

# CLADEM and the Inter-American Convention on Sexual and Reproductive Rights

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Rights are only useful when they can be exercised. Even if women know they have a right to decide whether they have sex with a man, in many situations they will not be able to prevent being raped or coerced. What happens when these rights are not clearly defined to the people they could help or when people are unaware of how to claim their rights in court? One of the results is that millions of dangerous, clandestine abortions take place.

CLADEM (the Latin American and Caribbean Committee for the Defence of Woman's Rights) is currently campaigning for an Inter-American Convention on Sexual Rights and Reproductive Rights. This Convention would effect profound changes in women's lives in Latin America and the Caribbean by ensuring that women are able to benefit from international and national agreements on reproductive and sexual rights. The main goal of the campaign is to bring national laws and social beliefs into line with these agreements, making policymakers and the public aware of the connections between sexuality and reproductive choice, and economic, social and political development. The campaign will mobilise people and organisations to lobby for change.

CLADEM's campaign is based on an understanding of reproductive rights, including control of fertility, as an essential part of the wider human rights: all women must be able to exercise the whole range of rights simultaneously. For human wellbeing, everyone needs employment, health, and education; people also need control over their bodies, liberty, integrity, dignity and a life free from violence and discrimination. Women have not often had freedom to decide how to exercise their sexuality or control their fertility. Society treats them differently according to their age and marital status; in general, women are expected to remain sexually faithful to their husbands and to bear children. They are punished severely when they veer away from the role of traditional, heterosexual wife and motherhood. Such women present a challenge to religious and moral mandates, and the traditional male-dominated family, with its objective of reproduction. They challenge ideas of what is 'normal' and 'natural', and undermine the idea that the traditional family is the only kind possible.

CLADEM is still in the first phase of the campaign: it is spreading an idea and discussing its principles. Drafting a Convention is a long-term process, involving complex issues on which consensus will be difficult to reach. There are many steps to take before CLADEM can draft the text of the Convention, and work on mechanisms for its implementation.

This case study was written as a contribution to the development of *From Poverty to Power: How Active Citizens and Effective States Can Change the World*, Oxfam International 2008. It is published in order to share widely the results of commissioned research and programme experience. The views it expresses are those of the author and do not necessarily reflect those of Oxfam International or its affiliate organisations.

The Convention will exist alongside those already in place in the inter-American system of human rights protection. There are good examples of how social movements can participate in constructing legislation in the inter-American system, including the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Woman (Convention of Belém do Pará). Nowadays, the issue of domestic violence against women is understood and approached as a human rights violation: but the situation was very different until very recently. The Inter-American Convention on Violence Against Women is legally binding for those countries that have adopted this Convention, and it has been incorporated into their national legal systems. National legislation on domestic violence has been created and implemented in different countries of Latin American and Caribbean region. The Brazilian state was declared responsible for negligence, omission and tolerance related to domestic violence against women. The Inter-American Commission on Human Rights made many recommendations to be implemented by Brazil, including the development of public policies to prevent and eradicate domestic violence against women in the country.<sup>2</sup> An Inter-American Convention on Sexual Rights and Reproductive Rights could have the same kind of impact.

## **The African Women's Protocol**

The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, (known as the African Women's Protocol), was adopted by African heads of state in July 2003, at the Maputo Summit of the African Union, held in Mozambique. The African Women's Protocol is significant in three ways. First, it focuses attention on women's rights that have been established and developed in other international and regional instruments. Secondly, it is the first instrument in international law explicitly to enshrine women's sexual and reproductive rights to medical abortion when pregnancy results from rape or incest, or when the continuation of pregnancy endangers the health of a mother, and to call for the legal prohibition of female genital mutilation. Thirdly, it is the first instrument of its kind developed by Africans, for Africans.

Oxfam GB is part of a nineteen-member coalition of organisations working in Africa working to popularise the notion of the African Women's Protocol and lobby for its ratification and implementation by all African countries. The coalition has carried out a number of activities, including launching a text-message campaign, attending African Union summits for lobbying purposes, and producing publications to raise awareness of the Protocol and the issues it aims to address. Although it is difficult to assess the impact of these activities accurately, the coalition believes that its activities have contributed significantly to the number of countries ratifying the Protocol, which is currently and continuing to increase.

Article 14 of the African Women's Protocol calls on states to ensure that the women's right to health, including sexual and reproductive health, is respected and promoted. It provides women with the right to protection against sexually transmitted infections, including HIV and AIDS. It also authorises medical abortion in cases of sexual assault, rape, incest and where the continued pregnancy endangers the mental or physical health or life of the mother or foetus. With the exception of South Africa, the Protocol is an advance on national legislation. For example, Zambian women requiring medical abortion currently require a panel of three doctors to agree that the mother's health is threatened. If the mother's health is not threatened, Zambian law does not provide for termination, even in cases of rape, sexual assault or incest. Given the high prevalence of HIV and AIDS in the southern African region, the provisions of the Protocol on protection for women against HIV infection could also help improve the dire situation of women, since activists could adopt a rights-based argument in advocating more effective action, replacing the current welfare-focused arguments.

The focus on political participation alongside other areas of concern, including reproductive and sexual health, confirms that the African Women's Protocol understands the link between the increased participation of women in decision-making, and socially responsible outcomes. Improved control over their fertility would free women to pursue more productive and fulfilling lives and lead to healthier, more prosperous families. By addressing violence against women and harmful traditional practices

that disempower women, the African Women's Protocol will help improve living standards for both men and women.

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This case study was adapted by Caroline Sweetman in December 2006, from an article by Valeria Pandjarian in 2003. It is one of a series written to inform the development of the Oxfam International publication *From Poverty to Power: How Active Citizens and Effective States Can Change the World*, Oxfam International 2008.

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## Notes

<sup>1</sup> The information in this case-study was adapted by Caroline Sweetman, drawn from Valeria Pandjarian's article 'A Daring Proposal: campaigning for an inter-American Convention on sexual rights' published in *Gender and Development*, Vol 11 No. 1, May 2003.

<sup>2</sup> See Case 12.051, Maria da Penha x Brazil, [www.cladem.org](http://www.cladem.org).