



PAUL
HASTINGS

A NEW COVID-19 CRISIS: DOMESTIC ABUSE RISING IN LATIN AMERICA

2020

The legal research for this report was conducted by all of the Women in the Profession (WIP) local chapters. The Women in the Profession Program of the Cyrus R. Vance Center for International Justice promotes the advancement of women in the legal profession with an emphasis on our individual leadership and leadership within our profession. The women work to use the practice of law to enhance the status of women in general and ensure women equal protection under the law. WIP's general membership includes hundreds of women attorneys throughout the Americas. For more than a decade, these attorneys have created an infrastructure that facilitates the sharing of best practices, professional development training, and enhanced networking opportunities. WIP is managed through its International Steering Committee (the "ISC"), which includes two representatives from each local chapter and is led by the Vance Center and nine members of the Vance Center Committee. Through its 19 local chapters throughout Latin America, WIP promotes its mission of enhancing diversity and inclusion at all levels in the legal profession, with an emphasis on promoting leadership among its members. Each chapter commits to organizing at least two events each year that will provide women lawyers in each of their countries with a platform to share ideas and create initiatives. Consistent with the Vance Center's effort to build global engagement among lawyers to contribute to social change, each chapter carries out one pro bono project each year that advances the status of women who face vulnerable circumstances. <https://www.vancecenter.org/our-programs/women-in-the-profession/>

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1. INTRODUCTION

The Cyrus R. Vance Center for International Justice (“Vance Center”) seeks to understand how certain countries in Latin America have addressed the issue of domestic violence in light of the COVID-19 pandemic. The Vance Center recognizes that the occurrence of domestic violence has intensified in the midst of the pandemic, with victims forced to stay at home with their abusers.

The Vance Center convened the Women in the Profession chapters in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, and Uruguay to participate in this project through responses to a questionnaire on their respective country’s response to domestic violence during the pandemic. Questions focused on: 1) published data regarding the increase of domestic violence; 2) any changes in the official and civil society responses to domestic violence; 3) restrictions on the operation of courts during the pandemic; 4) legal and other challenges that affected how government agencies and NGOs can assist domestic violence victims; and 5) suggestions for additional measures that government agencies and civil society can take to assist domestic violence victims. The results of this survey are summarized below.

2. SURVEY ASSESSMENT

a. Legal Framework

All surveyed countries have laws that specifically define domestic violence, and nearly all of these laws criminalize domestic violence. While Argentina does not have a law specifically criminalizing domestic violence in and of itself, a significant number of the acts involved in domestic violence constitute crimes under Argentinian law, such as causing minor injuries and sexual abuse. Additionally, certain crimes have a more serious sentence imposed when gender issues are involved.

All surveyed countries have designated government agencies responsible for providing assistance to victims of domestic violence. Additionally, all surveyed countries have non-governmental organizations whose sole or primary mission is to provide assistance to victims of domestic violence.

b. Official Reports of Domestic Violence amidst the Pandemic

Surveyed responses demonstrate a gap in available official data regarding the impact of the pandemic on the occurrence of domestic violence. However, those countries that have collected such data have seen a spike in reports of domestic violence. In Chile, phone reports of domestic violence to police have increased by 119%, and reports to the prosecutor’s office have increased by 20%. Reports to Chile’s Ministry of Women and Gender Equality increased by 70% in March and an additional

63% in April. Chile's new 24/7 helpline for domestic violence registered approximately 200 text messages and 600 phone calls. In Paraguay, the Director of Public Relations of the National Police reported that, in March, emergency calls for domestic violence increased more than 10%. In Colombia, calls to the domestic violence hotline for female victims of domestic violence increased by 630% during the lockdown compared to the same period in 2019, although the government noted that some of the calls were informational. In El Salvador, there have been no official reports; however, several non-governmental organizations have detected a significant increase (approximately 70%) in the number of cases of violence against women.

Nicaragua has not released any official reports on an increase in domestic violence related to the pandemic. According to local news, social media, and other general information, the occurrence of domestic violence appears to be the same as usual.

Guatemala and Panama's data reached an opposite conclusion: daily reports of domestic violence in Guatemala have substantially decreased since the start of the pandemic in March. Previously, there were 150-155 cases reported daily. In April, there were only 55 cases reported daily. This indicates an issue with domestic violence victims having access to report abuse. Similarly, in Panama, the Public Ministry published statistics indicating that complaints of domestic violence have decreased during the pandemic.

Mexico's government has been adamant that domestic violence has not increased during the pandemic. In May, President Andrés Manuel López Obrador openly rejected the idea that general violence and violence against women have increased during the pandemic. To support this, he noted that the number of actual complaints has not increased. However, this conclusion may be problematic because victims are with their abusers more regularly and thus unable to report an increase in abuse. Olga Sanchez Cordero, Mexico's Secretary of the Interior, reported a considerable increase in the number of calls about violence against women and intra-family violence during the lockdown. Various civil society organizations also reported such an increase: 303% more in March 2020 than March 2018 and 191% more than March 2019.

c. Impact of COVID 19 Pandemic on Domestic Violence Responses

i. The Courts

Surveyed responses indicate that, for many countries, access to courts for domestic violence victims has not been severely restricted due to COVID-19. In some countries, domestic violence courts have remained open even while other courts have been closed. For example, in Guatemala, while some court operations have been restricted, courts that specialize in domestic violence cases were deemed an exception and have remained open during the pandemic. Similarly, while courts closed for

approximately one month in Costa Rica, domestic violence courts did not close. Argentina, Honduras, and Bolivia have acted similarly and allowed domestic violence courts to remain open in the face of other court closures.

However, access to the judiciary has been restricted in some countries, including Paraguay, Colombia, El Salvador, and Panama. In Paraguay, judicial activity paused in March and April, limiting access to justice for domestic violence victims. During this time, victims were able to make complaints, and peace courts could hear certain cases, but for emergencies only. In Colombia, judicial proceedings were suspended from March 16th to July 1st. However, all criminal complaints lodged during the suspension will be attended to by the Attorney General's Office and by criminal courts. Currently, courts are functioning through virtual means. In El Salvador, courts are not working regularly and do not have a full staff, so there may be a delay in receiving or processing claims. The courts are also not open on some days.

In Panama, both the courts and the Public Ministry in charge of providing assistance to victims of domestic violence have been closed during the pandemic. Although victims have been allowed to continue filing reports of domestic violence with the Public Ministry, anecdotal accounts relay that many victims are discouraged and prevented from filing reports by Public Ministry officials who prioritize more serious claims over others.

Contrastingly, in Nicaragua, where the Government has yet to declare the existence of a pandemic, courts have been operating as usual. They have not changed practices as a result of the pandemic.

Other countries have made court operations remote. For example, in Colombia, domestic violence victims can access family commissariats by telephone or in-person, depending on the case. It is worth noting that family commissariats are institutions devoted to protecting victims of domestic violence. Their functions include receiving domestic violence complaints, offering counseling services to victims, and ordering protective measures in favor of victims.

ii. Enforcement of Protective Orders

In some countries, the enforcement of protective orders has continued as usual. In the Dominican Republic, Nicaragua, Costa Rica, and Honduras, the official units dedicated to domestic violence response have functioned without interruption.

In Chile, authorities instructed prosecutors to request injunctions immediately, even before formally bringing a case, in order to provide greater protection to victims where a crime is considered "flagrant" (where the aggressor was caught committing the act or up to twelve hours later). In a similar legal measure, the Supreme Court of Justice in Uruguay urged courts dealing with domestic violence cases to extend by 60 days protective orders about to expire.

In Colombia, the courts in charge of issuing protective orders are working remotely. The survey respondents did not indicate whether there has been any delay because of this.

However, some responses indicate potential issues with the enforcement of protective orders due to the pandemic. In El Salvador, the government has not implemented any new measures to address domestic violence issues in light of the pandemic. In Panama, the courts have suspended legal proceedings. Notwithstanding the foregoing, the Panamanian judiciary has given guidance that protective measures that were in place before the pandemic lockdown have been extended without the need for new resolutions, while emergency hearings on domestic violence cases are still heard before the courts, with Public Ministry officials gatekeeping only the most serious cases. In other countries, some courts have interpreted certain decrees to entail suspension of protective measures. For instance, in Mexico, reduction of the number and working hours of staff and lack of supplies have negatively affected response time for domestic violence complaints.

d. Government Initiatives

Survey responses indicate that most governments have implemented some measures to strengthen assistance to domestic violence victims in light of the pandemic.

One such measure has been specific phone lines dedicated to domestic violence reports. In the Dominican Republic, the National Domestic Abuse Hotline was deemed an essential service and operates 24/7. Guatemala also created a phone line for domestic violence reports. Costa Rica added a hotline and an email address for victims. Colombia has a hotline, as well as WhatsApp numbers that provide counseling and psychological care for victims and an email address for anonymous complaints. In Argentina, the government has implemented three telephone lines to make complaints, as well as three WhatsApp lines, an email, and a free app that can be downloaded. Mexico and Panama's governments also created telephone helplines, with the Panamanian government including a dedicated email address where citizens can receive guidance.

Chile has implemented several measures—including one very unique initiative called “Mask 19.” Through this initiative, women who find themselves in a situation of danger to their physical, psychological, and/or sexual integrity can go to their nearest pharmacy. If the woman uses the key word “Mask 19”, the pharmacist must contact the helpline number and, in the most serious cases, the police. Chile also has set up a WhatsApp number to provide information, guidance, and emotional support anyone experiencing or witnessing violence, which is particularly helpful for those who cannot make a call for help because they fear being heard by the aggressor. Along similar lines, Chile has a web chat tool for women who cannot make a phone call, which is confidential, with all conversations automatically deleted to ensure the safety of the victims.

Similar to Chile's "Mask 19" initiative, Argentina has launched a campaign called "Barbijo Rojo" (red face mask), enabling women to go to a pharmacy and request assistance to contact the hotline.

Additionally, several countries have ensured that shelters/safe houses remain open to victims of domestic violence. In the Dominican Republic, the government announced that safe houses will continue to accept victims of domestic abuse while respecting health guidelines. Argentina, Chile, and Colombia also have ensured the availability of women's shelters. In Uruguay, the National Institute of Women established a 24-hour center to enforce the protection of women with children.

However, several countries do not appear to have implemented any additional measures in light of the pandemic. Survey responses indicate that Bolivia, El Salvador, and Nicaragua have not implemented any specific initiatives.

Nicaragua's response appears to be the most problematic. The survey respondents indicated that Nicaragua has not officially recognized or declared the existence of the COVID-19 pandemic. As a result, the government has not implemented any additional measures to strengthen domestic violence responses during this time.

Similarly worrying are victim accounts collected in Panama, suggesting that victims face higher hurdles to filing complaints and to receiving temporary relocation at shelters.

e. Non-Governmental Organization Initiatives

Survey responses indicate that most non-governmental organizations in most countries have implemented some measures to strengthen assistance to domestic violence victims in light of the pandemic.

Initiatives include large-scale campaigns aimed to spread awareness to victims of domestic violence of specific resources that may be helpful to them. In Guatemala, social media campaigns have promoted the use of phone lines and encouraged people to report acts of violence. This addresses the fact that the number of reports of domestic violence has decreased since the beginning of the pandemic.

In Colombia, the National Women's Network has launched the "Ellas" App, which allows women to report if they are victims of domestic violence. The App includes a panic button that sends an alert, with name and location, to emergency contacts. There also is a geolocation function and a free legal-advice line.

Several countries have implemented virtual legal, medical, or psychological services, specifically for domestic violence victims. For example, Profamilia in Colombia has a virtual service for health professionals to provide advice in situations of physical or psychological violence. SISMA Mujer in Colombia also offers legal and psychological support to victims of violence during the compulsory lockdown. In Honduras, organizations have made telephone numbers available to provide psychological assistance to victims. In Brazil, a startup called "Metete a colher" has created an app for

women victims of domestic violence to communicate with women volunteers to request guidance. The messages are automatically deleted every 24 hours to ensure security. Volunteers can choose to provide guidance in the areas of (1) legal advice, (2) conversations and support, and (3) help in the labor market.

In Brazil, the Gaucho Committee *Eles por Elas* (He For She) has created a campaign, similar to those in Chile and Argentina, enabling women to order purple masks at drugstores as a way to make domestic violence complaints. In a similar fashion, the electronics and furniture megastore Magazine Luiza has implemented, in its own shopping application, a button to report domestic violence. In order to instruct clients and the public in general on how to use the tool, the brand's digital influencer carries a sign that says "Hey, girl! Pretend you're going to make a purchase on the Magalu app. There is a button there to report violence against women." The button redirects the user to hotline 180 (Service Center for Women in Situations of Violence), a confidential public service offered by the National Policy Secretariat for women to receive advice about their rights.

In Panama, Fundamorgan's Community Legal Assistance Program has used the Instagram app to host live information sessions providing resources on domestic violence geared toward victims and allies. The group has also collected donations for victims of domestic violence and initiated a mask-making project, where the merchandise was sold to raise funds for their cause.

f. Suggested Additional Measures

Surveyed responses provided significant insight into additional measures countries can take to strengthen assistance to victims of domestic violence during the pandemic.

Countries with only telephone hotlines to report violence should consider texting services, web chat, or apps in to give victims in earshot distance of an abuser another route of reporting. This would also help reach more women with disabilities, such as deafness.

Countries should also consider language obstacles to reporting. There may be victims who do not speak Spanish well, and countries could consider having language translations available for countries where languages other than Spanish may be prevalent.

In addition to hotlines, apps, and texting services, countries should consider certain in-person options, such as "Mask 19" in Chile and "Barbijo Rojo" in Argentina, where women can say key-word at a pharmacy (or grocery store) or wear a certain colored mask to alert a pharmacist that they are in trouble. This option is important, as many victims are physically close throughout the day to their abusers who monitor their communications. Victim can justify leaving the home to go to supermarkets and drug stores. Moreover, some women may not have access to technology to make phone

calls, use the internet, or text, and an in-person option is necessary for such victims to get help.

Access to legal, psychological, and medical services should be made available to domestic violence victims, and these resources should be well publicized.

Countries should also strengthen information campaigns to spread awareness of domestic violence and promote ways to report violence or assist victims. Countries should engage in wide-spread prevention and education campaigns. Organizations, entities, and resources for victims of domestic violence, including hotline numbers and other means of reporting domestic violence, should be widely disseminated.

Countries also should strengthen post-reporting responses. Many women are afraid to file complaints because they feel unprotected after filing them. It is essential that efforts ensure that protective orders and other decisions are actually enforced.

Furthermore, countries should deem all shelters and similar facilities as “essential services” that remain open during the pandemic, with sufficient capacity to serve all victims.

3. CONCLUSION

The lack of a sufficient government response to protect women from domestic violence during the pandemic is evident from the survey. Gathering data is crucial, and the failure of certain countries to collect data makes it difficult to understand fully the severity of domestic violence and calculate a proper response. Governments must do more to ensure access to law enforcement, as well as financial, legal, and psychological support for victims of violence. Because abusers now are more likely to overhear phone calls that a victim may place, governments should consider more innovative measures, such as texting services or code words that victims to signal the need for help. Additionally, measures must protect victims across all socio-economic situations, as many responses indicated that some victims do not have access to telephones. Governments also should deem domestic violence shelters as essential businesses during the pandemic so that they remain open and offer protection to victims. Governments should include a domestic violence response plan as part of their national COVID-19 response plans and ensure that widely publicize this plan.