



Division for the Advancement of Women



***"Violence against women: Good practices in
combating and eliminating violence against women"***

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**Institutional strategies and multi-sectoral approaches in monitoring the application of
the domestic violence law in Honduras and developing best practices**

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Context and origin of a good practice: the Special Monitoring Commission for Domestic Violence Implementation

It is important to appoint and consider that Honduras has a written law system and though, like in many countries of the region through the last years, it has been immerse in a reform process of the justice sector this task hasn't been completed.

This reform and modernizing process has implied that the country had to promulgate new laws according to international human rights treaties like the Convention for the Elimination of all Forms of Discrimination against Women, the Child Covenant or the Inter-American Covenant for the Prevention, Sanction and Elimination of Violence against Women.

Within this context, an important and useful opportunity emerged to impulse, at national level, specific legislation to promote women's human rights. The "Law against Domestic Violence" was approved in Honduras in 1997 and effective a year after, 1998.

The elaboration of this law rests on Honduran feminist organizations and movement, whom, in a favorable context were able to achieve Congress approval with few changes. Essentially the law approved maintained the feminist organizations proposal, the international women's covenants norms in the matter and was elaborated according to the reality faced and still lived by the majority of women in our country. Some of the most important characteristics were:

- It consists in a 25 article law written specifically to prevent and protect **women**, from domestic gender violence.
- This law is broadly preventive, a civil resource with no penal competence. The law was designed based on investigations and the practice achieved by women's organizations that through their programs attended domestic violence cases; there was a prevalent perception that women were willing to demand domestic violence acts if they didn't have to face large and difficult judicial processes or men weren't necessarily condemned to go to jail.
- In its principles it included the obligation to be an efficient and public action law. This efficiency was determined by eliminating steps and requirements other legal processes traditionally obliged to: the new law had an open jurisdiction, any judge was competent in domestic violence cases; it was an oral trial not a written one; prosecutors had the obligation to act in behalf of women's interest and protection in public actions that were not comprehended in penal public actions.

It involved the action of a diversity of institutions, not only from the judicial sector but from the administrative or executive sectors as well. This aspect meant a special effort for coordination between spaces that historically didn't have the experience in this kind of practices.

Such law was a new challenge in the Honduran written and inquisitive justice system. Judges, prosecutors, police, lawyers and health authorities not only had to put in practice the law with poor financial and political support from their respective institutions. They, in order to observe a due process had to be trained in gender sensitive approaches, understand the domestic violence problems in a more integral manner, adapt to an entirely new way of practicing law and learn to coordinate with several institutions to monitor and improve implementation.

Besides the cultural environment, to understand the roots of the problems encountered and the necessary coordination to achieve a due process, following is a fast view of the institutions involved and their role or authority in the domestic law enforcement:

- The *Judiciary System* where the application of the law was assigned to family courts, where they existed, and at the contrary and mainly at the rural areas, any court is competent in domestic violence cases. The law regulates and creates the existence of special jurisdiction courts that haven't yet been created by the Supreme Court and instead, judges¹ (all women) were appointed to exclusively dedicate to domestic violence.
- The *Attorney General's Office* through the *Women's Special Prosecutors Office* or any prosecutor where there is no special one. They have the function to act on women's behalf at the proceedings.
- The *Health Department*, through Family Counseling Offices where men and women are sent to separate counseling.
- The *Police Department*, in charge of applying urgent security measures to protect women and their family group. They too, have the obligation to assist judges in anything they demand to guarantee duly application of the judicial decisions in the case.
- The *Municipalities* having the responsibility to assign community assistance jobs to men that have been sanctioned by judges for noncompliance of the preventive and protective measures decided at courts.

¹ Appointments just made in the capital of Honduras.

The organization I belong to, the Women's Rights Center (Centro de Derechos de Mujeres, **CDM**), detected the necessity of approaching the problems emerged by the application of the "Law against Domestic Violence". This decision not only came from a theoretic analysis but it was reinforced by the experience acquired by the legal practice in the exercise of women's rights before courts and other operators of the justice system.

The decision the WRC took, meant that besides advocacy strategies with high level decision-makers of each institution to gain more institutional support for the domestic violence law, in the beginning, *it was totally urgent to start working with the personnel directly enforcing the law*. One of the strategies that complemented any education and gender sensitive training work that could be developed was the need to coordinate the diversity of institutions that the new law involved and at the same time, monitor their ways of implementation.

The Special Inter-institutional Commission for Monitoring Enforcement of the Law against Domestic Violence: Resolving Problems

The WRC had the initiative to work with authorities that in their institutions had the direct responsibility of law enforcement. After many conversations and workshops that had the main objective to gender sensitize them not only on the spirit or principles of the law but on the necessity to resolve application problems that the legal practice was presenting, upon consensus, it was decided that the best strategy was to search for solutions in a coordinated way with all the institutions involved and some other ones that had a significant role in women's rights.

Therefore, the Special Commission was conformed few months after the initiation of law effectiveness, 1998, by invitation and promotion activities of the WRC and the authorities that had a role in the law's implementation. The Commission was completed not only with the offices mentioned above but finally conformed of the following institutions:

- The Judges competent in domestic violence subject
- The Special Women's Prosecutor
- The official responsible for the Family Counseling Offices of the Health Department
- A representative of the Police Department
- A representative of the Social Affairs Department at the Municipality of Tegucigalpa, Honduras capital city, in charge of monitoring men who were sanctioned by the terms of law.
- A representative of the Women's National Institution recently created when the Special Commission started to function and after women's movement constant requests.

- A representative of the Ombudsman National Office
- A representative of the Women's Rights Center, from the civil society and the only women's organization that assumed cases that implied sufficient legal practice experience and whose principal role was to give the view of the users of the law: domestic violence victims or survivors.

Main purposes and contributions of the Special Commission:

- a. Monitor the enforcement of the domestic violence law in coordination between the institutions involved in implementation:
 - i. The space created by the Special Commission gave the Women's National Institute and the Ombudsman Office an opportunity to observe what was happening in the enforcement of the law and to incorporate in their respective programs and functions some of the elements, conclusions and necessities defined by the Special Commission.

- b. Unify application criteria creating in a practical way, but not via legal procedure, jurisprudence. These constituted a very important and useful practice for solutions in the following problems:
 - i. The efficient and new procedure of the law generated, when applied by some officials, sexist and stereotyped practices originated in the predominant cultural patrons and perceptions of the individuals responsible of the application. This kind of attitudes lead to nonobservance or violation of law prescriptions and affected women's rights contemplated in the law.

Some of these omissions or attitudes, when not prejudicial, meant that officials of all institutions needed gender sensitive training and more information about international women covenants that form part of our legislation since they were signed by the state and as it is established by the Constitution. In consequence, the Special Commission motivated training work and education/capacitating processes in the different institutions or directly assumed some activities supported by eventual funding that some of the members acquired through their institutional projects.

- ii. Important law omissions and weaknesses were being detected. Some of them had solutions in defining procedures legally founded in other laws, not contrary to the domestic violence law. Others were resolved by a simple agreement between institutions

or shared analysis and conclusions of the mechanisms to be used for a solution.

- iii. The listing of omissions or weaknesses that didn't find an immediate solution, were in the future the reason for working in a **law reform that would give more efficiency and benefits to women's rights exercise.**
- c. When the omissions or acts implied prejudicial or damaging decisions, the Special Commission is a space to denounce unduly practices; these notifications are taken by the respective representative to the institution responsible of the violation. After evacuating internal procedures, the representative has to inform to the Special Commission of the correction or sanction, if it were the case.
- d. The role of a civil society member in the Special Commission has been an interesting component seen from two aspects: a) from the point of view and strategies of the Center; and b) from the public institutions integrating the Commission.
 - d.1) *For the WRC:*
 - It's a way of monitoring enforcement of the law, to have a permanent "thermometer" that complements the information we obtain from our own practice when representing women's cases at courts and before any other institution.
 - It has been an opportunity to impulse gender sensitive attitudes in the members of the Commission, in their perspectives, training activities and contributing to their compromise with women's human rights.
 - It has been a space to present our own claims related to omissions or acts violating the essential meaning of the domestic violence law and expect solutions in concrete cases.
 - d.2) *For public institutions:*
 - It's has been a way to gain some civil society support when they face menaces over spaces won by women in their institutions. One clear example of it: at the Attorney's General Office each time a new Attorney General is appointed using the "reduction of budget" discourse, he

intends to close or reduce to its minimum expression the Women's Special Prosecutor Office. The representative of the menaced office notifies the Special Commission who in coordination with the women's network where the WRC is a member² designs a strategy to stop such measure. Immediately, actions are assumed combining direct pressure and public pronouncements opposing such measures, denouncing how national and international legislation is violated and the fragile will of the state to eliminate discrimination and violence against women.

- The Special Commission meets with directives of the public institutions presenting specific petitions that somehow oblige them to take gender sensitive decisions, to create the instruments or assign resources that will assure some sort of advancements in the efficiency of women's rights.

Most significant activities assumed by the Special Commission

- ◆ Elaboration of a reforms proposal for the Law against Domestic Violence. This process was begun in the year 2000 and recently presented to the Congress for approval. The process was always directed by the Special Commission and included socialization and joint work with civil society organizations, especially women's organizations, human rights organizations and consultations with lawyers related to practice in human rights. The reforms proposal maintains the principles of the actual law, improving application aspects, clarifying procedure and contemplates a more severe treatment for men that don't fulfill the measures imposed by judges. An important contribution of the reforms that will support monitoring in implementation is that it creates a necessary figure: an execution judge with the responsibility to follow-up all the measures imposed by judges to men, sanctions and to pass cases to penal jurisdiction when it proceeds.
- ◆ The Special Commission has developed advocacy skills that are being performed not only at the Congress in behalf of the reforms proposal, but in monitoring other aspects of implementation, like:
 - With the Secretary of the National Security office, who is responsible for the important paper that police play in combating acts of domestic violence, stop violence in concrete cases and prevent major damages or even death of the victims and/or their families. The

² Colectivo contra la Violencia de las Mujeres: Collective against Women's Violence

Security Secretary signed a Commitment Act to achieve improvements in the police role. This Act was signed in the presence of the Special Commission, the Attorney General, the Secretary of the National Women's Institute, and had a broad coverage in the national media.

- At the Attorney General Office to assure the appointment of the Special Women's Prosecutor.

- ◆ Assumed training workshops capacitating in domestic violence law or in gender perspective and sensitiveness to: judges and prosecutors in different regions of the country; to the police department in the capital, to officials of the municipality and other minor petitions.

- ◆ Elaborated a Guide in Domestic Violence Procedure for Local Judges, mainly from the rural areas.

- ◆ Participated and assumed a public campaign in November 25, demanding the approval of the reforms proposal.

Evaluation of success or effectiveness

This is still a pending activity. The Special Commission has worked since 1998 with the interest, will and volunteer work of the majority of its members. Only our Center and the National Women's Institute have included this work in their operational plans; the rest of the members have the "support" of their institutions translated only in permissions to assist to the meetings or to the activities organized by the Special Commission. Maybe this permanent activity and compromise, that hasn't necessarily count with institutional support, has sustained the Special Commission for almost seven years and could be a good indicator of success.

It was until last year that the Pan-American Health Organization (PAHO) was interested in the experience, especially in the process of elaboration of the reforms proposal. This interest allowed the Special Commission some funding to finish the reforms proposal and initiate advocacy labor at Congress; in the next months we will be working in a systemize process to have an evaluation.

General Lessons

1. One of the reasons that the Special Commission started to work and could consolidate a first stage that was the basis for its sustained permanence in the

following years, was the role Women's Rights Center had in it. The strategy was conceived by the WCR, proposed and "insisted" by our members. It is not easy for an organization from civil society to have a leadership in a place where everyone else came from public institutions. Maybe one of the factors that supported the WCR in this objective was the work that we develop at courts, assuming gender violence cases we are active part of the system, we take to the Special Commission the view and problems of women that use and need a correct implementation of the law.

2. To assure people's assistance to meetings is an element that allows development of a strategy, an important fact for this achievement is that the majority of the members are women. The institutions whose representatives are usually men have a resistant attitude to collaborate. For example we haven't been very successful with the representatives from the Police Department, part of the National Security office, a very important sector for a correct implementation of the law and a place where the majority of women assist for help. Seeing this almost permanent absence, the Special Commission decided to implement some advocacy activities with the Security Ministry, making him aware of the situation and compromising the institution to have a better performance. As a result we had a police woman officer appointed as a representative and then a man officer that has some gender sensitivity; the work done by the woman officer was more effective and compromising, on the contrary, we have to insist for results in solving problems with the man officer. Though we have this result with men, we think that especially with an institution like the police department it is important to try to have some influence in them, urge them to change attitudes as a legal obligation since they are public officials, and insist that they can't decide to apply law from their personal perception.
3. The next step in the first year or two was to insist in gender sensitiveness of the members, encourage and form groups to study the law using gender perspective as an instrument and to study international women's covenants. Now the covenants support judges decisions, are quoted in their judgments or sentences and are an important legal argument in the advocacy activities assumed by the Special Commission.
4. After this first stage, the challenge achieved by now was that the representatives of the Special Commission assumed the space like theirs, that they were empowered to display important roles in their respective institutions, defending women's interest.
5. The Commission has a clear objective and few rules: every year a president, vice-president and secretary are elected, rotating between members; all the decisions and activities are translated into acts to have a registry of the work.

6. The fact that the Special Commission is formed by the persons directly involved in implementation allows the resolution of some kind of problems in an immediate time, giving a better effectiveness to the law and avoiding bureaucracy. These resolutions have had a big influence in the way the law has been implemented, forming, in some aspect but not by law, jurisprudence.
7. But not all types of problems can be resolved at this level; actually the development process of the Special Commission makes us think that we need a link with a broader and decision maker level. One of the proposals made in this aspect is the conformation of a National Commission against Gender Violence, constituted with high-level officials. The actual Special Commission will be part of it, in charge of domestic violence. This big step could help to institutionalize good practices always provided by the specific commission and could give the Special Commission more institutional support.
8. The Special Commission has only worked with these achievements in the capital. Special efforts have been made to reply the experience in other parts of the country and they are replied with their own characteristics in the zones where WCR works. The fact that the Special Commission doesn't have a budget, limits the activities that could be done in the rest of the country; and this could be one of the reasons, too, for the institutionalization of the space via the National Commission. This step could help in a broader replication of the experience in all the aspects.