



Country Assessment on VAW

CHILE

**Consultant: Soledad Larrain, in collaboration with
Lorena Valdebenito and Luz Rioseco
Santiago, Chile
July 2009**

RESPONSIBILITIES

The findings, interpretations and conclusions expressed in this report are solely the responsibility of the authors and not attributable in any way to the United Nations, its associated organizations, its member states, or the members of its Board of Executive Directors or the countries that they represent. The United Nations does not guarantee the exactitude of the information included in this publication and assumes no responsibility for the consequences of its use.

Table of Contents

| | |
|--|----|
| Responsibilities | 1 |
| Abbreviations | 3 |
| I. Executive Summary | 4 |
| 1.1 Conceptual considerations | 4 |
| 1.2 Main findings and challenges | 5 |
| 1.3 Significant advances in GBV response | 5 |
| 1.4 Pending challenges | 9 |
| 1.5 Final comments | 15 |
| II. Country Profile | 16 |
| III. Scale of the Problem | 17 |
| IV. Public Policies | 23 |
| 4.1 The route from the initial formal complaint to an integral victim response | 23 |
| 4.2 Legal frameworks | 27 |
| 4.3 The response of government agencies to gender-based violence | 35 |
| 4.4 Campaigns from non-governmental organizations | 56 |
| 4.5 Registration of information | 57 |
| V. Non-Governmental Organisations | 59 |
| VI. Conclusions and Challenges | 63 |
| VII. Final Comments | 73 |
| VIII. Bibliography | 74 |

Abbreviations

| | |
|--|----------|
| Centre for Victims of Sexual Assaults Response. | CAVAS |
| Centres for Violent Crime Victim Response. | CAVIS |
| Gender-based Violence | GBV |
| Inter American Human Rights Commission | CIDH |
| Inter American Women’s Commission | CIM |
| Intra-family Violence | IFV |
| Juridical Assistance Corporation | CAJ |
| Legal Medical Service | SML |
| Mechanism to Follow up on Implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of VAW, “Convention of Belém Do Pará” | MESECVI |
| Ministry of Health | MINSAL |
| National Council for the Control of Narcotics | CONACE |
| National Day Care Board | JUNJI |
| National Health Fund | FONASA |
| National Office for Women’s Affairs | SERNAM |
| National Service for Minors | SENAME |
| National Socio-economic Characterization Survey | CASEN |
| “No Violence within the Family Project” Assistance to men who exercise VAW. | PRONOVIF |
| Pan American Health Organisation | PAHO |
| Regional Centre for Children’s Rights | CREDEN |
| Regional Units for Victim and Witness Response | URAVIT |
| Victims Assistance Network | RAV |
| Violence against Women | VAW |

I. EXECUTIVE SUMMARY: COUNTRY ASSESSMENT ON VAW

In October 2006, the General Secretary of the United Nations published a study on all the different manifestations of violence against women (VAW), known as resolution (A/RES/61/143) which exhorts members States and the United Nations system to intensify efforts tending to eradicate VAW. In order to comply with such an objective, an Inter-agency Task Force was created whose main goal is to strengthen support provided to national efforts geared towards addressing all kinds of VAW.

As a first step, the Task Force has identified the need to undertake a baseline in the ten pilot countries selected regarding the prevalence and nature of VAW. The selected countries are: Burkina Faso, Rwanda, Chile, Jamaica, Paraguay, Fiji, Kyrgyzstan, Philippines, Jordan and Yemen. The current study aims to build this baseline assessment for Chile, including an analysis of the state of gender-based violence (GBV) in the country.

1.1 Conceptual Considerations

The use of a gender perspective allows for understanding that the inequality derived from the hierarchy prevalent between men and women is part of a system of power relations that keeps women subordinated through cultural practices that have an inherent discriminatory bias. Such discriminatory practices are expressed in all aspects of social, economic and political life, as well as in the subjectivity of each gender. They are held so deep that they are not perceived as being discriminatory, nor that they support inequality. Rico (1996) indicates that “relevant studies point towards the affirmation that all acts of aggression perpetrated against women bears some characteristic that can be construed as gender violence. This means that it is directly connected to the unequal distribution of power and the asymmetric relationship seen between men and women in our societies which perpetuate the devaluation of things feminine and its subordination to male values.”

GBV refers to the different kinds of violence through which the hierarchy imposed by patriarchal culture perpetuates itself. GBV adopts different manifestations that may occur both in the public as in the private field.

Within these manifestations, there is work-related sexual harassment, sexual harassment, rape, women trafficking and different forms of physical, social and sexual abuse that women suffer in their homes by their partners. In the last few years, the term “femicidio” or “femicidio” (*the anglicised form will be used in this report: femicide*) has become generalised, and are used to denote the murders of women due to gender reasons.

This study assumes the definition of gender violence of the Inter-American Convention to Prevent, Punish and Eradicate Violence Against Women (from Belém do Pará, 1994), where VAW is defined as “any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.”

According to the aforementioned Convention, VAW includes such acts of physical, sexual and psychological violence that:

- occurs within the family or domestic unit or within any other interpersonal relationship, irrespective of whether the perpetrator is currently residing or has resided in the past with the victim, such violence includes, among others, rape, battery and sexual abuse;
- occurs in the community as a whole and is perpetrated by an aggressor, including, among others, rape, sexual abuse, torture, human trafficking, forced prostitution, kidnapping and sexual harassment either in the workplace, in educational institutions, health facilities or in any other place;
- is perpetrated or condoned by the State or its agents regardless of where it occurs.¹

The analysis carried out has been made considering all different manifestations of GBV; however, the form of GBV which has received the most attention is domestic violence, a behaviour women suffer from used by their partners or ex-partners, considering that it is the form of violence benefiting from a greater number of policy initiatives if compared with other manifestations of GBV.

The purpose of the current study is to provide answers to the following issues:

- Main characteristics and the scale of GBV in Chile
- Existing legal frameworks in Chile for dealing with GBV
- Main institutions dealing with GBV and their level of coordination
- The existing response services available
- Current proposals for response improvement

In order to answer the above, various documents were analysed, policy-makers were interviewed² and reviews were made of working group meetings, including of national and international legislation.

1.2 Main Findings and Challenges

The response to GBV in Chile at a legal as well as at an institutional level varies and is found dispersed in different legal texts and relevant policies are implemented from different institutions. The response differs in accordance with the different types of manifestations of violence considered in the case report submitted (domestic, sexual and work-related violence) such as whether it is classified as a criminal act or not and if it involves minors, and whether it is considered as relevant in cases of sexual abuse and mistreatment. This explains why systemising information is complex and it is not always possible to find comparable figures and policies among the various institutions involved.

1.3 Significant Advances in GBV Response

¹ See chapter I, Definition and scope of application, article 2.

² See annex 1.

Progress seen in the last few years bears relation with several variables such as the increase and coordination seen in the different services and ministries at government level, the degree of updated national and international legislation, the improvements seen in the level of services rendered to victims and their protection, information more widely available given the greater number of studies that have been carried out, improved management of past incidents and the high profile given to the murder of women in the media.

- a) **At an institutional level:** At present there are a wide array of public policies geared towards addressing situations of GBV, mainly in situations of violence in the home, as implemented by different ministries and services, which have started to act in coordination with each other so as to deal better with the issue. Thus, the Health Ministry coordinates with the Public Prosecutor's Office so as to provide timely response to crimes of a sexual nature, while Carabineros (the Chilean uniformed police) coordinates itself with the National Office for Women's Affairs (SERNAM) and the Public Prosecutor's Office in those cases that require protection. SERNAM liaises with different ministries and services regarding rehabilitation of women in shelter homes.

At government level, there is a "Gender Agenda" in operation which aims to incorporate gender perspectives to policies emanating from all public institutions. Such agenda sets out the legislative priorities and the inter-sector action required to eradicate VAW. Therefore, various state sectors promoting women's rights must guarantee a life free from violence, provide an institutional response aiming to protect victims of violence while repairing the damages and empowering victims to exert all of their rights. The monitoring of the agenda is a valuable instrument for coordinating between the different sectors that are involved in responding to a violent situation.

There is an important investment and training involved in both male and female government employees that have come into contact with victims of GBV. SERNAM has implemented a decade long training programme in different ministries and services in order to provide an adequate response to victims of GBV. The training given to Carabineros', employees of the Justice Department, Health, Municipalities, as well as SERNAM's own programmes has been especially significant. It is important that similar programmes be incorporated into trainings given on gender and public policy issues.

- b) **At a Legislative level:** One of the most significant advances in Chilean public policies regarding GBV is the ratification of international regulations³. Particularly important, the Inter American Convention for the Prevention, Punishment and Eradication of All VAW (OAS, Belem do Pará, Brazil, 1994) has become national law since 11 November, 1998. It has acted as a framework for local legislation and as reference material.

³ A summary of treaties ratified by Chile are available in the chapter in this study entitled "Legal Frameworks."

Although local legislation does not address GBV specifically, domestic and sexual violence and sexual harassment at work have been legislated against. These forms of violence are contained in various legal texts; yet, these texts do not specifically mention VAW *per se*.

A first and very important step in the legislative arena was achieved with the promulgation of Law No. 19.325, dated August 1994, regarding domestic violence. For the first time, there was an explicit acknowledgement by the judiciary regarding the existence of violence within the family and that there were mechanisms in place for punishing and regulating these types of situations. This law was replaced by the Law No. 20.066 in October 2005, and introduced a series of modifications in the treatment of domestic violence, among them the definition of “Habitual Mistreatment” as a crime, and the improvement of victim protection systems.

The existence of legislation in this matter has contributed significantly to the collective thinking that domestic violence is punishable by law (a significant percentage of the population is aware of this law), which has meant an increase in the notion of women’s rights by many women in Chile.

The progress of Law No. 19.617 (1999) and Law No. 19.927 (2004) is considered very important to legislation and in matters of sexual violence. There is now a conceptual change regarding the judicially protected asset, which was initially considered as being confined to the family sphere and to public morality, but is now considered part of “sexual freedom.” There is also the definition of marital rape to be treated as a crime.

Additionally, the characterization of sexual harassment in the legislation constitutes an important milestone, even when the crime has not been explicitly defined in order to protect women from this type of violence, given that the law refers to both male and female workers.

There are a series of law projects in parliament that will incorporate and deepen, if they are approved, the domestic legislation on the matter of VAW. Today, the most important one is the femicide project.

c) Investigation and record-keeping: The implementation of six regional studies on the prevalence of VAW in the home, promoted and financed by SERNAM, provides data on the magnitude of domestic violence, risk factors associated to its occurrence and the impact on victims; thus, becoming an important input in policy design by estimating what services are covered and in the development of prevention policies based on existing data regarding risk and protective factors.

For the first time, in 2009, the “Domestic violence and sexual crimes victimization survey” has been applied at the national level. It was developed and promoted by the Public Security Division of the Interior Ministry. The survey will contribute towards increasing the knowledge-base regarding the violence that women endure and it will enable accessing national and periodic data on the matter. The survey also looks into other aspects such as risk factors associated with domestic violence in the family and the services that women resort to when seeking help, as well as their level of satisfaction with the solution found.

Furthermore, the survey enquires upon another important aspect: the sexual violence that both adult women and girls suffer. This collected information enables stakeholders to have data that refers to the scale of this form of VAW.

This survey has been applied in 2009 for the first time and every four years henceforth, with the aim of evaluating the impact of public policies and modifications that are occurring in society regarding this phenomenon. The process will imply an important effort in systematic monitoring.

The institutions in contact with victims of GBV have been gradually incorporating record-keeping on the matter of VAW, which has enabled the quantification of the demand for service, and the resources required to give an efficient and effective response.

The first and most important record-keeping initiative in this matter consisted of reporting episodes of domestic violence, which saw a significant increase since the enactment of the first law on violence, amounting to 90.306 reported cases in 2007.

Another list that has achieved notoriety in making VAW visible is the one that SERNAM keeps, which is in reference to the number of women killed in episodes of gender violence. As a result, there is appreciation for the seriousness of the situation, and the high level of risk that is subjected to women suffering gender violence is highlighted, which was hitherto unrecognized.

d) Victim response choice: The availability of different victim responses for episodes of domestic violence has grown significantly in the last four years. Among these care options are SERNAM's Centros de la Mujer (Women Centres), (58 in 2008), the creation of a new care option such as the "Casas de Acogida" (Shelter Homes) for women under a life-threatening situation due to Intra-family Violence (IFV), today standing at 25 such shelters around the country. There is also the Response Centre for Victims of Violent Crimes, created by the Interior Ministry.

The response from the Prosecutor's Office has become more specialised, creating specialised units such as the Criminal Responsibility Unit, Adolescent and IVF, Sexual and Violent Crimes and the National Division for Victim and Witness Response. This specialization is attributable to the relevance given to GBV and in acknowledgement of the specificity that the response requires.

The creation of the "Protection of Victims of IFV Crimes" stands out as an important proposal, implemented as of January 2008 by the National Division for Victim and Witness Response of the Public Ministry, which will enable the systematisation of an intervention protocol under situations of criminal domestic violence.

e) Emergency response for victims of sexual violence: The existence of "Clinical Guidelines and Procedures for Emergency Services when Responding to Victims of Sexual Violence" is considered as a relevant step forward, as it gives a woman rape victim the right to information and access to an emergency hormone treatment, leading to the prevention of an undesired pregnancy attributable to sexual abuse.

f) Victim protection: There has been progress on the generation of legal instruments and institutional responses to ensure victim protection. Law No. 20.066 makes reference to domestic violence risk assessments and the need to declare protective measures on the matter when it is deemed that the victim may be at risk on returning to the home, in cases of domestic violence. The risk situations described bear relation to misuse of drugs and alcohol by the defendant, in cases of pregnancy and when minors are involved. The law provides for protection measures such as the prohibition of being near the victim, provisional alimony and visiting rights, among others.

In order to make the use and application of these measures more effective, Family Tribunals in Santiago have created an office for declaring protective measures on violence matters for people attending the tribunals, turning this into an important initiative in providing effective victim protection.

g) The murder of women as a media event. An important step forward has been taken to address a specific aspect of VAW - femicide - which at first was promoted by civil society and today has been taken-up by SERNAM as its core mission as it is seen as an extreme form of GBV. This visibility has enabled the issue of femicide to remain in the public agenda as a priority issue; thus, it becomes necessary to ascertain its magnitude and associated risk factors in order to establish an effective strategy for the protection of women.

Civil society organizations have made an important contribution to making femicide visible and placing the issue in the public agenda as an extreme form of VAW. Due to the study carried out by The Chilean Network against Domestic and Sexual Violence, femicide became visible and has been addressed explicitly by the State through SERNAM, which has placed it today in the public agenda and in the collective mind of Chile as a serious problem, affecting a significant number of women.

Women NGOs have played an important role in the generation of shadow reports, displaying the hurdles that still exist in regards to addressing women's human rights and the challenges that Chile continues to face regarding this matter.

1.4 Pending Challenges

State policy in general, and SERNAM in particular, has given priority to the issue of VAW perpetrated by their partners, identifying GBV with VAW in a family setting, cloaking other forms of GBV such as sexual exploitation, institutional or state violence. The efforts and achievements have been focused on generating an adequate legislation for the punishment of IFV, in implementing response programs and shelter homes, and in coordinating the different sectors dealing with violence in the family context. However, the approach and prominence of response given to victims of other forms of violence, such as sexual violence or in the working environment, have been implemented from other sectors. For instance, the Centre for Victims of Sexual Assaults Response (CAVAS) has seen a greater prominence of incidences of sexual violence, while SERNAM has recorded more incidents on violence on minors. The response given to occupational related incidents has

been led by the Labour Direction. There is a need to take a step back in order to see the big picture and thus be able to articulate a programmatic proposal of how to approach GBV in all its forms.

The State response has mainly focused on the care and protection of victims and punishing the aggressor, and to date is without an existing consistent and effective policy for the prevention of GBV.

Several large-scale challenges are put forward to be considered in a policy review of GBV in the country. Society as a whole has to reflect on these aspects, with active participation from social organizations, from the different sectors involved, and from victims themselves that have gone through the victim response system.

A. The various forms of GBV

GBV requires a wide-ranging, consistent approach, in the understanding that the most important risk factor for falling prey to this kind of violence is being a woman. It is also necessary to acknowledge that GBV is expressed in different aspects of women's life, both in public and private settings; thus, it is necessary to generate policies and plans aimed at preventing and addressing this kind of violence in its different manifestations.

B. Design and implementation of a prevention policy

Current policies geared towards responding to GBV have mainly focused on responding to victims and punishing aggressors, leaving violence prevention policies at a second level of importance.

Although prevention is mentioned in the law on domestic violence, existing programmes do not clearly define prevention, nor the target groups to which the actions and programmes are aimed at, the levels of prevention required (primary, secondary and tertiary prevention), nor an assessment of the impact of such actions.

A design of a GBV prevention policy implemented by the State in close collaboration with civil society is a priority. Such a policy would coordinate and give coherence to the different initiatives currently in place and propose changes to be evaluated within a defined period, with an understanding that prevention has an impact in the medium term.

The following is a proposed criterion to be considered in this design:

The design of a consistent policy on GBV prevention should shed light on the existing power relations between genders in the local context that may predispose and perpetuate GBV related behaviour in its different manifestations. A consistent prevention policy should identify and take into consideration power relations at the social, institutional and family levels.

The available information in the country indicates high levels of violence among boyfriend and girlfriend relationships or among couples prior to living together or before getting married; these are thus becoming a relevant target group for violence prevention policies.

Finally, there is at present a large number of prevention initiatives geared towards “crime prevention” that has synergies with GBV prevention initiatives. These initiatives are capable of leading to a rationalization of resources and providing consistence to the proposal emanating from different sectors, such as the Chilean programmes like “Chile Crece Contigo” (Chile grows with you), “Programa Puente del Chile Solidario” (Chilean Solidarity Bridge Programme), CONACE, including programmes aimed at improving school coexistence, etc.

C. The Need for a quality legislation that is properly implemented and applied

The new Law No. 20.066 against domestic violence is a substantial step forward in controlling VAW; however, it is referred to as “the domestic violence law,” failing to make reference to any gender perspective as a relevant factor in the existence of VAW.

Furthermore, the application of Law No. 20.066 has a series of difficulties hindering women’s access to the justice system, such as:

- A misunderstanding by law operators regarding the complexity of domestic violence, hampering its effective application and leading to an under-utilization of the mechanisms it awards in protection matters.
- Lack of prosecutors specialized exclusively on domestic violence, who may understand the specifics of this phenomenon, different from other crimes, aiming to address the issue in an adequate manner and provide better care to victims.
- Inexistence of single criteria among family and criminal judges when defining what is habitual behaviour. For example, some consider the harm brought on the victim, others take into account the history of violent behaviour, while a third group takes into consideration prior convictions of this type. This is compounded by the fact that in 50% of habitual mistreatment cases remitted by the Family Court, the Public Ministry does not proceed with the investigation and does not return the dossier to the Family Court, thus habitual mistreatment practically does not exist and women are left without access to justice and without a court room that may provide, if they so require, protective measures, once the trial has ended. This means that women have to endure new acts of violence if they want to initiate new judicial process⁴.
- Lack of single criteria in implementing risk assessment. There are no shared criteria to assess risk or clarity for when to assess.
- Long waiting periods for hearings due to overflowing of family court rooms.

⁴ **Source:** Lidia Casas, Mauricio Duce, Felipe Marín, Cristián Riego, and Macarena Vargas: “The Functioning of the new Family Tribunals: Results of an exploratory investigation” UDP, Santiago, 2006.

Legal changes have not come with the necessary measures to ensure an effective and efficient application of the law, nor of the financial resources needed for an adequate implementation. Thus, the lack of permanent and thorough training aimed at improving the skills of civil servants inevitably leads to administrative and judicial practices that hamper progress towards the eradication of violence.

Economic expenses incurred from the implementation of legislative changes have to be taken into consideration and should be monitored in order to ensure that the expected results are produced to contribute more efficiently to prevention and punishment measures. Otherwise, measures taken by the court will not be effective since the response networks are already operating at full capacity and cannot take ownership of this added responsibility.

It would appear that the latest democratic governments in Chile have not utilized victim participation and specialized civil society institutions as partners to engage in the evaluation of legislative policies and the modification of existent legal texts.

Given the above, it is important to indicate that the excessive legal sanctions and regulation towards VAW is not the stated aim; on the contrary, the aim is to strengthen quality in legislation, fulfilling international standards that are well implemented and applied.

Therefore, it is essential to improve the follow up process regarding the application of existing legislation in order to make it a fluid process. It is also fundamental to implement follow up strategies regarding international regulations on the issue, both by the State and civil society.

D. The need to improve victim response by ensuring protection, extending the period covered and incorporating rehabilitation policies

Factors facilitating responses to victims vary, depending on whether it relates to a crime victim or a victim of non-criminal violence, or whether it is unreported or involves minors.

Women who have not pressed charges or those who suffer non-criminal violence may refer to SERNAM or the Health Service program centres. Despite the increased number of centres (58 as at end of 2008) and its consequent increased coverage, the resources are still insufficient given the actual scale of the problem, making it imperative to have larger coverage of the general programmes, such as the health coverage at a primary level.

The assessment made of programmes which see to victims of violent crimes⁵, confirms that in a national territory, public policy on care given to crime victims are inexistent, and those in place are superimposed and segmented. In addition to these aspects highlighted by the Interior Ministry, there is a lack of a common focus that takes into account the specific nature of VAW, especially in the family context. Issues such as retraction, the risk of recurrent crime, the economic dependency on the aggressor, plus the emotional bond, require a different approach to that of other crime victims.

⁵ Includes both criminal IFV and sexual violence.

Another aspect pointed out by the report from the Interior Ministry is the access victims have to response programmes, where there are different strategies for controlling demand that hinders institutional referrals. Furthermore, the programmes are generally concentrated in regional capitals, while there is an absence of them in rural communities.

Despite important changes in the law and increased care coverage afforded to victims, the high numbers of femicides indicates the need to have an effective protection system for victims of VAW, consisting of a timely, coordinated and coherent response from public services. The coordination between the various institutions involved is insufficient, and is mostly seen at the prosecution level. There are no permanent communication channels that may enable the establishment of protection strategies for victims with adequate follow up programs⁶.

The pilot plan that the Public Prosecutor is implementing may lead to the generation of a protocol for women who are victims of criminal violence; however, it is important to develop policies for all women who endure violence by their partners and not just for women who suffer from criminal violence.

In an effort to improve response to victims, it is important to consider an expansion of what is presently available in order to address situations of conflict that could potentially lead to a scenario of violence. Often, legal actions seek to elicit a social response rather than penal action against the aggressor, which facilitates the withdrawal of charges in cases where the potential result of such action is the motivating factor (for example, a woman who reports her husband so that he will receive treatment for alcoholism).

Consequently, it is necessary to profile couples at risk in a timely manner and to have services in place, offered on a national level, to prevent the establishment of abusive trends within these relationships.

The comprehensive care programmes of domestic violence implemented in women's centres have focused on physical, psychological and legal support for victims, but have not focussed sufficiently on the rehabilitation of women to achieve their personal and financial independence. A fast response is required in social policies regarding the needs of those suffering violence (in housing, labour training, child care, etc). In this regard, important examples to take into account are the agreements signed by SERNAM with different Ministries, which are geared towards generating autonomy in women who are staying in shelters. This same model could be implemented in the women's centres.

E. Ensuring a gender perspective is reflected in inter-sector coordination

Although the incorporation of several ministries and services is highly valued, coordination difficulties exist between them. Each sector provides their own specific response, without joint planning, which in some cases means duplicating resources and overlooking specific programmes (such as the response given to cases of serious violence). Likewise, the

⁶ The diagnosis in victim response issues.

different programmes operate within different conceptual frameworks, thus it is particularly difficult to add a gender and human rights perspective in those initiatives already underway. Also, it is difficult to factor in the degree of existing power relations between genders as a triggering factor in episodes of VAW. When there is a failure to acknowledge power and gender relations during policy implementation, critical mistakes can be made which may lead to new episodes of violence perpetrated on previous victims contributing towards non-effective interventions. At present, there is no consensus regarding the significance of a gender perspective in the response to victims of violence since it has been identified that some operators may perceive such an approach as a form of discrimination.

Though joint efforts is a positive indicator, agreements reached between SERNAM and various ministries and services only focused on those women attending shelter houses, and those outside the shelter who suffer from violence by their partner are not included in these services.

The coordination difficulties seen among different sectors and the lack of a common language and a shared focus, makes the existence of a **National Plan**⁷ imperative, generated by the various sectors themselves, with nationwide participation, and also approved and assessed by the Cabinet, with follow up from the Board of Ministers for equal opportunities.

F. The Establishment of a policy of coordination and support of civil society initiatives

Civil society organizations have played an important role in making visible perpetration of VAW in a domestic environment to the public; they have placed the issue on the public agenda, developed intervention models and have implemented important actions regarding dissemination and prevention. However, their resources are scarce, affecting operational continuity and their capacity to be systematic. It is thus necessary to explore supporting mechanisms for civil society, with respect for and enhancement of their autonomy.

G. Generate an information system and indicators that may enable intervention follow up and assessment

There is no single record-keeping system that may quantify the number of women and girls that resort to the different services (both public and private) to seek help in relation to violence. The lack of a single, online registry system makes it impossible to follow up on referrals of the different services. It is also impossible to ascertain which route has been taken by women and girls when seeking help from the different institutions, hindering the identification of possible bottlenecks in the system regarding a comprehensive response.

Record-keeping is also needed so as to assess the relationship between the different forms of victimization. For example, the relevant literature indicates a strong correlation between sexual abuses within the family and being a victim of sexual exploitation or how childhood experiences of abuse is a factor in later episodes of domestic violence.

⁷ Mentioned in Law No. 20.066.

At present, there is no institution that centralises information gathered in the different record-keeping systems of the institutions at a local or national level. Although SERNAM coordinates with public institutions that provide victim response, it does not have readily accessible nor updated information on GBV prevalence. This makes it practically impossible to know what the real scale of demand is in relation to VAW. Therefore, it is a challenge to clearly estimate the costs to the State of having a comprehensive intervention on the issue that includes counselling, justice, protection of and reparation to victims, among other services.

The development of a common record-keeping system that collects information that can be utilized to generate estimations on the number of women that access services per year, the type of help needed, or which entry point are used to access the support networks, etc, has not been possible due to the existing differences in the statistical systems employed by the different services dealing with women suffering from violence. Nor has it been possible to carry out follow up activities of the women that are referred to other institutions; in order to know whether they follow through and access services with the intervention or not.

The above would indicate the importance of having a single, online, record-keeping system on VAW in order to simplify updating and monitoring. This does not mean that all services have to apply a standard questionnaire, but agree on some common, obligatory information to be collected, centralized and processed by a single institution, which will enable easier access to information.

The improvement of a record-keeping system goes hand-in-hand with keeping periodic base-line measurements, to monitor the incidences of GBV in its various manifestations. The Interior Ministry is involved in implementing a survey to assess both VAW in a family environment and sexual violence; this initiative is to be implemented every four years and applied on a sample population having national representation. The generation of other measuring instruments to assess other manifestations of GBV, such as sexual harassment at work and forced prostitution (or similar) is pending.

The design of relevant indicators would support the measurement of yearly progress. This task can be aided by studying GBV indicators developed by the follow up mechanism for the implementation of the Belen do Para Convention, created by the Inter American Women Commission of the OAS.

1.5 Final Comments

This document seeks to systemize a myriad of GBV actions, programmes and policies, with a focus on VAW, undertaken in the last 18 years. Systemization includes analysis on various aspects such as current legislations; the various strategies in place regarding prevention, response and rehabilitation, as well as an assessment of pending progress and future challenges. It may be possible that some existing programmes are not present in this report, either because of the lack of available information, or because of their discontinuation. However, all information considered relevant and significant was included.

The analysis shed light on some aspects that should be considered in further studies. Some include the conditions of women living in rural settings, prevalence of GBV, issues of ethnicity and GBV between same sex couples, as well as violence against transsexual communities which, from a gender perspective, have multiple constructions which are unseen by public policies, and in this particular case, are submerged by statistics and policies addressed to “men who have sex with other men.”

Finally, we would like to point out that the data comprising this report continues to change, and by the end of the proofreading period, new data was provided by the Interior Ministry. The new data included a case of a new femicide that was committed on the last day of 2008; new Women Centres implemented in 2009; legislative changes made in parliament, illustrating the need of a constant updating process, which collectively further proves certain aspects of GBV that were deemed as being deficient in earlier sections of this report.

II. COUNTRY PROFILE

According to the figures given out by the last national population census⁸, Chile has 15,116,435 inhabitants, of which 7,668,740 are women and 7,447,695 are men.

The population aged under 5 amounts to 25.7% and 11.4% are over 60; these numbers indicate a rapidly ageing population, also expressed in a low overall fertility rate, which in 2004 was 1.9 children for every fertile woman⁹. Regarding teenage pregnancies, the number of live births falls from 40,285 (1990) to 36,080 (2005). However, their proportion is higher compared to live births in general, from 13.8% (1990) to 15.6% (2006). Also, there is an increase in live births of mothers under 15: 1.8% (1990) to 2.6% (2005), with respect to those under twenty¹⁰. There is unequal access to information on pregnancy prevention, based on place of residence¹¹, and socio-economic level, as it fluctuates from 18.2% to 9.8%, given that 74% of teenage pregnancies fall within the two fifths of those having the lowest income¹².

Social conditions of the population have improved considerably in relation to that of a decade ago, largely owing to economic growth and social policies in tune with Chilean reality. According to data from 2004, the child mortality rate is 7.8 per 1000 inhabitants.

According to the Human Development report for 2006, Chile continues to improve its ranking within the group of countries having a high human development index. However, this report reveals that the country still presents various gender-related challenges, since Chile ranks 52 among 75 listed countries, according to an index which measures women’s participation in the world of politics and economic decision-making within society (Indice de Potenciación de Género).

⁸ **Source:** Census 2002.

⁹ **Source:** INE 2005.

¹⁰ **Source:** Health Ministry statistics.

¹¹ **Source:** Health Ministry statistics.

¹² **Source:** CESEN statistic.

In the educational area, for example, changes can be seen in gender composition in relation to equal access for men and women; yet, there are still inequalities prevalent in relation to standard tests that measure quality. It has been noted that in the classroom, boys are more prone to stimulation and therefore have more opportunities than girls do, and therefore, teachers generally assign his or her students gender-segmented tasks.

Regarding political participation, there has been an increase in the percentage of women in parliament, going from 9.5% in 2000 to 12.6% in 2006¹³. However this percentage continues to fall far short of the target of the 40% of women in Congress by 2015.

Regarding ministerial positions, despite the first cabinet of President Michelle Bachelet committed to gender parity, only 8 out of 22 Ministers are women, representing 36.4% of the total positions.

Regarding the participation of women at work, in accordance with the CASEN survey for 2006, the differences between earnings for men and women increase in proportion to the increase in educational level. This means that while women only having basic education earn 67.8% of what their male counterparts earn, women having higher education only earn 61.4% of what their male counterparts earn.

The rate of women participation in the workplace grows steadily; yet, problems of discrimination persist, seen by the fact that salary differences increase as women take-up more relevant and decision-making posts.

Thus, one of the biggest challenges persisting at the national level is the strengthened position of women regarding their economic autonomy, particularly in access to the workplace and in the access to better working conditions.

III. SCALE OF THE PROBLEM

The scale of GBV in Chile

The prevalence studies existent to date have concentrated on VAW exerted by their partners (married or living together) or former partners. There are no representative population studies that measure other manifestations of GBV, either from public or private spheres.

Chile saw pioneering work in the 1980s, implemented by non-governmental organizations and based mainly on a review of response centre reports and on interviews of women that had suffered violence by their partners. The aim of such studies was to draw the attention of public opinion regarding a phenomenon that hitherto had been hidden and socially tolerated.

This section of the report reviews the main prevalence studies in the country, which have been designed to shed light on the scale of domestic violence. Although the studies may

¹³ Of the 38 senators only 2 are women and of the 104 deputies, 16 are women.

have leaned more towards the exploration of other forms of violence experienced in childhood as risk indicators associated with later experience of violence within the couple (such as sexual abuse). The studies that have been carried out to date have been undertaken by universities, academic centres and non-governmental organizations on behalf of SERNAM, which sets out research requirements (sample size, measuring instrument, and requirements) and provides financing.

The first study to shed light on the scale of domestic violence in Chile, sponsored by the Pan-American Health Organization (PAHO), was carried out in 1992. The study, “Violence indoors: the beaten woman,¹⁴” revealed that in one out of every three homes a woman suffers acts of aggression, including psychological violence. Only 40% of homes saw no forms of violence within the couple. This first study revealed that a high percentage of women in Chile suffered violence at home. As a result of the study and statistics that were culled, issues of domestic violence moved into the public domain.

From 2001 onwards, SERNAM commissioned five studies on VAW, undertaken by their partners, applying an instrument based on a questionnaire developed by the Worldwide Health Organization (WHO) for the Multiple-centre study on Health and IFV.

In 2001, a second study was carried out, entitled “Detection and Analysis of IFV Prevalence,¹⁵” implemented by the Public Policy Analysis Centre of the University of Chile, aimed to “detect the prevalence of conjugal violence, analysing its various manifestations and associated factors, including strategies employed by women who were victims of such violence, in the Metropolitan and Arauco Region.¹⁶” The sample size amounted to 1,358 women from the Metropolitan Region and 1,363 from the Ninth Region (Arauco), both from urban and rural settings. Main results obtained showed that 50.3% of women from the Metropolitan Region and 47% of women from the IX Region have experienced, at some point in their life, violent situations in their relationships.

It was also demonstrated that nine years after the study, “*Violence indoors; the situation of women in Chile*” was undertaken, there has been a reduction in the time women take in seeking help under such conditions. In this study, women took, on average, 13 years before seeking institutional help, while in the 2002 prevalence study, that period fell to 7 years.

Since that first study, four additional studies have been undertaken in different regions, commissioned by SERNAM, namely, “Detection and Analysis IFV Violence Prevalence in the Antofagasta Region (2003),¹⁷” “Detection and Analysis of IFV Prevalence in the

¹⁴ **Source:** Soledad H. Larrain. “The violence indoors: the beaten women,” Universitaria Editorial, 1993.

¹⁵ **Source:** Raúl Urzúa, Soledad Larrain, Marcela Ferrer, Claudia Gutiérrez: “Detection and Analysis of IFV Prevalence.” Public Policy Analysis Centre of the University of Chile, SERNAM, 2002.

¹⁶ **Source:** Carolina Díaz, Consultant of the studies and statistics Department of the National Women Service, “Studies done by the National Women Service between 1992 and 2003.” Work document No. 87 Santiago, June de 2004

¹⁷ **Source:** Raúl Urzúa, Marcela Ferrer, Claudia Gutiérrez: Detection and Analysis of IFV Prevalence. Region of Antofagasta. Centre of Analysis of public policies of the University of Chile. Document of internal circulation, not published, SERNAM, 2003.

Coquimbo Region (2004),” “Detection and Analysis of IFV in the Aysén Region (2005)¹⁸,” and, “Detection and Analysis of IFV in the Tenth Region of Los Lagos (2006)¹⁹.”

Below are the main results obtained from the studies:

Table No. 1 Prevalence of conjugal violence by types and according to region

| | RM* | IX ** | IV *** | II **** | XI ***** | X ***** |
|---|---------------|---------------|---------------|----------------|-----------------|----------------|
| | Region | Region | Region | Region | Region | Region |
| | % | % | % | % | % | % |
| Overall Figures | | | | | | |
| Without Violence | 49.7 | 53.0 | 51.6 | 57.2 | 64.0 | 44.7 |
| With Violence | 50.3 | 47.0 | 48.4 | 42.8 | 36.0 | 55.3 |
| Subtotal | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| Prevalence according to type of violence | | | | | | |
| Psychological violence | 43.2 | 42.4 | 41.9 | 39.1 | 31.9 | 48.5 |
| Physical violence | 13.1 | 10.2 | 13.4 | 11.1 | 8.5 | 36.3 |
| Serious physical violence | 19.0 | 15.1 | 19.2 | 15.7 | 15.6 | 22.9 |
| Sexual violence | 14.9 | 14.2 | 16.6 | 14.2 | 10.4 | 28.3 |

*2001. “Detection and Analysis of IFV Prevalence,” Public Policies Analysis Centre of the University of Chile.

**2001. “Detection and Analysis of IFV Prevalence,” Public Policies Analysis Centre of the University of Chile.

***2004 “Detection and Analysis of IFV Prevalence in the Coquimbo Region” Directorate of Sociological Studies of the Pontifical Catholic University of Chile.

****2003. “Detection and Analysis of IFV Prevalence in the Antofagasta Region,” Public Policies Analysis Centre of the University of Chile.

*****2005. “Detection and Analysis of IFV Prevalence in the Aysén Region,” Directorate of Sociological Studies of the Pontifical Catholic University of Chile.

*****2006. “Detection and Analysis of IFV Prevalence in the Tenth Region of Los Lagos,” Corporacion Humanas, Public Affairs Institute of the University of Chile.

As exemplified in the table, the regions show similar results, with only some small variations, such as the lower levels of violence in the eleventh (XI) Region. However, the main conclusion to be drawn from the data is the scale of domestic violence in the country.

In 2007, the Public Security Division of the Interior Ministry commissioned the Directorate of Sociological Studies of the Pontifical Catholic University of Chile to prepare and apply a National Survey of Victimization by sexual crimes and IFV. The survey consisted of four questionnaires defined for each of the following populations: boys, girls and adolescents;

¹⁸ **Source:** Miguel Angel Ruz, Soledad Larrain,; Mauricio Fernández,; Ángela Madrid, Pamela González, Luis Munita. Directive of Sociological Studies of the Catholic University of Chile. “Detection and Analysis of IFV Prevalence in the Aysén Region” Final Report. June, 2006.

¹⁹ **Source:** Humanas Corporation. Institute of Public Issues of the University of Chile. “Detection and Analysis of IFV Prevalence in the X Region of Los Lagos” 2006.

men; women; and the elderly. For each of the population samples, an instrument was prepared and applied at a national level, where violence experienced in a family setting is explored, including sexual crimes. Survey results will be presented by the Public Security Division towards the end of 2008. The importance of this initiative is two-fold: firstly, the Interior Ministry made a clear statement that VAW is a public security issue and secondly, it is the first time ever that such a nationwide study on this matter has been undertaken.

- a) **Femicide:** In 2004, Corporation La Morada, with support from UN agencies, carried out the first study aimed at ascertaining the scale of femicide in Chile.²⁰ The study made evident that this was a significant issue due to the sheer numbers involved, and to date, had not been seen as a manifestation of GBV.

Main results show that instances of femicide represents nearly half the women murdered in Chile and that they generally occur in a context of past or present intimate relationships.

From the results obtained, the issue began to be aired in the public domain. In 2005, SERNAM highlighted such situations of extreme VAW and started to register cases of femicide in the country. According to SERNAM data²¹, in 2007, 62 femicides were committed in Chile.

For instance, the Specialized Unit on Adolescent Penal Responsibility and IFV from the Public Prosecutors Office carried out a study on homicide statistics in the context of IFV in 2007. The research showed that the highest proportion of women victims was aged between 18 and 20, followed closely by women aged between 30 and 39.

According to results analysed, 80% of femicide cases occur within the context of a sentimental relationship or “intimate” femicide. According to the data appearing on the SERNAM webpage, as of September 2008, 48 femicides have been registered in the country.

In relation to the scale of sexual VAW in Chile, there are still no prevalence data. However, the present year has seen the preparation and application of a “National Victimization Survey by Sexual Crimes and IFV,” commissioned by the Interior Ministry. Women and girls were among the target populations. In spite of what has been previously stated, this issue has been explored in the context of other surveys and studies: In a study “National Sexual Behaviour,” undertaken in 2000 regarding the question “have you been a victim of rape?”²², 7% of women indicated that they have been and almost half of these indicated that this crime amounted to their sexual initiation. 78% reported that the abuser was someone known to them, a relative or partner. 1.8% of men answered positively. In a study carried out in the city of Temuco²³, the prevalence of sexual abuse was 9.3%, increasing to 14.4%

²⁰ **Source:** Soledad Rojas, Camila Maturana, and Gloria Maira: Femicide in Chile, 2004.

²¹ **Source:** <http://www.sernam.cl/portal/>

²² **Source:** Study of Sexual Behaviour. Government of Chile, National Commission of AIDS, Chile 2000.

²³ **Source:** L. Vizcarra, Beatriz María, Julia M. Cortes, Luis M Bustos, et al. Maltrato infantil en la ciudad de Temuco: Estudio de prevalencia y factores asociados. Rev. méd. Chile. [online]. dic. 2001, vol.129, no.12 [citado 07 Abril 2008], p.1425-1432. Disponible en la World Wide Web: http://www.scielo.cl/scielo.php?script=sci_arttext&pid=S0034-98872001001200008&lng=es&nrm=iso. ISSN 0034-9887.

in girls and falling to 2.1% in boys. In studies of prevalence of VAW by their partners, carried out in two regions of the country (Metropolitan Region and Araucanía Region) women aged between 15 and 45 years were asked if they had been victims of sexual abuse before age 15, and 10.9% respondents of the Metropolitan Region and 11% respondents of the Araucanía Region answered positively²⁴. Similar figures were found in other prevalence studies.

- b) Human trafficking and forced prostitution:** Chile is a country of origin, transit and destination for men, women and children traded for the purposes of sexual exploitation and forced labour. The majority of victims are Chilean minors victims of sexual exploitation; yet, given the characteristics of this activity, there are no reliable data in the country. In relation to trafficking and sexual exploitation of minors, according to a 2003 study by the University ARCIS for the Chilean National Service for Minors (SENAME), at least 3,700 minors were victims of sexual exploitation and prostitution.

Other two studies on this matter have also been conducted: an “Exploratory Study on Human Trafficking for Sexual Exploitation in Chile,” IMO/Chile, 2006 and a “Study of Human Trafficking in Chile,” IMO/Chile, 2008, which have allowed a first approximation to the characteristics and magnitude of this issue.

- c) Sexual harassment at work:** a month from the start of the enforcement of the new sexual harassment regulations,²⁵ the Labour Direction had received a total of 25 complaints, of which 13 were from the Metropolitan Region and the rest were from other regions. 18 involved a person with a higher position while two involved a worker having an equal standing/similar position.

The importance of this data resides in the fact that they have made visible the different forms of violence that women in Chile endure. Many of these initiatives have been promoted by the State; however, it is still necessary to make progress towards an integral understanding of the problem in order to make it possible to ascertain the real scale of GBV in Chile. From the date legislation on this issue came into effect, the number of charges against sexual harassment has remained relatively stable. During 2006, the number of charges reached 321; in 2007 there were 344 charges, whilst in 2008, 323 charges were filed against sexual harassment.²⁶ The distribution per region varies, with a decrease in percentage of charges in the Metropolitan Region from 57% in 2006 to 46% in 2008.

²⁴ **Source:** Detection and Analysis of Inter-family Violence Prevalence. Analysis Centre of Public Policies, University of Chile. SERNAM 2001.

²⁵ The 18th of March of 2005 in the official Diary the Law No. 20.005 was published which typifies and punishes the Sexual Harassment.

²⁶ **Source:** Informe de Acoso Sexual Período 2006-2008. Proporcionado por SERNAM

Table No. 2 Complaints on sexual harassment in the work place

| 1.DENUNCIAS POR REGIÓN ENERO 2006- SEPTIEMBRE 2008 | | 2006 | | 2007 | | 2008 | |
|--|--------------------------------------|------|--------|------|--------|------|--------|
| REGIÓN | | Nº | % | Nº | % | Nº | % |
| I | DRT TARAPACÁ | 18 | 5,6% | 9 | 2,6% | 4 | 1,2% |
| II | DRT ANTOFAGASTA | 20 | 6,2% | 28 | 8,1% | 30 | 9,3% |
| III | DRT ATACAMA (COPIAPÓ) | 1 | 0,3% | 11 | 3,2% | 6 | 1,9% |
| IV | DRT COQUIMBO (LA SERENA) | 6 | 1,9% | 6 | 1,7% | 10 | 3,1% |
| V | DRT VALPARAÍSO | 19 | 5,9% | 15 | 4,4% | 28 | 8,7% |
| VI | DRT LIB. BDO O'HIGGINS (RANCAGUA) | 16 | 5,0% | 29 | 8,4% | 28 | 8,7% |
| VII | DRT MAULE (TALCA) | 16 | 5,0% | 14 | 4,1% | 9 | 2,8% |
| VIII | DRT DEL BÍO (CONCEPCIÓN) | 12 | 3,7% | 11 | 3,2% | 23 | 7,1% |
| IX | DRT DE LA ARAUCANÍA (TEMUCO) | 10 | 3,1% | 8 | 2,3% | 10 | 3,1% |
| X | DRT DE LOS LAGOS (PUERTO MONTT) | 17 | 5,3% | 21 | 6,1% | 12 | 3,7% |
| XI | DRT AYSÉN DEL G.C.IBÁÑEZ (COIHAIQUE) | 2 | 0,6% | 2 | 0,6% | 2 | 0,6% |
| XII | DRT DE MAGALLANES (PUNTA ARENAS) | 1 | 0,3% | 2 | 0,6% | 3 | 0,9% |
| XIII | DRT REGIÓN METROPOLITANA | 183 | 57,0% | 188 | 54,7% | 148 | 45,8% |
| XIV | DRT DE LOS RIOS (VALDIVIA) | | | | | 5 | 1,5% |
| XV | DRT DE ARICA Y PARINACOTA | | | | | 5 | 1,5% |
| TOTAL | | 321 | 100,0% | 344 | 100,0% | 323 | 100,0% |
| promedio mensual | | 27 | | 29 | | 27 | |

Regarding the results of sexual harassment charges in the work place, the following table shows that the percentage of charges issued under Law No. 20.005 decreased from 29% in 2006 to 15% in 2008, which might be attributed to the new work procedures launched in 6 regions of the country. Regarding the situation of the claimant, nearly 40% leave their place of employment.

Table No. 3 Results of research on sexual harassment charges presented before the Labour Direction 2006-2007 & 2008. Law No. 20.005

| TOTAL | N° of Claims | Results | | | | | Number of fines issued | | | | Claimants' Situation | | | Medical Certificate |
|-------|--------------|----------|--------------|----------|---------|-----|----------------------------|------------------------|------------------------|-----|----------------------|-------------------|-----|---------------------|
| | | Verified | Non Verified | Repealed | Pending | s/i | Due to internal regulation | Harassment by employer | precautionary measures | N/i | Continues to work | Leaves Employment | s/i | |
| 2006 | 318 | 93 | 159 | 19 | 45 | 2 | 15 | 1 | 5 | 10 | 136 | 108 | 74 | 10 |
| | 100% | 29% | 50,% | 6,% | 14% | 1% | 5% | 0,3% | 2% | 3% | 43% | 34,% | 23% | 3% |
| 2007 | 324 | 85 | 197 | 35 | 7 | | 33 | 14 | 6 | | 162 | 154 | 8 | 51 |
| | 100% | 26,% | 61,% | 11,% | 2% | | 10% | 4% | 2% | | 50% | 48% | 3% | 16% |
| 2008 | 323 | 47 | 197 | 31 | 39 | 8 | 21 | 4 | 11 | | 124 | 126 | 73 | 20 |
| | 100% | 15% | 61,% | 10% | 12% | 3% | 7% | 1% | 3% | | 38% | 39% | 23% | 6% |

IV. PUBLIC POLICIES

The analysis of public policies on GBV will be made taking into account, firstly, the history of the last 18 years in the implementation of policies regarding GBV, and secondly, a description of current legislation and the response given by government and non-government organizations.

4.1 Public policies on GBV: The route from the initial formal complaint to an integral victim response

The policies of GBV have gradually taken shape in the last 18 years since the return of democracy, with different a bias at times in accordance with the authority in power, including program changes and an increasing cast of state players involved. This section provides a brief description of the different responses to GBV emanating from the public sector. The aim is to understand the context in which different programs and actions emerge, especially the context that has a more integral response to domestic violence.

In the 1980s, the first complaints of violence that women endure due to their gender - seen mainly in a private setting - were exposed. Women organizations and the feminist movement stated that VAW is a social and political issue and as a result, implemented the first set of studies and care programs. Due to their success, VAW was taken on board as an issue when the Concertación designed its government program in 1989 - a coalition that was elected into government in 1990 - putting an end to 17 years of dictatorship.

The accession of the first democratic and transitional government in Chile saw the enactment of Law No. 19.023, dated January 3, 1991 which created SERNAM, whose aim is to promote equal opportunities for both men and women. The creation of SERNAM is a

direct result of recovering democracy and attributable to the political and social participation of women in this process. Given the former, providing an adequate IFV response to women was seen as a challenge for the new government.

Policy generated regarding IFV becomes a SERNAM priority, an entity in charge of generating and coordinating the provision of an integral, interdisciplinary and specialized care for women. It is important to establish that SERNAM is not in charge of implementing policies, but rather to coordinate public policies geared towards gender equality.

SERNAM created in 1992 its IFV National Program while, in the same year, the Chilean government, through a Presidential decree creates the IFV Inter-ministerial Commission, where several different players are involved, such as Government Ministers, representatives of the Judiciary and of Civil Society, acting as a coordinating agency of the various sectors involved in the prevention of violence and victim response, as well as liaising with the Judicial Branch.²⁷ The participation of civil society in this commission is highly relevant, given the ample experience that NGOs have in dealing with domestic violence.

Concurrently, that same year, with the support of the PAHO, the first study of VAW²⁸ was undertaken. The data on violence, its nature and its impact in society as a whole, becomes a relevant advocacy tool used when debating the law.

There are several different steps described when addressing IFV, as implemented by SERNAM from 1991 onwards, often overlapping with each other and in line with an increasingly integral policy.

The first stage begins with the constitution of SERNAM as an institution, whose fundamental objective was to make IFV visible in the public domain and to demonstrate its scale and effects, thus turning it into a social and public issue and placing it on the political agenda in the public domain and among the concerns of other Ministries and Services,²⁹ particularly of Parliament and other state services. The numbers generated from the Prevalence Study, indicating its actual scope and characteristics, heavily influenced this stage.

In this same period, SERNAM sponsored through the Executive branch, a law project on IFV, since at that point Chilean legislation did not have a specific characterization for dealing with the issue. Without this characterization, IFV had been kept “under the veil,” leading to lack of reliable data, a total lack of protection to victims and impunity to aggressors. As a result, a vicious cycle of aggressive behaviour existed, perpetuating violence.

The follow up and support provided to the law project that was being debated in Parliament -a process lasting almost four years- was an important source of concern in the day-to-day work of the SERNAM Violence Programme.

²⁷ Integrated by the Ministries of Health, Justice, Education, Judicial Power, National Institute of youth, Foreign Affairs, incorporating civil society through a network of nongovernmental Organisms against Domestic and Sexual Violence.

²⁸ Source: S. Larrain: *Violencia Puertas Adentro. La mujer golpeada*. Ed. Universitaria. Santiago de Chile, 1994.

²⁹ Such as the Ministry of Health and Education.

The second stage was the implementation of the nationwide IFV prevention program. This stage of the program focused mainly on defining an inter-sector coordination strategy at both the regional and local levels, aiming to involve the whole state system in dealing with the issue. Due to its multiple characteristics, this approach was the only way an integral response would be generated on the issue. In 2000, 164 municipal networks were operational throughout the country.³⁰

In this same period (1993), a large-scale dissemination campaign was implemented, aimed at mobilising public opinion through the mass media. The goal was to make the problem visible, using the prevalence study results obtained in 1992.³¹

In parallel to the above, greater awareness of and further training in the victim response cycle was made available to public employees, such as police officers.³² In addition to the police officers, the goal was to train various public employees on their role in the victim response cycle such as members of the judicial branch and health workers, with the aim of improving their understanding of the issue and developing their awareness levels, thereby improving the level of their interventions and avoiding secondary victimization.

As the violence programme progressed, it was evident that there was a lack of a suitable response in specialized victim care. As a result, an initial response strategy was generated to answer the urgent need of having an integral, interdisciplinary and specialized victim response. This promoted the creation of Municipal Response Centres.³³ These Centres were placed at the local level, wherein the local government has the closest proximity to women. The initial centres created were soon saturated, thus demonstrating the exiting demand that was hitherto unknown to the public sector.

Given the lack of resources of the poorer municipalities, the emphasis is placed on the creation of municipal programs. These programs are responsible for specially training one or two professionals in providing initial victim response and subsequent referral according to the specialised response chain. Aiming to obtain local implementation of this specialised response alternative, SERNAM implements a specific training line, influencing both program creation as well as network conformation and strengthening.

The IFV Act was enacted in 1994 -a landmark development in this area- leading to new challenges in effective implementation. Regarding its enactment, SERNAM makes an important contribution by training public employees that come into contact with victims of violence.

In 1996, the State of Chile ratified the Inter-American Convention on the Prevention, Punishment and Eradication of All Forms of VAW. The “Convention of Belém do Pará,” acknowledged the need to approach IFV as a matter of state policy, with emphasis on the

³⁰ **Source:** In preventing IFV: Communitarian task. Support Manual to local networks. Chilean Government, July 2000.

³¹ As previously stated.

³² The first Police training done in the Metropolitan Region was in 1991.

³³ The first Attention and Prevention of IFV Centre was created in 1990, based on an agreement between the SERNAM and the Municipality.

prevention and integral care of victims and on the understanding of the inter-sectoral nature of treatment as a key methodology in dealing with the issue.

From 1997 to 2000, SERNAM prepared materials and courses geared towards training initially middle school teachers (from first to fourth year), and then, primary school teachers, working in the second cycle of primary education, in modules such as Formative Intervention in Conflict Resolution.³⁴ Unfortunately, work implementation has since been discontinued.

The inauguration of the third Government from the Concertación coalition in 2000 came with an IFV National Intervention Plan, designed for the following six-year period, leading to important changes in the policies implemented to date. This meant that SERNAM itself directs the provision of care services through the implementation of “Centres of IFV Prevention and Integral Victim Response” throughout the country, while assuming a direct role in delivering services to men, women and children who suffer violence. Thus, from 2001 onwards, 23 centres named “Centres for IFV prevention and the provision of integral victim response” were created. These centres are staffed by an interdisciplinary team consisting of lawyers, psychologists, social service workers, and monitors, providing specialized attention to whoever is undergoing such an experience. They are funded and have specialized services provided by SERNAM, executed by non-governmental organisations or the municipalities.

Together with the creation and implementation of Integral Response Centres, SERNAM, through its female Minister, promotes a nation-wide campaign of citizen mobilization called *Red Protégé* (protection network). The aim of the network is to “invite the citizens to be an active part in the support to and prevention of IFV and child abuse, either as members or volunteers, in order to strengthen capacities and witness and value different experiences. Furthermore, the network works to coordinate and make visible both the public and private provision of services on the matter, through joint coordination and intervention, in order to strengthen existent resources and to make more efficient the care to and prevention of IFV and child abuse.”³⁵ This initiative, after gaining initial momentum, foundered after changes of the executive were made.

From 2005 onwards, the programme -initially known as “Centres for Integral Care and IFV Prevention” and dependant on the National Programme of IFV Prevention- became known as “Women Centres.” While still focused on giving an integral response to the issue, it had a special focus on women victims of violence.³⁶ In 2007, there were 31 Centres in operation, almost doubling in 2008 to 58 Women Centres, covering all regions of the country.

Ten years on from the inaugural IFV act, on the 7th of October of 2005, the new IFV act was enacted -Law No. 20.066- substituting the former and modifying the Penal Code,

³⁴ **Source:** Education, culture and change. Non-violent resolution of conflicts. Booklets for teachers. First Basic Cycle and Second Basic Cycle. Government of Chile. SERNAM. July, 2000.

³⁵ **Source:** http://www.colegioabogados.cl/htm/Red_protege_061102.htm

³⁶ The suggestions made by the assessments made on these Centres by Budget Directorate of the Treasury were implemented. The assessment panel consisted of A. Beca, S. Larrain and J. Le Bert.

where mention is made regarding the State's duty to protect from and prevent IFV and to provide care to its victims.³⁷ SERNAM was assigned a fundamental role in coordinating the fulfilment of the law and of the responsibilities attributable to the State as set out in the legal text.

Article 20 of the law enables SERNAM to judicially represent women victims of IFV crimes. In virtue of this disposition, SERNAM has increasingly taken up the follow up and/or legal council of the cases involving users of Women's Centres and Shelter Homes.

With the enactment of Law No. 20.066, new players appeared in response to violent situations, such as the Public Prosecutors Office, which designates specialized IFV prosecutors, implements pilot plans to provide a better response, and incorporates IFV into its information system, thereby enabling the possession of specific information from 2006 onwards.

The past 18 years have thus seen significant progress, particularly in the legislative area, in the response provided to victims and in inter-sectoral work. However, what can at present be stated is that such initiatives, programmes and sector or institutional measures for dealing with domestic violence are not enough to cover all the needs of the population affected and those at risk, hence losing the characteristic of being an integral policy for the detection, prevention, and provision of care to GBV.

The analysis of public policies on GBV indicates that the response has been mostly based on assigning greater importance to domestic violence, violence that women experience in their sentimental relationships in a context of IFV.³⁸ To date, there is no GBV policy that may serve as a framework for policy development in its various manifestations. Hence the response to domestic violence is given within the context of IFV, while other manifestations of GBV, such as sexual violence or harassment at work, are not analysed within the same context. As a result, the judicial branch covers sexual violence cases, while the Work Ministry covers work harassment cases.

4.2 Legal Frameworks

The country does not have regulations that refer specifically to GBV or VAW, except for those specific conventions ratified; therefore, a review of internal legislation implies cross-checking the different pieces of national legislation which deal with one or more manifestations of GBV. This aspect is the first hurdle when approaching and making the issue visible, since laws not only play a role in what is referred to as the judicial regulation of a certain type of behaviour; they also provide a framework from which a certain country approaches or understands a given issue. Thus, the ratification of international regulations is considered one of the most significant advances in Chilean public policies in relation to GBV. In turn, they have provided a guiding framework for national legislation, and also a reference to resort to when interpreting this legislation, whenever it is unclear or unspecific.

³⁷ According to the guideline of the Inter-American Convention for the prevention, punishment and eradication of the VAW, (Belem do Pará Convention).

³⁸ Both laws on the subject are called "Intra-family Violence Law."

The legislative analysis implies a review of international regulations ratified by Chile as well as the national regulations approved in reference to VAW.

The present chapter starts with a description of the international regulations ratified by Chile in reference to the protection of rights regarding VAW. First reference is to conventions, given they are legally binding. Reference is then made to other non-binding regulations which, due to their nature of being declarations, only create an ethical imperative. This section ends with a review of the international regulations not ratified by Chile, indicating why it is important that they be ratified. Finally, a review of the different national legislation that addresses the different manifestations of GBV is made.

INTERNATIONAL REGULATIONS RATIFIED BY CHILE THAT ESTABLISH THE RIGHT TO PROTECTION IN CASES REGARDING VAW

CONVENTIONS (LEGALLY BINDING)

- **The Palermo Protocol “Protocol for the prevention, repression and sanctions of human trafficking, specially women and children” (2005).**

This protocol was signed by Chile in 2000 and ratified in 2005.

- **Optional Protocol to the Convention of the UN on DDNN, relative to the Sale of Children, Child Prostitution and use of Children for Pornography.**

This protocol was signed by Chile in 2000 and ratified in 2003.

- **Inter American Convention on the Prevention, Punishment and Eradication of All VAW (OAS, Belem do Pará, Brazil, 1994).**

This convention was ratified by Chile in 1996 and published in the Official Gazette on 11 of November, 1998.

In 2007, the Expert’s Committee - a technical institution of the Follow up Mechanism for this Convention - sent to all member States, including Chile, the first follow up report with the recommendations that they should be adopted.

- **United Nations Convention on Children’s rights**

This convention was signed and ratified by Chile in 1990.

- **Convention on the Elimination of All Forms of Discrimination against Women and its Facultative Protocol (UN, 1979).**

This Convention was ratified by Chile in 1989 and published in the Official Gazette on the 9th of December of that same year.

- **American Convention on Human Rights or The San José Pact (OAS, San José, Costa Rica, 1969).**

This Convention, ratified by Chile, does not establish specific rights on the issue of VAW. However, it does establish a series of human rights that are transgressed whenever GBV is seen.

This Convention has an Additional Protocol in the Area of Economic, Social and Cultural Rights (OAS, San Salvador, El Salvador, 1988), best known as the Protocol of San Salvador, which has not been ratified by Chile.

- **International Covenant on Civil and Political Rights (UN 1966) and its Facultative Protocol (UN 1966).**

This Pact, ratified by Chile in 1972, published in the Official Gazette on the 29th of April, 1989, establishes a series of rights applicable to VAW. The Facultative Protocol of the International Covenant on Civil and Political rights was ratified by Chile in 1992 and published on the 20th of August of that same year, establishing a complaints mechanism, when in the presence of state transgressions, of those rights set out on the Covenant. The Human Rights Committee is the relevant institution for receiving and evaluating complaints from individuals claiming to have suffered, at the hands of the State, a denial of the rights present in the Covenant.

- **International Covenant on Economic, Social and Cultural Rights (UN, 1966)**

This Pact, ratified by Chile in 1972 and published in the Official Gazette on the 10th of February, 1972, contains at least one regulation that may be applicable to VAW, namely article 12 that establishes the right of all people to enjoy the highest possible standard of physical and mental health.

At present, there are three cases that have been processed, declared admissible before the Inter American Commission of Human Rights against the State of Chile for violation of women's rights, directly or indirectly related to GBV. These being: CASE NUMBER 12-337-MARCELA ANDREA VALDES DIAZ; CASE NUMBER 71/01-SONIA ARCE ESPERANZA; and, CASE NUMBER 1271-04-KAREN ATALA AND DAUGHTERS. Also, there is a case that concluded with an out-of-court settlement, CASE NUMBER 12.046- MONICA CARBANTES GALLEGUILLOS, whose terms were approved by the Commission on the 12th of March, 2002.

OTHER INTERNATIONAL INSTRUMENTS SUBSCRIBED BY CHILE :(NON-BIDING)

- **Universal Declaration of Human Rights: UN, 1949**
- **Platform for Action of the Fourth World Conference on Women: UN, Beijing, China, 1995**
- **The Vienna Declaration and Action Program: UN, Vienna, Austria, 1993**
- **Action Programme on Population and Development: El Cairo, Egypt, 1994**

INTERNATIONAL INSTRUMENTS NOT RATIFIED BY CHILE

a) The Facultative Protocol of the Convention on the Elimination of All Forms of Discrimination against Women (UN, 1999)³⁹

Chile has still to ratify the Facultative Protocol of the Convention on the Elimination of All Forms of Discrimination Against Women (UN 1999)⁴⁰. It is paramount that it does so as the State could be reported to the UN Committee for the Elimination of Discrimination Against Women (CEDAW) due to the non-fulfilment of articles within the Convention, in accordance with the mechanism defined by the protocol.

The Facultative Protocol of the CEDAW has not been ratified by Chile, due in part to opposition from the Catholic Church hierarchy, who have lobbied, interfered and provided direct instructions to opposition parliamentarians for them from refraining to endorse this initiative that has been submitted to the legislative branch by the government on several occasions⁴¹ and which is currently residing in the Senate Foreign Affairs Commission under second procedure.

The opposition from the Church is based on a misunderstanding of the text Protocol, leading them to argue that its ratification would pave the way to the decriminalization of abortion and to a legalization of gay marriage,⁴² both situations far removed from the spirit of the document which only empowers the CEDAW Committee to receive complaints regarding rights violations as set out by the Convention on the Elimination of all Forms of Discrimination Against Woman by the State or its agents⁴³.

b) Additional Protocol in reference to Economic, Social and Cultural Rights (OAS, San Salvador, El Salvador, 1988)

The American Convention on Human Rights or the San José Pact (OAS, San José, Costa Rica, 1969) has an additional protocol in reference to Economic, Social and Cultural Rights (OAS, San Salvador, El Salvador, 1988), better known as the San Salvador protocol, which has not been ratified by Chile. This instrument contains regulations that would be very interesting to apply in Chile in reference to VAW.

c) Rome Statute on the International Penal Court (UN, Rome, Italy, 1998)

The Rome Statute on the International Penal Court, as approved by the UN in Rome on the 17th of July, 1998, has not yet been ratified by Chile. One of the most important advances of this treaty is the incorporation of the concept of *gender* in a legal instrument of international scope. It also innovates by typifying rape, sexual slavery, forced pregnancy, forced sterilization, forced prostitution, comparable sexual abuses and gender persecution, defining such acts as being the most severe in international legislation, falling under the

³⁹ This protocol was approved by the UN General Assembly in 1999 and became valid in 2002 after ratification by 10 States.

⁴⁰ This protocol was approved by the UN General Assembly in 1999 and became valid in 2002 after ratification by 10 States.

⁴¹ **Source:** Lorena Fries, and Kena Lorenzini, (coordination and edition of the first part), Ximena Zabala, (updating): “Shadow Report CEDAW 2003 – 2006.”

⁴² **Source:** <http://www.accionfamilia.org/temas-polemicos/aborto/onu-reabre-debate-aborto/>
Source: <http://www.cecadeuc.blogspot.com/2007/08/protocolo-facultativo-cesaw.html>

⁴³ Inter American Institute of Human Rights: “Arguments of IIDH in favour of the ratification of the Facultative Protocol Institute of the CEDAW, IIDH, Costa Rica, 2004.

category of crimes against humanity and war crimes, which in turn lead to other crimes, such as genocide and to other behaviors, such as torture and slavery.

The Rome Statute has not been ratified by Chile due to political reasons, as political parties from the opposition fear that some cases may be presented before the IPC regarding human rights violations during the dictatorship. Ratification requires a special quorum, which would be impossible without the votes from this sector. To date, political negotiations have not prospered and are not within government priorities, despite the lobby undertaken by NGOs such as Domos and Humanas.⁴⁴

NATIONAL REGULATION, RECENT MODIFICATIONS AND LAW PROJECTS IN MATTERS OF VAW

The main regulations regarding gender violence in Chile are found in two legal texts: the civil legislation, with its specific law on IFV, and penal legislation, as set out in the Penal Code that addresses sexual crimes and injuries. There are other regulations dealing with other forms of VAW, such as the Labour Code that typifies sexual harassment.

Violence against the Spouse

On the 27th of August, 1994, the first IFV law was approved in Chile: Law No. 19.325 which sets out Regulations on Procedures and Sanctions relative to acts of IFV and which took effect as of October 2005, when Law No. 20.066 on IFV was approved, was published in the Official Gazette on the 7th of October, 2005, replacing the former. An analysis of the replacement of Law No. 19.325 by Law No. 20.066 leads to the following main modifications and progress made:

- ❖ Increase of important functions to SERNAM, and the State of Chile, thus complying with obligations imposed by the Belem do Pará Convention, namely that “The State has to adopt measures that may guarantee life, personal integrity and security of family members.”
- ❖ The adoption of policies geared towards IFV prevention “especially so if directed against women and children and provide care to victims.”
- ❖ Broadening of the definition of IFV, both in its concept as in its potential aggressor and victims: “IFV is understood as all mistreatment that affects life or the physical integrity of one family member over another. This includes the spouse, former spouse, live-in partners, parents of a common child, minors, disabled and cared for by a family member, and relative by consanguinity or direct affinity (parents) or in the collateral to the third degree, inclusive (cousins, uncles) of the aggressor or spouse or current live-in partner.”
- ❖ The crime of “habitual mistreatment” is typified (habitualness will be determined by the number of violent acts and their periodicity), with a prison sentence ranging from 61 to 540 days in jail.
- ❖ Family Tribunals will see to the cases where there is no physical injury; otherwise the case will be remitted to the Criminal Tribunal. Both cases will see the

⁴⁴ Source: <http://domoschile.cl/>

Source: <http://www.humanas.cl/blog/?p=122>

establishment of a speedy oral procedure, with all the corresponding protection measures for victims.

- ❖ There is concern regarding the protection of victims; therefore, tribunals will be able to decree protection measures for victims based only on the formal complaint, without waiting for the Prosecutor's Office to formally initiate an investigation. Certain "risk situations" come into play, such as the aggressor trying to intimidate the victim, having a record of drug and alcoholism addiction, past judicial sentences or psychiatric disorder.
- ❖ There is an increase in the sanctions in relation to Law No. 19.325. The Family Tribunals will be able to impose fines ranging from ½ to 15 monthly tributary units and funds that will benefit regional programmes located close to the victim's address, specifically destined towards IFV care Centres. The Judge will also be able to decree other accessory measures such as forcing the aggressor to move out of the house that is shared with the victim, restrict the aggressor from going near the victim or their home, place of work or study; make the aggressor attend therapeutic programmes, and prohibit the possession of firearms.
- ❖ Also, in the final conviction, a definite alimony has to be set, including a regime of personal care and a definition of a direct and regular relationship with all the children, if any, and any other family matter submitted by the parties.
- ❖ The Civil Registry Service will have to keep a list of the people that have been convicted of IFV.
- ❖ SERNAM may act on behalf of victims in a trial, whenever IFV were to be classed as a crime, in accordance with victim requirements.
- ❖ In the case of non-fulfilment of any precautionary or accessory measures decreed, with the exception of the compulsory attendance to therapeutic programmes or family guidance programmes, the judge has to make the Public Prosecutor's Office aware of the facts in order to continue with the procedure aiming to sanction the offender with a sentence ranging from 542 days to 5 years in prison, without affecting whatever the family tribunal may have indicated, which may include imprisonment of up to fifteen days. Also, clear faculties are provided to the police to stop whoever is in flagrant breach of such measures.

Persistent problems

The modifications constitute a substantial advance in relation to the old law. However, some important problems persist, for example:

- The new law is still based on the concept of IFV and not on VAW or GBV. The definition does not include violence within a couple before they start living together and finally, the concept of economic violence is not included.
- The new law is approved without assigning a budget to it, which implies that it is not possible to establish training mechanisms for law enforcers to be made aware of the issue; neither are there conditions in place to define Public Prosecutor's Offices that specialize exclusively on IFV.
- Regarding habitual mistreatment, it is the Family Tribunal who typifies habitual behaviour; meaning that these cases cannot be reported directly to the Public Prosecutor's Office.

- There is a jurisdictional overlapping for the various levels of severity regarding the same problem, generating many inconveniences.

Sexual Violence

On the 12th of July, 1999, Law No. 19.617 on Sexual Crimes was published, modifying the Criminal Code, the Criminal Procedures Code, the Law on Incarceration Alternatives (No. 18.216) and the decree law on parole conditions (No.321).

Law No. 19.617 introduced important modifications in the regulation of sexual crimes, highlighting the following:

- A modification in the name, i.e. the protected judicial asset, of Title VII, second book of the Criminal Code, indicating that it deals with “*crime and offences affecting the family, public morals and sexual integrity.*” Prior to the modification, it only made reference to families and public morality, yet also including all sexual crimes.
- The definition of rape is widened to include vaginal, anal and oral rape.
- Conjugal rape is expressly typified.
- Sodomy among consenting adults is decriminalised, sanctioning only with respect to minors.
- The judge can assess evidence in accordance to logical and reasonable rules of evaluation and procedure, thus left with fewer restrictions than before.
- The face-to-face meeting between victim and aggressor is abolished; this is especially important for minors.
- Health establishments different from the Legal Medical Service are authorized to certify physical and/or psychological damage to the victim, which means avoiding delays in procedures.

Sexual Harassment at work

On the 18th of March, 2005, Law No. 20.005 was published in the Official Gazette, which typifies and sanctions against sexual harassment. This law, for the first time in Chile, acknowledges and punishes sexual harassment behaviour at work, typifying it as a violation of the worker’s dignity, establishing it as a cause for dismissal without compensation rights. This law also introduces some modifications to Law No.18.834 approving the Administrative Statute and law No. 18.883 on the Administrative Statute of Municipal staff members, incorporating in both cases sexual harassment as *an act that poses a threat to the dignity of staff members.*

Other recent legal reforms that influence the issue of VAW

Law No. 19.806, published in the Official Gazette of 31 May 2002

This law modified article 223 of the Criminal Code, establishing sanctions for the members of the Courts of Justice and district attorneys, to penalties of absolute and permanent ineligibility to perform in public positions and to work in the public service, of political rights and to the practice of their professions and to imprisonment and medium term imprisonment in any of its degrees, when exerting their functions inherent to their positions, or when taking advantages of the benefits that their position awards them seduce or attempt to seduce the defendant or whoever is litigating before them.

Law No. 19.617, published in the Official gazette of 12 July 1999

This law incorporated, as crimes in the Penal Code, the following:

Art 258: The public officer that requested a person that has pending claims in their resolution shall be punished with temporary special ineligibility for their position or profession in its medium grade.

Art. 259: The public officer that solicits a woman under their protection because of their position or work shall have a sentence of medium term imprisonment in any of its degrees and of temporary special ineligibility for the position or occupation service in its medium grade.

1) Law 20.286 that introduces organic and procedural modifications to Law No. 19.968 that creates the Family Courts published in the Official Gazette of 15 September 2008

This Law was published after a lengthy procedural discussion at Parliament, introducing important organic and procedural modifications to the Family Courts that are expected to improve procedure and resolution of IFV cases.

This Law also incorporates modifications in divorce cases, introduces a modification in the Civil Code (Article 234) reinforcing the notion that parent's right to discipline their children does not involve psychological or physical mistreatment, and in addition, it modifies Law No. 20.066 of IFV in the precautionary measure of physical approximation of the aggressor to the victim including "any other place s/he currently attends or visits." This Law appears to be a valuable step forward. Nevertheless, it is yet again a legal framework that does not provide resources and conditions to make it effective, as it does not provide follow up funding and to safeguard the fulfilment of the sanctions and judicial measures, generating conditions to maintain the same levels of impunity and the lack of access to justice of the victims.

Bills under procedure

- 1) Femicides:** Looks to sanction the murder of a woman caused by an extreme violent action as a result of their gender. At present, the project is in its Second Procedure in the Commission of Constitution, Legislation and Justice at the House of Representatives. In addition, it carries out modification in the exculpatory circumstance of penal liability of Art. 10 (No. 9) and in the attenuating circumstance of penal liability of Art. 11 (No. 3). It

also proposes that all the IFV cases be of the competence of the Guarantee and Oral Criminal Courts.

- 2) **Bill of Human Trafficking:** It penalizes the traffic and dealing of persons according to the obligations included in the Convention of Transnational Organized Crime and its Complementary Protocol on this matter. It is at the stage of having been included in the Agenda of the Constitution Commission of the Senate.
- 3) **Adds boyfriend and girlfriend relationship and other modifications to IFV Law:** It adds the equivalent emotional bonds of living together or marriage to Law No. 20.066 on IFV; it also simplifies parameters to classify habitual mistreatment and eliminates prior intervention of family justice in the crime of habitual mistreatment.
- 4) **CEDAW Facultative Protocol:** The approval of the CEDAW Facultative Protocol Bill was re-submitted by the Government in the extraordinary legislature of 2004. At present, it resides in the Foreign Affairs Commission of the Senate in its second procedure.

Main Regulations of the Public Prosecutor's Office in IFV matters

The National Prosecutor's Office - by means of Legal Letters and Court Orders - remits its interpretations and comments in respect to different matters and legal norms to the Regional Prosecutor's Offices; however, its judicial nature is not binding since Regional Prosecutor's offices are autonomous. They serve as guidelines to unify criteria on certain matters, and have thus been of great importance, given the existing unawareness by prosecutors in IFV issues. The legal notes refer to the legal definition of the Public Prosecutor's Office competence: habitual mistreatment and other crimes committed within the context of IVF. In general, the Legal Notes seem to reflect an appropriate level of understanding of the phenomenon and if adhered to, there would be greater protection to the victims as well as sanction to the aggressors.

According to the literature reviewed, it is possible to state that even though there is no legislation that refers specifically to GBV, important progress has been made in legislative matters, fundamentally in relation to domestic and sexual violence. Nevertheless, it is necessary to continue progressing towards the installation of an internal legal regulation that refers specifically to GBV, covering all manifestations from a comprehensive standpoint. Thus, it will be possible to provide further guarantees to and full realization of women's rights.

4.3 The response of Government Agencies to Gender Violence

The analysis of the response of government agencies shall be made starting by numbering the different institutions involved, then further analysing the comprehensive response provided to victims, prevention policies and information record-keeping.

As described in section 4.1 the institution taking the biggest responsibility in the implementation of policies on GBV and VAW is SERNAM, to which other ministries services and institutions have come in to share some of the burden.

Law No. 20.066, approved in October, 2005, establishes the responsibility of the State of Chile in guaranteeing life, personal integrity and security of the family member for which it must adopt pertinent policies, and it grants SERNAM a fundamental role in the coordination and honouring of the law and the responsibility of the State.

SERNAM, in accordance with the law, must:

- a) *Foster, coordinate and evaluate government policies against IFV.*
- b) *Recommend the adoption of legal, regulatory or of any other nature to prevent, sanction and eradicate intra-family violence.*
- c) *Provide technical assistance to the organisation that intervenes in the enforcement of this law that may so require it.*
- d) *Promote the contribution of the communication means to eradicate VAW and to enhance its dignity and respect.*

Following are list of the numerous Ministries and Services that respond to GBV situations, incorporating those institutions that are involved in domestic violence, as well as in sexual violence, sexual harassment at work and women and child trafficking. There are institutions, as described later, that answer to the various manifestations of GBV.

Table No. 4. Government agencies and gender violence

Summary of the intervention areas of the various state agencies, type of intervention and inter-sector coordination:

| Institution | Violence Manifestations and Target group | Type of Intervention | Attention and Coordination delivered by the: |
|-----------------------------|--|---|--|
| 1.-SERNAM | Domestic, psychological, physical and economical Violence. Mild, moderate and serious. Target Group Women over 15 years old Campaigns: General Population. | Awareness campaigns Comprehensive, first psychological, social and legal attention and protection. Restitution. | Ministry of Health Ministry of Housing and Urbanism Carabineros de Chile (Chilean police) Public Prosecutor's Office National Training and Employment Service Kindergarten Board Ministry of National Goods Ministry of Justice National Women Service Investigation Police |
| 2.-Interior Ministry | Domestic sexual violence Domestic violence constitutive of physical crime with injuries and habitual psychological Mistreatment. Target Group Both genders and all groups of ages. | Orientation and information Integral reparation, Psychological and social Attention and legal assistance. | SERNAM Public Ministry Ministry of Health Investigation Police Public Ministry Ministry of Justice Chilean police SENAME |
| 3.-Public Ministry | Sexual violence. Domestic violence constitutive of | Reception of Denounces Integral Psychosocial | SERNAM Ministry of Health |

| | | | |
|--|---|--|--|
| | <p>crime. Physical violence with injuries and habitual psychological mistreatment.</p> <p>Target Group Both genders and all groups of ages.</p> | Attention, Protection | Chilean police |
| 4.- Ministry Of Justice | | | |
| 4.1.-CAVIS | <p>Sexual Violence Domestic physical and psychological violence Serious child mistreatment. Sexual child abuse</p> <p>Target Group Both genders and all groups of ages.</p> | Prevention Orientation Psychological and Social Attention and Legal Sponsorship Restitution | SERNAM Family Court Carabineros de Chile (Chilean Police) Pro-Bono Legal Assistance Corporation Public Prosecutor's Office Investigation police Ministry of Education Ministry of Health Planning and Cooperation Ministry of the General Government Secretary |
| 4.2.-Legal Medical Service* | <p>Domestic Sexual Violence Domestic, Physical and Psychological violence Physical and Psychological Child Mistreatment. Sexual Child Abuse</p> <p>Target Group Both genders and all groups of ages.</p> | Sexology Expert's report Psychological and Psychiatric Expert's report | |
| 4.3.-SENAME* | <p>Physical and Psychological Infantile Mistreatment. Sexual child abuse Sexual Exploitation Commerce</p> <p>Target Group Both genders and all groups of ages. Under 18 years old.</p> | Prevention Comprehensive redress Attention Protection | |
| 5.-Judicial Power and Family Tribunal | <p>Physical and Psychological Violence without Physical and Psychological injuries child mistreatment. Sexual Abuse (Protection)</p> <p>Target Group Both genders and all groups of ages that have been victims of IFV.</p> | Taking of Accusation Psychosocial Attention Protection Habitual mistreatment classification. | SERNAM Shelter's homes Public Prosecutor's Offices. |
| 6.-Chilean Police | <p>Sexual Violence Domestic, Physical and Psychological violence Physical and psychological child mistreatment. Child Sexual Abuse</p> <p>Target Group Both genders and all groups of ages that have been victims of IFV or sexual crimes.</p> | Taking of accusations Prevention Attention: First shelter in violence Protection | SERNAM All institutions of the attention and redress network Family Courts Public Prosecutor's Office |

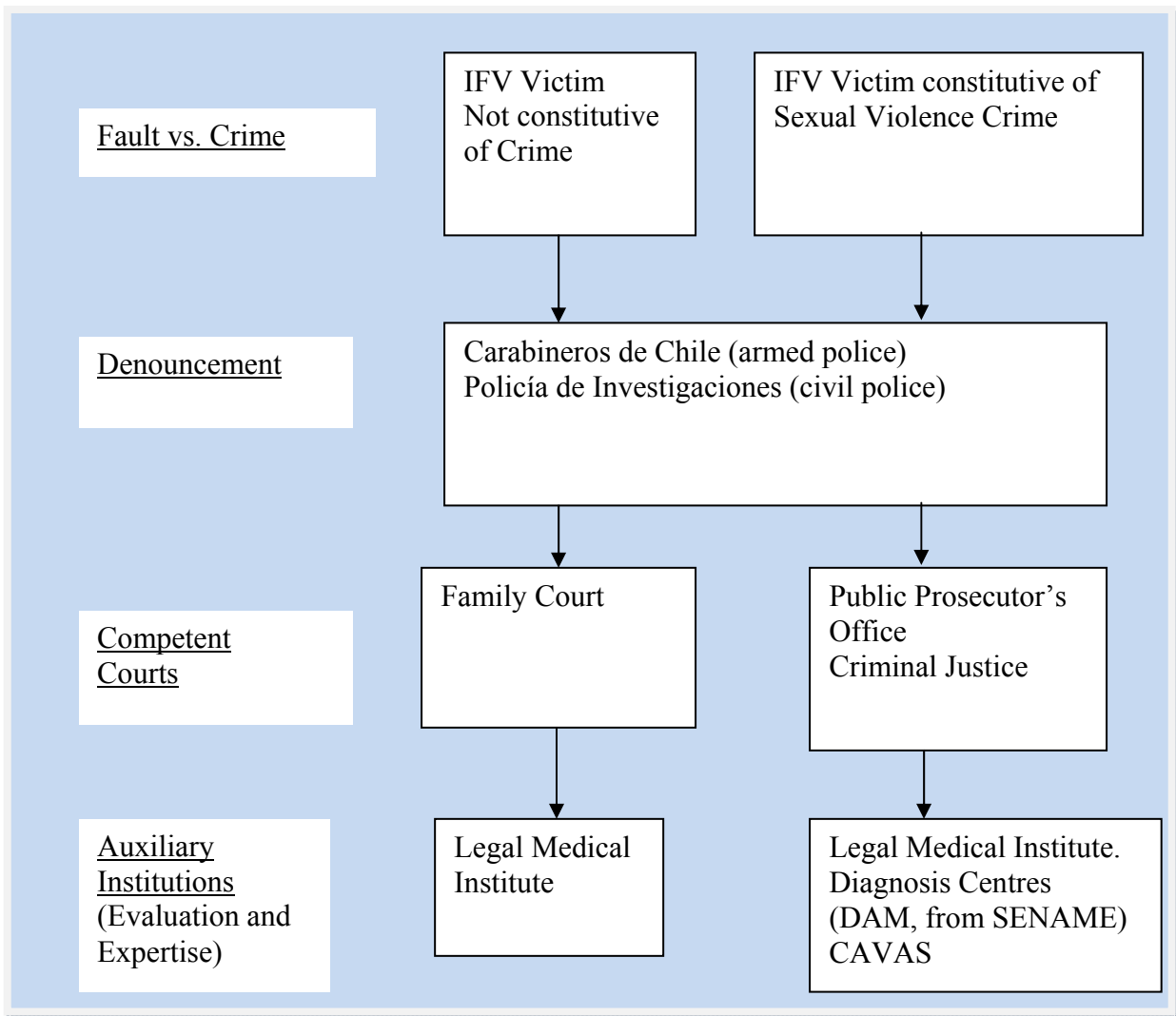
| | | | |
|---------------------------------------|---|--|--|
| 7.-Ministry of Health | Physical and Psychological Child Mistreatment. Sexual Abuse Target Group Both genders and all groups of ages, | Psychosocial Integral Attention Forensic Expert's report | SERNAM Public Ministry Carabineros de Chile (Chilean Police) Ministry of Education Public Ministry |
| 8.-Ministry of Education | Physical and Psychological Infantile Mistreatment. Sexual infantile Abuse Target Group Both genders and all groups of ages. (Students and legal guardians) | Preventive workshops | SERNAM Ministry of Justice Ministry of Health |
| 9.- Investigation Police CAVAS | Domestic sexual violence, Physical and Psychological violence Physical and Child Psychological Mistreatment. Child sexual abuse Target Group Both genders and all groups of ages. | Taking of accusations Comprehensive redress of sexual violence victims. Political, psychological, judicial and social Attention. | SERNAM Public Prosecutor's Office Family Court |
| 10.-Labor Leadership | Sexual harassment at work Target Group Both genders and adults (workers) | Taking of Accusation | |

As it can be seen from the table above, there are 12 institutions that implement actions in relation to GBV. They differ according to the type of GBV that they address; some institutions such as SERNAM focus on domestic violence, others such as CAVAS have a principal focus on sexual abuse and finally, other centres such as the ones of the Ministry of Interior focus on all of the above, regardless of their gender and age.

4.3.1 Comprehensive response to victims

The comprehensive response to victims includes three categories: access to justice, victim response and the rehabilitation processes through agreements with other institutions.

a) Access to justice and to the protection system



4.3.2 Attention to victims

Although Chile has regulations that cover various manifestation of VAW, the existence of such legislative bodies does not necessarily guarantee access to justice for victims, nor their effective protection. Access to justice is understood as “the possibility of accessing the judicial system, being represented by a lawyer, being provided a fair trial by the system within a prudent timeframe and knowing one’s rights and the means available to exert them.”⁴⁵

Regarding the application of Law No. 20.066, a series of difficulties that affect the access to women to justice in reference to domestic violence are seen.

⁴⁵ Not one more, the right to live a life free from violence in Latin America and the Caribbean.

The most important and critical problem that exists are related to the weaknesses of the statistical projection, design, implementation and functioning of the Family Tribunals, all of which have negatively impacted the processing of IFV cases.

At present, in spite of efforts made to remedy this situation, there is an evident collapse in the operation of Family Tribunals, meaning delays in months for a preparatory hearings, especially in the Metropolitan Region, and a 3 to 8 months wait for a lawsuit hearing, depending on the court, both for the first as well as for the second hearing.

This situation is particularly serious in cases of IFV, as exemplified by the fact that when there are precautionary measures decreed prior to these instances, the delay implies a serious risk for the women and does not answer to the requirement of prompt and timely interventions, which are terms that are also clearly established in Law No. 20.066.

Another difficulty detected relates to the double jurisdictional treatment of IFV - it is easy to detect tensions, absence of uniform criteria and coordination between both systems, affecting the capacity to deliver timely and efficient access to justice for women victims of violence.

Also, despite the important legislative progress and modifications that refer to VAW, there are persistently high rates of impunity in IFV and sexual crimes, for which major efforts are required from the state response, especially in investigative aspects, since this weakness often prevents sanctioning aggressors and hampers victim protection.

There have been advances with respect to this issue. This year, the National Prosecutor, in the framework of Crimes of Special Relevance of the Strategic Plan of the Public Ministry 2009-2015, has concentrated on domestic violence, considering it a phenomenon that is present in all social classes of Chilean society, which constitutes a permanent threat for the victim and that constitutes approximately 9% of all charges received in the penal system.

The following table shows the way in which IFV crime cases were terminated during 2007 as registered by the Public Prosecutor's Office

Table No. 5 Type of Termination in IFV cases. National⁴⁶
1st January to December 31st, 2007

| Type of termination | National Total | % |
|--|----------------|-----|
| Judicial Outcomes | | |
| Final judicial decision | 5,079 | 9% |
| Verdict in favour of the defending party | 136 | 0% |
| Dismissal without prejudice | 674 | 1% |
| Temporary stay | 890 | 2% |
| Conditional suspension of the proceeding | 19,909 | 36% |

⁴⁶ Source: Anuario Ministerio Público 2007.

| | | |
|---|---------------|------------|
| Reparatory Agreement | 212 | 0% |
| Faculty to not investigate | 1.469 | 3% |
| Subtotal of Judicial outcomes | 28.369 | 51% |
| Facultative Termination | | |
| Provisory archive | 16.364 | 29% |
| Decision not to persevere | 2.092 | 4% |
| Opportunity Principle | 8.089 | 15% |
| Incompetence | 812 | 1% |
| Subtotal Facultative termination | 27.357 | 49% |
| Others | | |
| Administrative Annulment | 48 | |
| Grouping to other case | 3.160 | |
| Others grounds of termination | 71 | |
| Others grounds of suspension | 84 | |
| Subtotal other terminations | 3.363 | |
| Total | 59.089 | |

When analyzing the data of the table, reflecting the way in which a judgment is given to an IFV judicial proceeding case that is registered in the Public Prosecutor's Office, it is possible to see that 36% of cases end in a conditional suspension of proceeding, i.e., that they do not reach even the first hearing in proceeding. Most of the conditional suspensions in domestic violence are concentrated after the detention control and after interviewing the victim and who must agree to this alternative solution; 49% ends in accordance to other facultative terminations. Only 9% of the judicial processes registered, regarding IFV, end in a final decision. The above implies that an important percentage of victims do not obtain a judicial verdict in their cases. Nevertheless, it is important to highlight the fact that according to Article 17 of Law No. 20.066, in order to decree suspension of the procedure, the supervising judge must impose the condition that one or more of the accessory measures established by the law be applied. Conjugal desertion and prohibition of physical proximity are the most common.

An inherent aspect of the dynamic of the domestic violence that has contributed to this situation is the retraction of the victims in different stages of the judicial proceeding. Many a time, the explicit intention of the victims to abandon the process is considered by the prosecutors as a sufficient reason to put an end to the lawsuit, without understanding that this attitude of the victim is part of the abusive dynamic and that can be due to diverse reasons, among them, the fear of the retaliation from their aggressor, the lack of resources to sustain a family life and the fear of the sanctions that the aggressor may have to endure, to mention a few.

However, it is necessary that the State provides a clear and precise statement given these type of crimes, punishing them in accordance to what is established in the law beyond the will of the victims themselves in persevering with judicial proceedings, as has been dealt with in the official notes of the Public Prosecutor's Office, since IFV is a public order issue that affects not only the direct victim, but society as a whole. Therefore, the impunity given

to the aggressor send an erroneous signal, that defeats the aim to progress towards the eradication of this type of family violence.

Thus, it is necessary to have specialized IFV prosecutors who understand the specifics of this phenomenon, regarding sexual VAW, girls and adolescents and its differences to other crimes, with the aim of achieving an adequate approach and a better victim response to this difficult issue.

In relation to this subject, the same happens with family justice. The conditional suspension of the sentence decreed is a resource that the law itself defines as exceptional; however, the indiscriminate use by judges and family judges leave women unprotected because it is not guaranteed that violence would not happen again.

Another aspect related to law enforcement relates to the inexistence of uniform criteria among judges and family judges to determine the habitual nature of the violence impacted. For some, the level of damage undertaken on the victim must be weighed, others consider prior reports of violence, and there are also those that take into account previous convictions for these kinds of actions. If added to this the fact that 50% of the cases of habitual mistreatment remitted by Family Courts to the Public Prosecutor's Office are not investigated and the dossier is not returned to the Family Courts, since there is no established procedure for such crime, the crime of habitual mistreatment practically does not exist, and women remain without access to justice and without a court that can grant them any protection measures given that the lawsuit has been terminated. Thus, women must be subjected to new acts of violence before initiating a new judicial proceeding.⁴⁷

Despite the important changes in the law and the increase of coverage in the attention to victims, the high rates of femicides gives evidence that there is still not an effective protection system for the victims of VAW in a domestic environment and which consists in a timely, coordinated and coherent response of the public apparatus. The coordination among institutions is insufficient and principally it is given through derivations of the Public Prosecutor's Offices, but there are no permanent channels of communication that allow the establishing of protection strategies for the victims that have an adequate follow up.⁴⁸

Besides the above, the existence of protection measurements described in the Law No. 20.066, does not guarantee that they are effectively utilized and applied. The lack of comprehension about the complexity of domestic violence by the law operators constitutes an obstacle for its effective application and entails a sub-utilization of the mechanisms that the law gives in the matter of protection.

It is valuable that the evaluation of risk has been incorporated into different areas of attention to victims; however, this is not done using uniform criteria. In some courts, is it done by the sole merit of the complaint, and in others, the denouncer is appointed to the

⁴⁷ **Source:** Lidia Casas, Mauricio Duce, Felipe Marín, Cristián Riego, and Macarena Vargas: "El funcionamiento de los nuevos tribunales de familia: Resultados de una investigación exploratoria" ("The operation of the new Family Courts: Results of an exploratory research"), UDP, Santiago, 2006.

⁴⁸ Diagnosis in reference to Victims Assistance.

Technical Advisor before providing the petition, and this can be, in some cases, immediately, or in some others, after several days or months.

The Public Prosecutor's Office is implementing a pilot plan that can generate a protocol for those women who experience violence, constitutive of a crime. Nevertheless it is relevant to generate a policy for all women that live in situations of violence inflicted by their partners and not only for those who experience violence constitutive of a crime. It is also important to incorporate boys, girls and adolescents who have witnessed serious violence as direct victims or as witnesses and that actions be generated towards risk prevention of those exposed to violence as well as the reparation of damage produced from having being exposed to violence.

In the same way, the Office of Precautionary Measures of the Family Court of Santiago is an important initiative to progress towards an effective protection of the victims.

Therefore, to advance towards achieving effective access of women to justice and protection, it is urgent that procedures and protocols of action are created, which has as the core issue the protection and security of the victims, as well as the consideration and respect of the official notes of the Public Prosecutor's Office. It also becomes necessary to carry out qualitative research on femicide to understand the main factors of vulnerability of women who are victims of domestic violence with the aim of generating effective policies for protection.

b) Circuit of Attention to victims

The psychosocial response to victims of GBV differs according to the manifestation of violence, age of the victim (minor or adult) and if the violence constitutes crime or not, or if an accusation has been made, and of the severity or risk for the victim. The higher number of services is for women victims of violent acts constitutive of crimes.

Below is a brief description of the existing services to date, establishing the specificities mentioned above.

4.3.2 Services addressed to the women that are a victim of violence within the family environment, coordinated from SERNAM

Women Centres: There are 58 women Centres in all the regions of the country, with SERNAM as the responsible institution. Its objective is to give a comprehensive response to women that have been victims of violence by their partner or ex-partner. The Women Centres operate through an agreement of collaboration signed between the Regional Directorate of SERNAM and one Executor Institution. At present, the majority of the executors of the Centres are the Municipalities and, and following in rank are the private foundations.⁴⁹

⁴⁹ 37 are executed by Municipalities, 10 by private foundations, 5 by health, 6 by Governments and 1 by the Judicial Assistance Corporation.

In general, the Women Centres have a basic team of professionals that consists of the following: one social worker, one psychologist, one lawyer, two monitors and one secretary. The social worker performs as a Team Coordinator and together with the psychologist carry out the work related to the psycho-social aspects of GBV and VAW.

Target Group⁵⁰: The intervention of the Centre is mainly focused to provide attention to women over 18 years old that suffer domestic violence, in any of its manifestations (physical violence, psychological violence, sexual violence or economic violence). Its purpose is to also cater to the mental health of women that require help to face violent situations.

Type of attention: The team provides women with the following: shelter, protection, brief psychosocial attention and legal attention. Therefore, the user that enters the Centre (when living under violence within an intimate partner relationship) must receive comprehensive attention that comprises a multidisciplinary approach (social, psychological and legal).

Ways of Access: Women can access the Centre in two ways: spontaneously or as a referral from another institution and members of the Network, for example, Carabineros (Police Forces), or women victims of severe violence and/or at life risk situation and that enter the Centre spontaneously or referred from the Network must receive urgent attention (individually and/or in groups). The protection of the woman and her assisted referral to the Prosecutor's Office or to health institutions must be a priority.

In the year 2007,⁵¹ 8,420 women entered the Centres. With the increase of the Centres to 58, a significant increase of coverage is expected. Of the total of women that entered during the year 2007 (8,420 women), 50.4% of them were offered comprehensive services, while 10.6% defected.⁵²

Shelter Homes (Casas de Acogida) for women at life risk situation due to IFV: The general objective of these Homes is to give temporary protection to women that are at life risk situations due to severe IFV, giving them a secure place of residence, psychosocial and legal attention and the support for re-building their life.⁵³

At present, there are 25 Shelter Homes in 13 regions of the country, that provide temporary protection to women whose lives are at risk due to IFV and who are referred by the Public Prosecutor's Office. The Shelter Homes offers women at life risk a place of temporary residence for them and two of their children under 12 years old; they also provide psychological, social and legal attention, as well as the support for re-building their lives.⁵⁴

The Shelter Homes as well as the Centres are run by institutions with whom SERNAM signs an agreement of collaboration with. SERNAM transfers resources allocated to

⁵⁰ Orientaciones Técnicas centros de la mujer.

⁵¹ On this date only 37 centres existed.

⁵² To date, September 2009, there are 90 centres.

⁵³ Technical orientations, Foster homes, SERNAM.

⁵⁴ Source: www.sernam.cl

personnel and operational expenses as well as provides technical advice to the executing institution by developing the capacity of the professionals.

The Shelter Home is considered a part of the protection system; women are referred from the Public Prosecutor's Office and they value the services as an aspect of relevant protection and security measures for the victims. At present, SERNAM has agreements with other services and institutions that enable a response to housing, comprehensive health, education, justice and the establishment of primary support networks.

In December 2007,⁵⁵ 398 women that were at life risk due to domestic violence entered the Shelter Homes. At the same time, there were 100 women residing in these Homes. 46% of women came out from the Shelter Homes, which means an improvement in the conditions of initial risk; 23% of them defected, the principal reason being the need to regain contact with the aggressor. 6% of the women have been relocated to other regions for protection reasons. Only 3% corresponds to re-entries, i.e., those women who were at the Shelter Homes and returned because they suffered continual violence. There are also 1% of women that could not adhere to regulations of the Shelter Homes and hence had to be removed. In such a scenario, the users were coordinated to receive an alternative protection measurement from the corresponding Public Prosecutor's Office.

Of the admitted women, 75.6% were referred by the Public Prosecutor's Office; 23.6% corresponds to entrances referred by other institutions (SERNAM, Women Centres and Chilean Police).

Other essential elements for the protection and relocation of the woman include interventions in the juridical area. Of the admitted women that have stayed at a Foster House (in this case the defections do not enter into account), 58% of the them depend on a sponsorship from the lawyer of the corresponding Women Centre.

50% of the women admitted to the Shelter Homes had access to some form of livelihoods training; 4% entered programs of micro-entrepreneurship and 9% pursued their studies.

100% of the Shelter Homes have security measurements and coordination with the Carabineros de Chile (polices forces) to watch over the homes within the police precinct.

The explicit incorporation of boys, girls and adolescents and other collateral victims in this form of violence is still lacking, as is the generation of programs aimed specifically to deal with follow up reparation of damages caused to the secondary victims. An important achievement in this matter is the circuit for protection of boys, girls and adolescents who are collateral victims of femicide. In August 2008, the inter institutional protocol for boys, girls and adolescents witnesses of femicide was signed by the Chilean Police, the Ministry of Interior, SERNAM and SENAME.

⁵⁵ Operational Report, Foster homes 2007.

4.3.3 Services addressed to victims of violent crimes, among them are considered sexual crimes and domestic violence constitutive of crime. The offer is for both genders as well as for adults and minors.

Ministry of Interior Assistance Centres to Victims of Violent Crimes.

In 2007, the Interior Ministry started the implementation of the first Centres of Assistance to victims of Violent Crimes. Up to date, there are four Centres operating in the Metropolitan Region and one in the Bio-Bio Region, with more Centres to be opened gradually.

Target Group: “The Centres” of the Ministry of Interior have as a target group the victims of violent crimes, which include men and women, adults or minors.⁵⁶ This way, the attention that they provide on matters of VAW is related to violent crimes that happen in a context of IFV and sexual crimes.

Type of attention: Support and psychosocial judicial information contingent to the victimization is given. This service is given through different ways. Firstly, the Carabineros de Chile (police) offers the Service of Orientation and Information to the people that refer to the Police Units to make an accusation, in front of which the victim does or does not consent to be contacted by telephone by the professional teams of the Centres; secondly, the Centres contact the media to inform them of the violent crime cases that have generated public attention. In view of these cases, direct or indirect victims are contacted in order to provide them with suitable and timely assistance through the team of psychologists, social workers and lawyers.

Attention is given to the persons who entered into the Centres and consists of a specialized and interdisciplinary intervention (psychological, social, psychiatric and juridical) for those cases that experience more damage as a result of a crime. In relation to the intervention model, it can be established that is principally based on the criteria and standards defined, in general, to the victims of violent crimes, without there being a focus in relation to the to GBV.

Regional Units of Attention to Victims and Witnesses (RUAVW-URAVIT)

Other services offered to victims are the URAVIT, existing in each regional Public Prosecutor’s Office.

Target group: URAVIT are the units in charge of working directly with the victims of crimes.

Objectives: The objectives of URAVIT are:

- Facilitate the participation of the victim during the criminal proceedings;
- Help the victim to face the emotional consequences of the crime;
- Favour the exercise of victim’s rights; and,

⁵⁶ Information given by Paula Medina, Head of The Victim Services Unit Public Security Division Ministry of the Interior.

- Prevent secondary victimization in their way through the criminal proceedings.

Ways of Acceptance: Only those victims referred by the Prosecutors of the Public Prosecutor's Office will receive attention in consideration to the criteria established for such crimes. It is through this direction that women, children, elderly, disabled and mentally ill will be considered a privileged group. After reviewing, it can be observed that an important percentage of crimes that were looked into were mainly committed on women that fundamentally have been victims of sexual crimes and injuries. In the year 2006 and 2007, the higher percentage of victims referred to URATIV according to the type of crime, corresponded to sexual crimes. The total of attended victims in these periods was 23,718 in 2006 and 28,274 in 2007. The injuries correspond to 23.1%. However, the way of presenting the data does not permit one to confirm that these happen in an IFV context or that the victims of sexual crimes are women.

Centres of Comprehensive Attention to Victims of Violent Crimes (CAVIS): The Corporations of Judicial Assistance (CAJ), under the Ministry of Justice, created the Unit of Attention to Victims of Violent Crimes (UVIS) in 1994. Starting from 2001, the CAVIS was constituted with the objective of protecting the rights of the victims of violent crimes⁵⁷ and to achieving redress through a judicial, social, and psychological approach.

The Centres of Comprehensive Attention to Victims of Violent Crimes provide services oriented to judicial information, sponsorship and legal representation, psychological therapies, activation of family and local networks for the victims of violent crimes within the corresponding jurisdiction. They also give attention to the family of the victims and their immediate context. At present, there are 24 Centres nationwide.

Target group: Victims of violent crimes and those with economically scarce resources are the main groups that they work with; while they do not have women specifically as a population target, they do provide attention to women victims of crimes in a context of IFV and sexual crimes.

Type of attention: Judicial representation of the victims and intervention of psychosocial reparation, consist of psychological, psychiatric support for the victims and their family according to the evaluation of their needs. This intervention is developed by an interdisciplinary team of psychologists, lawyers, social workers and psychiatrists. The management evaluation study of the Attention Centres to Victims establishes that "the great majority of beneficiaries of Centres of Comprehensive Attention to Victims of Violent Crimes (CAVIS) are women victims of sexual crimes, IFV, and those with severe and very severe injuries and homicides."⁵⁸ Despite what has been reiterated, these Centres do not have a comprehensive view of VAW from a gender perspective. There are more women

⁵⁷ CAJ consider violent crimes as: Homicides, grave injuries, robbery with intimidation, kidnap, presumed misfortune and all sexual crimes.

⁵⁸ **Source:** Christian Belmar, Loreto Cortés, María Verónica Monreal, María José Rodríguez: "Final evaluation report of programs of attention to victims, centres of Integral Attention to Victims of Violent Crimes (CAVIS), corporations of judicial assistance, unity of attention to victims, centres of assistance to victims of sexual offence (CAVAS), Investigation Police" August, 2008.

who receive a sponsorship or representation of their causes, and an important number of them are of victims of IFV and sexual crimes.

4.3.4 Care services directed to victims of sexual offense, men and/or women, adults and/or children less than 18 years of age

a) Care Center for victims of sexual crimes (CCVSC) dependent on Investigation Police

CCVSC has been operating since 1987, and its mission is to provide psychological, social, psychiatric, police and legal assistance to the victim of a sexual crime in a comprehensive manner, trying to repair the damage caused by sexual victimization, as well as also addressing those issues related to the processes of secondary victimization. There are currently two CCVSC in the country that receives technical and financial assistance from the SENAME for carrying out their activities. One is located in the Metropolitan Region (MR -CCVSC) and another is based in the region of Valparaíso (V-CCVSC); the latter serves only the child population between 3 and 18 years old, victims of sexual crimes in the communities of Valparaíso, Viña del Mar, Quilpué, Villa Alemana, Con-Con and Quinteros.

Type of care: CCVSC delivers psychotherapeutic, psychiatric, social support and legal advice interventions to victims of sexual violence and their families. The victims may arrive spontaneously or be derived from different public institutions such as SENAME, SERNAM or education networks, to name a few. In the case of the young infant population, in order to be assisted, there is a requirement to have an assistance mechanism; this condition is not required for adults. In 2006, the CAVSC signed a collaborative agreement with SERNAM geared towards women victims of sexual assault. This agreement involves the transfer of funds from SERNAM, which together with those provided by the SENAME for the assistance of boys and girls and adolescent victims of sexual abuse, represent approximately 50% of the total budget of CCVSC. The CCVSC of the Metropolitan provided psychosocial intervention to an average of approximately 500 people from the year 2004 onwards. Of the attendees in 2007, 71% are to women; therefore, CAVSC represents an important area of attention to women victims of sexual abuse.

Programs of Redress in Abuse, Physical and Sexual Violence (PRA): SENAME, in the area of specialized attention, has 62 projects of Severe Battering and Sexual Abuse in all regions in Chile, 14 projects of Sexual Abuse and Commercial Exploitation and 7 projects of Legal Representation.⁵⁹ Being the same as SERNAM programs, the PRM is implemented by institutions collaborating with SENAME by delivering the funds, technical guidance and carrying out the assessment and monitoring.

⁵⁹ **Source:** Victims Care Network. Background and Perspectives. Ministry of Interior. Santiago, August, 2008

Target Group: The PRA assists girls, boys and adolescents between 0 and 18 years old that have suffered events of abuse constituting a crime. These programs aim to ensure the safety and integrity of children and adolescents by addressing the abusive situation, redressing the damage to the child and its family, and enhancing the personal, family and social resources, through its link with the environment and the network management.

Admission: The cases assisted by the programs are referred from the Public Prosecutor's Office, the Family Courts, or from the SENAME Network.

Gender Approach: On the technical basis, the "Gender Approach" is specifically indicated, which consists of incorporating in every proposal information that is split by gender while analyzing the differences and similarities in the violation of rights affecting boys and girls; in the same way, it is necessary to explain how strategies used affect boys and girls assisted.

As of 2008, the "Child Abuse Manual"⁶⁰ for teams working with Abuse and Sexual Abuse is available on the SENAME website.

During 2008, SENAME assisted 6,558 children through its Chile Abuse programs. A total of 5,402 boys, girls and adolescents were victims of sexual abuse/aggression or 82% of all children assisted, of which nearly 70% were girls.

b. Brief Intervention Focused Program

SENAME also has programs destined to assist boys, girls and adolescents in situations in which their rights have been violated. These rights are of a medium complexity (low levels of abuse, domestic violence, and parental negligence, amongst others). 174 of these programs are currently being developed nationally.

During 2008, a total of 18,794 boys, girls and adolescents were assisted in the Brief Intervention Focused Programs. From this group, 26.1% had witnessed domestic violence or has been victims of negligence, low levels of abuse and psychological abuse. Girls and adolescents represent 13.4% of the total.

During the year 2007, the SENAME assisted 6,381 children of both genders that were victims of sexual violence. From this group, 76% were girls and 24% boys.

c. The Sexual Commercial Exploitation Children Program

In this line of work, SENAME is developing 14 projects of specialized assistance in sexual commercial exploitation. They are ambulatory projects designed to support processes for redressing the severe violation of rights of boys, girls and adolescent victims of commercial sexual exploitation, and their processes of family and social integration through the

⁶⁰ Este manual fue desarrollado a partir del estudio "Género, Infancia y Maltrato" realizado por Achnu-Prodenni y SENAME.

implementation of programs of comprehensive intervention and which is of an interdisciplinary nature. The admission may be ordered by courts or by other institutions.

Specifically, the goal is to stop the practices of sexual commercial exploitation of children and adolescents through the activation of judicial mechanisms to resolve the legal status of the boy, girl or adolescent, legally control their situation and facilitate their access to the justice network. Together with this, it is necessary to generate actions to help redressing the damage in boys, girls and adolescents, from the psychological, social and legal aspects, supporting the processing of the traumatic experience(s). The actions are also designed to strengthen the protective, psychological and social resources of the families and/or relevant adults. An important aspect is to provide access to institutional networks and socio-communities, promoting the integration process of boys, girls and adolescents that are sexually exploited.

There are currently 14 projects in specialized attention for victims of commercial sexual exploitation that cover 684 locations.

During 2007, the assistance rate in the Specialized Intervention for Victims of Commercial Sexual Exploitation reached a figure of 1,062,252 men and 810 women. 76.2 % were girls and adolescents.

During 2008, 886 girls, boys and adolescents and 199 men and 687 women were assisted by this program. 77.5% were girls and adolescents.

- d. Rooms to Provide First Shelter and Care for Victims of Sexual Crimes in Emergency Services:** In 2005, a Comprehensive and Specialized Model to Shelter and Care Victims of Sexual Crimes in the Hospital Emergency Services was developed. The development of these rooms is intended to provide the necessary space for victims of sexual crimes to receive a qualified and dignified care at the health facilities, provide specialized care through encouragement, emotional containment and delivery of information on their main rights and the steps to follow for the procedure to conduct the prosecution; standardize procedures with relation to the care of the victim: support and emotional contention, physical examinations, delivery of information and reception of accusations, and encouragement to report sexual crimes.⁶¹

4.3.5 Care Integration for Victims of Domestic Violence to institutional programs: Health Ministry

Unlike the programs specifically generated by the different institutions to address a response to victims of violence, the Ministry of Health has developed the capabilities of existing programs to respond to victims of violence.

The Public Health Sector was the first public entity to provide care to women, men, boys

⁶¹ UNDERSECRETARIAT OF SOCIAL NETWORKS. Programmatic offer for the care of Victims of Violence in the Public Health Network” PPT provided by Flor Dragucevic Adviser of the Under Secretariat Office, September 2008

and girls affected by IFV. This is primarily due to the Community Mental Health Centres (COSAM) that was explicitly mentioned in Law No. 19.325 on IFV as the agencies that should provide psychosocial care to people that were derived from the Civil Courts.

From the year 1994 onwards, the Ministry of Health has developed different initiatives and programs aimed at responding to this problem and to develop technical guidelines to address and test models of care.

Starting in the year 2001, IFV has been defined as a programmatic priority of the Ministry of Health in the area of mental health area. The “National Plan on Mental Health and Psychiatry” (2001) includes among its objective population, the care for girls, boys and adolescents affected by abuse, and women and senior citizens affected by IFV.⁶²

In 2003, a pilot implementation was carried out of the “Program for the Detection, Diagnosis and Treatment of People Affected by Domestic Violence”⁶³ in three Family Health Centres of the Western Metropolitan Health Service. From this experience, a comprehensive intervention model in IFV was developed that include medical and psychosocial intervention to individuals, groups and families of the people affected with this problem (mainly centered on women).

During 2004, the Ministry of Health set up a program for the “Detection, Diagnosis and Treatment of People Affected by IFV” in 30 communities of the country. This program is designed to provide comprehensive treatment and accessible, timely and effective to women who suffer mild and moderate IFV without vital risk. The target population in this program include women older than 15 years who are referred from different subprograms of primary health care units to the Unit of Mental Health with a diagnosis of depression or who seek attention by spontaneous demand.

From the beginning, this program has gradually been extended, aiming to exist in at least one Family Health Centre in the urban communities (228 communities at the national level).⁶⁴

The Model of Comprehensive Intervention in Interfamily Violence for Primary Care⁶⁵ considers different modalities of psychosocial intervention. It also includes group psychosocial intervention and complementary interventions. It establishes criteria for admission and for referral and finally establishes defined roles for the different local institutional actors, depending on the designed intervention, mainly at secondary health level and of the judicial sector.

⁶² **Source:** A. Minoletti, C. López, ed. “National Plan on Mental Health and Psychiatry” Unit of Mental Health, DISAP, Ministry of Health; Chap. 4. Program, 2001.

⁶³ **Source:** United Nations Population Fund (UNFPA), Clinical and Research Centre, La Morada. Between Territories and Senses. Evaluation of a Care Model in VAW and Primary Health Care, 2004.

⁶⁴ **Source:** “UNDERSECRETARIAT OF SOCIAL NETWORKS Programmatic Offer for the care of Victims of Violence in the Health Public Network” PPT provided by Flor Dragucevic, Adviser of the Under secretariat Office, September 2008

⁶⁵ Op. Cit.

During 2007, 11,974⁶⁶ women were taken care of under this model. It has however not been possible to access the information in relation to the impact this program has had with respect to the decrease of violence and the comprehensive rehabilitation of women.

To increase the services offered in matters of IFV, the Ministry of Health developed a pilot program - FONASA-MINSAL of Comprehensive Care for Adult Women with Physical Injuries due to IFV.⁶⁷ It aims to improve the quality of life - physical and psychological - of patients who have suffered dental trauma and traumatic injuries and others who require surgery intervention. This program provides to victims of violence the replacement of tooth and dental rehabilitation, kinaesthetic rehabilitation and/or surgical trauma to the upper extremities and referral to the Program Detection, Diagnosis and Treatment to Victims of Domestic Violence in Primary Care. Based on this experience, FONASA developed a basket of benefits and is currently operational in 6 health services and 8 hospital facilities in the Metropolitan area.

In relation to sexual violence, the Ministry of Health enacted in April 2004 “**The Clinical Regulations and Guidelines for the Care in Emergency Services to Victims of Sexual Violence.**”⁶⁸ These guidelines establish the procedures to follow in the emergency services when a person (adult or child) arrives as a victim of a sexual offense. The regulation refers to the attention given to the victim, the clinical examination, the treatment, the legal report and referral. Within the treatment, the first measure taken is in regards to the prevention of pregnancy after a rape, indicating “if the victim is a teenager or an adult woman in reproductive age, she has the right to be informed in an adequate way that there is an effective and safe way of preventing an unwanted pregnancy as a result of aggression and to decide freely whether or not to use it.”⁶⁹

While the public health sector has developed important strategies to cope with the violence suffered by women in their family environment, a very important progress was the development of the “Health Policy in Gender Violence” prepared in 2008. For the first time, the public health sector explicitly addresses the violence suffered by women and that it constitutes a violation of their human rights, identifying gender inequalities as a central element to understanding this phenomenon and assuming the Government’s role in the prevention, punishment and eradication of GBV and the protection and redress for victims.

4.3.6 Telephone Lines

Carabineros de Chile (armed police) has implemented two telephone lines to care for victims of IFV and sexual abuse as follows:

⁶⁶ **Source:** “UNDER SECRETARIAT OF SOCIAL NETWORKS Programmatic Offer for the care of Victims of Violence in the Health Public Network” PPT provided by Flor Draguicevic, Adviser of the Under secretariat Office, September 2008.

⁶⁷ Ibid.

⁶⁸ **Source:** Ministry of Health. Government of Chile. April 2004. Regulations and Clinical Guidelines for the care in emergency services to victims of sexual violence.

⁶⁹ **Source:** Regulations and Clinical Guidelines for the care in emergency services to victims of sexual violence. Pro 3.1. pg. 29

Telephone Line 149 operates throughout the country and its purpose is to care for victims of intra-family violence, give them guidance and receive accusations. The service has a database which allows the user to submit, in a fast and efficient way, information with respect to institutions, facilities and public and private agencies specializing in this problem, such as Centres of care and psychosocial and legal guidance to support victims of interfamily violence, care Centres for children victims of sexual abuse, the Judicial Assistance Corporation, Family Courts by Jurisdiction, Public Prosecutor's Office, municipalities, local care services and offices and medical services and governmental and private organizations.

As an answer to these calls, Carabineros considers in a case of emergency sending operative personnel to the scene, and provide support, information and guidance to the victim, referring -when corresponds- to a service care network for cases of IFV, in accordance with the list provided by SERNAM.⁷⁰

Telephone Line 147 operates 24 hours and receives calls from children victims of mistreatment, sexual abuse or other situations that violates their rights. Carabineros created this line for children to call for help and inform, with absolute confidence, the situation affecting them.

The people answering these calls are prepared to listen to children, and to guide and support and, if necessary, require the presence of Carabineros at the place where the incident has taken place.

The SENAME Telephone Help and Abuse Report Line 800-730-800, receives calls reporting child abuse and sexual crimes 24 hours a day as a complement to the Investigations Police in Chile.

4.3.7 Victim Empowerment

With the aim to empower victims of violence for living a life free from violence, SERNAM has carried out a series of agreements with different institutions designed to provide resources to victims of IFV and their families, in order to encourage the development of their economic independence and improve their living conditions. These agreements have been made mainly with women who have stayed in Shelter Homes (that is, women who have been at extreme risk).

Agreements have been carried out with the Ministry of Health,⁷¹ and the Ministry of Housing and Urban Development, with the purpose of negotiating for women victims of IFV, a preferential access to the application for the housing subsidy program that best meet their current condition,⁷² with the National Training and Employment Service. This is also in order to contribute to capital formation and employability of women staying in Shelter Homes victims of IFV, and with the Board of Nursery Schools.⁷³

⁷⁰ Source: www.carabineros.cl

⁷¹ Exempted Decree No. 405, August 25, 2007, Ministry of Health.

⁷² Resolution No. 214/SG. March 13, 2008.

⁷³ Exempted Resolution No. 351/S.G. signed on May 8, 2008.

4.3.8 Prevention

Trouble for a response persistent over time

Based on the initial implementation of the policy to address GBV, it has been observed that while the policy has raised the issue of the importance of working in the field of prevention through different actions such as training, conduct of workshops, networking, etc, given the urgency that is required for the care of victims, the resources that needed to be invested (and which is the most urgent) has been delayed. Nor do studies exist that allow one to identify risk factors and protective factors associated with GBV, in order to design prevention programs that can later be assessed for their impact and not only for its coverage, as is currently done.

The GBV prevention actions have been implemented mainly by SERNAM, the Ministry of Education and in the year 2008, Carabineros de Chile implemented a campaign to prevent violence among boyfriends.⁷⁴

SERNAM - through its unit of “Promotion of Rights and Women Participation” - has implemented graphic material directed to young people with the aim of addressing prevention of violence. “This material invites them to work in all types of educational spaces, including youth groups, schools and high schools, considering that the content of the proposed curricula framework is of equal opportunities for women and men.”⁷⁵

Women Centres have a working line oriented towards the prevention of violence in the local space. The following are among the objectives of these Centres:⁷⁶

- a) Generate and/or strengthen the existing resources of the community to prevent IFV through the coordination with organizations, institutions and networks existing in the country.
- b) Implement communication strategies to spread awareness and to prevent the occurrence of IFV, improve the access of women to care services, and promote awareness and public participation to reduce the problem.
- c) Carry out training actions for personnel of public and private institutions and to members of community organizations and of prevention networks, for the promotion of multiplying effects in the prevention of IFV.

The objective of the prevention component of the Women Centres is to influence the ideas and beliefs of people that will contribute to eliminating the use of violence as a form of conflict resolution, thus promoting respect for human rights of people.⁷⁷ The prevention activities carried out in the Centres operate fundamentally through workshops on violence prevention against women and workshops focused on young people of both sexes regarding non-violent resolution of conflicts.

⁷⁴ National Campaign of Violence Prevention while going steady, organized by Carabineros de Chile, Television Nacional de Chile and Foundation “Niño y Patria.” In 2008 this campaign is launched with the main purpose to create awareness among school students to build up health emotional relationships without violence.”

⁷⁵ **Source:** “The challenge of Camila” and “The decision of Jose” SERNAM. Graphic material for distribution.

⁷⁶ Technical Guidelines of the Women Centres.

⁷⁷ Technical Guidelines of the Women Centres.

Another line of preventive activity work of SERNAM has been the development and implementation of modules in conjunction with the Ministry of Education on training in non-violent conflict resolution to be implemented in primary and secondary education in the school community. This material was tested in two regions; however, its implementation has now been discontinued.

Amongst the variety of documents published by SERNAM, one of the initiatives is particularly relevant and innovative; a series of children's stories that helps to mainstream gender perspective and is oriented to working with boys, girls and adolescents with tools for raising awareness and for prevention concerning this issue. This publication has been incorporated in all the SENAME residences and in the Brief Intervention-Focused Program (PIB).

The project "Growing and Developing on the Daily Emotional Path," is a joint initiative between JUNJI and SERNAM and is part of the Equal Opportunities for Men and Women Plan. The main aim of this project is to develop inter institutional work integrating into pre-schools curricula contents that promote an appreciation and expression of emotions. This is achieved specifically through the exercise and respect of children's rights as a strategy to assist in the educational process towards the development of transparent and expressive relationships between boys and girls in which the resolution of conflicts does not use violence.

JUNJI has additionally established an *Institutional Policy of Good Treatment*, which aims to make visible and address situations of violence in children attending to nursery schools, as well as to ensure the exercise of their rights, establishing a protocol to intervene in events of abuse and/or sexual harassment caused by staff of the institution as well as by third parties.

Together with the initiatives enumerated, an important number of communication campaigns have been implemented, carried out by SERNAM, as well as by NGOs, described below:

4.3.9 SERNAM's Media and Advertising Communicational Campaign⁷⁸

The Women National Service has carried out, since 1992, a media and advertising communicational campaign to sensitize public opinion about VAW, the main focus being on IFV.

Some of the previous campaigns have been based on the following concepts and slogans:

"No More VAW, Let's Make a New Deal"

"Let's treat people well, live better"

"Without Violence between Men and Women life is more pleasant"

"There are words that hurt, control your words"

⁷⁸ Information provided by Andrea Figueroa Espinoza, Chief, Communications Department.

“Don’t let Violence hit your partner”

“Battered Bodies, never again!”

“Even if it is shameful, it is time to expose this reality though the relationship with your partner may change”

“VAW Hurts, Don’t do it, Don’t accept it, Don’t protect it”

“The face of a battered woman is shown ...”

“This is a crime! What would you do not to repeat it?”

The campaign in 2007 made a call to society through two strong ideas:

- No + VAW; and,
- In front of abuse towards women, don’t act like many! DO NOT STAY DOING NOTHING.

Through this campaign the goal was to involve the social networks, with the understanding that to hold back violence towards women is not only a government responsibility, but also a responsibility of all Chileans.

The campaigns have not been assessed for its impact and there has not been a follow up. Since the concepts vary from one year to another, it is considered that this might affect the medium-term impact of the campaigns.

4.4 Campaigns of non-governmental organizations

The women organizations have had an important role in the conceptualization of VAW by means of the campaigns and actions that they have carried out throughout time. Of particular importance, they achieved in setting November 25 as the date to commemorate - at the national level - the day on eliminating VAW, thus marking it the day when these organizations held demonstrations and raise public awareness.

In 2001, the Chilean Network becomes part of the Campaign **"For Women’s Life, Not a Death +"** organised by the Latin American and the Caribbean Feminist Network against Domestic and Sexual Violence within the framework of November 25. In October 2004, a meeting that had a significant impact on citizenship was carried out called “Action of symbolic reparation for women victims of femicides in Chile.”

In 2005, in accordance with the framework of the commemoration of November 25, the Network organized a night time march whose slogan was “We women say ENOUGH.” This march had broad participation amongst women’s organizations and civil society in general. 165 organizations across the country joined this walk⁷⁹ and they took place in 6 regions. The walk had wide media coverage both at the national and regional levels and gave new direction to the Network. In 2006, again in accordance with the framework of the

⁷⁹ **Source:** Gloria Maria Vargas, Patricia Olea Castro, Paula; Santana Nazarit, Soledad Rojas Bravo: “Guide of Resources for the Action” Chilean Network against Intra-family and Sexual Violence. Santiago, 2006.

commemoration of the day on Elimination of VAW, the Network organized a march, which this time was lead by the children of victims of femicides. The slogan was “NO more Violence! No more Femicides!!

In 2007, the Network launched its tri-annual campaign. The objective of the first year is to advocate for the idea that femicide is the most extreme form of VAW and a violation of women’s human rights. In the second year, the Network sought to put the issue of sexual violence in the public domain, since it was one of the least recognized manifestations of violence. Finally, the third year was aimed at achieving public recognition of violence.

In accordance with the above framework, in 2007, the campaign “Take care, Machismo Kills” was developed and took place in 11 regions of the country, covering 16 cities. The Network produced graphic material (posters, leaflets and stickers) for this campaign.

Unlike the campaigns raised from the SERNAM, the Chilean Network has been persistent on the issue of femicide. This means that although there are no mechanisms of evaluating and measuring the impact of the campaigns, the success they have achieved from advocacy and informing the public on femicides through the mass media, as well as via driving the incorporation of the concept in everyday language of people, made it apparent that these campaigns have a positive effect in the visualization and understanding of VAW.

4.5 Registration of Information

Regarding the registration of VAW, the first necessity to indicate is the inexistence of a single registration system allowing for the quantification of the number of women and girls who attend the different public and private services. The absence of a single online registration system makes it impossible to keep track of referrals between the different services. At the same time, it is not possible to know which route is followed by women and girls when asking for help in the different institutions in order to clearly identify the critical core of the system in terms of care.

Furthermore, there is no existence of an institution that centralizes the information collected in the different registration systems of the institutions at national or regional levels. Although SERNAM is coordinating with the public institutions that provide care to women victims, it does not have information on the subject readily available and updated. This makes it impossible to know the real extent of the demand in relation to VAW, and therefore, be able to clearly estimate how much it costs the government in providing services to the victims, etc.

In a variety of institutions that provide care to women⁸⁰ and have registration systems, it was possible to identify 8 institutions conducting this task.⁸¹ Some of them have more than one registration card depending on the service that the women or girls access.

⁸⁰ Cadaster carried out by the Latin American Consulting Office for SERNAM, in 2008. The information on the type of registration of each institution was obtained from this investigation.

⁸¹ The Institutions are: Carabineros de Chile, Juzgados de Familia (Family Courts), Ministerio de Salud (Ministry of Health), Policía de investigaciones (Investigation Police), SERNAM (Nacional Service for Women), SENAME (Nacional Service for Children), Ministerio Público(District Attorney), Ministerio de Justicia (Ministry of Justice), Ministerio del interior (Ministry of the Interior).

Some of the problems that prevent the incorporation of the information of each institution to a national registration system have been identified. These include:

- In terms of individualization, some important facts that are not recorded in all the forms are age, sex and the status with the partner (which refers to whether the person is currently with the partner or separated from them), which is different to marital status.
- With respect to the link between victim and the aggressor, the vast majority of the institutions, using only the legal concept of IFV Article 5 of Law No. 20.066, restrict the classification to the relations established by it, leaving out, boyfriends and former boyfriends, which represents a segment in which high rates of violence among couples exists.
- With respect to the type of battering, in general it refers to physical and psychological, sometimes to sexual abuse, and in very few cases to financial or economic reasons, without clarity as to whether this is included in the second reason.
- With respect to the risk factors, they are not provided by all the institutions, and those who do, record them in many different ways and with different levels of depth, and only in one case with numeric indicators for determining the level of risk.
- Neither is it associated with the risk measurement or the harm caused by violence with the costs to the victim and society, which is important for purposes of a national statistics as it allows for the calculation of the expenses involved and, therefore, raise the need to invest more in prevention activities (which is often cheaper).
- In general, the forms refer to IFV, although some of them indicate elements of GBV, such as control and abuse of power.

Another problem that exists in relation to the quantification of the demand for attention is the underreporting of cases or the inclusion of VAW in other categories, which contributes to its invisibility. The subject is raised in the investigation carried out by Ximena Valdés on the document “Registration System of Public Safety.”⁸²

The Public Division of Citizen’s Safety classified the offenses in two large categories: “crimes of greater social connotation (CGSC) and IFV. According to what Valdés indicated in her investigation, “this way of classifying and grouping the crimes in a broad category of CGSC and including in it sexual crimes and violations, helps to disguise the gender

⁸² **Source:** X. Valdes: Violence of gender: Bodies, spaces and territories. CEDEM, UNIFEM.

violence that is displayed in the public and private space⁸³ which does not correspond to IFV.

A similar situation happens in other instances; for example, the Family Courts are where people often go to solve other matters different to IFV; however, during the process, violent situations are detected which are not recorded anywhere since there is no reporting in this respect.

Therefore, it is necessary to move forward towards a unified register of GBV, which incorporates all forms that can manifest and minimize the underreporting of cases. At least one form will be required to ascertain the extent of the demand and the route that women follow in the request for help.

V. NON-GOVERNMENTAL ORGANIZATIONS, AGREEMENTS AND DISAGREEMENTS OVER GOVERNMENT POLICIES.

The women's movement in the 80's and the first years of the young democracy had a fundamental role in making VAW visible as a public issue affecting human rights; yet today, this movement seems to be significantly weaker.

An aspect that has contributed significantly to this is the lack of economic resources required for its normal functioning. The first years of the return of democracy had NGOs and the social organizations enjoying funding support from international donors, seen then as a way of strengthening democratic institutions in the country. However, the high macroeconomic indicators Chile has consistently had meant a gradual winding down of this type of external help and therefore NGOs have had to look for other funding alternatives (such as State funding), which thus limits their playing at times, the role of critical government adversary, or of taking up matters that are not on the public agenda.

Currently, there are three sectors that gather together the various civil society organizations that address GBV from different angles, namely: The Chilean Network against domestic and sexual violence; The Observatory of Gender and Equality; and, the Observatory of Gender Equality on Health. In addition to these groupings, there are some NGOs that are part of these networks and that have survived by approaching the issue of gender violence from a different angle. Amongst these NGOs are: La Morada, Humanas, Domos and CEDEM, mentioning only the ones whose aims is to address this issue.

Among civil society organizations dealing with VAW, the Chilean Network Against Domestic and Sexual Violence is the most important group, gathering together most of the non-public institutions that work on the issue of VAW, each from a different angle. This network is a gathering of people, social organizations and NGOs linked by the desire to make the population aware, through public campaigns, of VAW as a violation of their human rights, and to propose and demand state policies that are geared towards its eradication in compliance with signed international treaties. It was created in 1990 by the women movement, building on the work the feminists undertook in the 80s and that places

⁸³ Op cit.

GBV in the spotlight as a violation of human rights and that demand severe legislation, with the purpose that such legislation may guarantee the right of women of a life free from violence. “The purpose of the Network is to contribute with the building of a society free from discrimination through actions geared towards eliminating VAW and girls. We have the conviction that this type of systematic violence is the most visible face of a society that even today, at the beginning of the 21st century, continue with beliefs and practices which are demeaning to women and maintains inequalities of power among men and women.”⁸⁴

In 2004, Soledad Rojas, Camila Maturana and Gloria Maira, of the La Morada Corporation, developed the first report on “Femicide in Chile,” financed by the United Nations. This initiative had an important impact as it made visible the most extreme form of women’s rights violation. The murders of women began to be a more relevant issue in the media after this study. Due to this initiative and similar ones that focused on making visible this extreme form of violence, femicide began to be included in the public agenda as a priority matter and one in which the State has to assume an active role in.

Even though the Network gathers together various institutions and organizations, an updated account of the programmes and services that each one offers is not currently available. In 2006, the Network developed a “Guide of Resources for Action” with the support of the Global Fund for Women. It consisted of the systematization of information on programmes and services, both for civil society and the State, aiming to address the issue of VAW and to provide a multi-level response to the issue. The information required for preparing the guide on services, plans and programmes was undertaken in six regions of the country.⁸⁵ The guide is available on the Network’s webpage.

This Network has also developed an important number of campaigns on awareness and prevention of VAW, most within the framework of the commemoration of the 25th of November.

The 2007 campaign is built on this framework and was entitled “Cuidado, el Machismo Mata (Be careful, Machismo Kills)” and was present in 11 regions of the country, covering 16 cities. The campaign had a high impact and raised the profile of the Network as an organization coordinating the different instances connected with the work against violence towards women. New organizations have added themselves to the Network from the beginning of the campaign, duplicating its membership with 80 associated organizations, of a varied nature. Particularly important is the incorporation of civil society organizations and NGOs from different regions of the country.

“In 2008, the Network set as an objective to support and strengthen the coordination of women’s organizations, as a political strategy that enables seeing VAW in a wider perspective.” So as to achieve this aim, several workshops were set to be carried out during 2008 involving women’s groups, where organizational aspects were strengthened and

⁸⁴ Source: www.nomasviolenciacontramujeres.cl

⁸⁵ II Region of Antofagasta, V Región of Valparaíso, VII Región of Maule, VII Región of Bio-Bio, X Región of Los Lagos and the Metropolitan Region.

VAW made visible as a wide-ranging phenomenon requiring a political strategy for its public positioning.

Another civil society coordination, connected to women's rights and with the fight to eradicate violence, is the Gender and Equality Observatory. It calls itself "a space and instrument of the various institutions and women's organizations in Chilean civil society geared towards reflection, monitoring and evaluation of the political process initiated by the Bachelet Government and its agenda of gender and social equality." In order to carry out its monitoring work, it has a Compliance Commitment Index (ICC), which is a political-technical instrument designed to exercise "citizen control" on government compliance of the international agreements and its national policies on gender equality. The ICC is a system of indicators that aims to show the amount of progress in the situation of women in relevant matters to them, and thus generate political pressure that forces progress in the direction of gender equality.

This task also uses shadow reports prepared by different institutions to inform, from the civil society perspective, on the compliance of international commitments subscribed by Chile.

The Shadow Reports⁸⁶ that have been developed to date are:

- ✓ La Morada (2001): "More economic, social and cultural rights, less inequality of women in Chile." Santiago: Ediciones La Morada.
- ✓ Instituto de la Mujer (2001): "Human Rights, Women's Rights. Duties and challenges facing the Chilean State. Santiago: Fundación Instituto de la Mujer.
- ✓ Corporacion La Morada Corporation (2004): Women subject -Subjected Women. A Report on the situation of women's rights in Chile, Civil and Political Rights. Santiago: La Morada.
- ✓ Frías, L. (2005): Regional Report on Women's Human Rights and Gender Justice. Santiago: Corporación Humanas.
- ✓ Frías, Lorena and K. Lorenzini (cords) Zavala, X (Ed) (2006): Shadow report CEDAW. Chile 2003-2006, Santiago: Corporación Humanas.
- ✓ Casas Lidia, Chilean Institute of Reproductive Medicine- ICMER and Chilean Association of Family protection, APROFA (2006): Parallel Report to the IV Periodic Report of the Chilean Government to the CEDAW Committee.
- ✓ The Gender and Equality Observatory has a webpage where it is possible to access the most important background information on the Observatory, documents related to gender equality, shadow reports and other links of interest, among other aspects.

⁸⁶ Source: <http://www.observatoriogeneroyliderazgo.cl>

Another civil society linkage closely connected to the eradication of VAW from the civil society perspective is the Gender Equality Observatory on Health. This is “an instrument of Chilean civil society for follow up and assessment, developed with the technical cooperation of the Pan American Health Organization, PAHO/WHO, within the framework of the Gender, Equality and Health Reform project in Chile” (second phase). The purpose of the Observatory is to watch over health policies in the context of sector reform, from the perspective of equal access right to health for men and women, based on the preparation, dissemination and use of reliable and trustworthy information.

Its aims are “to monitor health policies and institutions to verify progress, barriers or retreats in sector gender equality, starting from the priorities defined by the social movement of gender equality in health; to lobby through technically sound proposals, for overcoming gender inequalities in the health systems; to foster the emergence of new knowledge and evidence on health, gender and public policies; and to disseminate to the public a point of view which is integral, updated and balanced on health transformations in Chile.”⁸⁷

This coordination is integrated by:

- ❖ Gender and Health Unit, PAHO/WHO Washington DC: Responsible for the Project in Latin America.
- ❖ PAHO/WHO Representation in Chile: Responsible for the implementation of the project in Chile.
- ❖ CEGECAL, Centre of Studies of Latin American Gender and Culture, from the Universidad de Chile: seat of the Observatory database.
- ❖ Civil forum of the Observatory: Social organizations and non-governmental organizations engaged with the process of Observatory creation and development.
- ❖ Technical nucleus of the Observatory: Group of professionals, representatives of civil society (social organizations, non-governmental organizations and the academic world).
- ❖ Tierra-Ayni: Responsible for the webpage of the Gender Equality Observatory on Health.

Between 2003 and 2005, the PAHO shared with civil society the responsibility of installing and implementing the Observatory, and since 2006 it has been solely managed by civil society.

The Observatory on Gender and Equality on Health has a webpage where it is possible to access news related with issues of gender equality and health and reports prepared by the Observatory and other links of interest.

⁸⁷ Source: <http://www.observatoriogeneroyliderazgo.cl>

Civil society organizations have an important mission in terms of making visible issues that have not yet been addressed by the State. This is why it is relevant to strengthen women's organizations capable of generating a speech that may influence public policies, media and laws that may enable progress towards an accurate approach to GBV in Chile.

VI. CONCLUSIONS AND CHALLENGES

The response to GBV in Chile, at a legal as well as at an institutional level, is varied. Reference to GBV is found in different legal texts and policies are implemented from different institutions. Response differs in accordance to the different types of violence considered when preparing the report (domestic, sexual and work-related violence); whether it is typified as a crime or not; whether it involves minors (which becomes relevant when dealing with sexual abuse and mistreatment) and so on. Hence, information systematization is complex and it is not always possible to find comparable figures and policies among the various institutions involved.

6.1 Significant advances in the response to GBV

Progress seen over the years is related to the increase in and coordination within the different services and ministries involved at the governmental level, with progress in international and national legislation, with improvements in victim response and protection, and with more information available. Given the greater number of studies that have been undertaken, the improvement in record-keeping and the high visibility given to “femicide” has led to progress.

a) At an institutional level: At present, there is a wide display of public policies geared towards responding to a situation of GBV, mainly to violence seen in the domestic environment, as implemented by different ministries and services, which have started to coordinate with each other in order to improve the approach to the problem. Thus, the Health Ministry has coordinated itself with the Public Prosecutor's Office to respond to sexual crimes; the Chilean Carabineros coordinates with SERNAM and the Public Prosecutor's Office in cases of violence that require protection; SERNAM coordinates itself with different ministries and services in the rehabilitation of women who are in Shelter Homes.

At the government level, there is a “Gender Agenda” - an instrument which aims to set priorities so as to incorporate gender perspectives in the policies of all public institutions. Such an agenda establishes - in the area of eliminating VAW - legislative priorities and the type of inter sector action required for such an objective (which is why it ought to be guaranteed that the various state sectors promote the right women have to a life without violence, that they provide an institutional framework that protects victims of violence, repairs damage done and that empowers women to exert their full rights). The monitoring of the agenda is a valuable instrument in coordinating between the different sectors that participate in the response to a violent situation.

An important investment and practical work has been done in training government employees that come into contact with victims of GBV. Since 1992, SERNAM has implemented a training programme in various ministries and services in order to provide an adequate response to victims of GBV. The training provided to Carabineros, employees from the Judiciary, Health, Municipalities and from SERNAM's own programmes is especially relevant.

- c) **At a Legislative level:** One of the most significant progresses in Chilean public policies is the ratification of related international conventions. The ones that stand out are the Inter American Convention for the Prevention, Punishment and Eradication of All VAW (OAS, Belem do Pará, Brazil, 1994), which has become national law since the 11 November, 1998. These regulations have provided a framework when writing domestic legislations on the issue and they also become sources of reference when national law is ambiguous or contains loopholes.

Although domestic legislation does not approach GBV as a specific problem, there is legislation in place regarding domestic violence, sexual violence and sexual harassment at work. All these forms of violence are contained in different legal texts where reference is not made to the specific violence that women suffer.

A first and very important step forward in the legislative area was taken with the enactment of Law No. 19.325 in August 1994, regarding IFV, wherein, for the first time, there was an acknowledgement from the judiciary regarding the existence of violence within the family and mechanisms were defined to punish and regulate these types of situations. This law was replaced by the Law No. 20.066 - in force since October 2005 - which introduces a series of modifications in treatment of IFV, among them the typification of the crime known as "Habitual Mistreatment" and the improvement of victim protection systems.

The existence of legislation in this matter has significantly contributed to the collective thinking that violence within the family is punishable by law, which has meant an increase in the notion of women's rights by many women in Chile, given that this law is known by an important percentage of the population.

Modifications made to Law No. 19.617 of 1999 and Law No. 19.927 of 2004 are considered very important in matters of sexual violence in the legislative arena. It is worthy to note that first, the conceptual change in reference to the protected judicial asset and which was initially considered an issue of "the family and public morality" is now considered as "sexual freedom," and second, is the definition of rape within a marriage as a crime.

Additionally, the definition of sexual harassment in local legislation is an important step forward, even if the crime has not been explicitly typified in order to protect women from this type of violence, given that the law refers to working men and women.

There are a series of law projects going through parliament that, if approved, will add greater depth to domestic legislation regarding VAW. The most important one at present is the "femicide" project.

c) Investigation and record-keeping: Six regional studies on the prevalence of VAW in a family environment, commissioned by SERNAM, were carried out, gathering data on the scale of domestic violence, the risk factors associated to its occurrence and its effects on victims. This became an important input in policy design, in estimating service cover and in the development of prevention policies based on existent data regarding risk and protection factors.

The current year saw the inaugural application of the survey known as “IFV and sexual crime victimization” at the national level, commissioned by the Public Security Division of the Interior Ministry. This survey will broaden information on violence that women endure and will give access to periodic and national data on this matter. Other additional information is also made available, such as risk factors associated with violence in the family and the services that women resort to when seeking help, including an assessment of their level of satisfaction with the answer received. This survey looks into other aspects such as the sexual violence that both adult women and girls endure, enabling for the first time the ability to have data that refers to the scale of this type of VAW.

This survey will be applied from 2008 year onwards - once every four years - in order to assess public policy impact as a response to this form of violence (and which implies an important effort in systematic monitoring).

Institutions having contact with GBV victims have been gradually incorporating record-keeping methods on the issue of VAW, which has enabled the ability to quantify the demand for services and the resources required to provide efficient and effective responses. The first and most important record-keeping initiative in this matter was that which reported IFV incidents, which have had a significant increase since the enactment of the first law on violence, amounting to 90,306 reports in 2007.

Another record-keeping initiative that has had an important impact in making VAW more visible is the one by SERNAM in regards to “femicides,” which has, on the one hand, made it possible to appreciate the seriousness of the situation and, on the other, to highlight the high level of risk that women who suffer violence by their partners have to endure, which has been hitherto unrecognised.

d) The choices of Victim response available: The availability of different victim responses in cases of domestic violence has significantly increased in the last four years. A significant element of this expansion is the installation, by SERNAM, of Women Centres (numbering 58 in 2008) and the creation of a new alternative - the “Safe Houses for women under a life threatening situation due to IFV”- and that has reached a number of 25 throughout the country. A further alternative to victim response is the Care Centres for Victims of Violent Crimes, created by the Interior Ministry.

The response from the Prosecutor’s Office has become increasingly specialised, with the creation of Specialised Units, such as the Criminal Responsibility Unit, Adolescent and IFV crimes, the Specialised Unit on Sexual and Violent Crimes and the National Division for Victim and Witness response. This specialization is a measure of the relevance given to

GBV and in particular to an acknowledgement of the specific nature that the response requires.

The creation of the project called “Protection to Victims of IFV Crimes” is seen as an important proposal, implemented as of January 2008 by the National Division on Victim and Witness Response of the Public Prosecutor and which will enable the systematisation of an intervention protocol in criminal situations of domestic violence.

e) Urgent response to victims of sexual violence: The existence of “Regulations and Clinical Guideline for Emergency Service Response for Victims of Sexual Violence” is considered a relevant step forward, giving the woman rape victim access to relevant information and to an emergency hormone contraceptive treatment (the morning-after pill) and thus prevent a undesired pregnancy due to sexual abuse.

f) Victim protection: There has been progress made in the generation of legal instruments and of an institutional response aiming to ensure victim protection. Law No. 20.066 on violence refers to an IFV risk assessment and the need to sentence protective measures when there is a risk of suffering IFV once again. The risk situations described are related to drug and alcohol abuse by the defendant, if pregnant and if minors are present. The law defines several protection measures, such as: the prohibition of being near the victim, provisional alimony and visiting rights, among others.

In order to make the use and the application of these measures more effective, the Santiago Family Tribunals have created an office that decrees protective measures in cases of “attempted” violence, thus becoming an important initiative to move towards an effective protection system for victims.

g) Making “Femicide” visible: An important progress regarding VAW, at first promoted by civil society and which today sits at the core of SERNAM’s mission, is making “Femicide” visible to the public domain as an extreme form of GBV. This visibility has allowed the issue of female murders to be placed in the public agenda as a priority issue, and in order to establish an effective strategy for the protection of women, it is necessary to know the scale of the problem and associated risk factors.

Civil society organizations have made an important contribution towards making femicide visible to the public eye as an extreme form of VAW. According to the study prepared by The Chilean Network against Domestic and Sexual Violence, “femicide” has now come out of the shadows and is dealt with in an explicit manner by the State through SERNAM, which has placed it in the public agenda, classified as a serious problem affecting a sizeable number of women.

Women’s NGOs have played an important role in the generation of shadow reports, displaying the shortages that still exist in human rights issues and in the challenges that the Chilean State still faces on this issue.

7. PENDING CHALLENGES

State policy in general and SERNAM in particular, has given priority to the issue of VAW by their partners, identifying GBV with VAW in a family environment, yet overlooking other forms of GBV such as forced prostitution, or State or institutional violence. Efforts and achievements have been focused on generating appropriate legislation for sanctioning IFV, in implementing response programs and safe homes and in coordinating with the various sectors involved in violence in a family context. However, the approach and prominence of the response to other forms of violence, such as sexual violence or in the working environment, have been undertaken by other sectors. CAVAS has seen a larger prominence on sexual violence while SENAME has led the response when dealing with minors. Regarding work-related issues the response has been led by the Labour Direction. Time needs to be taken and used towards leading a programmatic proposal on how to address GBV in all its manifestations.

In other matters, State response has mainly focused on the response to and protection of victims and sanctions applied to aggressors, without the existence to date, of a consistent and effective prevention policy for GBV.

In the country, 7 large-scale challenges are put forward for the nation to consider when reviewing GBV policies. The reflection made on these challenges has to be undertaken by society as a whole, with active participation from social organizations, from the different sectors involved, and from victims themselves that have experienced the response from the system.

A. Acknowledging the various forms of GBV

GBV requires a wide-ranging multi-stakeholder approach, with the understanding that the most important risk factor associated with being a victim of this kind of violence is the fact of “being a woman.” Also, it is necessary to point out that GBV is expressed in different aspects of women’s lives, both in public and private spectrum. Hence, it is necessary to generate policies and plans aimed at preventing and addressing this kind of violence in its various manifestations, including persons less than 18 years old.

B. Design and implementation of a prevention policy

The policies implemented to date on GBV response have mostly focused on the victim response and sanctions on aggressors, with violence prevention policies receiving scarce attention.

The family violence law itself mentions violence prevention, yet existent programmes do not have a clear definition of prevention, nor of the target groups to which these actions and programmes are aimed at, the prevention levels sought (primary, secondary or tertiary prevention), nor an impact assessment of such actions.

The design of a GBV prevention policy is considered a priority. Such a policy is to be implemented by the State and in close collaboration with civil society, which coordinates and gives coherence to the different initiatives existing today, capable of putting forward

changes to be assessed within a defined period, with the understanding that prevention has an impact in the medium term.

The following are some criteria to be considered in such a design:

- The design of a policy consistent with the prevention of GBV implies understanding the power relations that occur between genders in Chilean society and which predisposes and perpetuates GBV behaviour in its different manifestations. It means looking into power relations at the social, institutional and family level and visualising IFV in the social context in which it is found.
- The design of a prevention policy implies implementing a set of actions as early as possible, in order to generate a review and modification of gender stereotypes that continue to be passed on by the family and by schooling. The design of policies and programmes should be implemented using this perspective focused on child rights.
- There is relevant information in the country regarding high levels of violence within a boyfriend/girlfriend relationship, among live-in couples and among those engaged - these are to be thus considered as a relevant target group for violence prevention policies.
- Finally, there are currently a large number of prevention initiatives geared towards “crime prevention” that have synergies with GBV prevention initiatives, rationalizing resources and giving consistency to proposals from various sectors: such as the Chilean programme called “Chile Crece Contigo” (Chile grows with you), “Programa Puente del Chile Solidario” (Bridge Program of Chilean Solidarity), CONACE, the various programmes for extracurricular school activities, etc. These synergies need to be maintained and scaled up where possible.

C. The need for properly applied and implemented quality legislation

The new Law No. 20.066 on IFV constitutes a substantial advance in the response to VAW; yet it still continues to be known as the “Law on Inter-Family Violence,” meaning that the gender perspective is not seen as a relevant factor in the existing VAW.

Regarding the application of Law No. 20.066, a series of difficulties can be seen that affect access of women to justice. Among these are the following:

- Lack of understanding from law operators regarding the complex nature of domestic violence, hindering its effective application and leading to “under using” the protection mechanisms mandated.
- Lack of prosecutors exclusively specialised on IFV, who may understand the particularities of this phenomenon - different to other crimes - thus aiming to achieve an adequate approach to the issue and to a better victim response.

- Inexistence of uniform criteria among family and criminal judges for determining what habituation means. For some, the damage inflicted on the victim is considered, while others consider a prior record of violence complaints, while still others take into consideration prior convictions for these types of acts. And if one factors in the fact that in 50% of cases of such mistreatment remitted by the Family Court, the Public Prosecutor turns down the investigation and does not return the dossier to the Family Court. In other words, the crime of habitual mistreatment practically does not exist and women are left without access to justice and without a court room that may provide them - if they so require - protection measures, given that the trial has terminated. Hence, women may have to endure new acts of violence in the time while initiating a new judicial process.⁸⁸
- No uniform criteria exist for undertaking a risk assessment. There are no shared criteria for assessing risk, or clarity for “when and how” to assess risks.
- Family Court Rooms are often fully booked, which translates into long waiting periods for hearings.
- In effect, the lack of a permanent and thorough training policy of public employees that intervene in the application of legal and judicial regulations hinders progress towards the eradication of forms of violence.

Legislative changes have to necessarily consider economic expenses so it can be implemented, leading to the desired effects, thus, contributing more efficiently with prevention and sanction. The opposite would hold true with, for example, fully booked networks, as under this scenario none of the court measures will be effective. Legal changes have thus not been accompanied with the necessary measures to assure an effective and efficient application of the law, nor the necessary financial resources for adequate implementation.

It would seem like the public sector and related mechanisms have not been able to fully use the potential implied by the participation of victims and the civil society institutions that have specialized on this matter, including on the assessment of legislative policies and, therefore, the modification of existing legal texts.

It is important to point out that the tendency towards an excessive penalization and legal regulation of a social phenomena - which, in the case of VAW, although understandable, given that it is still the initial stage in understanding and making visible a hitherto hidden phenomena - is not the final objective. On the contrary, the idea is to promote quality legislation that fulfils international standards, and is well implemented and applied.

Given the former, it becomes essential to develop a permanent follow up of the application of existing legislation, which has been very scarce and partial in the last few years. It is also

⁸⁸ **Source:** Lidia Casas, Mauricio Duce, Felipe Marín, Cristián Riego, and Macarena Vargas: “The Functioning of the new Family Tribunals: Results of an exploratory investigation” UDP, Santiago, 2006.

fundamental to have follow ups on international regulations on this issue, both by the State and by civil society.

4. Improvement in victim response so as to ensure protection, increase response and incorporate rehabilitation policies

The response to the victims is varied, in accordance to whether it involves a crime victim or a victim of non-criminal IFV, or if it goes unreported and if minors are involved.

Women, who have not pressed charges, or those who suffer non-criminal violence, can nevertheless go to SERNAM centres and access their health programmes. Despite the increased number of Centres (58 in 2008) and its consequential increased coverage, it continues to be insufficient given the actual scale of the problem, making it imperative to have an increased coverage of universal programmes, such as health coverage at a primary response level.

An evaluation of programmes for victims of violent crimes⁸⁹ substantiates the lack of public policy geared towards providing a response to crime victims at a national level, with those offered being segmented and overlapping. To these aspects highlighted by the Interior Ministry, there is the need to add the lack of a common focus on the specificity of VAW, especially in the family context. Issues such as the withdrawal of charges, the risk of repeat offences, and financial dependence on and emotional bonds with the aggressor, require a different approach compared to other crime victims.

Another aspect pointed out in the report generated by the Interior Ministry is the victim's accessibility to assistance programmes, in which there are various control strategies for legal action which hinder institutional referrals and the lack of programmes in rural communities, since these programmes are generally located in regional capitals.

Despite significant modifications in the law and the increase in scope of victim support, the high incidence of femicide alerts to the fact that there is still no effective protection system in place for victims of VAW that can be viewed as a consistent, opportune, coordinated and coherent response from the public sector. Coordination among institutions is lacking, mainly seen in the form of referrals from the Prosecutors Office; however there are no permanent communication channels in place for establishing protection strategies for victims, with adequate follow up.⁹⁰

The pilot plan that the Public Prosecutor's Office is implementing may lead to the generation of a protocol for women who are victims of criminal violence; however, it is important to develop policies for all women who endure violence by their partners and not just for women who suffer from criminal violence.

In an effort to improve response to victims, an important consideration is the expansion of what is presently available in order to address situations of conflict that could potentially

⁸⁹ Includes IFV constitutive of crime and sexual violence.

⁹⁰ Diagnosis in the matter of assistance to victims.

lead to a scenario of violence. Often, legal actions seek to elicit a social response rather than penal action against the aggressor, which facilitates the withdrawal of charges in cases where the potential result of such action is the motivating factor (for example, a woman who reports her husband so that he can receive treatment for alcoholism).

Consequently, it is necessary to profile couples at risk in a timely manner and to have services in place - offered on a national level - to prevent the establishment of abusive trends within these relationships.

The comprehensive care programmes of domestic violence implemented in Women's Centres have focused on physical, psychological and legal support for victims, but have not focused sufficiently on the rehabilitation of women to achieve their personal and financial independence. A fast response is required in social policies regarding the needs of those suffering violence (in housing, labour training, child care, etc). An important experience in this matter is the agreements signed by SERNAM with different Ministries, geared towards generating autonomy in women who are staying in shelters. This same model could be implemented in the Women's Centres.

5. Ensure gender perspective is reflected in inter-sector coordination

Although the incorporation of several ministries and services is highly valued, there are still coordination difficulties between them. Each sector provides their own specific response, without any joint planning, which in some cases means duplicating resources and overlooking specific programmes (such as the response given to cases of serious violence). Likewise, the different programmes operate within different conceptual frameworks; thus, it is particularly difficult to add a gender and human rights focus in those initiatives already underway. Likewise, it is also difficult to factor in is the weight given to the existing power relations between genders as a triggering factor in episodes of VAW, both being central aspects of the proposed policy. When there is a failure to acknowledge power and gender relations while implementing policy, important mistakes can be made which may lead to new episodes of violence to victims that have already being subjected to repeated violence and contribute towards ineffective interventions. At present, there is no consensus regarding the significance of a gender focus in the response to victims of violence and which may also be perceived as a form of discrimination.

Agreements reached between SERNAM and various ministries and services are much valued, yet these are focused on those women attending Shelter Houses, whereas they ought to include all of those who suffer from violence by their partner.

The coordination difficulties seen among different sectors and the lack of a common language and a shared focus make the existence of a **National Plan**⁹¹ imperative. Such a Plan generated with nationwide participation by various sectors and that can be approved and assessed by the Cabinet (with follow ups in terms of monitoring from the Board of Ministers for Equal Opportunities) is much needed.

⁹¹ Mentioned in the law No. 20.066

6. The Establishment of a policy of coordination and support of civil society initiatives

Civil society organizations have played an important role in making visible to the public instances of VAW in a domestic environment. They have placed the issue on the public agenda, developed intervention models and have implemented important actions regarding dissemination and prevention; yet their resources are scarce, affecting operational continuity and their capacity to be systematic. It is therefore necessary to explore supporting mechanisms for civil society, with respect for and enhancement of their autonomy.

7. Generate an information system and indicators that may enable intervention follow up and assessment

There is no single record-keeping system that may quantify the number of women and girls that seek access to the various services (both public and private) in relation to violence. The lack of a single online registry system makes it impossible to follow up on referrals to the different services. It is also impossible to ascertain which route is taken by women and girls when seeking help from the different institutions, hindering the identification of possible bottlenecks in the system regarding a comprehensive response.

Record-keeping is also needed in order to assess the relationship between the different forms of victimization and how they relate to each other. For example, the relevant literature indicates a strong correlation between sexual abuse within the family and being a victim of sexual exploitation, or the childhood experiences of abuse could be a factor in later episodes of domestic violence.

At present, there is no institution that centralises information gathered in the different record-keeping systems of the institutions at a local or national level. Although SERNAM coordinates with public institutions that provide victim response, it does not have readily accessible nor updated information on the matter. This makes it practically impossible to have a notion of what the real scale of demand is in relation to VAW, and thus be able to clearly estimate the costs to the State of having a comprehensive intervention on the issue, considering counselling, justice, protection of and reparation to victims, etc.

The development of a common record-keeping system that may allow the estimation of how many women go per year to the different services seeking help, what type of help they need, or which entry point they use to access the support network, among others, has not been possible due to the existing differences in the statistical systems employed by the different services dealing with women suffering from violence. Nor has it been possible to carry out follow up activities of the women who have been referred to other institutions; if they do actually go to them, and if so, do they follow through with the intervention or do they abandon the services offered mid-way.

The above would indicate the importance for the country to have a single, online, record-keeping system on VAW in order to simplify its updating. This does not mean that all services have to apply a standard questionnaire, but they do have to agree on some common, obligatory information that they will have to collect and that this information be

centralised and processed by a single institution, which will enable easier access to information.

The improvement of a record-keeping system goes hand-in-hand with keeping periodic baseline measurements, to keep tabs on the evolution of the incidence of GBV in its various manifestations. The Interior Ministry is involved in implementing a survey to assess both VAW in a family environment and sexual violence. This initiative is to be implemented every four years, applied on a sample population having national representation. The generation of other measuring instruments to assess other manifestations of GBV - such as sexual harassment at work and forced prostitution or other such forms – is pending.

The design of relevant indicators is proposed, to measure yearly progress. This task can be aided by studying GBV indicators developed by the follow up mechanism for the implementation of the Belen do Para Convention, as developed by the Inter American Women Commission of the OAS.

VII. FINAL COMMENTS

This document sought to systemize a myriad of actions, programmes and policies undertaken during the last 18 years regarding GBV (till 2008), with a focus on VAW. Systemization includes analysis made on aspects such as present legislation; the various strategies in place regarding prevention, response and rehabilitation, as well as an assessment of pending progress and future challenges. It may be possible that some existing programmes are not present in this report, either because there was no information available, or because they have been discontinued; however all information considered relevant and significant were included.

The analysis made shed light on some aspects that should be considered in further studies and on which there are some findings that ought to be studied further, among these are: the conditions of women living in rural settings; *violence against girls; gender violence and ethnicity; and GBV between same sex couples; as well as violence against transsexual communities (which, from a gender perspective, have multiple constructions which are not addressed currently by public policies, and in this particular case are submerged by statistics and policies addressed to “men who have sex with other men”)*.

Finally, it is pertinent to point out that the data comprised in this report continues to change and by the end of the proofreading period, there was already new data provided by the Interior Ministry. That data include the following: a new femicide was committed on the last day of 2008; new Women Centres were instituted in 2009; legislative changes have been undertaken in parliament, illustrating the need of a constant updating process and - which together with adding new data - further proves that certain aspects of GBV that were deemed as being deficient in earlier sections of this report.

VIII. Bibliography

1. J. Achatan: Producto per cápita en Chile: un promedio engañoso, Centro de Estudios Nacionales de Desarrollo Alternativo. November 2007.
2. Bases Técnicas Específicas: Línea de Diagnóstico. (DAM)
3. Christian Belmar, Loreto Cortés María Verónica Monreal: Rodríguez. María José Informe Final De Evaluación Programas De Atención A Víctimas: Centros De Atención Integral A Víctimas De Delitos Violentos (CAVIS); Corporaciones De Asistencia Judicial; Unidad De Atención A Víctimas Subsecretaría Del Interior; Centros De Asistencia A Víctimas De Atentados Sexuales (CAVAS) Policía De Investigaciones AGOSTO 2008
4. Lidia Casas, Mauricio Duce, Felipe Marín, Cristián Riego, and Macarena Vargas: “El funcionamiento de los nuevos tribunales de familia: Resultados de una investigación exploratoria,” UDP, Santiago, 2006.
5. CEDAW. Convención para la Eliminación de Todas las Formas de Discriminación Contra La Mujer.
6. Convención Interamericana para Prevenir, Sancionar y Erradicar la Violencia contra la Mujer (OAS) o Convención de Belém do Pará, 1994.
7. CEPAL ¡Ni una más! El derecho a vivir una vida libre de violencia en América Latina y el Caribe. Octubre 2007
8. Comisión Nacional del Sida Chile “Estudio de Comportamiento Sexual.” Gobierno de Chile, 2000.
9. Corporación Humanas. Instituto de Asuntos Públicos de la Universidad de Chile. “Estudio Detección y Análisis de Prevalencia de Violencia Intrafamiliar en la Décima Región de Los Lagos,” 2006.
10. Decreto exento NO. 405, 25 de Agosto 2007. Ministerio de Salud
11. Decreto exento NO. 733. 07 de Mayo de 2007
12. Díaz, Carolina., Consultora del Departamento de Estudios y Estadísticas del Servicio Nacional de la Mujer, “Estudios realizados por el Servicio Nacional de la Mujer entre los años 1992 – 2003” Documento de Trabajo No. 87 Santiago, Junio de 2004
13. Directora de la Organización Panamericana de la Salud, Dra. Mirta Roses citada en <http://www.observatoriogenerosalud.cl/>
14. Encuesta de Caracterización Socioeconómica Nacional (Casen), 2006.
15. Encuesta de Caracterización Socioeconómica Nacional (CASEN), MIDEPLAN.
16. Espejo Yaksic, Nicolás Director y Editor General “Informe anual sobre derechos humanos en Chile 2008.”
17. J D. Kolbin Finkerlhor: Chile Abuse as international issue. Child Abuse & Neglect, 1988.

18. Fondo de Población de Naciones Unidas (UNFPA), Centro Clínico y de Investigación Corporación La Morada. Entre Territorios y Sentidos. Evaluación de un Modelo de Atención en Violencia hacia la Mujer e la Atención Primaria de Salud, 2004.
19. Fuenzalida, Iván. Unidad Especializada en Responsabilidad Penal Adolescente y Violencia Intrafamiliar. Informe de gestión.
20. Fundamentos Técnicos de la Capacitación para Empleados Públicos, año 2008
21. Informe operacional Casas de Acogida, 2007.
22. Informe operacional Casas de la Mujer, 2007.
23. Soledad Larrain: “La violencia Puertas Adentro: La Mujer Golpeada,” Editorial Universitaria, 1993.
24. Ley No. 19.325 de Violencia intrafamiliar
25. Ley No. 20.066
26. LEY-19640. LEY ORGANICA CONSTITUCIONAL DEL MINISTERIO PÚBLICO. Promulgada el 08.10.1999 y Publicación el 15.10.1999. Disponible en Página Web de la Biblioteca del Congreso Nacional.
27. Gloria Maira Vargas, Patricia Olea Castro; Santana Nazarit, Paula; Rojas Bravo, Soledad. “Guía de Recursos para la Acción” Red Chilena contra la Violencia Doméstica y Sexual. Santiago, 2006.
28. Ministerio de Justicia. Boletín Jurídico. Justicia y género. <http://www.minjusticia.cl/minjus/documentos>
29. Ministerio del interior Diagnóstico en Materia de Asistencia a Víctimas de Delitos en el contexto Nacional. Unidad de Asistencia a víctimas del Delito. División de Seguridad Pública. Santiago, Chile, 2007.
30. Ministerio del Interior Estrategia Nacional de Seguridad Pública 2006 – 2010
31. Ministerio Público Anuario, 2007.
32. Ministerio Público Boletín Estadístico Anual, 2007.
33. Minoletti A, López C, ed. “Plan Nacional de Salud Mental y Psiquiatría.” Unidad de Salud Mental, DISAP, Ministerio de Salud; 2001. Cáp. 4. Programa
34. MINSAL, 2000 “Normas y guía clínica para la atención en servicios de urgencia de personas víctimas de violencia sexual.”
35. Ministerio del interior Red de Asistencia a Víctimas. Antecedentes y Perspectivas. Santiago, Agosto de 2008.
36. OIT Protocolo para Prevenir, Reprimir y Sancionar la Trata de Personas, especialmente Mujeres y Niños que complementa la Convención contra La Delincuencia Organizada Transnacional. Definición extraída del Glosario de Términos de OIT.

37. Paula Medina “Minuta Estrategia Nacional De Seguridad Pública Y Asistencia A Víctimas” Proporcionada Por De La División De Seguridad Pública Del Ministerio Del Interior.
38. POLÍTICA DE SALUD EN VIOLENCIA DE GÉNERO. Proporcionada por Carmen López, Subsecretaría de Salud Pública.
39. Pool, Alejandro. “Análisis Desde el Modelo Traumatogénico de los Indicadores Gráficos Asociados a Agresiones Sexuales Infantiles en la Prueba Persona Bajo la Lluvia.” Psykhe, Mayo, 2006.
40. Resolución Exenta No. 1308. Firmado el 6 de Agosto de 2007
41. Resolución Exenta No. 351/S.G. firmado el 8 de Mayo 2008
42. Resolución Exenta No. 925/S.G. firmado el 27 de diciembre de 2007
43. Resolución N° 214/SG. 13 de Marzo 2008
44. Rico Nieves (1996) Violencia de Género un problema de Derechos Humanos, Serie Mujer y Desarrollo. 16, CEPAL, Santiago.
45. Soledad Rojas, Camila Maturana, and Gloria Maira: Femicidio en Chile, 2004.
46. Miguel Angel Ruz Soledad Larraín, Mauricio Fernández, ÁngelaMadrid, Pamela González, Luis Munita: Dirección de Estudios Sociológicos de la Pontificia Universidad Católica de Chile. “Detección y análisis de la prevalencia de la violencia intrafamiliar en la región de Coquimbo” SERNAM, 2004.
47. Miguel Angel Ruz Soledad Larraín, Mauricio Fernández, ÁngelaMadrid, Pamela González, Luis Munita: Dirección de Estudios Sociológicos de la Pontificia Universidad Católica de Chile. “Detección y análisis de la prevalencia de la violencia intrafamiliar en la región Región de Aysén.” Informe Final. Junio, 2006.
48. Seminario “Tribunales de Familia: reforma inconclusa,” Patrocinado por Comunidad Mujer, participación de Subsecretaria de Justicia, doña Verónica Barahona, Jueves 22 de junio 2006, Sala Bicentenario de la Municipalidad de Vitacura, Santiago.
49. SERNAM “Detección Y Análisis De La Prevalencia De La Violencia Intrafamiliar. Centro De Análisis De Políticas Públicas Universidad De Chile. 2001
50. SERNAM Orientaciones Técnicas Casas de Acogida.
51. SERNAM Orientaciones Técnicas centros de la mujer.
52. SERNAM Orientaciones técnicas del modelo de intervención de los centros de la mujer. SERNAM, 2008.
53. SERNAM. Agenda de género 2006-2010.
54. SUBSECRETARIA DE REDES ASISTENCIALES Oferta Programática para la atención a Víctimas de Violencia en la Red Publica de Salud” PPT proporcionado por Flor Draguicevic, Asesora Gabinete de la Subsecretaria Septiembre del 2008
55. Juan Carlos Tobar: “Violencia sexual: Análisis de la nueva ley,” Editorial Pehuén, Santiago, 1999.

56. Unidad De Asistencia A Víctimas De Delito División De Seguridad Pública Ministerio Del Interior “Diagnóstico En Materia De Asistencia A Víctimas De Delitos En El Contexto Nacional.” Año 2007 Santiago, Chile.
57. Universidad Diego Portales. “Niños, Niñas y Adolescentes víctimas de delitos sexuales, en el marco de la reforma procesal penal. Informe Final.
58. Raúl Urzúa, Soledad Larraín, Marcela Ferrer, Claudia Gutiérrez: Detección y análisis de la prevalencia de la violencia intrafamiliar. Centro de Análisis de Políticas Públicas de la Universidad de Chile. SERNAM, 2002
59. J. Ysern, and P Becerra: Abuso sexual: Prevalencia y características en jóvenes de 3° medio de liceos municipalizados en Chillán, Chile. Teoría, Vol. 15, No. 001. pp. 79-85. 2006.

Páginas Web consultadas.

1. http://geminis.dipres.cl/virlib/docs/Gestion/2008/doc21-98-2008812_01%2002%2003INFORME.pdf
2. <http://www.bcn.cl/leyes/pdf/actualizado/145437.pdf>
3. <http://www.cedem.cl/cedem.htm>
4. <http://www.domoschile.cl>
5. <http://www.dt.gob.cl/1601/article-82474.html>
6. http://www.fundaciondelafamilia.cl/como_trabajamos.html
7. http://www.humanas.cl/index.php?pagina=Programa_Radial
8. <http://www.interior.cl/funciones.html>
9. <http://www.nomasviolenciacontramujeres.cl>
10. <http://www.observatoriogenerosalud.cl/>
11. <http://www.observatoriogeneroyliderazgo.cl/>
12. <http://www.oit.org.pe/ipecc/pagina.php?pagina=185&gloLetra=T#Tráfico/Trata>
13. www.carabineros.cl
14. http://www.mineduc.cl/index0.php?id_portal=1
15. <http://www.fiscaliadechile.cl/>
16. <http://www.nomasviolenciacontramujeres.cl/>
17. http://www.observatoriogeneroyliderazgo.cl/index.php?option=com_content&task=view&id=1&Itemid=35
18. <http://www.sernam.cl/portal/>
19. www.sml.cl