the world was willing to accept an article dealing with violence against women, on the grounds that this was a private matter. Even now it remains one of the critical obstacles to women's equality, as governments recognized in the Montevideo Strategy for Implementation of the Regional Gender Agenda within the Sustainable Development Framework by 2030 (ECLAC, 2017a) adopted at the thirteenth Regional Conference on Women in Latin America and the Caribbean in October 2016.

The CEDAW Committee has produced two general recommendations on the subject, but it is the second one, General recommendation 19, which in practice has come to form part of the Convention, with all 189 States parties reporting accordingly and accepting the Committee's observations and recommendations. Likewise, all the countries have ratified the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, known as the Convention of Belem do Pará, adopted by the General Assembly of the Organization of American States (OAS) in 1994. With the Convention, the inter-American human rights system became the first in the world to proclaim the right of women to a life free of violence and to have a binding instrument for combating gender violence.

Two generations of domestic laws have since been adopted in the region, although unfortunately not only has violence not been eradicated in Latin America and the Caribbean as progress has been made with rights, mechanisms and measures, but it has not even diminished. The Gender Equality Observatory offers an analysis of femicide in the region:

“Substantial progress has been made in the region over recent years with the passing of laws or reforms to penal codes in 18 countries characterizing as femicide or feminicide the offence of murder of a woman by reason of her being a woman as a crime independent of others already provided for in penal laws or as an aggravating circumstance in homicide. According to the official information provided by the countries so far, a total of 1,831 women from 16 countries in the region (13 in Latin America and 3 in the Caribbean) were victims of femicide or feminicide in 2016. Honduras remains the country in the region with the highest total number of femicides for every year in the historical series (466 in 2016), with a worrying rate of 10.2 femicides for every 100,000 women. (...) This figure is a sharp reminder of the need to sustain and increase efforts at the country level to end this scourge. Besides concrete prevention, attention, protection and reparation measures, information availability is another challenge along the path to the eradication of violence” (ECLAC, 2017b).

This gap does not detract from the region’s legislative vitality and efforts to find suitable mechanisms. The following table shows which countries have comprehensive laws on violence.

Table 5
Latin America (11 countries): comprehensive laws on violence,
considering the types of violence covered

	Domestic	Institutional	Workplace	Obstetric	Media	Against human rights	Sexual harassment	Property and economic	Symbolic
Argentina (2009)	x	x	x	x	x	x	x	x	x
Bolivia (Plurinational State of) (2013)	x	x	x	^a	x	x	x	x	x
Colombia (2008)	x		x					x	
El Salvador (2010)	x	x	x					x	x
Guatemala (2008)	x		x					x	
Mexico (2007)	x	x	x					x	
Nicaragua (2012)	x	x	x					x	
Panama (2013)	x	x	x	x	x	x	x	x	x
Paraguay (2016)	x	x	x	x	x	x	x	x	x
Peru (2015) ^b	x						x	x	
Venezuela (Bolivarian Republic of) (2007)	x	x	x	x	x		x	x	x

Source: N. Gherardi, “Otras formas de violencia contra las mujeres que reconocer, nombrar y visibilizar”, *Gender Affairs series*, No. 141 (LC/L.4262), Santiago, Economic Commission for Latin America and the Caribbean (ECLAC), 2016, table I.1, updated to 30 October 2017, on the basis of Gender Equality Observatory for Latin America and the Caribbean, “Violence laws” [online] <https://oig.cepal.org/en/laws/violence-laws>.

^a There is no specific mention of obstetric violence, but violence “in health services” is provided for.

^b Peru passed a law that was of a mixed character in that it refers to different manifestations of violence against women and also to violence against “family members”.

(b) Trafficking and exploitation of prostitution

One of the worst situations of discrimination and loss of personal autonomy for women is to be trafficked for work or sexual purposes or to be exploited for prostitution. Both situations are mentioned in article 6 of CEDAW.

Although all the region's countries have taken measures against trafficking and exploitation of prostitution, the Committee remains concerned about awareness of these two manifestations of discrimination against women and the paucity of statistics on the subject. It has also made known its views about the effectiveness of the laws, measures, policies and coordinating actions taken. The Committee likewise emphasizes the effectiveness of measures in the hitherto ineffective administration of justice. It also recommends that victims of trafficking and exploitation of prostitution should have access to legal representation free of charge and have guarantees that they will not be expelled from the country.

(c) Reproductive health

Article 12 of CEDAW refers to the right to health and includes access to family planning services. The Committee certainly pays great attention both to legislation and to women's actual opportunities for exercising reproductive rights. It was the first treaty body in the world to make a recommendation on preventable maternal deaths (the Pimentel case against Brazil).⁹

There is nowadays a consensus among all the treaty bodies, in both the United Nations and the inter-American system, that full criminalization of abortion is contrary to human rights, and they all recommend decriminalizing the voluntary interruption of pregnancy in cases of risk to women's lives and health, severe malformation of the fetus, rape and incest.

However, the CEDAW Committee does not accept abortion as a family planning method and places emphasis on sex education and access to contraceptives. It often expresses concern about the lack of adequate sexual and reproductive health services, especially in rural areas. Alongside unsafe illegal abortions, this is a cause of preventable maternal deaths, a serious problem in the region.

(d) Disadvantaged women and marriage and family relations

There are two CEDAW articles that connect strongly to personal autonomy, namely article 14 on rural women, where the Committee addresses the situation of disadvantaged women, and article 16 on marriage and family relations. It needs to be said that family relations remain at the root of discrimination against women. Thus, for example, there are still countries in the region where the man has sole management of the conjugal partnership's property and even the wife's personal property. Besides the property regime of marriage and the effects of dissolution, the sexual division of labour is socialized within the family, and while this is a very important sphere for women, it is also a place of risk because of the great frequency of domestic violence and femicide. Remote rural areas lack basic services, especially police, justice and health services, which can make it difficult or even impossible to enforce rights established in the country's laws.

3. Rights associated with economic autonomy

Articles 5 and 16 on the sexual division of labour and family responsibilities, article 10 (education), article 11 (employment), article 13 (eliminating discrimination against women in economic and social life) and article 14 (rural women, including access to land and participation) are directly associated with women's economic autonomy. A first thing to note is that article 11 on employment has been followed up well as a rule, both by States parties and by civil society organizations. The Committee's

⁹ See United Nations (2011b).

members include leading specialists on this article. The situation with article 13 is quite the reverse, as information from States parties and civil society is usually scarce, and the Committee itself sometimes puts the problem aside for lack of information, although it may include the need for knowledge on the subject in its recommendations to the State party.

The text of article 13 of CEDAW is as follows:

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (i) The right to family benefits;
- (ii) The right to bank loans, mortgages and other forms of financial credit;
- (iii) The right to participate in recreational activities, sports and all aspects of cultural life.

Reviewing the observations and recommendations relating to employment, it can be said that, as a rule, the region has egalitarian labour laws, although in some cases there is no legislation on equal pay for work of equal value. Furthermore, discrimination against female domestic service workers has been identified, as their rights are rarely equivalent to those of other female workers. Another cause for concern is how strongly women are represented in the informal economy (domestic, agricultural and own-account work), without social security. The Committee has likewise repeatedly brought up the need for better inspection and oversight of compliance with employment laws. It has shown particular concern about sexual harassment in the workplace.

Women continue to face major problems in the education system, not least because the high rate of adolescent pregnancy causes many to drop out. Another issue requiring attention is the transition from the education system to the employment system, about which there is too little information in the region. A further challenge is the fact that the most educated women probably suffer the worst pay discrimination.

Inequality affecting women's access to land tenancy and ownership is not a legislative but a practical issue in the region. In view of the persistent disadvantage faced by rural women in terms of their ability to access all rights, the Committee recently adopted General recommendation 34 on the rights of rural women, which includes both the right to participate in development and the right to land and agricultural employment on an equal footing.

Lastly, the Committee includes the subject of care and the excessive burden of unpaid reproductive work in its dialogues on article 16 of the Convention. It has also produced General recommendation 29 on the economic effects of marriage and its dissolution. In the case of the countries studied, a recurrent concern is that women only have rights to tangible property and not intangible property such as pensions.

4. Rights associated with decision-making autonomy

(a) Political representation

Article 7 of the Convention deals with the obligation of States parties to take all measures to eliminate discrimination against women in political and public life and ensure the right to vote in elections and referendums and to stand for election. The same article requires States parties to ensure to women the right to participate in the formulation of government policy and the implementation thereof and to perform public functions in all areas, and to participate in non-governmental organizations and associations. In practice, the Committee concerns itself in its dialogues mainly with the participation of women as electors, as candidates and as elected officials in both individual and collegiate positions, together with their participation in high-level public sector management at all territorial levels and their integration into the public administration. States report on these subjects, although not always for all levels.

Article 8 deals with the obligation of States parties to ensure that women are internationally represented under the same conditions as men and can participate in the work of international organizations. In the dialogues, some countries present data on the subject, particularly on embassies and missions to multilateral agencies. Membership of delegations is dealt with to a lesser extent.¹⁰

(b) National mechanisms

This is a crucial issue for the CEDAW Committee, which consistently discusses and makes recommendations on the hierarchical status of the mechanism and/or its head, its real ability to exercise influence and the budget available to it. The Committee also reviews other mechanisms, such as those operating within the legislature and judiciary and those of subnational governments.

(c) Non-governmental organizations

The Committee has repeatedly drawn attention to the importance of listening to and working with non-governmental organizations. In cases where there are difficulties, it spells out the importance of dialogue even with those that might be critical of governments. Paragraph (c) of article 7 requires States to promote the autonomous organization of women.

(d) Temporary special measures to accelerate equality

Although the Committee has continued to call for more and better temporary special measures to accelerate progress towards substantive equality in political and public participation, it has been moving towards the position that the mechanisms provided for by article 4.1 of the Convention and by General recommendation 25 should apply to groups of women who are disadvantaged in political participation and, as regards areas of action, to health and employment principally, as a tool for economic equality.

(e) Ratification of the Optional Protocol

The Committee addresses this issue and recommends not only ratifying the Optional Protocol, if the dialogue is with a country that has not yet done so, but publicizing and implementing it in the event that the State party has ratified it but it has not been used. The Optional Protocol does not create new rights but expands the right of access to justice for women.

In Latin America, Chile, Cuba, El Salvador, Honduras and Nicaragua have not ratified the Optional Protocol. The first three of these have signed the instrument but not yet ratified it. In the English-, French- and Dutch-speaking Caribbean, it has been ratified only by Antigua and Barbuda, Belize and Saint Kitts and Nevis.

C. Opportunity in adversity

Different institutions of the United Nations and inter-American system regard the 2030 Agenda for Sustainable Development as an opportunity to improve the relationship between human beings and the environment, to reduce inequalities of all kinds and to attain gender equality. This opportunity exists, though, not only at times of economic growth or slowdown, but also when developed countries are finding it harder to finance development. One of the critical structural issues identified in the Montevideo Strategy is the need to overcome poverty and inequality (ECLAC, 2017a), which means agreeing on how to produce more wealth and how to redistribute it. This is vital for complying with the SDGs, and particularly for achieving gender equality by 2030 (SDG 5).

¹⁰ Feminists in the human rights movement have launched a campaign called GQUAL for parity between men and women in international organizations.

A key point on the agenda is the review and reformulation of gender equality mainstreaming in each State, considering both architecture and processes, i.e., policies and people. SDG 5 has been proposed as a transformative goal, and achieving it will require it to be incorporated into every one of the other goals in the effort to ensure no-one is left behind. Paragraph 20 of the 2030 Agenda mandates mainstreaming of the gender perspective throughout the SDGs, even those that have no explicit targets for equality. The ECLAC position document *Equality and Women's Autonomy in the Sustainable Development Agenda*, prepared for the thirteenth Regional Conference on Women, develops this idea and puts forward proposals for its implementation (ECLAC, 2016).

It should be stressed that the Montevideo Strategy is already being used by countries in the region and adapted to their domestic circumstances. Comprehensive application requires far-reaching changes in national States. Latin America and the Caribbean has a lead over other regions in some areas, such as female representation in parliament, which is currently the highest in the world. Strategic thought needs to be given to how to build on these comparative advantages, however, since history shows that they are not always sustained.

This is a major challenge, since what is proposed is a great leap to empowerment for the equality, autonomy and rights of all women by 2030. Doubtless it will not be possible to transform all areas of gender inequality. Institutionalizing care policies is not enough to deal with the sexual division of labour, for example, yet this may be all that is feasible by 2030, and it would mark a major transformation in gender relations. The greatest challenge is to incorporate the gender equality perspective into inter-State coordination and into dialogues and covenants of all kinds, into development plans and government plans, and indeed into all planning and management.

II. Women's rights in Latin America and the Caribbean according to the latest concluding observations and recommendations of the CEDAW Committee

This chapter analyses the recommendations and observations made by the CEDAW Committee to the countries of Latin America and the Caribbean. It first deals with the Mexico, Central America and Spanish-speaking Caribbean subregion, which includes Costa Rica, Cuba, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama. The second section analyses the recommendations for the English-, Dutch- and French-speaking Caribbean, which includes Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago. Lastly, it deals with the South America subregion, which includes Argentina, the Bolivarian Republic of Venezuela, Brazil, Colombia, Chile, Ecuador, Paraguay, Peru, the Plurinational State of Bolivia and Uruguay.¹¹

Discussions among governments analysing the recommendations at the preparatory subregional meetings for the Regional Conference were a vital input for the participatory preparation of the Montevideo Strategy for Implementation of the Regional Gender Agenda within the Sustainable Development Framework by 2030 and its adoption at the thirteenth Regional Conference on Women.

¹¹ See the concluding observations and recommendations of the CEDAW Committee (United Nations, 2017b) [online] http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CEDAW.

A. Women's rights in Mexico, Central America and the Spanish-speaking Caribbean according to the latest CEDAW Committee concluding observations and recommendations

This subregion includes nine countries, listed here with the years they engaged in their constructive dialogue with the Committee: Costa Rica (2011), Cuba (2013), the Dominican Republic (2013), El Salvador (2008), Guatemala (2009), Honduras (2007), Mexico (2012), Nicaragua (2006) and Panama (2010).

1. Rights, observations and recommendations affecting the multiple dimensions of women's autonomy

(a) Positive aspects

The Committee has highlighted the fact that all the countries have made progress with laws and planning and that equality policies and action plans have been adopted in some. It specifically notes the occasions on which there have been good relationships with civil society and whether the State party has ratified human rights and women's rights treaties or some type of agreement with a bearing on women's rights.

The committee praised Mexico for giving constitutional status to the human rights treaties it had ratified, including the Convention, and for enshrining the *pro persona* principle.¹² It noted with satisfaction that the Dominican Republic had enshrined the principle of non-discrimination and direct application of international human rights treaties ratified by the State party in its constitution.

The Committee has also noted approvingly the creation of State mechanisms contributing to women's equality and the upgrading of their hierarchical position and functions, as with Panama's National Institute for Women in 2009; the strengthening of the Presidential Secretariat for Women, the Office of the Ombudsman for Indigenous Women and the National Coordinating Committee for the Prevention of Domestic Violence and Violence against Women in Guatemala; and the creation in Honduras of special courts for cases of domestic violence in two cities, the National Institute for Women as a national mechanism for the advancement of women, and the Office of the Special Prosecutor for Women.

It has also positively highlighted the election of women to high-level positions. For example, the President of Costa Rica was a woman at the time of the constructive dialogue; 48.9% of parliamentarians in Cuba were women, as were 36.46% of parliamentarians in Mexico, while in Honduras 8 women sat on the Supreme Court of Justice out of a total of 15 magistrates, with one of them presiding.

Costa Rica was also congratulated for achieving parity and Mexico for having legally mandated a proportion of 40:60. Mexico subsequently established parity. This shows that, going by this source, there may be situations in which countries have progressed subsequent to their dialogue with the Committee, i.e., have now complied with its recommendations or have simply made progress in adopting rights.

¹² This human rights principle, known also as *pro homine*, involves an assumption that interpretations are always to favour the human being. There is currently a debate as to whether this only means the individual or can also apply to groups. Mexico incorporated it into article 1 of its constitution in 2011, making "person" plural: "Provisions relating to human rights shall be interpreted in accordance with this constitution and with relevant international treaties in a way that provides persons with the fullest protection at all times."

At the time of its dialogue, Panama had introduced an Equal Opportunities Act, and most of its progress had been legislative. Thus, for example, five countries passed laws to deal with violence against women or gender violence. Costa Rica alone passed three laws in this area, one against domestic violence, another creating the criminal offence of violence against women, which was amended, and a third on victim and witness protection. Mexico, for its part, adopted the General Law on Women's Access to a Life Free of Violence and its regulations, as well as promulgating the Protection of Human Rights Defenders and Journalists Act and setting up the National System for the Prevention, Attention, Punishment and Eradication of Violence against Women. Guatemala passed the Law against Femicide and Other Forms of Violence against Women, El Salvador the Law against Domestic Violence and amendments to the Penal Code that make the trafficking of persons and sexual harassment in the workplace criminal offences, and Honduras the Law against Domestic Violence, which it subsequently amended.

The CEDAW Committee congratulated two countries, the Dominican Republic and Mexico, for passing laws against the trafficking of persons, particularly women and girls, and acknowledged Nicaragua's establishment of the National Coalition against Trafficking in Persons.

Cuba and Mexico established employment and social security laws and other measures tending to safeguard equality between men and women in employment. For its part, the Dominican Republic passed a law on disability that recognizes disabled women as rights-bearers.

All the countries have approved policies of various kinds and differing scope on which the CEDAW Committee has congratulated them. For example, Costa Rica adopted the National Policy for Gender Equality and Equity for 2007-2017 with a five-year action plan for 2008-2012, the Dominican Republic implemented the National Plan for Gender Equality and Equity, El Salvador adopted a National Policy for Women, 2005-2009, Honduras adopted not only its National Policy for Women but also the First National Equal Opportunities Plan 2002-2007 and a policy of gender equity in agriculture, 1999-2015, and Cuba introduced a sexuality education programme with a gender and sexual rights approach into the curriculum of the national education system.

The countries of the subregion have ratified international treaties such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the United Nations Convention against Transnational Organized Crime, ratified by Cuba, the Dominican Republic, Guatemala, Mexico and Nicaragua. The Protocol against the Smuggling of Migrants by Land, Sea and Air, which supplements the United Nations Convention against Transnational Organized Crime, was likewise ratified by Cuba, which also ratified the International Convention for the Protection of All Persons from Enforced Disappearance, as did Mexico.

The Convention on the Rights of Persons with Disabilities was ratified by Cuba, the Dominican Republic and Mexico. The latter two also ratified the Optional Protocol to the Convention.

Other treaties whose ratification was positively remarked upon by the CEDAW Committee were the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Cuba), the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Dominican Republic), the United Nations Convention against Transnational Organized Crime and the Hague Conventions (Cuba), the second Optional Protocol to the International Covenant on Civil and Political Rights (Mexico) and the Domestic Workers Convention (number 189) of the International Labour Organization (ILO) (Dominican Republic).

The Committee also congratulated Panama for ratifying the Optional Protocol to CEDAW and expressed its approval of the statement by the Honduras delegation that the country was completing the ratification process for this very important instrument. However, the dialogue took place in 2007, and as of 2017 Honduras had yet to ratify the Optional Protocol.

(b) The equality principle

As noted earlier, the CEDAW Committee considers it important for the principles of equality and non-discrimination against women to be established and defined as laid down in article 1 of the Convention. Costa Rica, which uses the concepts of equality and equity, was advised to hold a dialogue to clarify the conceptual difference between the two ideas. The Committee has expressed gratitude to Cuba for its stated willingness to define concepts such as direct and indirect discrimination, particularly if the State party incorporates the definition of discrimination into domestic law, as Panama did. However, the latter has been alerted to the need to establish effective mechanisms to enforce the prohibition on discriminating against women.

There are also concerns about the persistence of legal forms of discrimination in the subregion, such as that against Haitian women in the Dominican Republic. This is something of a fraught topic in the field of human rights, as the State party does not acknowledge any discrimination. There is agreement, however, that the children of Haitian women not legally resident in the Dominican Republic cannot acquire Dominican nationality even though the principle of *ius soli* operates, i.e., people born in the country can take its nationality.

In the same country, although the protection of life from conception is established in the constitution, the State party declared that this did not entail an absolute ban on the voluntary termination of pregnancy, since the revised Penal Code includes grounds for non-penalization, such as health reasons. However, this revision was deemed unconstitutional by the Constitutional Court for procedural reasons.

Legislative harmonization is an important issue for the CEDAW Committee, particularly in the case of federal countries, as it made clear to Mexico, the only federal State party analysed in the subregion. The Committee asked the government to encourage both the national legislature and the legislatures of the federal states to adopt measures to enforce the Convention and the observations and recommendations. It also recommended looking at the lack of effective mechanisms for overseeing compliance with current laws.

The Committee advised Guatemala, Honduras and Nicaragua to repeal laws directly discriminating against women. In the case of Guatemala, for example, these are the Labour, Civil and Penal Codes, and the Committee is requesting priority legislative reforms on the basis that they are incompatible with the Convention and the State party's own constitution. The same codes need reforming in Honduras, and the Committee is advising the country to undertake a general review of the compatibility of domestic legislation with the Convention and repeal the discriminatory provisions. The Government of Nicaragua, for its part, was urged to collaborate with the legislature to enact pending legislation, carry out a wide-ranging review of the country's laws, do away with discriminatory provisions and set up mechanisms to enforce the Convention. Earlier recommendations along these lines are often reiterated as well.¹³

(c) Stereotyping

The CEDAW Committee has made observations and recommendations about stereotyping to all the countries in the subregion except Mexico. In the case of Costa Rica, after noting the adoption of measures to eliminate traditional gender roles in different areas, it has noted with concern the

¹³ The CEDAW Committee uses the expression "The Committee reiterates" when it has already made the recommendation in earlier dialogues, such as to Mexico in 2006, 2002, 1998, 1990 and 1983, to Guatemala in 2006, 2002 and 1994, to El Salvador in 2004, 1992 and 1986, to Honduras in 2007 and 1992, to Nicaragua in 2001, 1993 and 1989, to Costa Rica in 2003, to Panama in 1998 and 1985, to Cuba in 2006, 2000, 1996 and 1983 and to the Dominican Republic in 2004, 1998 and 1988. The reiteration most commonly relates to recommendations made in one of the most recent dialogues.

influence of religious beliefs and cultural patterns that are hindering progress, mainly in the area of sexual rights and reproductive rights. In its recommendation, the Committee advised the State party to direct specific actions at religious leaders and public officials.

In the case of Cuba, while the Committee has praised the State's efforts against patriarchal attitudes and stereotypes, it also considers that insufficient information has been made available on this work, so that women have been placed at a disadvantage and the effectiveness or otherwise of the measures applied is unknown. Accordingly, it has urged the adoption without delay of a strategy against stereotypes that lead to discrimination against women, involving the expansion of public education programmes, especially with respect to stereotypes affecting rural and Afrodescendent women.

A turning point can be seen in the observations and recommendations to the Dominican Republic, which acknowledge a number of efforts but express concern about the promotion of tourism in a way that depicts women as sex objects and in particular about the situation of Haitian women and those of Haitian origin. They also include recommendations about the sexual division of labour.

In the case of Guatemala, besides expressing concern about the country's patriarchal culture and the persistence of the sexual division of labour, the Committee has addressed multiple discrimination based on both ethnic origin and sexuality. It has urged the country to make a comprehensive effort to eliminate stereotypes. In much the same way, El Salvador has been urged to implement wide-ranging programmes and role changes within families¹⁴ and encouraged not to justify violence against women.

In all cases, the Committee emphasizes the need to work with the media to change stereotypes.

(d) Statistics

With the exceptions of Costa Rica and Mexico, all the CEDAW Committee's observations and recommendations to the subregion's countries have been affected by the difficulty of gathering, analysing and disseminating data disaggregated by sex, age, race, ethnicity, geographical location and socioeconomic context. The greatest problem is actually that while the countries might have data, and often report that they do in their dialogues, they do not succeed in marrying statistical data with women's rights. For this reason, the Committee has urged States parties to use measurable indicators to gauge progress towards substantive equality in all the areas covered by the Convention, specifically drawing attention to its General recommendation 9.

In the cases of Costa Rica, Cuba and Mexico, there have been recommendations on data production and processing. For Mexico, for example, these have concerned data on cases of gender violence reported, processed and ruled on by the courts, while in Costa Rica and Cuba the data called for are those on Afrodescendent, indigenous, disabled and lesbian women. This is because the Committee cannot consider data to exist if States parties do not present them, even though the Cuban statistics expert participating in the dialogue stated that the country had these data. The Committee noted that Costa Rica had presented some contradictory data on education. The difference is that specific observations are made for certain articles and broader recommendations in other cases.

¹⁴ Paragraph 22 of the 2008 Concluding observations for El Salvador reads: "The Committee urges the State party to increase its efforts to design and implement comprehensive awareness-raising programmes to foster a better understanding of and support for equality between women and men at all levels of society. Such efforts should aim at modifying stereotypical attitudes and cultural norms about the responsibilities and roles of women and men in the family, the workplace and in society, as required under articles 2 (f) and 5 (a) of the Convention, and strengthening societal support for equality between women and men. The Committee also urges the State party to adopt an overall strategy to eliminate sexist stereotypes, including through the inclusion of awareness-raising in school curricula, the training of teachers and the sensitization of the media and the public at large, including actions specifically targeting men and boys" (United Nations, 2008).

2. Rights associated with physical autonomy

(a) Violence

Serious forms of violence against women exist in all the countries of the subregion: domestic, sexual, community and political violence and different forms of gender violence. However, the scale of violence in El Salvador, Guatemala, Honduras and Mexico is extreme, and many of the Committee's observations and recommendations concentrate on this problem.

All the countries have laws dealing with violence against women. According to the CEDAW Committee, however, machismo, the stereotypes shared by justice system personnel themselves, the ineffectiveness of protection and prevention measures and a lack of justice conspire against the efficiency and effectiveness of measures. This is compounded by problems such as organized crime and social mafias such as the *maras*. Thanks to the consultations it carried out while preparing General recommendation 30 on women in conflict prevention, conflict and post-conflict situations, the CEDAW Committee considered organized crime and political violence in addition to belligerents, included under humanitarian law.

What has been highlighted as a result is that approaching the eradication of violence against women requires differentiated strategies from El Salvador, Guatemala, Honduras and Mexico, which have high levels of social and criminal violence. While Costa Rica, Cuba, the Dominican Republic, Nicaragua and Panama have serious problems of gender violence, this is not set against a backdrop of pervasive violence. It should also be noted that levels of social violence and organized crime vary considerably in the different federal states in countries like Mexico.

(b) Trafficking and the exploitation of prostitution

All countries in the subregion have taken measures against trafficking and the exploitation of prostitution. In some cases, visas have been given to trafficked foreign women, but in Costa Rica these visas are temporary and the State party does not have the necessary human or financial resources or sufficient data on these crimes. At the same time, the Committee noted a low level of convictions for these offences. In the case of Cuba, there is no statistical information on trafficking or acknowledgement that the exploitation of prostitution exists. The Committee has recommended that studies and surveys on the subject be carried out.

Paragraph 27 of the Concluding observations for the Dominican Republic called upon the State party: "(a) To strengthen efforts to provide protection, remedies and reparations for women victims of trafficking and sexual exploitation, in collaboration with non-governmental organizations and international agencies; (b) To include, as part of its strategy to combat trafficking, measures to provide legal advice for women, including women of Haitian origin, and to strengthen oversight and the enforcement of sanctions for law enforcement officials involved in cases of trafficking; (c) To devise a comprehensive system to collect gender-disaggregated data on trafficking in persons and smuggling; (d) To ensure that traffickers and smugglers are prosecuted and adequately punished, by providing systematic training to judges, prosecutors and other law enforcement officials on the investigation and adjudication of cases of trafficking and smuggling, and increase the number of shelters for women victims of trafficking; (e) To develop bilateral and multilateral cooperation agreements with countries of origin and destination; (f) To address the root causes of prostitution of women and girls in order to eliminate their vulnerability to sexual exploitation and ensure their rehabilitation and social reintegration" (United Nations, 2013a).

Panama had complied with earlier recommendations insofar as it had produced information on the issues. In this case, the concern of the Committee was about the disproportion between the many women and girls who were victims and the very few perpetrators tried and punished. It expressed concern about the lack of up-to-date disaggregated information in the cases of El Salvador, Guatemala and Panama.

(c) Reproductive health

In the subregion, abortion is absolutely prohibited in the Dominican Republic, El Salvador, Honduras and Nicaragua, which is contrary to a standard of both the United Nations human rights system and the inter-American system. The CEDAW Committee has recommended decriminalizing abortions carried out in cases of risk to women's life or health, serious fetal malformation, rape and incest.¹⁵ At the same time, the Committee indicated in earlier observations to Cuba that it did not accept abortion as a family planning method. In the most recent dialogue, it acknowledged progress with access to contraceptive methods in the State party, but the high rate of adolescent abortion (ages 12 and upward) was flagged as a concern and as a problem with sex education and access to contraceptives.

Considering the ban on in vitro fertilization in Costa Rica, the CEDAW Committee advised the State party in paragraph 33 (b) of the Concluding observations to "consider lifting the ban on in vitro fertilization and adopting legislative measures aimed at facilitating and expanding women's right to decide freely and responsibly on the number of their children in accordance with article 16 (e) of the Convention, and ensure access to assisted reproductive services, including in vitro fertilization, in line with the recommendations of the Inter-American Commission on Human Rights in 2010" (United Nations, 2011c). In this case, the Inter-American Court of Human Rights, in its judgment on *Artavia Murillo and others v. Costa Rica* (Inter-American Court of Human Rights, 2012), ordered the State to lift the ban and make the procedure accessible. The State party complied with the ruling by issuing an executive decree. The first birth by in vitro fertilization took place in 2017.

3. Rights associated with economic autonomy

With regard to employment, the Committee urged Costa Rica to take measures to better apply its employment legislation, deal with pay differences and encourage women to work in non-traditional sectors. The Committee also recommended that measures be taken to make childcare services available so that women could balance their employment and family responsibilities, and asked the State party to redouble its efforts to properly protect women migrants and refugees. It likewise invited Costa Rica to ratify ILO Convention 189 and ensure that women reporting sexual harassment in the workplace were not dismissed and that the harassers were prosecuted. A recommendation to Cuba was that while its legislation guaranteed equality in employment, there were no provisions on equal pay or sexual harassment, and the laws needed to be improved. The Committee also indicated that although there was provision for workplace discrimination to be reported, this had never happened. It also recommended encouraging men to take paternity leave, since few did so, and asked the State party to improve sex-disaggregated statistics.

In the case of the Dominican Republic, the Committee recommended creating employment opportunities for women in the structured and unstructured economy, adopting measures to help them participate in the non-traditional labour market, providing effective remedies against sexual harassment and banning pregnancy and HIV tests as a prerequisite for employment. It also called upon the State party to develop mechanisms for reporting employment discrimination against pregnant women, improve oversight of the conditions of domestic workers, make progress with measures to reconcile employment and family responsibilities, promote greater male participation in care and domestic tasks and, lastly, supervise conditions on sugar cane plantations to put an end to female forced labour. Panama was advised to take measures against employment discrimination and occupational segregation, including measures to guarantee equal pay for work of equal value. In this

¹⁵ The Government of the Dominican Republic made an effort to comply with the Committee recommendation and succeeded in securing passage by the legislature and enactment by the executive of a bill decriminalizing abortions carried out for the reasons given. In late 2015, however, the Constitutional Court ruled that the law decriminalizing abortion for reasons of health and violence was unconstitutional.

case, the Committee requested sex-disaggregated data on child labour, wages, pensions and social security rights for the next report, together with effective measures to combat sexual harassment and guarantee maternity rights.

Guatemala was advised to adopt temporary special measures to remedy women's disadvantage in the labour market and measures to provide access to social security for domestic, rural and maquila workers and those in the unstructured sector of the economy. The Committee urged redoubled efforts to eradicate child labour. At the same time, it advised the State to bring in measures to help women access land ownership and tenancy and credit.

El Salvador was urged to take measures, including temporary special measures, to remedy women's disadvantage in the labour market, deal with occupational segregation and do away with unequal pay. The State party was also asked to reinforce the work of bodies responsible for monitoring employment discrimination and apply penalties to industries that infringed women's rights. It was likewise urged to eradicate child labour, support education for girls, reinforce initiatives for women's economic empowerment and monitor the effects of social and economic policies on women.

4. Rights associated with decision-making autonomy

(a) Political representation

Although reports and concluding observations cannot usually draw on data for all levels of government, particularly local governments, it is striking that five of the seven countries with equal representation laws are in this subregion: Costa Rica, Honduras, Mexico, Nicaragua and Panama. In the case of Honduras, the law requires the electoral body to issue regulations for parity in 2016. The process is ongoing. It looks as though a 50% quota for female candidates will be included in the electoral legislation, but there are difficulties in getting alternation accepted. The provisions of Panamanian law are also weak, as the 50% requirement is only for lists presented in party primaries or internal elections and not for the lists presented in the actual elections, besides which there is a clause allowing this obligation to be waived for a political party if the Secretariat for Women states that there are no women candidates.

Costa Rica and Mexico are in the process of supplementing vertical parity, i.e., zebra or zipper lists, with horizontal parity, that magnificent Bolivian contribution to equality and electoral systems: 50% of each party's candidates must be of each sex, both at the head of lists and in single-member and single-person positions. Like Cuba and Nicaragua, Mexico now has a lower chamber that is more than 40% female.

Female representation in parliament ranges between 15% and 30% in most Latin American countries and likewise in the subregion, but Guatemala falls below this average figure, and in March 2016 the country's Congress unfortunately rejected representative parity.

It may be noted that CEDAW Committee recommendations were highlighted. There were two reasons for this, the extraordinary dynamism in this field in the subregion and the existence of a study of political representation in the 19 countries of the region, with data up to October 2015.

In the case of Costa Rica, the Committee was concerned, first, about non-application of the quota to first-past-the-post elective positions, which include the executive positions. This will be resolved, as the judgment by the Constitutional Court of Costa Rica was accepted by the Supreme Electoral Court. Another matter of concern, though, was the political participation of disadvantaged women such as Afro-Costa Rican, indigenous and disabled women, and the Committee recommended the introduction of temporary special measures to ensure such participation.

The Committee also congratulated Cuba but remained concerned that the country's near-parity in parliament was not guaranteed by law, that women were underrepresented in the economy and that there was a lack of mechanisms for ensuring participation by women from disadvantaged groups (disabled, Afro-Cuban and rural women).

Of the recommendations to Mexico, it is worth mentioning the need for harmonization at the different levels of government, the urgency of removing obstacles to participation by indigenous women, including within their communities, and the importance of ensuring that political parties meet their obligation to allocate 2% of all the public funding they receive to the promotion of political leadership by women, particularly indigenous women at the municipal level.

The change in Nicaragua has been remarkable, for although stereotypes undoubtedly still exist, female representation in decision-making positions has increased. After passing the 40% barrier for women in the legislature, Nicaragua adopted representative parity. The country's last dialogue with the Committee was in 2006.

In the cases of the Dominican Republic and Honduras, lastly, the Committee considers that political representation is inadequate (it always draws attention to this if it is below 30%) and measures need to be taken.

In summary, with the exception of Guatemala, political representation is probably the sphere in which it is possible to aspire to substantive equality by 2030. It is a promising sign that the region's governments committed themselves in the Montevideo Strategy to pursuing parity democracy as a pillar of the effort to achieve equality by 2030.

(b) National mechanisms

The Committee routinely considers the hierarchical position of the mechanism and/or its head, its real capacity for influence and the budget available to it. The main concern about the Dominican Republic, El Salvador and Nicaragua has been the status of their national mechanisms, the ability of these to actually make a difference and the small budgets available to them. In the case of Panama, a further concern is the lack of coordination between institutions responsible for women's equality, and the same is true of Guatemala, although its mechanism has higher status. In the case of Honduras, the mechanism's very small budget is the main source of concern for the CEDAW Committee.

Costa Rica was shown to have complied with the Committee's recommendations. The head of the Women's National Institute (INAMU) had lost her rank of minister. Undoubtedly the CEDAW Committee recommendation was not the only influence, but this rank was restored to the head of the national mechanism. In the case of Cuba, the Committee recommended in paragraph 17 of its Concluding observations that the State party: "(a) Establish State machinery for the advancement of women and enhance coordination between the Federation of Cuban Women and government agencies, in particular through the provision of adequate financial and human resources; (b) Use the Convention as the legal framework for the design of a comprehensive national plan of action to promote gender equality and put in place monitoring mechanisms to regularly assess the progress made towards the achievement of established goals" (United Nations, 2013b).

(c) Non-governmental organizations

In all cases, the Committee reiterated the importance of listening to and working with non-governmental organizations, including those that might be critical of governments. In fact, article 7 itself requires States to promote the autonomous organization of women.

(d) Temporary special measures to accelerate equality

Although the Committee has continued to call for more and better temporary special measures to accelerate progress towards substantive equality in political and public participation, it has been moving towards the position that the mechanisms provided for by article 4.1 of the Convention and by General recommendation 25 should apply to groups of women who are disadvantaged in political participation and, as regards areas of action, to health and employment principally, as a tool for equality in the economic sphere.

(e) Ratification of the Optional Protocol

Four of the nine countries in the subregion have not ratified this important instrument on access to justice, namely Cuba, El Salvador, Honduras and Nicaragua. Cuba and El Salvador have signed the instrument but not yet ratified it. In all these cases, the Committee urged ratification.

B. Women's rights in the English-, French- and Dutch-speaking Caribbean according to the latest CEDAW Committee concluding observations and recommendations

This subregion includes the following 14 countries, with the year they held their constructive dialogue with the Committee in brackets: Antigua and Barbuda (1997), the Bahamas (2012), Barbados (2002), Belize (2007), Dominica (2009), Grenada (2012), Guyana (2012), Haiti (2009 and 2016),¹⁶ Jamaica (2012), Saint Kitts and Nevis (2002), Saint Lucia (2006), Saint Vincent and the Grenadines (2015), Suriname (2002 and 2007) and Trinidad and Tobago (2002 and 2016).¹⁷

1. Rights, observations and recommendations affecting the multiple dimensions of women's autonomy

(a) Positive aspects

Antigua and Barbuda: The Committee welcomed the fact that Antigua and Barbuda had ratified the Convention without reservations and commended it for its report, the presentation made in the dialogue and the submission of the addendum. It noted the obvious political will in the country with regard to the advancement of women and commended Antigua and Barbuda on the early establishment of the Women's Desk soon after attaining independence, and its later upgrading and expansion to the Directorate of Women's Affairs. The Committee also commended the Government on its intention to upgrade that office further, to a ministry, when a woman was elected to office. The Committee welcomed the introduction of the Equal Opportunity Act, the Divorce Act and the Sexual Offences Act. It looked forward to the results of the introduction of the equal pay and domestic violence bills.

The Committee complimented the State party on the successful measures it had taken to reduce the birth rate, the introduction of gender management systems, the introduction of the domestic violence hotline and related support services, and measures to address teenage pregnancies. Lastly, it applauded the assurances made by the President that the inequalities in power-sharing at the highest decision-making levels would be redressed (United Nations, 1997).

Bahamas: The Committee was appreciative of the fact that the State party had submitted its combined initial to fourth periodic reports and its fifth periodic report, although the reports lacked references to the Committee's general recommendations and to some specific sex-disaggregated data. The Committee welcomed the withdrawal of the reservation to article 16 (h) of the Convention. It expressed appreciation for the efforts made to empower women and combat sex-based discrimination and for the adoption of the following laws: (a) the Education Act of 1962 and its amendment of 1996,

¹⁶ Access to the Concluding observations of February 2016 was obtained in the closing stages of this study, so that two sets of concluding observations have been considered for Haiti.

¹⁷ The latest dialogue between Trinidad and Tobago and the CEDAW Committee took place in July 2016. Considered here are both the Concluding observations of 2002, which had already been processed, and those of 2016. Barbuda was scheduled to have its dialogue in October 2016 (without a report), but this did not take place. Barbados's dialogue is planned for July 2017.

providing for universal and equal access to education; (b) the sexual Offences and Domestic Violence Act of 1991; (c) the Employment Act of 2001; (d) the Inheritance Act of 2002, permitting men and women to inherit equally; (e) the Domestic Violence (Protection Orders) Act of 2007; (f) the Trafficking in Persons (Prevention and Suppression) Act of 2008.

The Committee noted with appreciation the existence of the Bureau of Women's Affairs and the launching of various initiatives to combat violence against women, including the launching by the Ministry of Labour and Social Development in 2012 of the campaign entitled "Domestic violence is everyone's business". It noted with satisfaction that the State party had ratified: (a) the International Covenant on Economic, Social and Cultural Rights; (b) the International Covenant on Civil and Political Rights; (c) the International Convention on the Elimination of All Forms of Racial Discrimination; (d) The Convention on the Rights of the Child (United Nations, 2012c).

Barbados: The Committee welcomed legislation promoting and protecting women's rights, such as the Domicile Reform Act, the Domestic Violence (Protection Orders) Act, the Change of Name Act and the Maintenance Act, which recognizes the same maintenance rights in family relations for couples who have lived together for five years or more as for married spouses.

It commended the State party for providing free education, materials and books to low-income children, chiefly girls. It noted with satisfaction that the female literacy rate was 97% and congratulated the State party on having achieved a maternal mortality rate of zero. It commended the State party for viewing health care as a fundamental right and for extending services to the whole population, and especially for the Maternal and Child Health Programme, which monitors progress throughout pregnancy (United Nations, 2002).

Belize: The Committee commended the State party for the arrangements it had put in place for improved implementation of the Convention, including the National Gender Policy, the Women's Agenda 2003-2008 and the appointment of Women Development Officers in each district. It congratulated it on the law reform process, including the amendment to the Constitution to guarantee gender equality, as well as amendments to the Criminal Code, the Evidence Act, the Wages Council Act, the Married Persons Protection Act, the Supreme Court of Judicature Act and the Administration of Estates Act. It also welcomed the enactment of new legislation, including the Domestic Violence Act of 2007, effective from July 2007, and the Trafficking in Persons (Prohibition) Act of 2003.

The Committee noted with satisfaction the goals set in the Women's Agenda 2003-2008 to increase the number of women in the Cabinet, the Senate and the State Boards to 30%, as well as the objective of the Belize Rural Development Programme to increase the number of women and youth participating in development plans and projects by 30% (United Nations, 2007).

Grenada: The Committee appreciated the efforts being made by the State party for the elimination of discrimination against women despite the fact that many of the problems faced by them originated from traditional and cultural norms as well as from poverty and other economic challenges. It welcomed the adoption of legislative measures: (a) the Domestic Violence Act (2010) and the National Domestic Violence and Sexual Abuse Protocol (2011); (b) the Child (Protection and Adoption) Act (2010), which recognizes sexual violence as a form of child abuse when committed against a child; and (c) the Employment Act (1999, section 26) and the Education Act (2002, Section III, 27), which prohibit discrimination on the grounds of sex.

The Committee welcomed the accession by the State party to the following international human rights treaties: (a) the International Covenant on Economic, Social and Cultural Rights; (b) the International Covenant on Civil and Political Rights; (c) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000 (Palermo Protocol); (d) the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Pará); (e) the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography (United Nations, 2012d).

Guyana: The Committee welcomed the legislative reforms carried out and the legislative measures adopted: (a) the Amerindian Act; (b) the Prevention of Crimes (Amendment) Act; (c) the Protection of Children Act and Childcare and Protection Agency Act; (d) the Sexual Offences Act; (e) the Persons with Disabilities Act (2010).

The Committee also welcomed the State party's accession to and ratification of: (a) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; (b) the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and pornography; and (c) the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (United Nations, 2012e).

Haiti: The Committee commended the State party for its expressed commitment and political will to eliminate discrimination against women. In particular, it noted with appreciation the interministerial approach adopted in the elaboration, implementation and monitoring of gender equality policies and plans through, inter alia, the establishment of the Directorate for Gender Mainstreaming, cooperation protocols with other ministries, as well as the creation of gender focal points in each ministry.

The Committee noted with appreciation the efforts made to revise existing legislation that discriminated against women and draft new laws, such as the three bills on the recognition of consensual unions, domestic workers' labour conditions and filiation and responsible parenthood. It noted that the combined initial to seventh periodic report was prepared with technical assistance and in a participatory process which involved government bodies and non-governmental organizations and culminated in a validation workshop chaired by the Prime Minister. It also noted with satisfaction the regular cooperation and partnership with non-governmental organizations and the statement by the State party expressing its intention to ratify the Optional Protocol to the Convention (United Nations, 2009).

Jamaica: The Committee noted with appreciation the appointment of a woman Prime Minister, H.E. Portia Simpson Miller, as well as four women cabinet ministers, the increase to 25% of the proportion of women Senators in Parliament and the rise in the number of women heads of missions in the Jamaica Foreign Service (10 out of 19). It also welcomed the adoption of legislative measures aimed at eliminating discrimination against women, including: (a) the Charter of Fundamental Rights and Freedoms (Constitutional Amendment Act), which provides a right to non-discrimination in a number of areas; (b) the Sexual Offences Act, Child Pornography Prevention Act, Cybercrimes Act and Trafficking in Persons (Prevention, Suppression and Punishment) Act; and (c) the National Minimum Wage (Amendment) Order, which is intended to improve the financial status of women.

The Committee welcomed the State party's accession to the following international human rights treaties: (a) the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; (b) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; (c) the Convention on the Rights of Persons with Disabilities. The Committee also welcomed recent policy initiatives such as: the Jamaica Emergency Employment Programme (JEEP), the National Policy for Gender Equality, the National Development Plan: Vision 2030, the Strategic Framework for Safe Motherhood in the Family and the Strategic Framework for the Family Planning Programme. It likewise noted with appreciation that the State party had achieved universal access to education at the primary and lower secondary levels and welcomed the high literacy rate of girls and high rate of entry by them to universities (United Nations, 2012f).

Saint Kitts and Nevis: The Committee welcomed the high level of commitment and political will demonstrated in the implementation of the principles of gender equality laid down in the Convention and the important leadership role played in the region. It commended the innovative national mechanisms established with a view to ensuring that women and men enjoyed equal rights and the progress of women. It commended the achievements made in health policy, particularly the reduction of the maternal mortality rate and programmes for post-partum care. It commended the progress achieved in the educational sphere, with a larger number of females enrolled, except in the primary schools.

The Committee was pleased to note the great success achieved in promoting gender equality in the information media through close collaboration with the Ministry of Gender Affairs, particularly the prohibition laid down in the Law Reform Act on reporting or broadcasting matters which might lead to the identification of the defendants in sex offence cases. It commended the establishment of a Code of Ethics and Standards within the Labour Code and noted that one of the main obstacles to the full implementation of the Convention in Saint Kitts and Nevis had been the hurricanes which frequently devastated the country, and which in 1998 destroyed 85% of the housing stock (United Nations, 2002).

Saint Lucia: The Committee commended the State party for ratifying the Convention without reservations and expressed its appreciation for the combined initial, second, third, fourth, fifth and sixth periodic report and the inclusion of data disaggregated by sex, while regretting that it was long overdue and noting that it did not refer to the Committee's general recommendations. It commended the State party on the initiation of a constitutional review process, which also included a review of other laws, such as the Civil Code and Citizenship Act, and on the entry into effect of the Criminal Code No. 9, which includes new provisions on sexual offences and which now permits abortion under certain circumstances, and of the Domestic Violence Act of 1994.

It also commended efforts in the field of education, specifically the plan to achieve the goal of universal secondary education at the commencement of the academic year 2006/2007, as provided in the Education Act of 1999. The Committee welcomed the initiation of a comprehensive health sector reform programme, which included institutionalization of universal health care. It also welcomed the introduction of a comprehensive health and family life education programme in all primary and secondary schools (United Nations, 2006).

Saint Vincent and the Grenadines: The Committee appreciated that the State party had submitted its combined fourth to eighth periodic reports, albeit with a protracted delay. It welcomed the progress achieved since its last review (in 1997) with legislative reforms, in particular the adoption of the following legislation: (a) the Domestic Violence Act, which prohibits domestic violence and provides enhanced protection for women and girls; (b) the Employment of Women, Young Persons and Children Act; (c) the Protection of Employment Act, which specifically prohibits an employer from terminating the services of an employee on grounds of sex, marital status, pregnancy, reasonable absence from work due to family emergencies or responsibilities or absence from work during maternity leave.

It welcomed the adoption in 2015 of a national action plan on gender-based violence, which provides for a comprehensive policy framework to prevent and combat gender-based violence in the State party. It welcomed the ratification of or accession to: (a) the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; (b) the United Nations Convention against Transnational Organized Crime and the Protocols thereto; (c) the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto; (d) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; (e) the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; (f) the 1954 Convention relating to the Status of Stateless Persons, in 1999, and the Protocol relating to the Status of Refugees; (g) the Rome Statute of the International Criminal Court; (h) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations, 2015c).

Suriname: The Committee commended the State party for ratifying the Convention without reservations and for its combined initial and second report, despite the limited amount of updated data, and welcomed the announcement that the next report would be presented on time and include the outstanding answers in the dialogue, and that action would be undertaken to ratify the Optional Protocol to the Convention. It commended the State party for drafting its report in collaboration with non-governmental organizations and for recognizing the important role of these organizations working on women's rights and gender equality.

It welcomed the adoption and development of the Integral Gender Action Plan, based on the Beijing Platform for Action and the Caribbean Community Post-Beijing Plan of Action, and noted with appreciation the implementation of the Gender Management System to coordinate the Plan. The Committee commended the appointment of a Commission on Gender Legislation tasked with producing gender-sensitive legislation and congratulated the State party on its support of a human-rights-based approach to development and on its Human Rights Education Project. The Committee hoped that the dissemination of information about the Convention was part of this project and commended the State party for internationally promoting the rights of older women. Lastly, it commended the State party on the measures introduced to combat, punish and eradicate violence against women, in particular domestic violence (United Nations, 2002).

Trinidad and Tobago: The Committee appreciated the submission by the State party of its combined fourth to seventh periodic reports. It noted that the dialogue had to be conducted via videoconference owing to the State party's financial constraints and commended the State party on its high-level delegation. It welcomed the adoption of the following laws: (a) the Miscellaneous Provisions (Maternity Protection and the Masters and Servants Ordinance) Act, which increased maternity leave from 13 to 14 weeks; (b) the Trafficking in Persons Act; (c) the Occupational Safety and Health Act, which requires employers to provide facilities for female employees and protect the health of pregnant women and "unborn children"; (d) the Family Proceedings Act.

It welcomed efforts to improve the institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality by means of the following: (a) the National Youth Policy, covering the period 2012-2017; (b) the Community Education Programme; (c) the National Task Force against Trafficking in Persons.

The Committee welcomed the ratification of: (a) the Convention on the Rights of Persons with Disabilities and (b) the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (United Nations, 2016b).

(b) Processing and reporting

As has been seen, while the Committee is appreciative of reports, there have been delays and difficulties in a number of cases. It held its dialogue with Dominica without a report in 2009, which was a breach of article 18 of the Convention and made follow-up on women's rights very difficult. The delegation was a high-level one, and it was agreed that the State party would request technical assistance, but it did not report again. The first and only dialogue with Antigua and Barbuda was in 1997. The CEDAW Committee scheduled a dialogue in the absence of a report, but the dialogue was postponed at the State party's request without a new date being set. Grenada, meanwhile, did not have the Common Core Document used for all reporting to the United Nations human rights system, and Haiti was 27 years late.

(c) Dissemination of the Convention and concluding observations

The Committee has recommended that all States parties in the English-, French- and Dutch-speaking Caribbean should publicize the Convention more widely so that women can use it. It also explicitly recommends the widest possible dissemination of the observations and recommendations to the State party, specifically mentioning public institutions and civil society organizations. In a number of cases it has likewise recommended greater dissemination of its general recommendations.

The Committee has attached particular importance to wide dissemination of concluding observations for public awareness purposes and to ensure substantive equality for women in Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti (particularly in the Creole language), Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines,

Suriname and Trinidad and Tobago. It has also noted that ignorance of the Convention has prevented its being invoked (the Bahamas, Guyana, Haiti, Saint Lucia) and those working in the justice system, public officials and women's and human rights organizations should be familiarized with it.

A reiterated concern has been a more pervasive failure to apply the Committee's general recommendations, examples being General recommendation 9 on statistics and number 28 on core obligations of States parties under article 2 of CEDAW. The specific situation of each country may mean that some general recommendation is particularly relevant. For example, General recommendation 19 on violence, 24 on health and 25 on temporary measures to accelerate de facto equality are mainly used in the fields of political participation, education and employment. Number 29 on the economic consequences of marriage and its dissolution might be used in reform of civil laws or family law. General recommendation 31 on harmful practices against girls is of particular interest since it was the first joint recommendation by two treaty bodies, being also General observation number 18 of the Committee on the Rights of the Child. In short, each general recommendation contributes to the advancement of women's rights.

(d) The Convention, constitutions, legislation and access to justice

An important issue for the CEDAW Committee is for discrimination to be defined in domestic law as it is in article 1 of the Convention. There are a variety of recommendations, since although international instruments are ratified by law, most countries in the subregion have dualist systems and ratification is not enough for them to be directly applied, with a law being required to establish the right or rights in the international instrument. The Committee also indicated that the status of the Convention was unclear in, for example, Guyana, Haiti, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago.

Situations vary. For example, the constitution of Barbados recognizes women as equal before the law and guarantees fundamental rights and freedoms but does not prohibit discrimination by reason of sex or define it as in article 1 of the Convention. Consequently, the Committee recommended that sex discrimination be defined and prohibited in the constitution or law. The constitution of Haiti (2009) gives international instruments a high status but does not prohibit discrimination. Conversely, Jamaica prohibits discrimination but uses a restrictive list that ultimately enables different forms of discrimination, and it does not define discrimination as per article 1 of CEDAW. Nor is this defined by any instrument in Saint Lucia, Saint Vincent and the Grenadines or Trinidad and Tobago. Although this last country has numerous laws prohibiting discrimination against women and promoting equality, in 2016 the Committee reiterated the need to adopt a definition consistent with article 1 of the Convention.

The constitutions of the Bahamas and Grenada protect rights regardless of sex but do not define discrimination in accordance with article 1 of CEDAW. Also treated as a matter of concern in the case of the Bahamas is that article 26 (1) does not establish provisions to protect against discrimination in relation to adoption, marriage, divorce, burial, restoration of goods after death and other matters of personal rights. Consequently, the Committee recommends that this article should be repealed and the State party should withdraw its reservation to 2 (a) of CEDAW and incorporate the principle of equality between men and women.

The Committee is asking the Bahamas to carry out an exhaustive review of domestic legislation to repeal discriminatory provisions and establish de jure equality. One of the greatest concerns of the CEDAW Committee is that laws and provisions directly discriminating against women have been retained and need to be repealed in Grenada, Haiti, Saint Vincent and the Grenadines and Trinidad and Tobago. In the case of Suriname, discrimination is forbidden but there is no mechanism for dealing with sex and/or gender discrimination when it occurs, while directly discriminatory laws have been retained.

The Committee is also urging the enactment of laws to generate substantive equality and a life free of violence for Belize, Grenada and Haiti (which gives high priority to legislative reforms for de jure equality) and recommends that mechanisms for complaints and for access to justice and legal advice and defence generally should be improved in Grenada, Guyana and Jamaica. Even in Saint Kitts and Nevis and Saint Lucia, the provisions of CEDAW cannot be invoked before the courts. In the case of Haiti, the Committee has prepared a number of recommendations on access to justice in accordance with General recommendation 33 of 2015. The Committee recently advised Trinidad and Tobago not only to repeal discriminatory laws but to urgently make legal remedies and free legal defence available.

There seems to be a quite widespread problem with ignorance of CEDAW and even of the countries' domestic laws guaranteeing women's rights.

(e) Stereotyping

Stereotypes are probably behind every instance of discrimination against women and the maintenance of patriarchy and are accordingly a crucial part in the Committee's concerns for all the countries of the Caribbean. These stereotypes concern both the maintenance of traditional male and female roles and the way these are reinforced by laws, the education system, the media and expressions of various kinds. There has even been a case in which sexual abuse by a girl's close male relatives has been justified as a way of protecting the girl against strangers (Haiti).

Consequently, the Committee has placed emphasis on its recommendations to all the region's countries for combating sexist stereotypes. In a number of cases, too, the Committee has related stereotyping to harmful practices such as child marriage (Trinidad and Tobago).

(f) Statistics

Where statistics are concerned, the difficulties range from data gathering to processing and analysis. The problem lies mainly in the lack of disaggregation by sex and age (and by ethnic group in some cases) and in the difficulty of connecting data to the degree of compliance with CEDAW.

(g) Technical assistance

In almost a dozen cases, the CEDAW Committee has advised countries in the subregion to request technical assistance. What varies is the area for which this recommendation is made, ranging from support in drafting reports to assistance with policymaking or comprehensive planning for equality and non-discrimination, for a life free of violence or for specific campaigns. It often identifies a number of agencies for this purpose, mainly within the United Nations system.

2. Rights associated with physical autonomy

(a) Violence

Sexual violence against women and girls and domestic violence are highly prevalent and persistent in the Caribbean countries, although they are not the only types of violence. The Committee has recommended specific and comprehensive laws and congratulated States parties whenever they have adopted laws and plans, policies and even specific actions.

A special issue would appear to be the failure to adapt State institutions adequately to cope with gender violence. Lack of access to justice for women, ignorance of their rights and the limited training and engagement of justice system personnel make the problem harder to deal with successfully. In the case of Haiti, for example, violence against women, including domestic and sexual violence, incest, rape within marriage and sexual harassment, is not a criminal offence. This and the lack of effective mechanisms and shelters mean that there are no State measures against the very widespread problem of gender violence or that matters as serious as femicide and domestic violence are not investigated (Trinidad and Tobago).

The Committee recognizes the positive role of non-governmental organizations, but this is obviously not enough to deal with such a serious problem, on which a number of countries do not even have properly recorded information disaggregated by sex.

(b) Trafficking and exploitation of prostitution

The Committee made observations and recommendations on the two phenomena, which are not always classed as criminal offences. Indeed, one of the problems is that a number of States parties did not report on the subject, and the Committee insisted on the need for data from each country, including data on sex tourism.

However, it also observed cases in which female victims of sexual exploitation were punished and laws prohibiting human trafficking were not effectively enforced, while those responsible for these often transnational crimes were rarely convicted. Lastly, there were found to be cases in which the two forms of serious discrimination dealt with by article 6 of CEDAW were not even prohibited or punishable (see chapter I). The Committee expressed its concern about “reports of women and girls who are compelled by circumstances to enter into ‘transactional sex’ in exchange for food and other survival items...” (United Nations, 2016a, para. 23). The Committee also recommends the adoption of a legal framework capable of bringing perpetrators to justice.

(c) Health

Article 12 of CEDAW deals with health and explicitly speaks of ensuring access to family planning on a basis of equality. Many of the Committee’s observations and recommendations to the Caribbean countries turn on problems with recognition of reproductive rights and the ability to exercise them, including inadequate recognition of the right to reproductive health in Belize, a lack of sex-disaggregated data in Guyana and a lack of information on access to women’s health services in Jamaica, on the state of reproductive health services and the frequency of unsafe abortion in Saint Lucia, on general women’s health including the menopause in Suriname, and on maternal and perinatal deaths in Antigua and Barbuda, Belize (often because of abortions), Guyana, Haiti and Jamaica.

The Committee congratulated Grenada on its low rate of preventable maternal deaths, alluded to inadequate access to contraceptives in Antigua and Barbuda, in Saint Vincent and the Grenadines and in Suriname (where it is actually forbidden to show contraceptives to adolescents), the lack of health services generally (Haiti) or in certain areas of the country (the Bahamas) or the lack of maternal (Guyana) or reproductive (Jamaica) health services.

The Committee referred to situations in which abortion was always illegal and risky abortions were prevalent (Antigua and Barbuda, Grenada, Haiti, Jamaica and Saint Lucia) and others in which it was legal only on certain health grounds (the Bahamas and Belize), and it advised Trinidad and Tobago to legalize abortion if the pregnancy was the result of rape or incest or if there was serious malformation of the fetus. It pointed out that while abortions carried out on the four grounds for which there was consensus in human rights mechanisms had been decriminalized in Saint Vincent and the Grenadines, they could not be carried out in practice for lack of services.

Also on the subject of sexual rights, a major point highlighted was the lack of appropriate sex education in Antigua and Barbuda, the Bahamas, Belize, Grenada, Haiti and Saint Vincent and the Grenadines.

The fourth area is the prevalence of HIV and AIDS among women, with female rates in some cases being much higher than male rates (the Bahamas) or rising more quickly (Barbados, Belize and Jamaica). Prevalence is found at younger ages among women than among men, who acquire HIV between the ages of 15 and 29 (Suriname, Trinidad and Tobago).

Also highlighted are other problems such as a failure to address drug abuse among women (Antigua and Barbuda), the prevalence of breast cancer as one of the main causes of death among women (the Bahamas) and untreated mental health issues (the Bahamas, Guyana).

The Committee has made recommendations to deal with each of these problems. For example, it urged Barbados to examine the stereotypes preventing women from being able to refuse to engage in unsafe sex.

(d) Disadvantaged women

The focus for the Caribbean can generally be said to be on the disadvantages suffered by rural women because of poverty, female-headed single-parent households and the dearth of public services available to deliver the panoply of rights laid out in CEDAW, including basic services such as access to drinking water.

There is particular concern about groups of women in this subregion who have been particularly affected by natural disasters, whence the importance of the recommendation about developing policies with a gender perspective to reduce disaster and climate change risks.

Lastly, the CEDAW Committee has consistently recommended the production, systematization and analysis of data to capture the situation of disadvantaged women so that their rights can be enforced.

(e) Marriage and family relations

Article 16 deals with marriage and family relations. It needs to be said that family relations are still at the root of discrimination against women. This is evident in the Caribbean from cases where data have been withheld or are lacking (Antigua and Barbuda), lack of rights for women in consensual relationships (Antigua and Barbuda, Grenada, Haiti), the difficulty of obtaining justice in family matters (the Bahamas), the age at which marriage can be contracted (Belize), the persistence of early marriages despite this age being 16 (Guyana), obstacles to married women regulating the administration of property belonging to the marriage partnership (Grenada) and the right to maintenance payments (Grenada).

3. Rights associated with economic autonomy

A major advance in numerous Caribbean countries has been with legislation on employment, non-discrimination, wage equality and sexual harassment. Trinidad and Tobago has made specific provision for the need to include female workers in the definition of a worker. However, these provisions are difficult to implement everywhere, with numerous gaps in both employment and social security laws.

A problem that is often brought up concerns women's poverty. Data, observations and recommendations on economic empowerment are very scarce, yet this is a vital issue for the quality of Caribbean women's lives.

In addition, the Committee has recommended policies to reduce the informal sector of the economy and employment and deal with serious forms of segregation by sex, provide technical training and apply laws guaranteeing non-violence.

4. Rights associated with decision-making autonomy

(a) Political representation

The English- and Dutch-speaking Caribbean is found to be the subregion of the Americas with the least political representation for women, and with some exceptions the countries lack appropriate mechanisms such as quotas and other temporary measures to accelerate progress towards equality and increase the political representation of women. There are exceptions, such as Guyana, which has recorded a large increase in parliamentary representation.

Even cases of total exclusion have been identified. For example, the Committee recommended that Grenada incorporate women into the team working on constitutional change, as there were none. However, there are also cases where the number of women in political representation has increased enormously (over 30% in Trinidad and Tobago).

(b) National mechanisms

Generally speaking, women's equality mechanisms throughout the subregion have low status, little funding and weak technical teams.

The mechanism in Haiti is a ministry, but it has serious problems. For example, its funding has dropped from 1% to 0.3% of the public budget. In the case of Trinidad and Tobago, the Committee has alluded to a lack of clarity and to the specific mandates of higher-ranking mechanisms such as the Interministerial Committee for Gender Equality.

The need to improve interinstitutional coordination and cooperation with feminist and women's organizations and to adopt temporary special measures to accelerate progress towards equality in different areas has often been pointed out.

(c) Temporary measures to accelerate de facto equality

Haiti has introduced quotas for political participation, but the Committee is recommending that it urgently bring in measures of this type in education, rural development and health care. Furthermore, not only have no women been elected since the measure was brought in, but the number of women ministers has declined. Elsewhere, though, such as in Trinidad and Tobago, there is not even a legal framework for adopting measures of this type.

(d) Nationality

There are problems with article 9 of CEDAW in a number of countries. In the Bahamas, women cannot pass on their nationality to their children or spouses of foreign nationality. In Belize, a great number of children, girls in particular, are unregistered, with no birth certificates or identity documents. In Saint Vincent, lastly, women cannot pass on their nationality to a foreign spouse. Haiti forbids the registration of children born of incest, yet this harmful practice against women and girls is common, so that the Committee recommended reform of the Civil Code to ensure that all births are registered without exception. Registration of births is also weak in Trinidad and Tobago, and this makes women and girls vulnerable to trafficking, especially in remote areas.

(e) Ratification of the Optional Protocol to CEDAW

Only Antigua and Barbuda and Belize have ratified the Optional Protocol to the Convention. None of the other countries in the subregion has done so, and the Committee has urged all of them to sign this important instrument of access to justice for women.

C. Women's rights in South America according to the latest concluding observations and recommendations of the CEDAW Committee

This subregion includes 10 countries, listed here with the year they held their constructive dialogue with the Committee: Argentina (2010), the Bolivarian Republic of Venezuela (2014), Brazil (2012), Chile (2012), Colombia (2013), Ecuador (2015), Paraguay (2011), Peru (2014), the Plurinational State of Bolivia (2015) and Uruguay (2008 and 2016),¹⁸ according to the latest concluding observations and recommendations of the CEDAW Committee.

¹⁸ The last dialogue between Uruguay and the CEDAW Committee was in July 2016, subsequent to the South American subregional meeting. However, the main observations and recommendations have been included here.

1. Rights, observations and recommendations affecting the multiple dimensions of women's autonomy

(a) Positive aspects

The countries of South America have monist systems, meaning that international human rights treaties ratified by a State party, in this case CEDAW, are directly applicable there. The concluding observations of the CEDAW Committee identified three main positive aspects for South America:

- (i) **Congratulations on the increased number of women in decision-making.** Thus, for example, two countries, Argentina and Brazil, had elected women presidents, while women sat on Argentina's Supreme Court of Justice and the number of women in high-level positions had increased (38.5% of legislators in Argentina, 10 ministers in Brazil).
- (ii) **Compliance with recommendations in individual cases under the Optional Protocol.** The Committee congratulated Brazil on its stated willingness to comply with the CEDAW Committee recommendation in the case of *Alyne Pimentel v. Brazil*, on which it subsequently made good. Although Peru had not complied with most of the recommendations in the *L.C. v. Peru* case¹⁹ at the time of the constructive dialogue, there was a breakthrough in appreciation of the importance of doing so, and an agreement was reached with the victim in late 2015 and put into effect in 2016.
- (iii) **Laws against discrimination and for equality and ratification of international treaties.** In the Plurinational State of Bolivia, anti-discrimination legislation starts with the constitution and, as also in Ecuador, continues with a set of broad-spectrum laws dealing for example with decision-making parity (equity and alternation). Ecuador guarantees parity between men and women in candidacies and appointments of public officials. Of particular note in the Plurinational State of Bolivia is the law against harassment and political violence, which establishes specific guarantees for women's

¹⁹ The case of *L.C. v. Peru* concerns a girl aged 13 (L.C.) raped by a man of 34 in the market where her mother sold vegetables. Fearful and lacking access to information, L.C. tried to commit suicide by jumping from the roof of her house, but broke her back. Although the hospital said she required immediate surgery if she were not to be left paralysed, she was not operated on because she was found to be pregnant, and surgery was only performed when she expelled the fetus four months later, even though her mother immediately asked for the pregnancy to be terminated. L.C. was left paraplegic, unable to continue her studies and without proper rehabilitation. The CEDAW Committee decided in relation to L.C. that the State must "provide reparation that includes adequate compensation for material and moral damages and measures of rehabilitation, commensurate with the gravity of the violation of her rights and the condition of her health, in order to ensure that she enjoys the best possible quality of life" (United Nations, 2011a). The State party was also called upon to: (a) review its laws with a view to establishing a mechanism for effective access to therapeutic abortion under conditions that protected women's physical and mental health and prevented further occurrences in the future of violations similar to the ones in this case; (b) take measures to ensure that the relevant provisions of the Convention and the Committee's general recommendation No. 24 with regard to reproductive rights were known and observed in all health-care facilities. Such measures should include education and training programmes to encourage health providers to change their attitudes and behaviour in relation to adolescent women seeking reproductive health services and respond to specific health needs related to sexual violence. They should also include guidelines or protocols to ensure health services are available and accessible in public facilities; (c) review its legislation with a view to decriminalizing abortion when the pregnancy resulted from rape or sexual abuse. In its ruling the Committee also reiterated the recommendation it made to the State party during the consideration of its sixth periodic report, urging it to review its restrictive interpretation of therapeutic abortion, and it ordered the State party to submit a written response within six months on any action taken to comply with the recommendation and publish the ruling and recommendations in the L.C. case (United Nations, 2011a). That compliance did take place was due to the commitment of certain individuals at a high level of the public administration, such as a deputy minister of human rights and one of justice, in addition to the work of feminist organizations and reports favourable to compliance from the Ministry of Women and Vulnerable Populations.

rights, and the decree to reduce maternal and infant deaths. The Committee has also congratulated several countries for adopting comprehensive laws dealing with violence against women (Argentina, the Bolivarian Republic of Venezuela, Colombia, the Plurinational State of Bolivia, Uruguay), with specific forms of violence such as sexual harassment (Peru), domestic violence and acid attacks (Colombia) or with the reform of codes such as the Penal Code (Argentina). Chile, Ecuador and Peru introduced femicide as a separate criminal offence and Ecuador added discrimination and crimes motivated by the victim's gender, while Argentina reformed criminal procedure law and, together with Chile and Peru, brought in laws against human trafficking. Also worthy of note are laws on anti-patriarchal education (the Plurinational State of Bolivia), equal opportunities and rights for women and men (Peru and Uruguay), protection for domestic service workers in private households (Chile), sexual and reproductive health (Chile), refugees' rights (Chile), displaced persons and the return of land (Colombia) and discrimination in all its forms (Chile). Ecuador was congratulated for introducing legal measures to reduce gender inequality in the economic sphere, Uruguay for its law on domestic work and children's and adolescents' physical integrity and the Bolivarian Republic of Venezuela for its Organic Law on Work and Workers and its Promotion and Protection of Breast-feeding Act. The Committee also congratulated Uruguay for making it illegal to require a negative pregnancy test as a condition of recruitment or at any other point in an employment relationship, and particularly for passing the law that created the Integrated National Care System, decriminalizing abortion and passing another nine laws that contribute to non-discrimination and gender equality.

Several countries have ratified instruments such as the Convention against Transnational Organized Crime and the Palermo Protocols (Argentina), the ILO Domestic Workers Convention (No. 189) (Colombia, Ecuador and the Plurinational State of Bolivia), the Convention on the Rights of Persons with Disabilities (the Bolivarian Republic of Venezuela, Brazil, Chile, Colombia, Ecuador, Peru, the Plurinational State of Bolivia) and its Optional Protocol (Brazil, Peru, the Plurinational State of Bolivia), the International Convention for the Protection of All Persons from Enforced Disappearance (Brazil, Chile, Colombia, Ecuador, Peru, the Plurinational State of Bolivia), the first and second Optional Protocols to the International Covenant on Civil and Political Rights (Brazil, Chile, Ecuador), the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Chile, Ecuador), the ILO Indigenous and Tribal Peoples Convention (No. 169) (Chile), the ILO Workers with Family Responsibilities Convention (No. 156) (Ecuador), the Convention relating to the Status of Stateless Persons (Peru) and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Bolivarian Republic of Venezuela).

The Committee also congratulated Chile on ratifying the Protocol to the American Convention on Human Rights to Abolish the Death Penalty and the Inter-American Convention on the Forced Disappearance of Persons.

- (iv) **Mechanisms and public policies.** The status of the national mechanism for the advancement of women has been raised in a number of countries, and gender offices have been incorporated into different government bodies (Argentina, the Bolivarian Republic of Venezuela, Uruguay). The status of the national mechanism was also raised in Chile and Paraguay following dialogue with the CEDAW Committee. In Ecuador, the National Council for Gender Equality was created by law. Similarly, the judiciary and the electoral authority began to set up offices for gender equality (Paraguay) or domestic violence (Argentina), while in some countries subnational policy coordination councils and violence observatories were set up. Attention should be drawn to the role sometimes taken on by the courts to guarantee rights (Brazil, Maria da Penha Act) and by anti-trafficking committees (Chile). Chile has also been congratulated for setting up the National Human Rights Institute.

Public policies taking account of the situation of women, especially poverty reduction policies and social security measures serving to improve the social and legal position of women and girls, were actually a priority in some cases (Argentina and Brazil) and served to counteract the negative effects of the crisis. Efforts also began to be made to deal more comprehensively with the trafficking of human beings, although those assisted cannot always be prevented from falling victim to it again. Chile, Colombia and the Plurinational State of Bolivia were also congratulated for adopting a set of plans and even comprehensive systems, including the “good living” system, to deal with violence and pursue gender equity. In the case of Colombia, special mention should be made of the National System and Plan for Victim Assistance and Full Reparation, which gives priority to women, particularly in situations of sexual violence. Paraguay’s Economic and Social Strategic Plan recognizes the right to a life free of violence as a condition for development. In the case of Brazil, participatory processes for the design of equality policies have an important place. In Ecuador, gender equality is being promoted by means of various public policy instruments, such as the National Plan for Good Living, the National Agenda for Women and Gender Equality, the National Equality Agenda for Human Mobility, the National Intersectoral Strategy for Family Planning and Prevention of Adolescent Pregnancy, and the National Plan for the Eradication of Sexual Offences in the Education System. Peru adopted technical guidelines on therapeutic abortion in the course of a few days before its constructive dialogue with the Committee, and likewise adopted the Second National Plan to Combat Forced Labour, the Multisectoral Plan for the Prevention of Adolescent Pregnancy, the National Plan for Gender Equality, the National Plan of Action Against the Trafficking of Persons, the National Plan to Combat Violence against Women and the Supreme Decree establishing equality between men and women as a compulsory national policy that includes the elimination of domestic and sexual violence. Uruguay adopted the First National Plan for Equal Opportunities and Rights and the National Plan to Combat Domestic Violence. The country has developed and coordinated across institutions a set of innovative public policies to combat gender violence, guarantee the rights of sexual diversity, prevent and eradicate human trafficking and prevent cervical cancer.

(b) The principles of equality and non-discrimination

In some countries, such as Argentina, the Convention has constitutional status and applies directly. Other countries also have monist systems, so that the Convention applies automatically. However, the Committee is concerned by the confusion that exists over the concepts of discrimination and equality, since the latter term is often used as though it meant equity. Even in the case of Uruguay, it was concerned by the lack of knowledge among judicial system personnel.

(c) Dissemination of the Convention, its Optional Protocol and concluding observations

In almost all cases, the Committee has recommended that the Convention and Optional Protocol be publicized more widely so that women can make use of them. It also explicitly recommends the widest possible dissemination of its observations and recommendations for States parties, specifically among public institutions and civil society organizations. In several cases it has also recommended greater publicization of its general recommendations.

(d) Access to justice

The Committee has repeatedly recommended that the countries of the subregion improve access to justice for women and the workings of the mechanisms for legal action, including access to free legal assistance for victims. In 2015, the Committee adopted General recommendation 33 on women’s access to justice, which is a very useful instrument for enforcing women’s rights.

In relation to justice, attention has been drawn to shortcomings in the application of the advanced laws enacted in most countries of the subregion. In other words, the gap between law and reality in South America should diminish if justice is administered better, operating without gender stereotypes.

(e) Stereotyping

The CEDAW Committee has made recommendations to all the countries, save only Argentina, for research and action to deal with the patriarchal culture and construct a culture of equality between persons. Stereotyping is part of the basis of continuing discrimination against women. In the case of Uruguay, special attention has been paid to discrimination against Afro-Uruguayans and stereotyping of lesbians and transgender, transsexual and intersexual persons. These last are not usually included specifically in concluding observations, but the Committee, with its tradition of country-specific observations and recommendations, did include them in the case of precisely the country with perhaps the highest level of non-discriminatory legislation.

(f) Statistics

The need for better collection of data disaggregated by sex, age, race, ethnicity and socioeconomic status is constantly stressed, as is the need for systems of indicators and analysis for these data. A special problem with reporting is the failure to flesh out the rights situation with concrete data or to include these in an annex, as though it were up to the Committee to analyse the data. Despite major efforts and advances in the region, this is a point that any substantive equality strategy needs to include.

2. Rights associated with physical autonomy

(a) Violence

All the countries in the subregion have had recommendations relating to violence against women, the measures adopted and the effectiveness of these, but the only reports that can be said to be pervaded by the problem of violence are those of Colombia and, owing to the extent and severity of violence against women and girls, the Bolivarian Republic of Venezuela. It is an important point in all the others, but the greatest problem would seem to be implementing the legislation adopted (Argentina, the Bolivarian Republic of Venezuela, Brazil, Chile, Colombia, Ecuador and Uruguay), owing to inadequate funding (Argentina, Brazil and Ecuador), problems of harmonization and approval in all provinces or states of federal countries (Argentina, the Bolivarian Republic of Venezuela and Brazil), a lack of interinstitutional coordination (Colombia) and the persistence of stereotypes justifying violence even among public officials, plus insufficient harmonization (the Bolivarian Republic of Venezuela and Peru). Action to remedy these situations is recommended.

Attaining equality and properly protecting all the rights of women poses legislative challenges for the subregion and will take some time as yet. In the case of Chile, for example, the Committee considered it inadequate for femicide as a criminal category to apply only when it was committed by spouses or former spouses, for there to be no specific classification for physical violence, and for the category of sexual harassment to cover only the workplace and minors. In addition, the circumstance of “habitual ill-treatment” was retained for cases of domestic violence and there was no provision for redress. The recommendations for Chile included creating categories of crime for other forms of violence, such as femicide outside the family, and measures to deal with sexual violence. Paraguay, for its part, had an ineffective law and was urged to improve its legislation, which, like Uruguay’s, did not criminalize rape within marriage, for example.

A particularly important point is that the death of a girl of Emberá ethnicity in Colombia, caused by the highly harmful practice of female genital mutilation, led to legal proceedings to prevent this practice continuing. However, the State party did not forbid it, class it as a crime or prescribe a punishment, but confined itself to agreeing a ban on female genital mutilation with the Indigenous

Council of Risaralda. Although the work done with the authorities of the ethnic group that thus practises genital mutilation has been noted as positive, it does not obviate the obligation of any State party to the Convention to ban such a serious practice when it occurs within its jurisdiction.

A frequent shortcoming in South America is a lack of data on the different forms of violence against women (Argentina, the Bolivarian Republic of Venezuela, Chile, Colombia, Ecuador, Paraguay, Peru, the Plurinational State of Bolivia, Uruguay), starting with the use of a centralized register (Paraguay, the Plurinational State of Bolivia). The Committee advised some countries to encourage women to file complaints (Argentina) and regretted that sexual violence in dictatorships had not been punished or investigated like other crimes against humanity (Argentina) and that victims had not received redress (Argentina). Chile was advised to notify the Committee in its next periodic report of the number of trials and convictions and the rulings and disciplinary measures handed down in cases of violence committed by State agents, and to strengthen its judicial system as a matter of urgency. Colombia was advised to avoid letting pressure be brought to bear on victims to reconcile with perpetrators in both administrative and judicial procedures despite legal prohibitions on this. In the case of Ecuador, the Committee noted the lack of information on violent acts against lesbian, bisexual and transgender women, including complaints of ill-treatment by the police, and the lack of official statistics on complaints and cases placed before the criminal justice system.

Ecuador and the Plurinational State of Bolivia were alerted to their lack of strategies to prevent physical, sexual, psychological and economic violence. Also highlighted were deficiencies in access to justice, specifically the small numbers of trials and convictions, even in cases of femicide (the Plurinational State of Bolivia). Even somewhere like Brazil, which has strategies such as the National Covenant to Combat Gender Violence, these were found not to be fully applied, and the issue of the lack of resources in the areas of education, health care and social assistance was reiterated.

A problem that repeatedly comes up is that State agents refer cases of violence against women to reconciliation procedures, even when this is explicitly forbidden (the Plurinational State of Bolivia). There are also other challenges such as the lack of due diligence, police forces that are inadequately trained in gender equality and the problem of stereotyping, and inadequate support for women victims of violence, mainly in respect of shelters, free legal advice including legal representation, and medical and psychological treatment (the Plurinational State of Bolivia). There are country recommendations for each of these subjects. The justice system itself has been a bottleneck. In Brazil, for example, there was even controversy about the constitutionality of the Maria da Penha Act and a Supreme Court ruling, which was resisted by local judges, and this has been compounded by a lack of personnel specializing in domestic violence. Most of the recommendations to Brazil on this point were aimed at enhancing access to and the administration of justice, and the same is true of the Bolivarian Republic of Venezuela.

It is a matter of special concern to the Committee when State agents themselves commit sexual abuses, as happened in Chile during student demonstrations and protests by the Mapuche people, most particularly when the perpetrators are not brought to justice (United Nations, 2012a).²⁰ In Colombia, likewise, acts of violence against women have repeatedly gone uninvestigated and their perpetrators unpunished.

The Committee has recommended that particular attention be paid to women at greater risk such as indigenous, Afrodescendent, disabled, migrant and refugee women and those in detention (Colombia, Peru and the Plurinational State of Bolivia). Multiple forms of discrimination have to be addressed in these cases, particularly when gender intersects with socioeconomic status, sexual

²⁰ Paragraph 20 reads: "...Further, the Committee is particularly concerned at the reported disproportionate use of violence by the police, including sexual abuse, against female students during social protests and against women during Mapuche protests. It regrets the absence of prosecution of perpetrators and the failure of the State party to provide access to justice to women victims of such violence" (United Nations, 2012a).

orientation and gender identity (Peru). The Committee also recommended solving the problem of limited access to reception centres (Ecuador). Paraguay did inaugurate a shelter, the only one in the whole country. It was asked to step up its collaboration and coordination with civil society to eliminate violence against women.

Gender violence related to armed conflict in Colombia was the subject of a special chapter setting out 7 causes for concern and 10 recommendations. The recommendation that women should be incorporated into the peace negotiations at the highest level was complied with immediately by the State party. In the Peruvian case, the Committee also considered that not enough had been done to investigate forced sterilizations undertaken as part of the Sexual and Reproductive Health and Family Planning Programme (1996-2000) or compensate the victims.

A striking case is that of Uruguay, as it is a country with little or almost no social violence but a “high prevalence of domestic violence against women” and rising femicide, which is not yet categorized in law as a specific crime. It is also striking that, despite major legislative progress, the laws maintain discriminatory concepts of “decency”, “honour” and “public scandal”.

(b) Reproductive health

In the subregion, only Chile had an absolute ban on abortion at the time of its dialogue with the Committee, although the Chilean delegation told the Committee that the mother took precedence in cases when her life or health were in jeopardy. Uruguay is the only country to have legislated for abortion up to 12 weeks and decriminalized it under certain conditions thereafter, although there are problems with services, despite the efforts of the State.

In the other countries where abortion is permitted on certain grounds, more or less serious shortfalls in access to sexual and reproductive health services have been identified, in some cases because of limited funding (Argentina, the Bolivarian Republic of Venezuela, Brazil, Ecuador, Paraguay, Peru, the Plurinational State of Bolivia), in addition to high rates of adolescent pregnancy (Argentina, the Bolivarian Republic of Venezuela, Chile, Colombia, Ecuador, Paraguay, Peru, the Plurinational State of Bolivia, Uruguay) and high rates of preventable maternal deaths (Argentina, the Bolivarian Republic of Venezuela, Brazil, Paraguay, Peru, the Plurinational State of Bolivia), sometimes linked to illegal and unsafe abortions and limited access to modern and emergency contraceptives (the Plurinational State of Bolivia). In the case of Brazil, it was noted that a number of measures were in place to reduce preventable maternal deaths, but the Committee considered this inadequate, particularly in view of the risks that might arise from the adoption of the Statute on the Unborn Child and the feminization of HIV/AIDS. The Committee has been forced to reiterate the same recommendation in a number of dialogues, as it points out in the case of Paraguay.

In several cases, the Committee recommended a review of legislation criminalizing the termination of pregnancy (Argentina, the Bolivarian Republic of Venezuela, Brazil, Chile, Paraguay, Peru, the Plurinational State of Bolivia) and compliance with the ruling of the Constitutional Court that the requirement for judicial authorization to terminate a pregnancy in cases of rape and incest be abolished in the Plurinational State of Bolivia. The Committee has also recommended redoubling efforts to improve health services, especially in rural areas and for indigenous and Afrodescendent women (Ecuador, Peru, the Plurinational State of Bolivia) or disadvantaged groups (Brazil). In the case of Ecuador and Peru, it recommended having interculturally oriented policies to provide access to vertical birth in health services. It also recommended age-appropriate sexual and reproductive education and access for the adolescent population (the Plurinational State of Bolivia), and it expressed concern about unsafe abortions in Chile, Colombia and Ecuador and the difficulty of accessing contraceptive methods, including emergency contraception (Chile). In the case of Colombia, the greatest concern was about inadequate compliance with the Constitutional Court ruling decriminalizing abortion on grounds of health and rape, including campaigns by high-level State officials against the ruling. The Committee was also concerned about the high rate of women of reproductive age resorting to sterilization (Colombia) and cases of forced sterilization of women with disabilities and/or HIV/AIDS.

The Committee congratulated Peru for adopting guidelines on therapeutic abortion and a plan to prevent early pregnancies. The Committee considered it important that Peru had been complying with the recommendations made in the 2011 case of *L.C. v. Peru*, including both compensation for the victims and measures to prevent repetition. Thus, for example, L.C. and her mother were fully compensated, since monetary compensation was accompanied by measures to provide access to rehabilitation, a better medical insurance policy and indeed symbolic redress. However, considering that the case originated in a rape, the Committee also recommended decriminalizing voluntary termination on grounds of rape, but the bill was rejected in Congress.

(c) Trafficking and exploitation of prostitution

In the case of Argentina, it was observed that victims were recruited in the north and north-east, on the borders with Brazil, Paraguay and the Plurinational State of Bolivia. The Committee is finding that countries have ratified international treaties but are not being effective against these domestic and international crimes. Victims are often punished by being expelled from the country where they were trafficked or exploited (Argentina, Peru). Attention has been drawn to the absence of shelters (Paraguay, the Plurinational State of Bolivia) or the need to expand them (Chile). The Committee has drawn attention to cases where women have been trafficked in order to be forced into prostitution, particularly where major development projects are taking place, with the victims in some cases being girls and adolescents or indigenous women (the Bolivarian Republic of Venezuela, Brazil, Ecuador, Peru, the Plurinational State of Bolivia),²¹ and to the severe penalties visited on the victims themselves if they commit crimes (the Plurinational State of Bolivia). Women refugees, asylum-seekers and migrants have been shown to be vulnerable (the Plurinational State of Bolivia), and there is a lack of rehabilitation programmes for women victims of trafficking and exploitation of prostitution.

Ecuador, Paraguay and Uruguay are countries of origin, transit and destination for the trafficking of persons, particularly women and girls, for the purposes of sexual exploitation and forced labour, and trafficking and exploitation of prostitution of adolescent women are particularly prevalent in border areas. The lack of preventive measures has been pointed out to Chile and Peru, as has a failure to identify victims and a lack of information on internal trafficking in general. The Bolivarian Republic of Venezuela and Paraguay do not have comprehensive laws against trafficking, Paraguay has no law against internal trafficking, and there are major obstacles to applying legislation effectively in Chile. Harmonization of procedures is also recommended. In the case of the Bolivarian Republic of

²¹ Para. 20 (b) of the Concluding observations for the Plurinational State of Bolivia speaks of: “Cases of internal trafficking of indigenous women for purposes of forced prostitution, in particular in areas in which major development projects are being implemented” (United Nations, 2015a). Para. 23 of the Concluding observations for Peru says: “...The Committee is particularly concerned about trafficking in adolescent girls for sexual or labour exploitation, in particular in the mining and logging industries...” (United Nations, 2014b). In the case of Brazil, the Committee says in para. 20 of its Concluding observations: “It is particularly concerned at information received stating that women and girls are exploited for the purposes of prostitution and employment in some regions where large development projects are being implemented and about the sexual exploitation of women and girls in tourist zones in the north-east of the country” (United Nations, 2012b). In para. 22 of the Concluding observations for Ecuador, the Committee notes with concern: “(a) That the State party is a country of origin, transit and destination for trafficking in human beings, in particular women and girls, for purposes of sexual exploitation and forced labour, and that trafficking and sexual exploitation of adolescent girls are particularly prevalent in border areas, especially in the provinces of Sucumbíos, Carchi and Esmeraldas (United Nations, 2015b). In the case of the Bolivarian Republic of Venezuela, the Committee recommended in para. 21 of its Concluding observations that the State party: “(c) Review legislation with a view to ensuring that all aspects of child prostitution, including the demand for adolescents in prostitution, are prohibited and duly sanctioned; (d) Adopt measures to address the exploitation of women and girls in prostitution, including through the Internet and the media, provide assistance and rehabilitation to victims and provide women with economic alternatives to prostitution while empowering them to make their own choices concerning their lives” (United Nations, 2014a).

Venezuela, the Committee emphasized the impunity with which child prostitution was exploited. Uruguay was advised to establish programmes for women wanting to leave sex work, including opportunities to earn income.

The Committee has noted that evaluations with data broken down by sex, age and ethnic origin are not available for Ecuador or the Plurinational State of Bolivia, and nor are awareness-raising campaigns carried out, particularly among indigenous women. A lack of research (the Bolivarian Republic of Venezuela and Uruguay) and of information on the scale of human trafficking is a problem despite the creation of parliamentary committees of investigation (Brazil).

On this subject, the Committee has reiterated many of its recommendations (Brazil), one of them being to increase bilateral and multilateral cooperation (Chile, Ecuador, Paraguay and the Plurinational State of Bolivia). MERCOSUR has had an anti-trafficking plan since 2006, although its effects have proved very limited.

The lack of trained human resources and funding and the dearth of information about women who have been exploited for prostitution are common problems, as is the failure to adequately investigate and convict traffickers and exploiters.

3. Rights associated with economic autonomy

Regarding economic empowerment, the Committee specifically recommended that the Plurinational State of Bolivia should continue with its anti-poverty programmes but start to produce information on their concrete effects, and that it should set up affordable credit and financing plans with a particular focus on indigenous, Afro-Bolivian, disabled and older adult women.

Where Chile was concerned, the Committee approved of the effects of the pension reform but described as discriminatory the way the pension fund was calculated using life expectancy tables that resulted in lower monthly pensions for women, even though they contributed as much as men. It also considered that women's needs had not been adequately considered in the after-effects and reconstruction following the earthquake and tsunami of 2010, and recommended that the country work with a gender perspective in the management of natural disaster risk.

Ecuador was advised to adopt temporary special measures to increase the number of beneficiaries of microcredits (just 26%) and loans from the Human Development Fund (just 18%). Lastly, the Committee advised the Bolivarian Republic of Venezuela to carry on strengthening financial plans designed for women, paying special attention to women in rural areas, indigenous and Afrodescendent women, women with disabilities and elderly women, and that it review its social programmes to ensure that they yielded sustainable results, empowered women and did not increase dependency.

4. Rights associated with decision-making autonomy

(a) Political representation

Two countries of the subregion, namely Ecuador and the Plurinational State of Bolivia, have included parity in their constitutions. It is interesting to note that the Plurinational State of Bolivia has created an effective proposal to ensure that parity exists not only in law but in outcomes. Using closed lists or open lists alternating female and male candidates, known as zebra or zipper lists, no legislature in the world had exceeded 42% female representation. The Plurinational State of Bolivia created horizontal parity in the system for submitting candidacies, with each party being required to present candidates at the head of lists, candidates for single-member constituencies and candidates for individual offices in two halves by sex. By properly regulating and applying parity, the Plurinational State of Bolivia has become the first country in the world to achieve equal numbers of men and women in its legislature.

Ecuador has exceeded 40% and Argentina 30%, giving a total of three countries with a high level of female representation. Six countries have intermediate representation of between 15% and 30% and just one, Brazil, has low representation of women in Congress, at around 10%. Curiously, Brazil and Argentina have the same quota of 30%, it being the way the electoral system is regulated and adjusted that has made the difference.

The Bolivarian Republic of Venezuela is the only country in the subregion to have neither quotas nor parity by law. The Electoral Tribunal has introduced a requirement for parity lists or a minimum proportion of women for some elections. Uruguay increased female representation by a one-off application of a quota, and was advised to consider adopting parity and developing programmes of support for women candidates.

The CEDAW Committee has drawn attention to the need to deal with political violence and harassment, advising even the Plurinational State of Bolivia, the first country in the world to legislate for this, to apply the law more effectively, since even very serious cases (femicide) have not led to convictions.

(b) National mechanisms

The Plurinational State of Bolivia is the only country not to have a national women's mechanism, and the Committee has advised it to study the possibility of reinstating one. In the other cases, the Committee's recommendations centre, first, on raising the hierarchical status of the mechanism, with Uruguay being advised to elevate its mechanism to the level of a ministry and Colombia to raise the rank of its mechanism's head. A second recommendation is to improve coordination in cases where there are two mechanisms, as in Argentina, but also between the national mechanism and other agencies in different areas of government and public bodies, particularly in federal countries. The third recommendation is to make greater human and financial resources available. The countries are also called upon to improve their mechanisms' ability to influence national policies so that gender equality is included in these, and to ensure that it is not these mechanisms alone that drive equality policies. The final recommendation is to work with civil society organizations, academia, research institutes, unions and women's organizations.

(c) Non-governmental organizations

No specific chapters on civil society organizations were opened, but different parts of the reports note the shortcomings in dealings between the State and organized civil society, particularly feminist and women's organizations, and recommend its participation in preparing and monitoring policies and appraising the government report.

(d) Temporary special measures to accelerate equality

The CEDAW Committee has traditionally recommended temporary measures to accelerate progress towards de facto equality, mainly in the areas of employment and education. In cases where women are well represented, it may also recommend the adoption of temporary measures for the inclusion of indigenous, Afrodescendent or disabled women. There is also a larger number of recommendations dealing with subnational levels.

(e) Ratification of the Optional Protocol to CEDAW

All the countries in the subregion other than Chile have ratified the Optional Protocol to CEDAW. Chile was the first country to sign the Optional Protocol, but has yet to ratify it. The Committee has repeatedly recommended that it do so.

III. Final reflections

All the countries of Latin America and the Caribbean have ratified CEDAW and are consequently obliged to comply with it and to submit periodic reports to the CEDAW Committee. The work done by the Committee in overseeing and evaluating the enforcement of women's rights is essential for identifying progress, stagnation and reverses in women's equality, both legal and substantive, throughout the region, providing a baseline for implementation of the Regional Gender Agenda and the Sustainable Development Goals for 2030 from a perspective of rights and women's autonomy.

The study has noted that there is an important difference between the legal systems of the Spanish-speaking countries of Latin America and the Caribbean and those of the English- and Dutch-speaking Caribbean, as the regime is monist in the former and dualist in the latter. In Latin America and the Spanish-speaking Caribbean, international human rights law ratified by a country forms a single system with domestic law, i.e., it can be applied directly. In the English- and Dutch-speaking Caribbean countries, the State cannot apply the Convention directly even when it has been legally ratified unless a law is passed to mandate domestic implementation.

On the other hand, there has been a notable effort throughout the region to do away with discrimination and move towards equality between men and women. However, the differences between the subregions reveal imbalances. In the Caribbean subregion, it is vital to remove legal forms of discrimination and include gender equality clauses in domestic instruments. In the Spanish-speaking Caribbean and Latin America, conversely, a great challenge is to actually enforce the standards that are adopted and become law. Legal discrimination does persist in Mexico and Central and South America, and there is also a need to establish a legislative agenda for gender equality. Nonetheless, the main problem in these subregions is the gap between law and reality.

It is also important for there to be a greater effort to achieve ratification of the Optional Protocol to CEDAW in countries where this has yet to happen. These include Chile, Cuba, El Salvador, Honduras and Nicaragua, while only three countries in the English- and Dutch-speaking Caribbean have ratified it: Antigua and Barbuda, Belize and Saint Kitts and Nevis.²²

²² See the ratification status of the Optional Protocol to CEDAW (United Nations, 2017c) [online] <http://indicators.ohchr.org>.

It is important for the Optional Protocol to be publicized and used. Where cases have been presented to the Committee and this has made a recommendation, it has helped the region's countries to make progress with women's rights. This has been acknowledged by Brazil, which has stated that complying with the Committee recommendations in the Pimentel case helped it attain its goal of reducing maternal deaths. Another important example is the case in Peru, which not only compensated the victim, financially and in other ways, but established rules for cases in which abortion was not punishable, 90 years after it was decriminalized in the Penal Code. Only a few cases have been brought to the CEDAW Committee from Latin America and the Caribbean under the Optional Protocol so far, however.

The application of laws guaranteeing women's rights is essential for progress towards substantive equality. Nonetheless, access to and administration of justice remain an obstacle. The problems stem partly from stereotyping in the judiciary, the limited opportunities for women victims to obtain free legal representation and the high degree of impunity in the region. Rights are not exercised and applied merely by being approved and enacted in law, but only once mechanisms such as application guidelines, protocols and regulations have been established and coercive mechanisms are in place to enforce the law and court rulings.

The decision to construct the Montevideo Strategy through a process of debate with the authorities responsible for equality in all three subregions was a good one, as it made it possible to devise a strategy that includes certain critical and specific measures for the whole region, as well as actions differentiated by subregion or by common problems. Some measures in the Montevideo Strategy are based on the recommendations of the CEDAW Committee, examples being pillars such as legal frameworks, institutions, financing, communication, construction of State capacities and participation by women's and feminist organizations.

One possibility might be to form country groupings to address certain rights enforcement problems that are common to them. For example, Grenada and Trinidad and Tobago have over 30% female representation in parliament, as do Argentina, Costa Rica, Cuba, Ecuador, El Salvador, Mexico, Nicaragua and the Plurinational State of Bolivia. Some of these countries have parity laws and others quota laws, while one has no specific measures. These countries with high female representation do not face the same issues in respect of decision-making autonomy as countries in the same subregions with low female representation. Nonetheless, it would be difficult to imagine creating a common strategy for Brazil, Guatemala and a number of countries in the English-speaking Caribbean, as they have very dissimilar characteristics. The aim needs to be to develop concrete strategies and/or measures and develop projects with groups of countries that are in a similar situation in respect of one or other dimension of women's autonomy. For example, both Mexico and the Plurinational State of Bolivia have already initiated important debates about parity democracy, considering that parity is only a point of entry into inclusive democracy.

Although gender violence is a problem throughout the region, all the countries have ratified CEDAW and the Convention of Belem do Pará and have laws against violence. Some only have civil laws, and there are even cases where reconciliation continues to be allowed, contrary to the recommendations of the CEDAW Committee. Lastly, there has been increasing adoption of laws that are comprehensive in form and content, and in principle these provide greater protection for women, but an in-depth evaluation of their application is needed, something that the Belem do Pará follow-up mechanism can surely provide. Countries with laws against violence and harassment in the political sphere and against street harassment are still the exceptions.

While data are usually available, they are not always disaggregated in a way that enables effective laws and policies to be developed. There are countries with a high degree of social violence or of violence linked to organized crime, together with high indices of violence against women, examples being Colombia, El Salvador, Guatemala, Honduras and Mexico. There are also countries where violence against women is growing alarmingly, one such being Paraguay, and cases where violence is mainly domestic and where femicide, or at least recorded femicide, is increasing rapidly, an example being Uruguay. Lastly, there are cases where not enough data are produced on gender

violence, or such data as do exist are unreliable. There need to be redoubled efforts to generate information and statistics for successful public policy design and to measure progress with the enforcement of women's rights.

Sexual rights and reproductive rights have become a disputed field, with the meanings attached to women's bodies, empowerment and physical autonomy being highly contentious politically. Two countries and one city have legalized the termination of pregnancy without restrictions. Most Latin American countries have decriminalized abortion on grounds of the woman's health, fetal unviability or rape, while in a smaller group of countries abortion is punishable in all circumstances. Progress is needed in the areas of education, health care, advisory services and access to contraceptives to guarantee women's right to decide freely about their sexuality and reproduction.

Again, there needs to be more investment to produce knowledge and create options for women's economic autonomy. The CEDAW Committee makes a great many recommendations on employment rights. The most feasible avenue for progress in the region are public care policies. National systems of care have been approved and implemented in Costa Rica and Uruguay. This is one of the most important public policy measures for empowering women economically. If the State and firms can share what has hitherto been the sole responsibility of women, the latter can have a greater chance of developing personal autonomy. This is a step towards overcoming the sexual division of labour.

There are grounds for optimism in Latin America about the prospects of achieving universal parity rules for political representation by 2030 that, if properly regulated, can ensure equality in representation. However, other aspects conducive to decision-making equality come up against greater difficulties, examples being the hierarchical status, resources, stability and efficiency of mechanisms for women's and/or gender equality.

Furthermore, a region that has successfully applied temporary measures to accelerate progress towards de facto equality in political participation needs to do more to apply measures of this type in the areas of economic and physical autonomy, investing decisively in programmes of grants, employment, financing, incentives, rewards and systems of preference in official procurement for firms that can show a commitment to women's equality in their practices, among other possible temporary measures for equality, focusing mainly on opportunities for disadvantaged women to exercise their rights and achieve substantive equality.

Lastly, two years on from the adoption of the 2030 Agenda for Sustainable Development, there needs to be a legislative agenda to do away with discrimination and to promote and guarantee substantive equality. This chiefly applies to countries that have yet to establish the principles of equality and non-discrimination in their constitutions. They need to identify and eliminate direct discrimination in legislation and then pass laws consistent with the CEDAW Committee's concluding observations and recommendations to each country.

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PROJECT

DOCU MENT

While the States of Latin America and the Caribbean have ratified the Convention on the Elimination of All Forms of Discrimination against Women, substantive equality between men and women in the region remains a work in progress. This study has identified advances and challenges in the effort to guarantee women's rights and autonomy by analysing the concluding observations and recommendations made to the region's States by the CEDAW Committee, considering first the information on Mexico and the countries of Central America and the Spanish-speaking Caribbean, then that on the English-, French- and Dutch-speaking Caribbean countries, and lastly that on the countries of South America, thereby bringing out similarities and differences between these subregions.

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