



UNLIREC

NORMATIVE STUDY

Making the link between norms on violence against women and small arms control and regulation norms:
Analysis of CARICOM States



With the support of



Canada



This publication has been developed by the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC). The sole purpose of this work is to contribute to regional and international discussions in the areas of disarmament and arms control. The views expressed here do not necessarily reflect those of the United Nations Secretariat and the United Nations System in general.

This publication is available at: www.unlirec.org

Copyright Notice

This document is the intellectual property of the United Nations. It may not be reproduced, stored in a data recovery system or transmitted by any means, in whole or in part or, for any purpose, without the prior written permission of the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC), which acts as the representative body of the United Nations. This document is not for sale.

United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC)

Av. Jorge Chavez 275, Floor 3
Miraflores
Lima
Peru

E-mail: programme@unlirec.org

Phone: (+51) (1) 625 9114

©UNLIREC 2020 - All rights reserved



ACKNOWLEDGEMENTS

The present normative study proposes a much needed dialogue around arms control and violence against women in a legal and public policy sphere, thus presenting a context that can serve as a basis for opening a broad and necessary debate given the alarming rates of femicides in the Latin American and Caribbean region.

UNLIREC appreciates the support received by governments that provided the necessary information for the development of the present study and to all those involved in its different stages.

This initiative was conceived as part of the project "**Promoting the regional implementation of United Nations General Assembly Resolution 65/69 on Women, Disarmament, Non-Proliferation and Arms Control**", which is made possible thanks to the financial contribution of the Government of Canada.

ABOUT UNLIREC

The United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC), based in Lima, Peru, was created by a UN General Assembly Resolution in 1986. The Regional Disarmament Information and Outreach Branch (RDIOB) of the United Nations Office for Disarmament Affairs (ODA) in New York, oversees and coordinates the activities of UNLIREC and the other two regional disarmament centres for peace and disarmament in Africa, and Asia and the Pacific.

UNLIREC is the only United Nations regional entity specialized in disarmament, non-proliferation and arms control in Latin America and the Caribbean. Its main function is to translate the decisions, instruments and commitments of Member States in the field of disarmament and non-proliferation into action, at national, sub-regional and regional levels. In short, UNLIREC supports Latin American and Caribbean States in achieving and maintaining peace and security through disarmament.

The assistance provided by UNLIREC aims mainly to:

- Promote practical disarmament measures through strengthening the capacity of States in the areas of defense, security and justice
- Improve forensic ballistics systems
- Strengthen stockpile management and security
- Support firearms and ammunition destruction processes
- Strengthen arms control in the private security sector
- Support the establishment of national systems for the control of conventional arms transfers
- Strengthen the role and contribution of women in the field of disarmament, non-proliferation, and arms control
- Integrate arms control measures into citizen security policies and encourage initiatives to reduce and prevent armed violence

For more information on UNLIREC programmes and technical support, please contact:

**United Nations Regional Centre for Peace,
Disarmament and Development in Latin America and the Caribbean
(UNLIREC)**

Av. Jorge Chavez, 275 - Miraflores

Lima, Peru

Tel: +511 625 9114

Email: programme@unlirec.org

www.unlirec.org

TABLE OF CONTENTS

07

Acronyms and abbreviations

08

Introduction

10

1. Data on armed violence

- | | | |
|-----|--|----|
| 1.1 | Armed violence: global data | 10 |
| 1.2 | Regional overview of Latin America and the Caribbean | 12 |
-

15

2. Gender violence: violence against women

- | | | |
|-----|---|----|
| 2.1 | Theoretical approach | 15 |
| 2.2 | The data on violence against women: regional overview | 18 |
| 2.3 | International legal framework on women and security | 21 |
-

23

**3. Regional legislation on small arms and violence against women:
special reference to the Caribbean**

53

4. Conclusions and recommendations

56

Bibliography

ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
ECLAC	Economic Commission for Latin America and the Caribbean
FLA	Firearms Licencing Authority (Jamaica)
MESECVI	Follow-up Mechanism to the Belem do Pará Convention
OAS	Organization of American States
PoA	United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small arms and Light Weapons in All Its Aspects
SAS	Small Arms Survey
SDG	Sustainable Development Goals
SVG	Saint Vincent and the Grenadines
UN	United Nations
UNLIREC	United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean
UNODA	United Nations Office for Disarmament Affairs
UNODC	United Nations Office on Drugs and Crime
UNSCR 1325	United Nations Security Council Resolution 1325
WHO	World Health Organization

INTRODUCTION

Armed violence¹ is not an isolated phenomenon with manifestations and effects on different levels. In recent decades, due to its negative impact, it has become one of the main concerns of governments, international organizations, civil society and citizens in general.

Every year, thousands of people are killed with firearms. According to estimates of the United Nations Office on Drugs and Crime (UNODC), in 2017, 54% of the homicides recorded globally were carried out with firearms.² There is no doubt that this scourge of armed violence has a significant impact on the well-being of people and has become one of the main obstacles for human development and governance, as well as a huge burden on national economies.

Men and women are affected differently by the proliferation and use of firearms.³ While about 81 percent of homicide victims recorded in 2017 were men and boys, women continue to be the main victims of gender-based violence, resulting in 137 women killed in the world every day during 2017.⁴ Unlike men, women are murdered not only in the public sphere, but also in the domestic one, by their intimate partners, ex-partners, or family members. Violence against women and femicide⁵ are major challenges on the development agenda. While victims of armed violence are mostly men with deaths occurring in contexts of organized crime, common crime and interpersonal violence; armed violence against women occurs in private settings, as well. Some countries in Latin America and the Caribbean have the highest rates of violent deaths of women in the world, and in many cases, firearms were used in the commission of the murders.

In this context, incorporating gender-responsive small arms control policies is a key and determining factor to move towards safer and more peaceful societies, as well as to promote and strengthen institutional capacities in relation to legislation, law enforcement, criminal investigation, police responses and security policies from a prevention perspective.

Since small arms control is a key factor in preventing and eradicating violence against women, it is necessary to promote the debate on gender-based violence and its link to arms control measures. In this regard, this study analyses these links and reviews the relationship between the norms for the prevention of violence against women and those for the control of civilian use of firearms in twelve Caribbean countries. The analysis focuses on the following countries: Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, the Bahamas and Trinidad and Tobago.



¹ For the definition of armed violence see paragraph 1.1 in this document.

² United Nations Office on Drugs and Crime (UNODC), 2019, Global Study on Homicide. Understanding Homicide, Vienna: ONUDD. <<https://www.unodc.org/unodc/en/data-and-analysis/global-study-on-homicide.html>>

³ In this study, the terms small arms and firearms are used interchangeably and include, but are not limited to, pistols, revolvers, rifles, machine guns and shotguns, among others.

⁴ UNODC (2019). Global Study on Homicide, p. 10.

⁵ For the purposes of this study, the terms femicide/femicide are used interchangeably. However, priority will be given to the use of the term femicide as the most widely used term in the Latin American and Caribbean region. UN Women defines femicide as "gender-based murder, a primary cause of death among women in some countries". UN Women (2013): Annual Report 2012–2013 See:

<https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/6/unwomen-annualreport2012-2013-es.pdf?la=es&vs=1835>

The **first chapter** provides a general overview of armed violence, presenting some quantitative data from the Latin American and particularly from the Caribbean region, paying special attention to the information available on the countries that are the subject of this study.

The **second chapter** adopts a conceptual approach to violence against women and presents data that illustrates the state of this phenomenon in the region.

The **third chapter** analyses the links between small arms legislation and the norms for the prevention and eradication of violence against women. The chapter will also discuss the legal framework of twelve Caribbean countries in an effort to stimulate reflection on the need to develop more effective national legislation to address the impact of small arms on women.

Finally, the **fourth chapter** brings together a series of conclusions and recommendations on how to deal with violence against women from a small arms control perspective.

This effort is in line with States' commitments to move towards the 2030 Agenda for Sustainable Development, mainly with Sustainable Development Goals (SDGs) 5 (Gender Equality) and 16 (Peace, Justice and Strong Institutions).⁶ These goals aim to eliminate all forms of violence against women and girls in the public and private sphere (5.2); significantly reduce all forms of violence and mortality rates (16.1); as well as reduce illicit arms flows (16.4).

This initiative is also in line with the Disarmament Agenda "Securing Our Common Future" launched in 2018 by UN Secretary-General António Guterres. This Agenda, under the pillar "Strengthening Partnerships for Disarmament", calls for the full and equitable participation of women in disarmament-related decision-making processes and the promotion of gender-sensitive disarmament policies.⁷

Finally, the present study and its recommendations are consistent with the provisions included in the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (henceforth, Convention of Belém do Pará), which proposes mechanisms for the protection and defense of women's rights to combat the phenomenon of physical, sexual and psychological violence, both in the public and private spheres.

⁶ For more information agenda for sustainable development see: <https://www.un.org/sustainabledevelopment/>

⁷ For more information on the Disarmament Agenda see <https://www.un.org/disarmament/sg-agenda/en/>

1. ARMED VIOLENCE

1.1. ARMED VIOLENCE: GLOBAL DATA

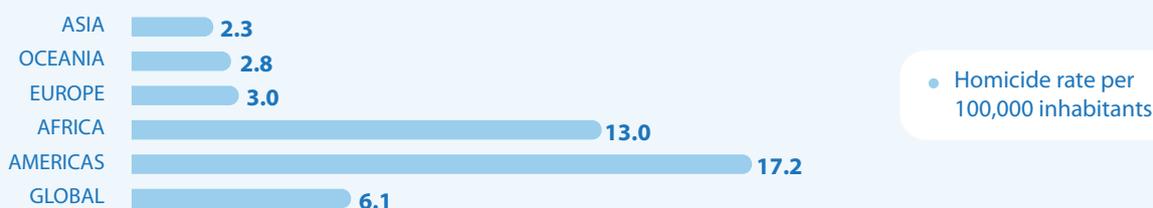
In 2009, the then Secretary-General of the United Nations, Ban Ki-moon, defined armed violence as "the intentional use of physical force through weapons, carried out or as a threat, against yourself, another person, a group, a community or a State, which causes loss, injury, death and/or psychosocial harm to one or more persons and may undermine the security and achievements and development prospects of a community, country or a region."⁸ In this regard, the Secretariat of the Geneva Declaration on Armed Violence and Development defined armed violence as "the intentional use of illegitimate force (real or in the form of a threat) with weapons or explosives against a person, group, community, or State, and which undermines the safety of individuals and/or sustainable development".⁹

The UN Secretary-General, António Guterres, in his Agenda for Disarmament, "Securing Our Common Future", highlights armed violence as disruptively prevalent in times when the international arena is becoming increasingly complex. He notes that this violence – when committed with small arms – is responsible for dividing communities, causing greater burdens on health systems and inhibiting economic investment. It is further implicated by acts of gender-based and sexual violence.¹⁰

The homicide rate is one of the most appropriate, comparable and accurate indicators for measuring the progression and impact of violence globally. The most recent data indicates that 464,000 people were victims of homicide in 2017, which is equivalent to a global rate of 6.1 homicides per 100,000 inhabitants, a figure that is five times the 89,000 deaths registered in armed conflicts in the same period.¹¹ Although the overall average homicide rate in 2017 (6.1) has decreased from the 7.2 rate recorded in 1992 (explained by global population growth among other things), when disaggregating the homicide rate by geographical areas, significant variations are identified.

Data in 2017 places the Americas as the most violent region in the world. In that year, this continent registered 173,471 homicides which equates to a rate of 17.2 homicides per 100,000 inhabitants. With 13% of the world's population, this region accounted for 37% of total homicides in the world.

Figure 1. Homicide rate per 100,000 inhabitants, per region (2017)



Source: UNODC (2019)

⁸ United Nations General Assembly. (2009). Promoting development through the reduction and prevention of gun violence - Report of the Secretary-General A/64/228., p. 4.

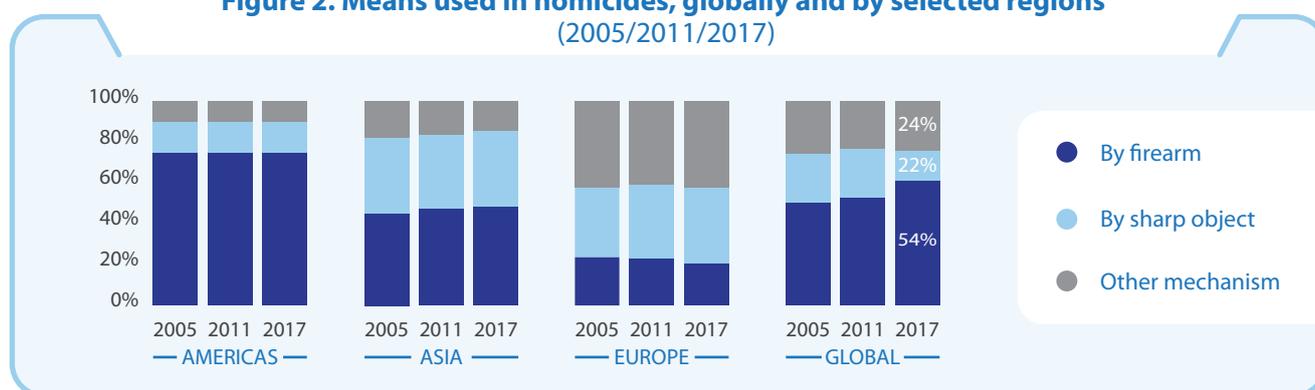
⁹ Geneva Declaration Secretariat on Armed Violence and Development, Global Burden of Armed Violence (Geneva Declaration Secretariat, 2008), p. 2.

¹⁰ United Nations Secretary-General (2018). Securing our common future: an agenda for disarmament, p. 40.

¹¹ UNODC (2019). Global Study on Homicide.

According to UNODC, more than half (approximately 54%) of the world's homicides in 2017 were committed with firearms.¹² When disaggregating the statistics by regions with respect to the mechanism used, significant variations are seen. In the Americas, it is estimated that firearms were involved in approximately 75% of homicides. Although firearms are not involved in all violent deaths, they are used in 44% of all homicides worldwide.¹³ Globally, it is estimated that in 2016, 210,000 people were killed with small arms.¹⁴ representing 38% of all violent deaths. Therefore, it can be concluded that proliferation and easy access to firearms is an inherent part of violence rates and that a country-specific context analysis is of vital importance to account for the presence and availability of small arms as a risk factor in carrying out violent acts.

Figure 2. Means used in homicides, globally and by selected regions (2005/2011/2017)



Source: UNODC (2019)

The dynamics of armed violence manifest differently among different social groups, by age and by sex. Evidence shows that violence does not affect women and men alike. Young men constitute both the highest number of victims and perpetrators of armed violence. However, it is estimated that in 2017 around 87,000 women were killed worldwide, of which approximately 50,000, or 58%, were killed by their partners or family members, meaning that 137 women were murdered daily.¹⁵

Armed violence has diverse impacts on societies and people at different levels. On a personal level, apart from the loss of life due to homicides or suicides, it causes injury, disability and psychosocial trauma. In societies with high rates of armed violence, fear reigns and basic human rights, such as freedom of movement are restricted.

At the community level, armed violence destroys infrastructure or contributes to its abandonment; forces people to change transit routes and activity schedules; generates fear and mistrust by deteriorating social cohesion; aggravates community tensions; voids confidence-building measures; promotes self-management of security and increases the demand for weapons; strengthens the use of violence as a conflict resolution mechanism; increases the number of orphans; and encourages school dropout; among others.

At the socioeconomic level, attention to armed violence diverts public resources to the detriment of other sectors, such as health and education. It also discourages investment and tourism and consumes an important part of the Gross Domestic Product.

In short, armed violence does not only have a human cost, but also negatively affects the governance, functioning and credibility of institutions, and has a tremendous impact on socioeconomic development.

¹² Ibid.

¹³ Small Arms Survey (2017). *Global Violent Deaths 2017 Time to Decide*, p. 48.

¹⁴ Ibid.

¹⁵ United Nations Office on Drugs and Crime (2019). *Global Study on Homicide. Gender-related killing of women and girls*. Vienna: UNODC <https://www.unodc.org/documents/data-and-analysis/GSH2018/GSH18_Gender-related_killing_of_women_and_girls.pdf>

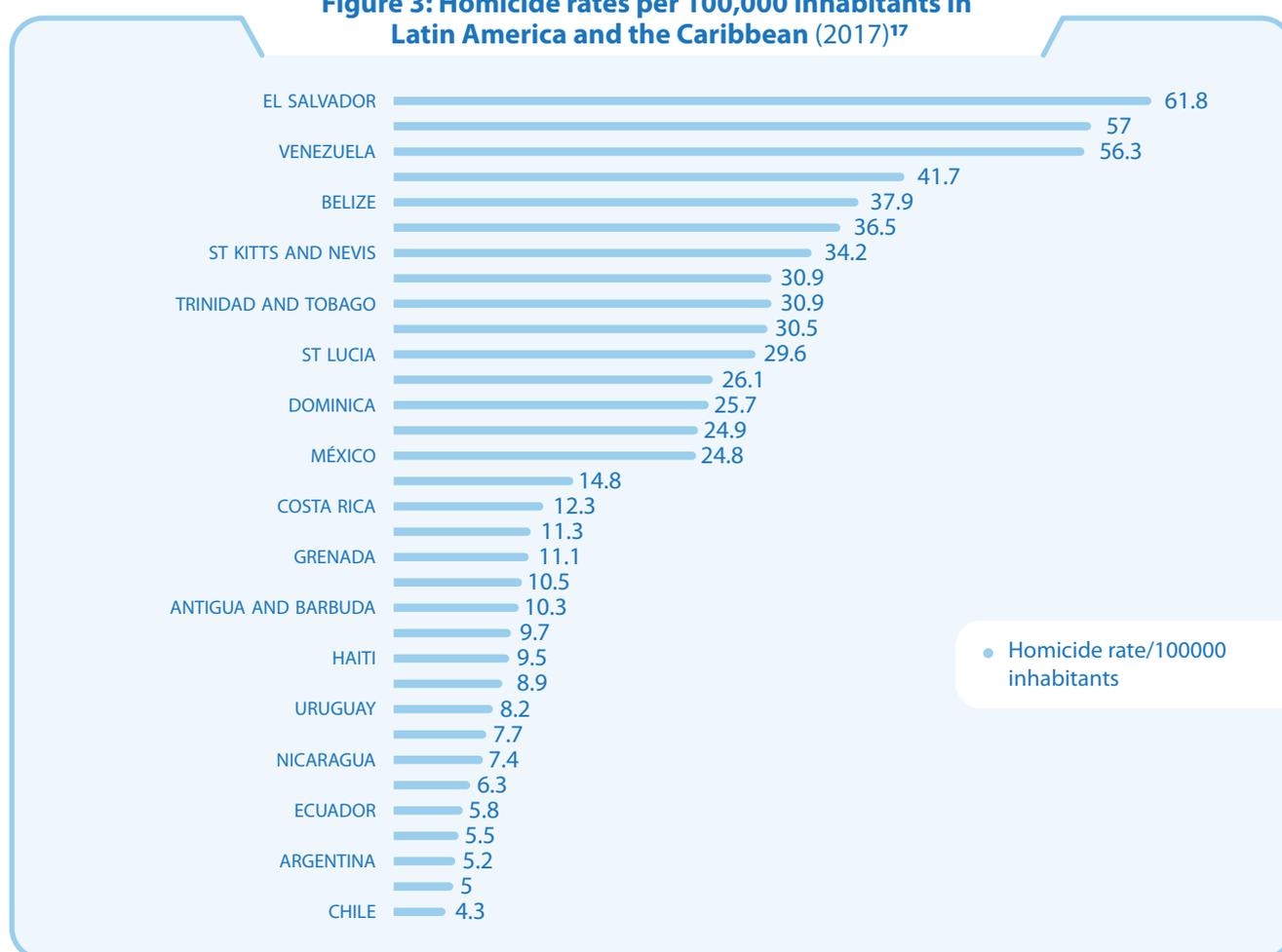
1.2. REGIONAL OVERVIEW OF LATIN AMERICA AND THE CARIBBEAN

Latin America and the Caribbean is considered the most violent region in the world. An estimated 100,000 people are killed each year. In 2017, Central and South America were identified as the subregions with the highest homicide rates in the world, with rates of 25.9 and 24.2 homicides per 100,000 inhabitants, respectively, followed by the Caribbean, which recorded a rate of 15.1 homicides per 100,000 inhabitants.¹⁶

It should be noted that at the sub-regional level, it is possible to find significant variations between countries. In Central America, for example, El Salvador recorded a rate of 62.1 homicides in 2017, 8 times higher than the rate of 7.4 recorded by Nicaragua. In South America, Venezuela, with a rate of 56.3 is 13 times higher than Chile's rate of 4.3 homicides per 100,000 inhabitants. Likewise, in the Caribbean, Jamaica, with a rate of 57, is 11 times higher than Suriname's rate of 5.5 homicides per 100,000 inhabitants.

However, beyond these gaps between countries, around 63% of the countries in the region have rates above 10 homicides per 100,000 inhabitants, which is considered an epidemic level of violence by the World Health Organization (WHO).

Figure 3: Homicide rates per 100,000 inhabitants in Latin America and the Caribbean (2017)¹⁷



Source: UNODC / Homicide Dataset 2019¹⁸

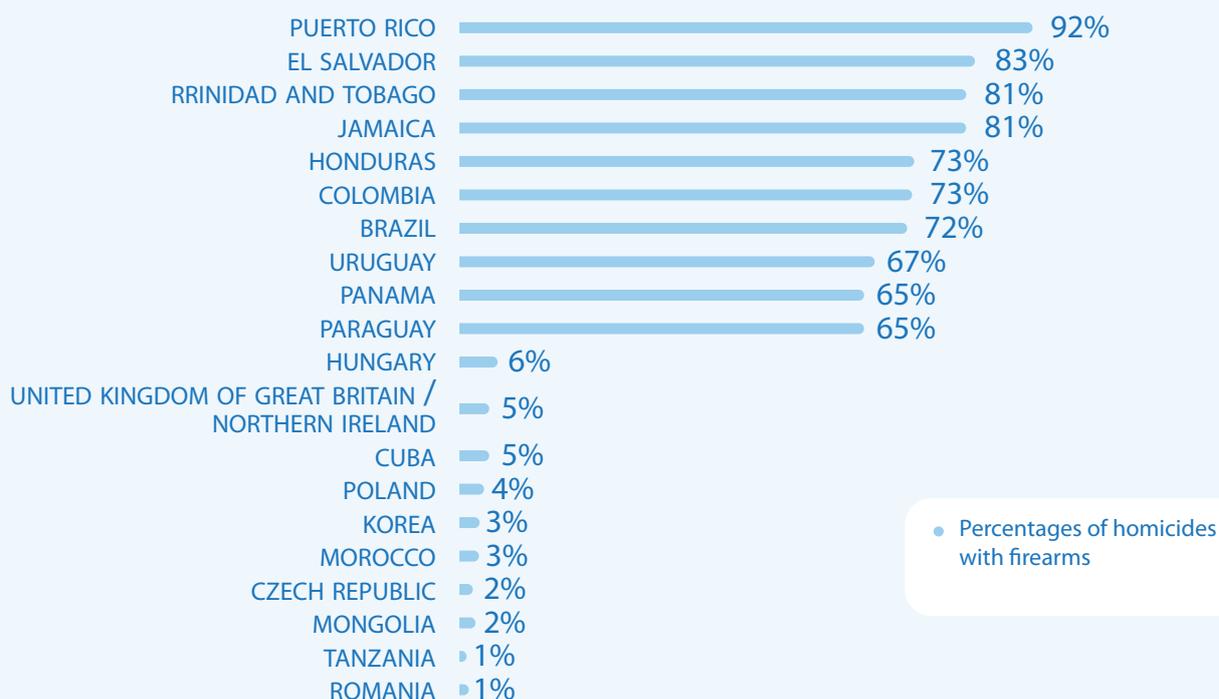
¹⁶ United Nations Office on Drugs and Crime (2019). Global Study on Homicide. Homicide: extent, patterns, trends, and criminal justice response. Vienna: UNODC <<https://www.unodc.org/documents/data-and-analysis/gsh/Booklet2.pdf>>

¹⁷ Data for (2012) Antigua and Barbuda, St Kitts and Nevis (2015) Trinidad and Tobago; (2016) Bolivia, Cuba, Haiti, Paraguay, St. Vincent and the Grenadines, Venezuela.

¹⁸ See: <https://dataunodc.un.org/content/data/homicide/homicide-rate>

Homicides committed with firearms represent the predominant type of violent death in South America (64%),¹⁹ followed by Central America (61%)²⁰ and the Caribbean (51%)²¹. While reviewing the percentages between countries, it can be noted that in 2015, 9 out of 10 countries with the highest percentages of firearm-related homicides belonged to the region.

Figure 4. Countries with the lowest and highest rates of firearm-related homicides (2015)



Source: UNODC / Homicide Dataset 2019²²

These indicators reflect that this region has the highest number of firearm-related homicides recorded in the world.

With respect to the countries specifically identified in this study, a correlation is identified between high homicide rates and high proportions of firearm-related homicides. Such is the case with countries of the northern triangle of Central America (El Salvador, Honduras and Guatemala) considered in recent years among the countries with the highest levels of armed violence (without armed conflict). The following graph shows that these countries are at the forefront with the highest proportion of homicides (>75%) committed with firearms in the Americas. In the case of the Caribbean, both Jamaica and Trinidad and Tobago are considered to have the highest levels of armed violence in the Caribbean and as depicted in the graph below, also have the highest proportion (>75%) of homicides committed with firearms in the region. In Belize, Saint Lucia and Barbados, firearms were used in between 60% and 75% of homicides. Grenada can be seen at the lower end of the scale, with both the lowest proportion of homicides, as well as the lowest proportion of homicides involving firearms in the region.

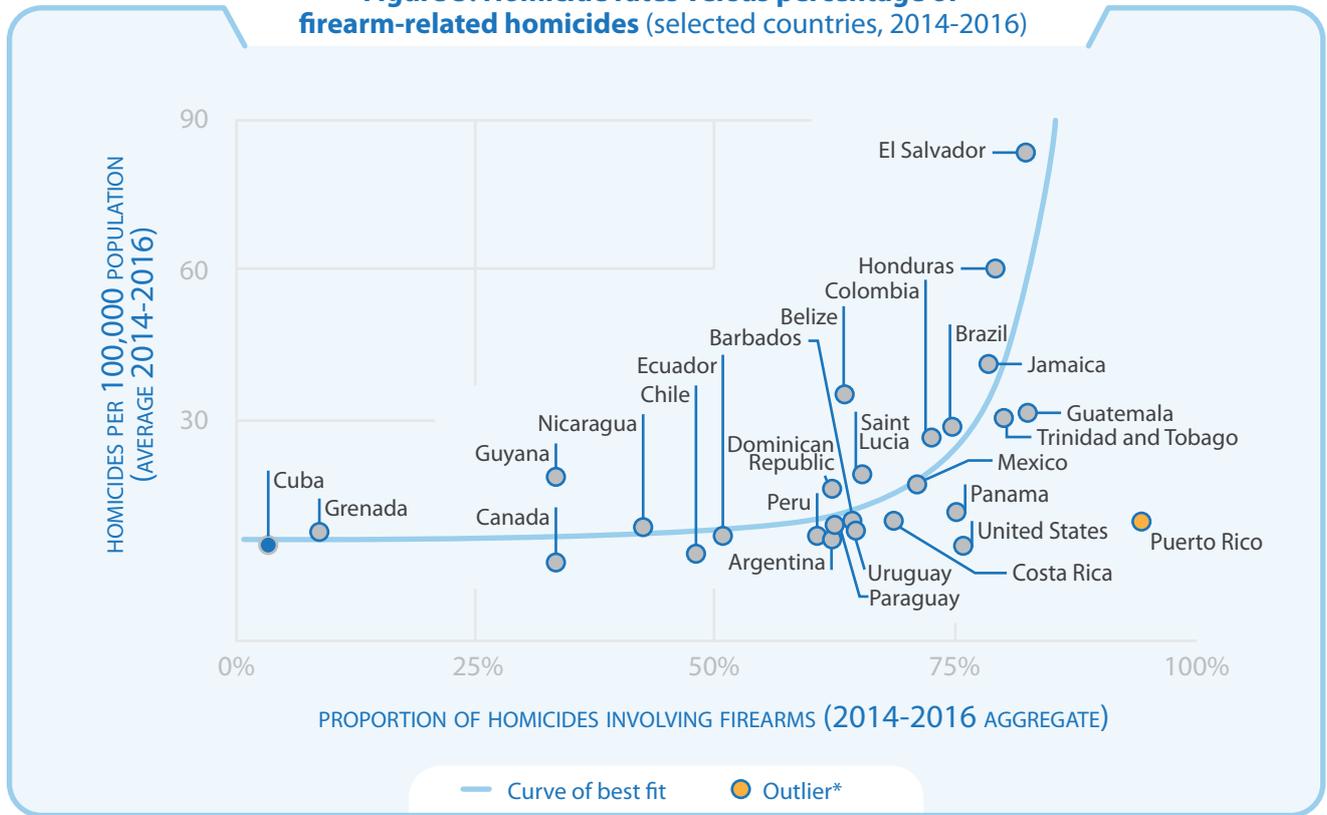
¹⁹ In 2016, the total number of violent deaths in South America reached 121 529 while violent firearm deaths reached 78,026. Small Arms Survey. (2017). The Small Arms Survey Database on Violent deaths.

²⁰ In 2016, total violent deaths in Central America reached 40,286 while violent firearm deaths reached 24,556. The Small Arms Survey Database on Violent deaths.

²¹ In 2016, the total number of violent deaths in the Caribbean reached amounted to 6757 while violent deaths by firearm reached 3429. The Small Arms Survey Database on Violent deaths.

²² See: <https://dataunodc.un.org/content/data/homicide/homicide-rate>

Figure 5. Homicide rates versus percentage of firearm-related homicides (selected countries, 2014-2016)



Source: UNODC (2019)²³

While the violence occurring in the region is the product of a number of structural factors and phenomena, such as organized crime, gangs, common crime, as well as interpersonal and community violence, the prevailing weight of the availability and presence of firearms in the dynamics of violence that characterize the region cannot be ignored.

²³ UNODC (2019). Global Study on Homicide.

2. VIOLENCE AGAINST WOMEN

2.1. OVERVIEW

Violence against women and girls is one of the most widespread, persistent, and devastating human rights violations in the world today and represents a serious public health problem, as well as a major obstacle to the implementation of the 2030 Agenda for Sustainable Development. Violence against women occurs worldwide and encompasses all generations, nationalities, communities, and areas of society, regardless of age, ethnicity, disability or origin. However, some women are more likely to experience violence related to their status in society as a result of their age, marital status, reproductive status, place of residence, health, sexual orientation and/or gender identity.

The **Declaration on the Elimination of Violence against Women**, approved by United Nations General Assembly in its resolution 48/104 in 1993 defines **violence against women** as *any such act of violence based on female gender that has or may result in physical, sexual or psychological harm or suffering of women, as well as threats of such acts, coercion or arbitrary deprivation of liberty, whether they occur in public life or in private life.*²⁴ It also includes physical, sexual and psychological violence that occurs in the family, within the community or perpetrated or tolerated by the State, wherever it occurs. These typologies are also included in the **Belém do Pará Convention**.

The Follow-up Mechanism to the Belém do Pará Convention Convention (MESECVI),²⁵ in its proposal for a Model Law on the Prevention, Punishment and Eradication of the Gender-Related Killing of Women and Girls, presents a definition of **gender-based violence against women**, which is *any action or conduct, based on gender, that causes women death, physical, sexual or psychological harm or suffering, both in the public and private spheres, that is motivated by or sustains the historically unequal power relations between men and women and places women in situations of subordination, that constitutes a violation of their human rights that totally or partially limits the recognition, enjoyment and exercise of such rights.*²⁶

Although not all elements of this definition have been included in the types of criminal offences found in the Latin American and Caribbean region, its importance lies in the fact that it shows the need to extend the debate to other actions and behaviours that allow the problem to be



Declaration on the Elimination of Violence against Women (1993)

"... act of violence based on female gender that has or may result in physical, sexual or psychological harm or suffering of women, as well as threats (...), coercion or arbitrary deprivation of liberty, both (...) in public life and in private life..."

Monitoring mechanism for the Belém do Pará Convention

"... action or conduct (...) that causes women death, physical, sexual or psychological harm or suffering, both in the public and private spheres, which is motivated or sustained in historically unequal power relations between men and women and places women in subordinate situations..."

²⁴ United Nations (1993). Declaration on the Elimination of Violence against Women. General Assembly Resolution A/RES/48/104 of 20/12/1993. <https://www.ohchr.org/en/professionalinterest/pages/violenceagainstwomen.aspx>

²⁵ MESECVI is a systematic and permanent multilateral evaluation methodology, based on a forum for exchange and technical cooperation between States Parties to the Convention and a Committee of Experts. MESECVI analyses progress in the implementation of the Convention by its States Parties, as well as persistent challenges in State responses to violence against women.

²⁶ Follow up mechanism to the Belém do Pará Convention [Mesecevi] (2017). Inter-American Model Law Law on the Prevention, Punishment and Eradication of the Gender-Related Killing of Women and Girls (Femicide/Feminicide). Article 3. (OAS. Official documents: OAS/Ser.L/II.6.17) <http://www.oas.org/es/mesecevi/docs/LeyModeloFemicidio-EN.pdf>

addressed in a comprehensive way. This problem, generated by violence against women, has become increasingly visible in recent years. In fact, it is estimated that 35% of women worldwide have experienced some form of violence, a percentage that in some countries can reach up to 70%.²⁷

Femicide – the killing of women because of their gender – is the most serious expression of discrimination and violence against women. It is important to note that at the international level, there is no agreed definition of the term femicide. Some States use the term femicide to refer to any type of homicide of a woman, even if the murder is not gender-based. This has contributed to the lack of a standardized and commonly accepted definition of this term.

This debate extends to the legal sphere, specifically regarding the definition of types of criminal offences. In some countries, the concept of femicide is used in the language of activism, but it is not classified as a crime. In the Latin American region, several countries have defined this concept in their legislation. In the Caribbean region, the concept of femicide has not been incorporated as a criminal offense. However, the use of the term is often found in national statistics, police reports or even in National Gender-based Violence Action Plans.

At the regional level, getting a full picture of gender-based violence against women or femicides is a major challenge. First, most laws that recognize this type of crime are relatively new, which creates difficulty when disaggregating data in the national statistical systems. Currently, most countries in the region disaggregate homicides by sex, but they do not necessarily make the distinction between homicides of women and femicides. In addition, the definition and disaggregation of this data differs by country, including for instance data within the same State itself in federal systems, which hinders comparisons at the sub regional and even at the national level.

From a statistical point of view, it is evident that defining in each case whether the victim was killed by chance or because she is a woman presents serious methodological difficulties. The assumption that violence against women is due to the mere fact of being women, becomes more evident when it comes to cases of domestic violence, intimate partner violence or sexual violence. In other cases, it can be difficult to determine whether criminal conduct constitutes femicide or not.²⁸ This debate should be brought into the legal sphere to ensure that the elements related to the offence in question are clearly defined since the limited definitions contribute to statistical underreporting, which hinders a broader view of violence against women and the consequences that it carries.

The debate around femicide should also move into both criminal and crime scene investigations. Errors in crime scene management, mishandling of evidence, bad practices in dealing with victims, as well as preconceived ideas and stereotypes about women, have deepened the levels of impunity for the crimes for which women are victims of violence. In addition, the lack of evidence has caused many femicides to be unclear or end up being typified as homicides, making gender-based violence invisible.

Violence in general, and armed violence in particular, affects men and women differently. While men are usually killed by other men with whom they may or may not have a relationship, violence against women occurs both in the public and private spheres. Women are at an increased risk of becoming victims of violence by their partners, ex-partners or other known men.

The WHO defines **intimate partner violence** as any behaviour, within an intimate relationship, that causes physical, psychological or sexual harm.²⁹ Globally, it is estimated that 6 out of 10 women are killed by their partner or a family member. Murders of women worldwide committed by their partners account for 34%, while those committed by other family members account for 24%. The remaining 42% of women's murders are committed by other perpetrators outside the intimate environment.³⁰

²⁷ United Nations and the European Union (2018). Spotlight initiative to eliminate violence against women and girls – Annual report 1 July 2017 – 31 March 2018, p.13. https://www.un.org/fr/spotlight-initiative/assets/pdf/Spotlight_Annual_Report_July_2017-March_2018.pdf

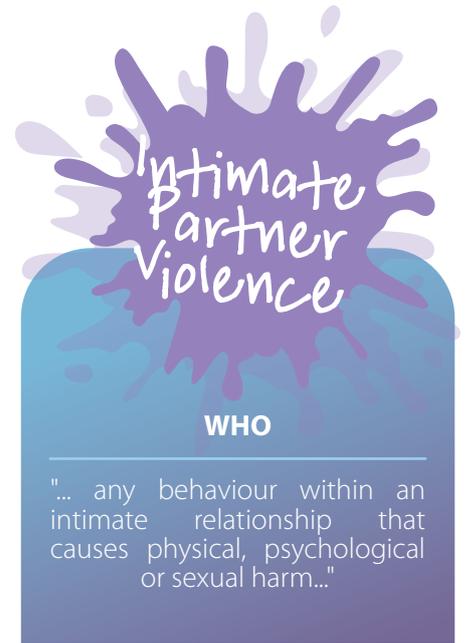
²⁸ UNLIREC (2015). Gun Violence, Gender and Small Arms Violence. Systematization of data available in Latin America and the Caribbean.

²⁹ World Health Organization [WHO] (2012). Understanding and addressing violence against women, p. 1.

³⁰ Unodc (2019). Global Study on Homicide. Gender-related killing of women and girls, p. 17.

According to UNODC's 2019 Global Homicide Study, in 2017, the total number of deaths of women and girls worldwide as a result of all forms of intentional homicide amounted to 87,000. More than half (58%) of the women victims of intentional homicide in 2017, or 137 women, were killed each day by a member of their own family.³¹ Data, as of 2017, places Asia with the highest number of women killed (20,000) worldwide by intimate partners or other family members, followed by Africa (19,000), America (8,000), Europe (3,000) and Oceania (300).³²

In this context, the presence of firearms in a domestic environment is not only a risk factor for women at the hands of their partners, but also plays a decisive role in other forms of violence, such as intimidation, coercion and threat.



³¹ Ibid.

³² Ibid.

2.2. VIOLENCE AGAINST WOMEN: A REGIONAL OVERVIEW

Globally, it is estimated that America is the second continent, which poses the greatest risk for a woman to be killed by her partner or by a family member,³³ second only to Africa. Latin America and the Caribbean are among the most dangerous regions in the world for women. 14 of the 25 countries with the highest femicide rates in the world are in this region.³⁴

According to the Economic Commission for Latin America and the Caribbean (ECLAC), in 2018, at least 3,529 women were killed because of their gender in the region. As shown in the following figure,³⁵ countries with the highest rates of femicides per 100,000 women include Guyana (8.8), El Salvador (6.8), Honduras (5.1), Saint Lucia (4.4), Trinidad and Tobago (3.4), Bolivia (2.3), Guatemala (2.0) and the Dominican Republic (1.9).

In the case of the Caribbean, not all States include provisions criminalizing femicide in their legislation. Notwithstanding, in some countries, either the Police or other State agencies register the homicide of a woman killed by an intimate partner and classify this offense as a femicide. Data shown in the table correspond to women's deaths at the hands of their intimate partner or former partner in the Bahamas, Barbados, Belize, Grenada, Guyana, Jamaica, Saint Vincent and the Grenadines and Suriname. ECLAC collects this data annually through national agencies, such as judicial institutions, police or other competent national entities. In the case of some Caribbean countries, the information was provided by: Barbados (Royal Barbados Police Force), Belize (Belize Police Department), Grenada (Royal Grenada Police Force), Guyana (Guyana Police Force), Jamaica (Jamaica Constabulary Force.), St Vincent and the Grenadines (Ministry of National Mobilization) and Suriname (Police Corps Suriname).³⁶

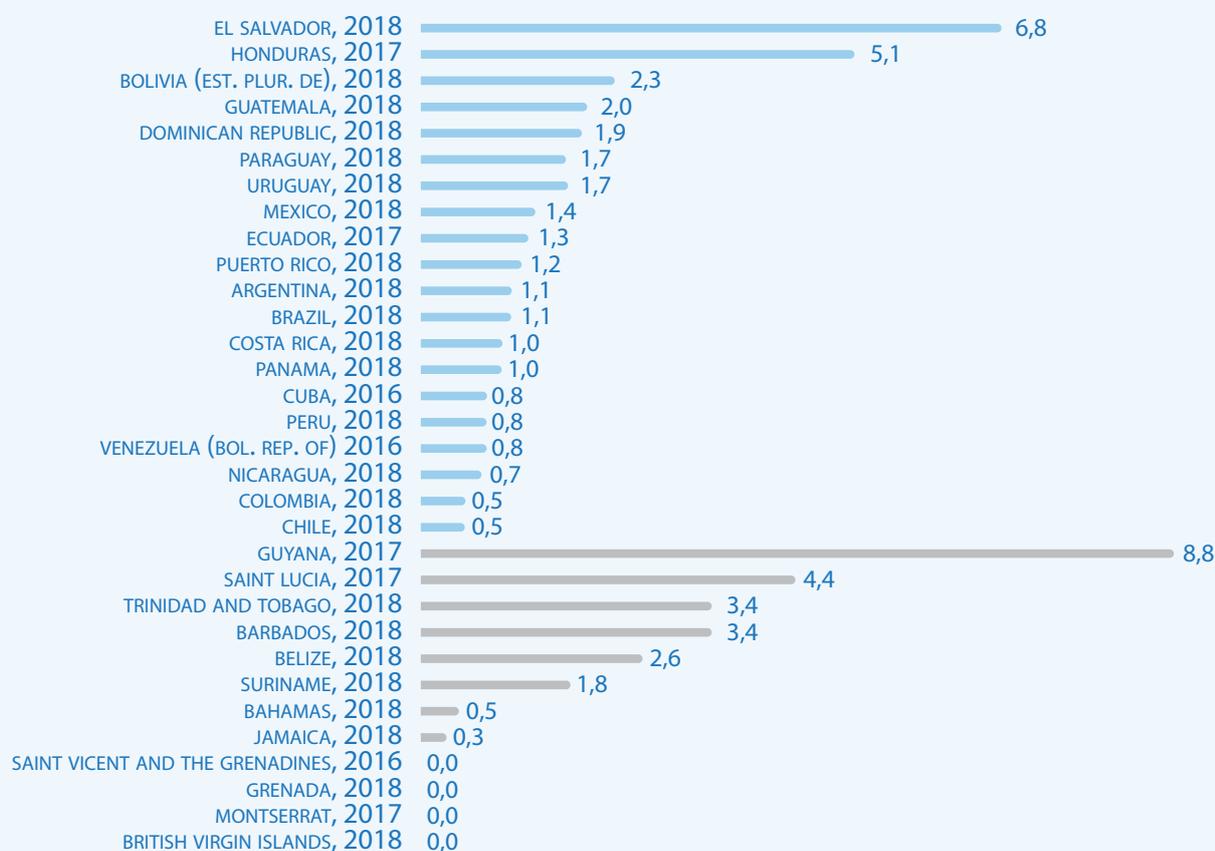
³³ Ibid.

³⁴ UN Women (2019). Spotlight Initiative. <https://mexico.unwomen.org/es/noticias-y-eventos/articulos/2019/12/spotlight>

³⁵ Economic Commission for Latin America and the Caribbean (ECLAC). Latin America and the Caribbean Gender Equality Observatory, <https://oig.cepal.org/en/indicators/femicide-or-feminicide>, accessed 10 April 2020.

³⁶ For more information see: <https://oig.cepal.org/en/indicators/womens-deaths-hands-their-intimate-partner-or-former-partner>

Figure 6. Femicide rates in Latin American and Caribbean countries (2017-2018) per 100,000 women



a Regional averages cannot be calculated owing to the heterogeneity of national data sources and methodologies.

b Data refer to femicide except in the case of the Bahamas, Barbados, Belize, Chile, Colombia, Cuba, Grenada, Guyana, Jamaica, Nicaragua, Puerto Rico, Saint Vincent and the Grenadines and Suriname, which only report on intimate partner femicide (i.e. committed by a current or former partner).

c The calculation of the rate per 100,000 women for Saint Kitts and Nevis is not possible owing to the lack of population estimates. This country recorded two femicides in 2018.

Source: Economic Commission for Latin America and the Caribbean (ECLAC), Gender Equality Observatory for Latin America and the Caribbean, on the basis of official sources

According to ECLAC's Gender Equality Observatory, Brazil and Mexico appear as the countries with the highest number of femicides in absolute terms with 1,206 and 898, respectively, followed by Argentina (255), Honduras (235), El Salvador (232), Guatemala (172) and Peru (131).³⁷ Additionally, it is estimated that at least 2 out of 3 femicides took place in contexts of relationships between current or former partners. In the Caribbean, countries with the highest rates of intimate femicides per 100,000 women in 2018 include Barbados (3.4) Belize (2.6) and Suriname (1.8).³⁸

Some of the countries analysed in this study face serious challenges regarding the impacts of armed violence, directly and indirectly affecting women. While reference has only been made to homicide and femicide indicators, which

³⁷ Economic Commission for Latin America and the Caribbean (ECLAC). Latin America and the Caribbean Gender Equality Observatory. <https://oig.cepal.org/en/indicators/femicide-or-feminicide>, accessed 10 April 2020.

³⁸ Ibid. Indicators of death of women caused by their partner or ex-partner Intimate. See:

<https://oig.cepal.org/en/indicators/womens-deaths-hands-their-intimate-partner-or-former-partner> 10 April 2020.

facilitate understanding the context of these countries, as well as the impact of weapons on the dynamics of violence, it is important not to lose sight of the fact that firearms are also present in other manifestations of violence that increase the levels of victimization of women, such as sexual or psychological violence, or simply any kind of domestic violence. In many cases, these manifestations of violence are perpetrated by partners, ex-partners, or other family members. In these contexts, the mere presence of a weapon in the home exposes women to a high risk of death and domestic violence.

In the Caribbean, women and girls are particularly vulnerable to intimate partner violence, including intimate partner- and family-related homicide, non-partner sexual violence, sexual exploitation and human trafficking. The availability and access to firearms are noted to be linked to high per capita homicide rates and to female homicides perpetrated by intimate partners and family members. The ready availability of firearms in the Caribbean region impedes security, democratic processes and economic development capacity of states. The impact is being witnessed predominantly in nations, such as Guyana, Haiti, Jamaica, and Trinidad and Tobago.

Although there are signs of declining homicides in some countries in the region compared to past years, these decreases do not necessarily imply a reduction in femicides or violence against women. In this regard, addressing the presence of firearms in domestic settings is key to formulating laws and public policies to prevent and eliminate violence against women. This is due to the fact that the security and justice sector are facing alarming situations of domestic and gender-based violence, which cannot be tackled with traditional security and violence reduction measures given that they do not apply to the private sphere.

2.3. INTERNATIONAL LEGAL FRAMEWORK ON WOMEN, PEACE AND SECURITY

The gravity and dimension of violence against women has, for decades, led to the development of a broad **legal framework** and an **international agenda** that establish a series of obligations and commitments for States in the fight against gender-based violence. These have also emphasized the consequences of the **use, trade, and proliferation of small arms** on women.

In the humanitarian sphere, the four **Geneva Conventions (1949) and their Additional Protocols (1977)** particularly consider the situation of women in war scenarios. International Humanitarian Law requires women to be "specially protected" from sexual violence and contains provisions related to dignified treatment, for example, special care must be provided to pregnant women and mothers of young children.

Several United Nations Security Council resolutions mention the disproportionate impact that armed violence has on women, very specifically in the field of armed conflict. The most cited is perhaps the **UN Security Council Resolution on Women, Peace and Security (UNSCR 1325, 2000)**. This Resolution encourages all UN Member States to "ensure greater representation of women at all levels of decision-making of national, regional and international institutions and mechanisms for the prevention, management and resolution of conflicts" and emphasizes "the responsibility of all States to end impunity and prosecute those responsible for [...] sexual violence and other types of violence against women and girls."³⁹

UN Security Council Resolutions 2106 (2013), 2122 (2013) and 2242 (2015) also form part of the wide Women, Peace and Security Agenda and include specific references to small arms and light weapons in relation to violence against women. **United Nations Security Council Resolution 2117 on illicit transfer, destabilizing accumulation and misuse of small arms recognizes** the effects of weapons on violence against women and girls and on the increase in gender-based violence. UNSC Resolution 2242 specifically calls on States to consider the direct impact of conflict and post-conflict scenarios on women and girls, to mitigate the risk of women becoming actors in the illicit transfer of small arms and light weapons.

The **Sustainable Development Goals (SDGs)** of the 2030 Agenda for Sustainable Development refer to "peaceful and inclusive societies", pointing to gender equality as "a necessary basis for a peaceful, prosperous and sustainable world." SDG 5.2 calls for the elimination of all forms of violence against women and girls, both in the public and private spheres. On the other hand, SDG 16.1 seeks to reduce all forms of violence and related death rates and SDG 16.4 seeks to curb illicit arms flows.

The **Arms Trade Treaty (2014)**⁴⁰ is the only legally binding international instrument that explicitly refers to the relationship between arms trade and gender-based violence. Article 7.4 of the Treaty establishes that States consider, within the export assessment, the risk that weapons will be used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children.

This reflects a significant change in language compared to that used more than a decade ago in the **United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA, 2001)**. The PoA makes explicit mention of women only in its preamble, expressing great concern about the "negative impact" that the illicit trade in small arms and light weapons can have on them. However, in the Biennial Meeting of States, the internal forum to discuss progress in the implementation of the PoA every two years, a stronger interest is perceived by some States to link small arms proliferation and misuse it with gender-related issues.

³⁹ United Nations (2000). Resolution 1325 (2000) adopted by the Security Council at session 4213a (31/10/2000). Arts. 1 and 11. [http://www.un.org/comun/docs/?symbol-S/RES/1325\(2000\)](http://www.un.org/comun/docs/?symbol-S/RES/1325(2000))

⁴⁰ For more information on the Arms Trade Treaty see: <https://www.un.org/disarmament/convarms/arms-trade-treaty-2/>

Likewise, the UN General Assembly in its Report of the Third Conference to review the progress made in the implementation of the PoA (2018) reiterated its concern about the negative effect of illicit trafficking in small arms and light weapons on women, men, girls and boys, and recognized that the elimination of illicit arms trafficking is a key part of the fight against gender-based violence. This report also calls on States to exchange national experiences and good practices on gender mainstreaming in small arms policies and programmes, including in the formulation, planning, implementation, monitoring and evaluation aspects.⁴¹

On the side of the women's rights instruments, the 1979 **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** is essential, because it is embedded in the universal system of protection of human rights. Thus, General Recommendation No. 19 adopted by the Committee on the Elimination of Discrimination against Women (1992) considers violence against women to be an impairment or annulment of the enjoyment of their human rights and fundamental freedoms, calling on State Parties to fully implement the Convention through positive measures to eliminate all forms of violence against women. Likewise, General Recommendation No. 35 (2017) recommends that State Parties to the CEDAW address factors that heighten the risk to women of exposure to serious forms of gender-based violence, such as the ready accessibility and availability of firearms, including their export.⁴²

The same is true for the **Belem do Pará Convention**, which is integrated into the Inter-American system for the protection of human rights. Through its Article 7, States Parties agree, inter alia, to "include in their domestic legislation, penal, civil and administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary". This mandate of the Inter-American instrument has been reflected in the development of national regulations on violence against women in most countries in the Latin America and Caribbean region.

The Follow up Mechanism to the Belem do Para Convention (MESECVI) has presented two Model Laws. The Inter-American Model Law on the Prevention, Punishment and Eradication of Violence Against Women in Political Life (2017) on the one hand, which recognizes among its proposals the duty of the State to take measures to prevent access to firearms by the aggressor as a protective measure against the imminent risk of serious harm.⁴³ On the other hand, there is the Inter-American Model Law on the Prevention, Punishment and Eradication of the Gender-Related Killing of Women and Girls (Femicide/Feminicide). A number of circumstances are included within the offence of femicide, including killing or participating in the death of a woman in situations of conflict or war.⁴⁴ It also considers as aggravating circumstances the vulnerability of women in situations of armed conflict⁴⁵ and establishes the duty of the State to regulate the possession and use of firearms as a public policy prevention measure to avoid the commission of crimes contained in the proposed Model Law.⁴⁶

⁴¹ United Nations (2018). Report of the Third United Nations Conference to Review Progress in the Implementation of the Programme of Action to Prevent, Combat and Eliminate the Illicit Traffic in Small Arms and Light Weapons in All Its Aspects, New York, 18-29 June 2018 (General Assembly A/CONF.192/2018/RC/3. https://www.un.org/en/ga/search/view_doc.asp?symbol=A/CONF.192/2018/RC/3&Lang=S

⁴² Committee on the Elimination of Discrimination against Women (2017): General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19. See: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en

⁴³ MESECVI (2017). Inter-American Model Law On the Prevention, Punishment and Eradication of Violence Against Women in Political Life. Article 37 Chapter III, Section II. <http://www.oas.org/en/mese cvi/docs/LeyModeloViolenciaPolitica-EN.pdf>

⁴⁴ MESECVI (2017). Inter-American model law to prevent, sanction and eradicate the violent death of women (Femicide/Feminicide). Art. 5 Subsection i. See: <http://www.oas.org/es/mese cvi/docs/LeyModeloFemicidio-EN.pdf>

⁴⁵ Ibid., Art. 7 Subsection D.

⁴⁶ Ibid., Art. 26 Subsection D.

3.

LEGISLATION ON FIREARMS AND VIOLENCE AGAINST WOMEN: THE CARIBBEAN

The rates of armed violence in Latin America and the Caribbean are particularly high; countries in the region with high homicide rates also have high homicide rates with firearms. This is especially evident in Central America and the Caribbean. Although there are many factors to analyse, and diverse contexts, which vary from country to country, this data leads us to reflect on the proliferation of firearms as a risk factor in armed violence. Although men are the main victims of intentional homicides, women are the main victims of gender-based violence. The presence of firearms in a domestic environment greatly increases the risk of death for women by such weapons.⁴⁷

This document intends to continue a debate on the correlation between national legislation to prevent violence against women and legislation regulating civilians' access to the possession of firearms. Undoubtedly, the legislative measures that can be taken to prevent, reduce and punish violence against women are not limited to the regulation of firearms possession. Of equal importance is the fact that firearms can be obtained both legally and illegally and States need to take this into consideration as it also undermines the States capacity to prevent gender-based violence in the context of the regulation of firearms possession.

However, in the exercise of their sovereign powers, each State can regulate the possession and bearing of firearms, taking into account the problem of violence against women. This contributes to the prevention of the latter and is only one of many positive measures that may be taken with the ultimate objective of eliminating all forms of violence against women. The adoption of measures in the regulatory field to prevent violence against women can occur through different norms and, in fact, is the most frequent measure. They are usually inserted in comprehensive laws on violence against women, criminal codes and laws regulating the possession of firearms, as well as procedural regulation. This document focuses on those provisions on firearms that incorporate gender considerations.

A 2017 regional analysis highlights the fact that since the 1990s, numerous countries in Latin America and the Caribbean have passed laws for the protection and promotion of women's rights.⁴⁸ This report indicates that the first laws that were passed, focused on the establishment of measures to protect women in contexts of violence manifested in the private sphere. As of 2019, the countries of the Caribbean region focus their legislation on domestic violence laws but have not included the crime of femicide/femicide.

⁴⁷ The presence of a weapon in the home increases the risk of death for women by 272%. Amnesty International, the International Small Arms Action Network [IANSA] and Oxfam International. (2005). The effects of weapons on the lives of women. p. 21.

⁴⁸ UNWOMEN and the United Nations Development Program. (2017). Del Compromiso a la Acción: Políticas para erradicar la violencia contra las mujeres en América Latina y el Caribe. p. 15.



ANTIGUA AND BARBUDA

Antigua and Barbuda has relatively recently introduced a new Domestic Violence Act and reformed⁴⁹ the country's Trafficking in Persons legislation, both of which were deemed a significant advancement in the area of legislative reform towards the right of women to live free of violence in the year 2015. On the other hand, the Firearms Act, which dates back to 1973 has undergone relevant amendments in 1989, 1999, 2004, 2015, 2016 and 2017.

It is essential to highlight that the country is a State Party to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para)⁵⁰ and to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁵¹ However, despite the abovementioned legislative reforms, no provision introducing femicide has been included in the country's legislation.⁵²

The Domestic Violence Act of 2015 repealed the Domestic Violence (Summary Proceedings) of 1999.⁵³ This new piece of legislation aims to provide greater protection to victims of domestic violence, yet not to those of gender-based violence or violence against women and girls. Therefore, the existence of a domestic relationship⁵⁴ –among other requisites– between the applicant⁵⁵ and the respondent⁵⁶, is fundamental in order to apply this Act.

The first mention of firearms control in the Domestic Violence Act is a brief definition of the term 'firearm', which is directly associated with the Firearms Act.⁵⁷ The second is directly related to Part II of the Domestic Violence Act and explicitly addresses Protection Orders.

According to the Domestic Violence Act,⁵⁸ there are two types of orders. The first being the 'Interim Protection Order', which is issued by a Court to ensure the safety and protection of the applicant⁵⁹ from a respondent who is likely to engage in acts of domestic violence.⁶⁰ This Order could be issued at the request of one party pending the hearing and determination of proceedings⁶¹ with a validity period not surpassing thirty days. The second is the 'Final Protection Order', which is issued by the Court after a series of conditions are observed, such as whether the respondent has been properly served⁶² and following review of the affidavits presented by both parties.⁶³ If confirmed, the Final Protection Order shall not exceed three years.⁶⁴

Section 10 of the Domestic Violence Act contains the most comprehensive provision referring to firearms control, since it grants courts the possibility to direct police officers to seize any firearm in possession of the respondent in case there was a threat or expressed intention to kill or injure a person,⁶⁵ and if the possession of the firearm is not in the best interest of the respondent or any person due to the state of mind or mental condition, inclination to violence whether the firearm was used for violence or not and use or dependence of intoxicating liquor or drugs.⁶⁶

The previous disposition has the advantage of not being limited to seizing a firearm only under circumstances in which it had already been used to commit domestic violence; it also grants the opportunity, for example, to take

⁴⁹"Antigua and Barbuda Country Report Third Round. 2017"; MESECVI, paragraph 5, p. 2.

⁵⁰ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará"
<https://www.oas.org/Juridico/English/Sigs/A-61.html>

⁵¹ Convention on the Elimination of All Forms of Discrimination against Women
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4

⁵²"Antigua and Barbuda Country Report Third Round. 2017"; MESECVI, paragraph 30, p. 7.

⁵³"Domestic Violence Act (2015) of Antigua and Barbuda", Section 39

⁵⁴ Ibid., Section 2.

⁵⁵"Person, including a child, who is or has been in a domestic relationship with the respondent". Ibid., Section 2.

⁵⁶"person who is or has been in a domestic relationship with the applicant and against whom the applicant has obtained or is endeavouring to obtain an order". Ibid., Section 2 (2).

⁵⁷ Ibid., Section 2 (2).

⁵⁸ Ibid.

⁵⁹ Ibid., Section 6 (1).

⁶⁰ Ibid., Section 6 (2).

⁶¹ Ibid., Section 6 (1).

⁶² Ibid., Section 13 (1).

⁶³ Ibid., (4).

⁶⁴ Ibid., (12).

⁶⁵ Ibid., Section 10, sub-section 1, (a).

⁶⁶ Ibid., (b).

preventive action by seizing the firearm when the perpetrator, due to his/her mental condition, is not considered fit to possess a firearm. Most importantly, it allows the firearm to be seized irrespective of whether it was used for domestic violence or not, thus opening the door for law enforcement to take preventive action.

With regard to the duties of police officers in situations of potential domestic violence, they shall respond to every complaint or report,⁶⁷ completing a domestic violence report each time,⁶⁸ which shall include inter alia the weapon used,⁶⁹ to be later included in the National Domestic Violence Register kept by the Commissioner of Police.⁷⁰ The Act is also explicit when indicating that police officers have the capacity to arrest without a warrant -in accordance with the Criminal Procedure Act- when there is reasonable cause to believe a person is engaging or attempting to engage in physical violence or actions that could immediately result in physical injury or death.⁷¹

In the case of The Trafficking in Persons (Prevention) Act of 2010, with a later reform made by The Trafficking in Persons (Prevention) (Amendment) Act- 2015, the only reference to firearms appears as an aggravating circumstance, when committing the offences of trafficking in persons or directing, conspiring, or inciting the commission of trafficking in persons.⁷²

According to the country's Firearms Act, it is necessary to hold a valid Firearm User's Licence to purchase, acquire or possess a firearm.⁷³ Prior to 2004, the authority in charge of issuing such licences, certificates or permits was the Commissioner of Police while the Ministry responsible for the Police acted as an appeal instance for any of the parties in the event of a refusal to grant, amend or revoke a licence, certificate of permit.⁷⁴ However, after the reform -introduced by the Law Revision (Miscellaneous) (Amendments) Act of 2004 and 2015- the responsibility fell under a Firearms Licensing Committee consisting of the Commissioner of Police as chairperson and two other persons appointed by the Minister with experience in the field of defence and national security.⁷⁵

It is imperative to highlight that Antigua and Barbuda has incorporated within its legislation the category of restricted persons, referring to persons convicted for offences under the Firearms Act and persons convicted of any other offence involving violence and sentenced to a term of imprisonment exceeding three months, *"any time within five years next before the event in relation to which the term is used"*.⁷⁶ Consequently, persons under this category cannot be granted a licence, certificate, or permit.

The Firearms Act amendment of 1999 introduced a series of fundamental reforms to determine the eligibility of a person to hold a firearm licence, certificate, or permit. In this sense, it was first necessary to meet the requirement of completing a Firearm Safety Course and pass the corresponding test.⁷⁷ Secondly, non-eligibility parameters were established to determine whether it was desirable for the licence applicant or any other person to possess a firearm. These parameters include, for example, whether the person has been treated for mental illness. Thirdly, it must be determined if the person has a behavioural history, which includes violence or threatened violence or attempted violence against any person.⁷⁸

Additionally, the Firearms Licensing Committee must take into consideration whether -within the past five years- the person was convicted or discharged of an offence under the Firearms Act, an offence involving violence against a person threatened or attempted, and an offence under the Misuse of Drugs Act.⁷⁹ The Committee also has the capacity to modify the conditions of a granted licence, certificate or permit⁸⁰ and to revoke it when it is determined that the holder has intemperate habits, is of unsound mind or unfit to be entrusted with a firearm.⁸¹

⁶⁷ Ibid., Section 19, sub-section 1.

⁶⁸ Ibid., sub-section 2.

⁶⁹ Ibid., sub-section 3 (e).

⁷⁰ Ibid., sub-section 2.

⁷¹ Ibid., Section 21 (1).

⁷² "Trafficking in Persons (Prevention) Act, 2010 of Antigua and Barbuda", Section 16 (g).

⁷³ "Firearms Act, 1973 of Antigua and Barbuda", Section 6 (1).

⁷⁴ Ibid., Section 23 (1).

⁷⁵ "Firearms (Amendment) Act, 2015 of Antigua and Barbuda", Section 15A (1).

⁷⁶ "Firearms Act, 1973 of Antigua and Barbuda", Section 2 (1).

⁷⁷ "Law Revision (Miscellaneous) (Amendments) Act, 1999 of Antigua and Barbuda", Section 2 (7).

⁷⁸ Ibid., Section 8.

⁷⁹ Ibid., Section 9.

⁸⁰ "Firearms Act, 1973 of Antigua and Barbuda", Section 20.

⁸¹ "Firearms Act, 1973 of Antigua and Barbuda", Section 21 (b).

From a gender-based violence prevention standpoint, the aforementioned provisions are of great importance since they limit the access to a firearm licence, certificate or permit. It cannot be inferred, based on the norm, how it is determined whether a person has had a violent behavioural history; and if it is precisely the data found in the National Registry of Domestic Violence that is taken into account for certain purposes, or whether there are other sources to be considered. Answers to these questions will be pivotal in defining a clear, step-by-step process for issuing a firearms licence, as well as necessary in order to fill any possible gaps that could facilitate the access to firearms to commit acts of gender-based violence.



BARBADOS

During 2016-2017, Barbados introduced a series of amendments and new legislation to its violence-related provisions. Amendments were made to the Domestic Violence (Protection Orders) Act, the Sexual Offences Act, and the introduction of the new Trafficking in Persons Prevention Act and the Employment Sexual Harassment (Prevention) Act. In the field of firearms control, the country is governed by the Firearms Act of 1998.

Barbados is a State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁸² and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Para).⁸³ No reference or indication of the adoption of the term femicide was found in the aforementioned legislation; however, references to femicide have increased in order to differentiate it from the murders of men.⁸⁴

The Domestic Violence (Protection Order) Act of 1992 was amended by the Domestic Violence (Protection Orders) (Amendment) Act, of 2016. This modification aimed to strengthen the protection towards victims of domestic violence and overcome the deficiencies of the previous Act⁸⁵ by expanding the definition of domestic violence, extending the range of victims to be considered included within the scope of domestic violence, maximizing the protection of victims, including rehabilitative programmes for perpetrators⁸⁶ and incorporating firearm and ammunition control measures.

The scope of application of the Domestic Violence Act is determined by the existence of a domestic relationship between a perpetrator and a victim -this could be of consanguinity or affinity- and includes visiting and cohabitational relationships.⁸⁷ The inclusion of visiting relationships broadens the protection of the Act to individuals not related by a current/former marriage, common-law union, or by being dependents or members of the household, since in these types of relationships the parties do not share a household even when a romantic, intimate or sexual relation exists.⁸⁸ This inclusion confirms the need to expand existing legislation beyond the limits of a domestic relationship and towards a gender-based violence approach to respond to current prevention and protection needs.

The Domestic Violence Act includes a series of measures to safeguard victims, such as Protection orders, which are implemented when a court determines through a balance of probabilities that a person -often referred to as respondent or perpetrator- has committed or threatened to commit domestic violence. The Domestic Violence Act

⁸² Convention on the Elimination of All Forms of Discrimination against Women https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4

⁸³ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará" <https://www.oas.org/Juridico/English/Sigs/A-61.html>

⁸⁴ "Barbados Country Report Third Round. 2017"; MESECVI, paragraph 13, p. 5.

⁸⁵ Domestic Violence (Protection Orders) (Amendment) Act, 2016-2, of Barbados, p. 3.

⁸⁶ *Ibid.*, p. 1.

⁸⁷ *Ibid.*, Section 2.

⁸⁸ *Ibid.*

includes three types of orders: a protection order granted by a court to restrain a person from engaging in domestic violence after an application was submitted;⁸⁹ an interim protection order granted by a court before considering the application and aiming to ensure the safety of the victim,⁹⁰ and an emergency protection order, which was introduced to the Barbadian legal system by the Domestic Violence (Protection Orders) (Amendment) Act, of 2016.

An emergency protection order, opposed to a protection and interim order, is not issued by a court, but rather by a member of the Police Force, when there is reasonable cause to believe the order is needed to ensure the safety of a person at risk,⁹¹ with or without that person's consent,⁹² the measure shall remain in place until an order is granted by the court for a period of no longer than 7 days.⁹³ The inclusion of this order is of paramount importance, since it aims to address unforeseen circumstances, by providing first responders with the ability to act immediately in order to preserve the life and welfare of a person at risk.

The 2016 amendment of the Domestic Violence Act includes references not only to firearms control, but also to ammunition control; in that sense, a protection and emergency order may include under its requirements for the respondent⁹⁴ to surrender any ammunition, firearms and licences and permits issued under the Firearms Act to the police. In addition, the Act also considers it a duty of members of the Police Force, following a court or emergency protection order, to seize any ammunition and firearms under the control of the perpetrator.⁹⁵ Furthermore, when served, an emergency order mandates the perpetrator to immediately cease any harassment or domestic violence, vacate the premises occupied by the person at risk and surrender any ammunition, firearms and licences or permits issued under the Firearms Act.⁹⁶

It is essential to point out that, under the abovementioned provisions, firearms shall be seized/surrendered whether they were used to commit domestic violence or not; this constitutes a crucial prevention measure, not limited to seizing firearms, but also ammunition, licences and permits, widening the prevention scope of the firearms control provisions.

With respect to recordkeeping, the 2016 amendment mandates the creation of a Domestic Violence Register, kept by the Commissioner of Police with the objective of recording information gathered from domestic violence complaints.⁹⁷ It also requires members of the Police Force to respond to every domestic violence complaint and complete a report, which has to include, among other information, the type of weapon that was used to commit domestic violence.⁹⁸

With respect to firearms control, the country is governed by the Firearms Act of 1998, which repealed both the Ammunition Act of 1919 and the Firearms Act of 1986.⁹⁹ In Barbados, in order to use, possess or carry a firearm, a licence or permit must be issued¹⁰⁰ by the Commissioner of Police, the authority in charge of receiving applications for firearm licences,¹⁰¹ and the Ministry responsible for Police Administration is the final appeal instance in case a licence applicant is aggrieved by the decision not to issue, revoke or renew a licence.¹⁰²

Among the relevant reasons not to issue a firearm licence is the existence of a conviction in Barbados or elsewhere for an offence involving violence in a period of five years since its commission, if the person is certified as unsound of mind under the Mental Health Act or is believed to suffer mental deficiency or habitual intoxication.¹⁰³ Therefore, the Commissioner must be satisfied with the applicant's good character, physical and mental competence and being fit and competent to possess a firearm.¹⁰⁴

⁸⁹ Ibid., Section 3 (1).

⁹⁰ Ibid., Section 3 (2).

⁹¹ Ibid., Section 8, Section 11B (1).

⁹² Ibid., Section 11B (2).

⁹³ Ibid., Section 11C (2).

⁹⁴ Ibid., Section 6, Section 6 (2) a viii.

⁹⁵ Ibid., Section 8, Section 11A (7).

⁹⁶ Ibid., Section 8 11D (b).

⁹⁷ Ibid., Section 8 11A (2).

⁹⁸ Ibid., page 27.

⁹⁹ Barbados. (2013). The Firearms Act. Section 35.

¹⁰⁰ Ibid., Section 3 (2).

¹⁰¹ Ibid., Section 5 (1).

¹⁰² Ibid., Section 16 (1).

¹⁰³ Ibid., Section 4 (1).

¹⁰⁴ Ibid., Section 5 (3).

Additionally, the Commissioner must be satisfied that the applicant who has a firearm can possess it without posing danger to public safety or peace.¹⁰⁵ The direct reference to the Mental Health Act is noteworthy, since it constitutes an example of how an Act can complement another with its provisions, in this particular case, to determine if a firearm licence applicant or holder is competent. It might be instrumental to evaluate and replicate such cross references in other areas such as recordkeeping and gender-based violence prevention.

Certain types of licences such as the dealers,¹⁰⁶ gunsmith¹⁰⁷ or collectors¹⁰⁸ licences, mandate holders to maintain a register of stocks and transactions, among other requirements, and to submit that information to the Commissioner of Police. However, no provision was found in this Act indicating how these records are processed, kept and applied, once they are received, to determine if a licence is granted or denied.

The Commissioner has the power to vary the conditions of firearm licences¹⁰⁹ and to refuse to renew or revoke them should the holder be deemed unfit to be entrusted with a firearm for reasons of conduct, age or, unsoundness of mind; if there is a conviction for an offence under the Firearms Act or an offence involving the use of a firearm; and if there is a breach in the conditions of the licence.¹¹⁰

Among the competencies of police officers is the power to arrest a person who has committed or is committing an offence under the Firearms Act and/or when there is probable cause to suspect a person has committed or is committing an offence under the Act.¹¹¹

Among the revised legislation, there were positive changes regarding the inclusion of firearms and ammunition control provisions in domestic violence legislation. Notwithstanding, in the field of recordkeeping, additional provisions could have been included to determine whether a firearm licence should be granted, renewed or revoked.



BELIZE

Located in Central America, Belize is the only country in this region with a Common Law System and close cultural ties with CARICOM States.

Belize is a State Party to both the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)¹¹² and the Inter-American Convention on the Prevention Punishment and Eradication of Violence against Women, known as the Convention of Belem do Para.¹¹³ The country, however, has not formally included 'femicide' in its legal framework, although the term has been used for statistical purposes.¹¹⁴

Belize's legal framework includes the Domestic Violence Act, which came into force on 6 October 2008. This Act presents a series of provisions on domestic violence as this relates to the protection of family members and the duties of public servants in charge of enforcing it.¹¹⁵ Yet, neither women nor gender-based crimes are addressed specifically.

Along these lines, certain dispositions present linkages between firearms control and gender-based crimes. One such example lies in the provision entitling courts to issue Protection Orders¹¹⁶. A Protection Order could be issued when it

¹⁰⁵ Ibid., Section 5 (5).

¹⁰⁶ Ibid., Section 8 (5).

¹⁰⁷ Ibid., Section 9 (4).

¹⁰⁸ Ibid., Section 9A (4).

¹⁰⁹ Ibid., Section 14 (1).

¹¹⁰ Ibid., Section 15.

¹¹¹ Ibid., Section 28.

¹¹² Convention on the Elimination of All Forms of Discrimination against Women https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4

¹¹³ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará" <https://www.oas.org/Juridico/English/Sigs/A-61.html>

¹¹⁴ Ministry of Human Development. (2017). *National Gender-Based Violence Action Plan: A Multisectoral Plan to Prevent and Respond to Gender-Based Violence in Belize 2017 – 2020*, p. 8.

¹¹⁵ Belize. (2011). *Domestic Violence Act Revision Act 2011*. Section 3.

¹¹⁶ Ibid., section 4(1).

is determined that it is probable that an act of domestic violence has occurred. In this case, the court must decide whether to grant a Protection Order. If an Order is granted, the police will proceed, *inter alia*, to receive the relinquished firearm from the alleged offender. Nevertheless, to proceed with the relinquishing process, the firearm must have been used in the act of domestic violence¹¹⁷. This thus excludes the possibility of implementing a preventive approach, which would prioritize the safety of at-risk family members.

Moreover, Orders, under Part II of the Domestic Violence Act, shall not exceed three years,¹¹⁸ thus raising the question as to what happens after that period and whether or not this allocation of time is appropriate, when considering the average amount of time necessary to legally process acts of domestic violence in the country. For instance, if the legal process lasts longer than three years, the firearm could be returned to the suspect of domestic violence, thus leaving the subject of the Protection Order unprotected.

The Protection Order application process allows the court to make an Interim Order with a view to protecting the applicant or dependant while the hearing and determination of proceedings¹¹⁹ are pending. The implementation period of the Interim Order should not exceed 21 days,¹²⁰ and it may contain the prohibitions or directions specified in section 5 (1),¹²¹ which includes relinquishing any firearm used in domestic violence to the police.¹²²

Other sections within the Domestic Violence Act likewise include provisions linking firearms control and domestic violence. For example, a written warrant may be issued by a Magistrate authorizing a police officer to enter the premises when there are reasonable grounds to suspect a person has suffered from or is in imminent danger of experiencing domestic violence.¹²³

Police officers are subject to the conditions specified in these warrants. For instance, section 25 states that law enforcement must seize “a weapon alleged to have been used in the commission of a domestic violence offence and thus needed for the purpose of an investigation or trial”,¹²⁴ and “to take such action as is necessary to prevent the commission or repetition of the offence”.¹²⁵ Both provisions -in theory- could favour a police intervention by authorizing the seizure of a firearm that could be used to commit an act of domestic violence. Nonetheless, it is still advisable to consider revising this entire section in the interest of being more explicit when it comes to conveying certainty to law enforcement, in particular, regarding their ability to seize a firearm, not only because it was used to commit an act of domestic violence, but also to prevent it from being used to commit one.

Finally, the Domestic Violence Act states that a National Domestic Violence Register shall be maintained by the Commissioner of Police and that copies of its reports must be forwarded to each Magistrate’s Court and Family Court within the corresponding jurisdiction. The Register shall contain the domestic violence reports submitted by police officers responding to complaints and reports alleging domestic violence.¹²⁶ Such reports must specify the type of abuse and weapon used.¹²⁷ It was not possible to determine how long the Register information is stored and if the report or complaints are formally used in a process to determine the eligibility of an individual to apply for a firearm licence.

Within the context of firearms control policy in Belize, the Firearms Act states that the responsibility to grant firearms licences lies with the Commissioner of Police.¹²⁸ It is not possible to own, keep, carry, discharge, or use any firearm or ammunition without a firearm licence for that purpose.¹²⁹

According to Section 7, among the reasons not to grant a firearm licence is the conviction for any crimes of violence by the person or any crimes against the public peace within three years immediately preceding the application date.

¹¹⁷ *Ibid.*, section 5(c) viii.

¹¹⁸ *Ibid.*, section 11(1).

¹¹⁹ *Ibid.*, section 11(2).

¹²⁰ *Ibid.*, section 11(3).

¹²¹ *Ibid.*, section 11(4).

¹²² *Ibid.*, section 5(c) viii.

¹²³ *Ibid.*, section 25.

¹²⁴ *Ibid.*, section 25.

¹²⁵ *Ibid.*, section 25.

¹²⁶ *Ibid.*, section 24 (2)a.

¹²⁷ *Ibid.*, section 24 (3)e.

¹²⁸ Belize. (2011). Firearms Act, section 7(1).

¹²⁹ Belize. Firearms (AMENDMENT) Act section 3.

This disposition includes an exception when special reasons are provided.¹³⁰ Nonetheless, no exceptions are listed. Additional dispositions include denying firearm licences when the person is not fit and proper,¹³¹ according to the opinion of the Commissioner, and when the person is not able to present reasonable justification to have the firearm licence issued.¹³² If a licence expires, and the renewal application is refused, any firearm or ammunition shall be immediately surrendered to the Commissioner or officer in charge at the nearest police station.¹³³

The role of the Commissioner of Police is crucial to implementing Belize's Firearm Act. This Act states that the Commissioner shall keep a register of all licences granted under the Firearms Act¹³⁴ and publish -by 31 December of each year- a list of all the revoked licences.¹³⁵ Following publication, the Commissioner shall strike out from the Register the cancelled licences, creating a note specifying the reasons for cancellation.¹³⁶ The aforementioned disposition is of tremendous importance when it comes to keeping records of revoked licences on grounds of convictions for crimes of violence.

An earlier addition, contained in section 6 of the Firearms (Amendment) (No.2) Act of 2010, was even more specific whereby it mandated the Commissioner to publish by 31 December the list of the firearm licences expired under the conviction for a crime of violence or against the public peace.¹³⁷ However, this disposition was not included in the 2011 Revised Edition of the Firearms Act. Ultimately, the Commissioner has the possibility of revoking any licence, certificate or permit if the holder is convicted of any crime of violence against a person and if there is any fit or proper cause.¹³⁸

The abovementioned dispositions, in general, could be used -in part- to fill the gap left related to gender-based crimes and domestic violence; however, several questions arise when analysing these provisions. The first question concerns the three-year condition to request a firearm licence after a conviction: what happens after that period has passed? Will convicted offenders be able to obtain a firearm licence? The second relates to the exceptions encompassed by the term "special reasons" included in section 7, subsection 2b. The third question deals with whether the Commissioner of Police takes into consideration the domestic violence reports when evaluating if a person is "fit and proper"? Finally, what constitutes reasonable grounds to have a firearm issued?

Certainly, raising these questions constitutes an exercise of paramount importance when identifying areas of opportunity within Belize's firearms control and gender-based violence prevention legal framework. The answers to these questions should aim to fill identified gaps, reduce the discretionary margins of public servants and to include exhaustive periodical independent professional evaluations to determine whether a person is fit to be granted a firearm licence.

¹³⁰ Belize. Firearms Act, section 7 2 (b).

¹³¹ Belize. Firearms Act., section 7 2 (d).

¹³² Ibid. Section (2) e.

¹³³ Ibid., section 9 (1).

¹³⁴ Firearms act, section 10 (1).

¹³⁵ Ibid, 27 (1).

¹³⁶ Ibid, 10 (1).

¹³⁷ Firearm (Amendment) (No.2) Act, 2010, 6.

¹³⁸ Firearms Act, 26 (c) (g).



DOMINICA

Dominica or the Commonwealth of Dominica has enacted crucial legislation in the past two decades addressing violence against women.¹³⁹ The country's legal framework includes the Offences Against the Person Act Chapter of 1995, the Protection Against Domestic Violence Act of 2001 and the Sexual Offences Act of 1998. The Firearms Act of 2011, which repealed The Firearms Act of 1973¹⁴⁰ regulates the use of firearms in Dominica.

The country is a State Party of both the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para)¹⁴¹ and to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹⁴² However, the legal framework of the country does not include provisions criminalizing femicide.¹⁴³

The Protection Against Domestic Violence Act of 2001, includes a series of definitions and protection measures, seeking to protect victims of domestic violence from different types of abuse committed inter alia by a person against a spouse, child, any member of the household, dependant or parent of a child of that household,¹⁴⁴ a definition which revolves significantly around the household. In the case of visiting relationships, the scope of protection is also limited, as only relationships exceeding 12 months¹⁴⁵ qualify and apply for a protection order if necessary.

The three most relevant protection measures included in the Act are: protection orders, occupation orders and tenancy orders. An application for a protection order may include a prohibition for the respondent to enter and remain in the household, area, work, place of education or any place where the prescribed person happens to be and to direct the respondent inter alia to return specific property, pay a compensation for monetary loss or relinquish to the police any firearm or firearm licence in his/her possession or control regardless of if it was used or not.¹⁴⁶ From a prevention standpoint, this is an essential measure since the order is not limited to the firearm, but also includes the firearm licence.

Once in the hearing stage of the process, the court may grant a protection order, including a power of arrest, if it is satisfied with the involvement of the respondent in the use or threat of violence, caused physical or mental injury or if it is determined the order is needed to protect the prescribed person.¹⁴⁷

Occupation orders, on the other hand, focus on granting the prescribed person the right to live in the household residence once the court is satisfied that such order is necessary for the protection of the person or is in the best interest of the child or dependant for a period the court considers fit.¹⁴⁸ Along that line, tenancy orders grant the applicant the tenancy of any dwelling or house when the court is satisfied that such order is necessary for the protection of the person or is in the best interest of the child or dependant.¹⁴⁹ Protection,¹⁵⁰ occupation¹⁵¹ and tenancy¹⁵² orders made on an ex-parte application shall be interim orders.

The second and final provision related to firearms control in the Protection Against Domestic Violence Act can be found in the duties of police officers. In this regard, law enforcement shall respond to every complaint and report alleging domestic violence and complete a domestic violence report from each complaint. The reports shall form the National Domestic Violence Register maintained by the Commissioner of Police. The information contained in the

¹³⁹ Follow-Up Mechanism Convention of Belém Do Pará [MESECVI]. (2012). Dominica Country Report, p. 4.

¹⁴⁰ Dominica. (2011). The Firearms Act. Section 61.

¹⁴¹ Inter American Convention On The Prevention- Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará" <https://www.oas.org/juridico/english/Sigs/A-61.html>

¹⁴² Convention on the Elimination of All Forms of Discrimination against Women https://treaties.un.org/Pages/ViewDetails.aspx?s-rc=TREATY&mtdsg_no=IV-8&chapter=4

¹⁴³ Follow-Up Mechanism Convention of Belém Do Pará [MESECVI]. (2012). Dominica Country Report, p. 7.

¹⁴⁴ Dominica. (2001). Protection Against Domestic Violence Act. Section 2.

¹⁴⁵ Ibid., Section 3 1(e).

¹⁴⁶ Ibid., Section 4(1).

¹⁴⁷ Ibid., Section 4 (2).

¹⁴⁸ Ibid., Section 7.

¹⁴⁹ Ibid., Section 11.

¹⁵⁰ Ibid., Section 5(2).

¹⁵¹ Ibid., Section 8(2).

¹⁵² Ibid., Section 12(2).

report should include details related to the weapon used to commit the abuse.¹⁵³ This provision is of paramount importance, however its reach will be determined by the extent of its application, for instance, when granting firearm and ammunition licences.

The Firearms Act of 2011, regulates the use and distribution of firearms and ammunition in Dominica. According to this Act a firearm user licence is needed in order to use, carry, possess, purchase or acquire a firearm or ammunition,¹⁵⁴ such licence is granted or renewed once the Commissioner of Police¹⁵⁵ is satisfied that the applicant has completed a course in firearms and ammunition safety, demonstrated a good cause for possessing a firearm and ammunition, is not on the list of restricted persons, and that receiving a licence will not endanger the public or the peace, among others requirements.¹⁵⁶

The Act also includes a series of prohibitions to grant licences. A licence shall not be granted to someone declared by a court as a restricted person, which is a person who -in the past five years- was convicted of an offence under the Firearms Act and any other national law;¹⁵⁷ it also includes those convicted of an offence involving violence and sentenced to imprisonment exceeding six months, or a person over 18 convicted of an indictable offence and sentenced to imprisonment exceeding two years. Additional prohibitions include granting licences to persons of intemperate habits and known violent nature, to persons under 18 years old, and persons for any reason considered unfit to be entrusted with a firearm and ammunition. These prohibitions also constitute reasons to revoke a firearms licence.¹⁵⁸

Indeed, the abovementioned prohibitions and reasons for revocation of firearm licences do not directly address gender-based violence scenarios; nevertheless, they do provide certain limitations to obtain a firearm in cases of conviction and sentence due to violent offences.

Consequently, it is crucial to bring special attention to the reasons for the suspension of a firearm licence. There are basically two reasons for a suspension with immediate effect by the Commissioner of Police; the first one is due to reasons of public interest and the second is if there are any pending proceedings pursuant to the Firearms Act or any other law in Dominica, where the holder is charged with an offence involving the use of a firearm or ammunition.¹⁵⁹

The suspension must be notified by the Commissioner of Police to the licence holder in writing, giving the holder seven days¹⁶⁰ -within the date of delivery of the notice- to deliver the firearm licence, firearm or ammunition, back to the Commissioner.

In cases of revocation, the delivery period is reduced to three days.¹⁶¹ However, it is critical to determine if these provisions are applied in gender-based violence or domestic violence scenarios, specifically in cases when applying for or implementing protection orders do not necessarily imply that an alleged perpetrator was charged or indicted. In the meantime, the risk of revictimization remains high, a reason why a suspension in the interest of public security could be an option worth exploring.

The Act also establishes an appeal process in case of denial to grant, amend, or revoke any licence, or grant exemptions regarding the possession of firearms and ammunition without a licence. The appeal shall be presented before the High Court. It is however imperative to highlight that if the aggrieved party already holds a licence and is in possession of a firearm and ammunition, these have to be deposited with the Commissioner of Police before appealing.¹⁶² This constitutes a key measure to prevent the victimization or revictimization of applicants in cases of domestic and gender-based violence, with the transfer of the firearm to a secure location.

¹⁵³ Ibid., Section 27.

¹⁵⁴ Dominica. (2011). *The Firearms Act*. Section 17.

¹⁵⁵ Ibid., Section 2.

¹⁵⁶ Dominica. (2011). *The Firearms Act*. Section 7 (4).

¹⁵⁷ Ibid., Section 15(3).

¹⁵⁸ Ibid., Section 13.

¹⁵⁹ Ibid., Section 12 (1).

¹⁶⁰ Ibid., Section 12 (3).

¹⁶¹ Ibid., Section 13 (2).

¹⁶² Ibid., Section 14.

Finally, the Commissioner of Police shall maintain a register of all licences, containing general information regarding holders and firearms, but also the information of suspended and revoked licences,¹⁶³ which is vital in order to maintain strict control on persons with violent backgrounds.

It is possible to find other examples of linkages between gender-based violence legislation and firearms control in the Sexual Offences Act, more specifically in its 2016 amendment, which introduced the use of a weapon “*at the time of or immediately before or after the commission of the offence*” as an aggravating factor, with direct impact on the sentence dictated by a court for offences committed under the Sexual Offences Act.¹⁶⁴ Additional provisions could be found in Dominica’s legislation, for example, in the Criminal Law Procedure (Amendment) of 2013, which considers serious crimes *inter alia*, firearm offences, murder, wounding with intent, rape, kidnapping and human trafficking.¹⁶⁵ The Criminal Justice (Reform) and Criminal Justice (Reform) (Amendment)¹⁶⁶ include a series of provisions with alternatives to imprisonment; nonetheless, these benefits are not applied when it is determined that the person was in possession of an illegal firearm.¹⁶⁷

The Offences Against the Person Act also includes some offences involving the use of firearms that could be used in cases of gender-based violence, such as attempting to administer poison, or shooting, or attempting to shoot, or attempting to drown, etc. with intent to murder;¹⁶⁸ or wounding with intent;¹⁶⁹ what shall constitute loaded arms;¹⁷⁰ and inflicting bodily injury with or without weapon.¹⁷¹

Certainly, Dominica’s legislation includes important provisions linking firearms and domestic violence legislation. However, the need to review the existing legislation persists to better protect victims of gender-based violence and -more importantly- prevent individuals from becoming victims by prioritizing prevention approaches and giving priority to the exchange of information among agencies.



GRENADA

Grenada’s Domestic Violence Act (2010) replaced the Domestic Violence Act (2001) to provide a civil remedy that emphasizes the safety and protection of the victims.¹⁷² This Act (2010) is relevant, because it refers to several forms of abuse in domestic relationships (physical abuse, sexual abuse, economic abuse, emotional abuse, intimidation, stalking, harassment, and damage to property),¹⁷³ among other things. Moreover, its definition of domestic relationship is not limited to married couples; it also includes cohabitant couples; parents of a common child; family members related by consanguinity, affinity or adoption; as well as an

engagement, dating or visiting relationship of any duration.¹⁷⁴

The Domestic Violence Act (2010) defines “firearm” as it is defined under the Firearms Act, Cap. 105 of the 1990 Revised Laws of Grenada. The first provision of the Domestic Violence Act (2010) regarding firearms is included in Section 9 (1), establishing that the court may grant “an order, directing a police officer to seize any firearm or dangerous weapon in the possession of the respondent”¹⁷⁵ if the affidavit made for requesting a protection order contains information to the

¹⁶³ *Ibid.*, Section 11.

¹⁶⁴ Dominica. (2016). *Sexual Offences (Amendment)*. Section 14.

¹⁶⁵ Dominica. (2013). *Criminal Law Procedure (Amendment)*. First Schedule.

¹⁶⁶ Dominica. (2013). *Criminal Justice (Reform) (Amendment)*. Section 4.

¹⁶⁷ Dominica. (1981). *Criminal Justice (Reform) Act*. Sections 3, 6.

¹⁶⁸ Dominica. (1995). *Offences Against the Person Act*. Section 16.

¹⁶⁹ *Ibid.*, Section 20.

¹⁷⁰ *Ibid.*, Section 21.

¹⁷¹ *Ibid.*, Section 22.

¹⁷² <http://evaw-global-database.unwomen.org/en/countries/america/grenada/2010/domestic-violence-act-2010>

¹⁷³ Section 2, definition of “domestic violence”, Domestic Violence Act (2010), p. 469.

¹⁷⁴ Section 2, definition of “domestic relationship”, Domestic Violence Act (2010), p. 495.

¹⁷⁵ Section 9 (1), “seizure of firearm and dangerous weapons”, Domestic Violence Act (2010), p. 510-511.

effect that “the respondent has threatened or expressed the intention to kill or injure, any person in a domestic relationship, including himself or herself, whether or not by means of the firearm or dangerous weapon”.¹⁷⁶ Moreover, a police officer can also seize any firearm if the possession of such weapon “is not in the best interest of the respondent”, or any other person, as a result of the respondent’s “state of mind” or “mental condition”; “inclination to violence”; and the use of, or dependence on intoxicating liquor or drugs.¹⁷⁷

The aforementioned provision is important since seizing a firearm is not limited to circumstances related to prior domestic violence cases, but rather contemplates the inclination to violence. If the respondent has threatened to kill or injure a person within a domestic relationship, there is enough reason to seize a weapon in the interest of the victim. Moreover, this provision grants the opportunity, for example, to take preventive action by seizing the firearm when the respondent, due to his/her mental condition, is not considered fit to possess a firearm.

The Domestic Violence Act (2010) establishes one main type of Protection Order in Section 12. This Order is issued by the court and prohibits the respondent from doing certain activities such as: molesting, using abusive language, stalking, making phone calls, and entering or remaining in the victim’s home or workplace. The application of a Protection Order “may be brought outside the ordinary hours of the court, or on a day, which is not an ordinary sitting day for the court”.

In certain circumstances, the court may grant an interim protection order pending the hearing and determination of the proceedings where it is satisfied that a delay may cause risk to the personal safety of the applicant. It is intended to last for a limited period, not exceeding 28 days.¹⁷⁸ Pursuant to Section 23, in granting an interim protection order, the court may issue a warrant for the arrest of the respondent until the interim protection order is set aside. It is important to highlight that, if the court decides to grant an interim order, it may also order a member of the police force to “seize” an “arm or dangerous weapon in the possession of the respondent.”¹⁷⁹

Regarding the responsibilities of police officers in situations of potential domestic violence, they may arrest any person at the scene of an incident of domestic violence, without a warrant, whom he or she reasonably suspects of having committed an act of domestic violence.¹⁸⁰ The Domestic Violence Act requires that a police officer “shall respond to every complaint or report alleging domestic violence”. The police officer is also obligated to “complete a domestic violence report, which shall form part of a Domestic Violence Register”, to be kept by the Chief of Police;¹⁸¹ such a report must include, inter alia, “the type of the abuse and the weapon used, if any.”¹⁸²

Although it is not the main subject of the present legal study, it is worthwhile to make a brief reference to a particular provision in the Prevention of Trafficking in Persons Act (2014) that links violence against women with arms control. In this Act, there is one reference to “weapons” as an aggravating circumstance when a person convicted of an offence of trafficking in persons used such a weapon.¹⁸³

According to the Firearms Act of 1968 (amended in 1990), a person shall not be in possession of any firearm or ammunition except under and in accordance with the terms and conditions of a Firearm User’s Licence.¹⁸⁴ It is worth mentioning that the Firearms Act establishes that a court may declare a person as a “restricted person” –who has no right to acquire such a licence– someone who has committed an offence under said Act or has been convicted of an “offence involving violence and sentenced to a term of imprisonment exceeding three months.”¹⁸⁵ Since the Firearms Act (1990) predates the Domestic Violence Act (2010), the former does not specify that a person committing a domestic violence offence would be declared as a “restricted person”. However, an interpretation could arise in the sense that an “offence involving violence and sentenced to a term of imprisonment exceeding three months” includes

¹⁷⁶ Section 9 (1), a, “seizure of firearm and dangerous weapons”, Domestic Violence Act (2010), p. 511.

¹⁷⁷ Section 9 (1), b, “seizure of firearm and dangerous weapons”, Domestic Violence Act (2010), p. 511.

¹⁷⁸ Section 6 (6), Domestic Violence Act (2010).

¹⁷⁹ Form II, Interim protection order, Domestic Violence Act (2010), p. 540.

¹⁸⁰ Section 18 (4), Domestic Violence Act (2010).

¹⁸¹ Section 19 (1), (2), Domestic Violence Act (2010).

¹⁸² Section 19 (3), 2, Domestic Violence Act (2010).

¹⁸³ Section 11 (g), Prevention of Trafficking in Persons Act (2014).

¹⁸⁴ Section 20 (1), Firearms Act.

¹⁸⁵ Section 2, Firearms Act.

an offence involving domestic violence. If that is not the case, it would be important for aid provision in the Firearms Act to include a reference in this regard.

In addition, subject to Section 36, the Ministry of Home Affairs may revoke any licence if it is satisfied that the holder thereof is of “intemperate habits or of unsound mind”, or is otherwise unfit to be entrusted with such a firearm or ammunition as may be mentioned in the licence. As in the previous case, there is no clear reference that “intemperate habits or of unsound mind” involves an experience of domestic violence. However, it also can be inferred that the Ministry of Home Affairs might relate an act of domestic violence with “intemperate habits or of unsound mind” for a licence to be revoked if it is in the best interest of the victim.

Grenada is Party to relevant Conventions regarding domestic violence and violence against women. These include the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW),¹⁸⁶ and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belem do Para Convention).¹⁸⁷ However, “femicide” is not named as a specific crime in Grenada’s legislation. The provisions that exist in the country’s Criminal Code against homicide (capital murder, non-capital murder and manslaughter) are applied.¹⁸⁸ The accused of killing a woman can be charged with capital murder, non-capital murder, or manslaughter, based on the particulars of the case. Each has different penalties attached, with the most serious offence being capital murder.¹⁸⁹ It must be noted that murder committed in the course or furtherance of a sexual offence is capital murder. Moreover, the Provisions in the Criminal Code are applied in cases of intimate partner violence, particularly physical violence. Charges that can be filed on a case by case basis include assault, assault with a deadly weapon, causing harm, attempted murder, murder, arson, abduction, trespassing, and so on.¹⁹⁰

Even though it is not part of Grenada’s legislation, it is worth mentioning that the country has developed and applies the “National Domestic Violence and Sexual Abuse Protocol (2011)”, which provides guidelines to address incidents and manage cases of Domestic and Sexual Violence,¹⁹¹ including those involving the use of “weapons”. It is a resource document intended to assist professionals with the management of domestic violence and sexual assaults.¹⁹² For example, the Protocol establishes that in deciding whether to pursue a specific charge, the prosecutor must determine whether there is enough admissible evidence to sustain a guilty finding and a reasonable probability of a conviction. This requires a review of the facts and corroborating evidence, among them the “use or threatened use of a weapon” and the “defendant’s criminal history and history of violence towards the victim.”¹⁹³

Considering that enacting or amending national legislation could take a long time and that it is in the interest of all countries to eradicate violence against women, in the meantime, it is important to promote and use protocols or practices such as the “National Domestic Violence and Sexual Abuse Protocol (2011)”. Even though they are not part of national legislation, these could be considered as important practical measures to deal with violence against women because they establish practices and tools that are precisely absent from the aforementioned legislation.

¹⁸⁶ Convention on the Elimination of All Forms of Discrimination against Women https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4

¹⁸⁷ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará" <https://www.oas.org/Juridico/English/Sigs/A-61.html>

¹⁸⁸ P. 3 <http://www.oas.org/es/mesecvi/docs/FinalReport2017-Grenada.pdf>

¹⁸⁹ P. 18 <https://www.oas.org/es/mesecvi/docs/MESECVI-I-CE-doc.20.ing.Grenada%20Report.pdf>

¹⁹⁰ P. 64 https://www.cepal.org/mujer/noticias/paginas/3/51823/Grenada_Review_Beijing_20.pdf

¹⁹¹ <https://evaw-global-database.unwomen.org/en/countries/americas/grenada/2011/national-domestic-violence-and-sexual-abuse-protocol>

¹⁹² Ministry of Social Development of Grenada, National Domestic and Sexual Violence Protocol (2011), p. 3.

¹⁹³ *Ibid.*, p.38.



GUYANA

Guyana passed the Domestic Violence Act of 1996¹⁹⁴ with the aim of providing protection to domestic violence victims through protection orders, as well as giving the police the power to arrest and intervene in such cases.

In terms of firearms control, the main normative reference is the Firearms Act, which was first adopted in 1940 and has been subjected to subsequent amendments, most recently in 2014.¹⁹⁵ The Firearms Act has been developed through Firearms Regulations.

Guyana is a State Party to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para).¹⁹⁶ However, the legal-penal system does not consider femicide, nor cases of aggravated homicide with distinctive elements of femicide.¹⁹⁷ Thus, crimes against women are judged under generic criminal law, mainly the Criminal Law (Offences) Act, the Summary Jurisdiction (Offences) Act, as well as the Sexual Offences Act, without further specification.

As stated above, the main objective of the Domestic Violence Act is to protect domestic violence victims. For this purpose, this law provides the possibility of seeking protection orders for certain people, including persons associated with the respondent (a person against whom the application is made) or a relevant child.¹⁹⁸ The listing of these persons allows for the determination of the context within which the law considers that domestic violence can occur. This law does not require a marriage connection, and includes past or present cohabitation, engaging or having engaged in a sexual relationship, parentage, adoption, etc.

Following a request made by the concerned party, the court must assess proof of a series of situations, including the commission of an act that constitutes a domestic violence offence or the threat of such an act to issue a protection order. The court can incorporate different kinds of protection orders, prohibitions or restrictions.¹⁹⁹ However, prohibiting the person, against whom the order is issued, from possessing firearms, and seizure of their weapons and suspension of their licence are not expressly covered. As a matter of fact, this law refers to neither firearms nor the application of the Firearms Act.

The conditions that must be present for the issuance of a firearm licence are highlighted in Section 18 of the Firearms Act. This provision establishes that a competent authority will only be able to issue the licence if there is a justifiable need to possess one, if they believe that authorising it will not affect peace and public order, and if they do not consider the applicant to be of intemperate habits or of unsound mind, or in any way unfit to be entrusted with a firearm. The Firearms Act does not contain any explicit reference to domestic violence (in the terminology used by the national standard) or gender-based violence as express grounds for denial of firearm licence. However, the broad wording of the requirements set in Section 18 gives this authority a wide margin of discretion. On this legal basis, the competent authority can invoke the existence of domestic violence offence or protection order given under the Domestic Violence Act to refuse the licence. This provision is complemented by Section 3 of the Firearms (Licensing) Regulations, which states that, for the purposes of compliance with Section 18 of the Firearms Act, the official that evaluates a firearm licence application will have to determine if the applicant is involved in any criminal conduct or has a criminal record. However, neither the Firearms Act nor its Regulations provide an explicit mandate for preventing persons with a history of domestic violence, who have a protection order against them, from possessing firearms.

¹⁹⁴ Guyana. (1996). Domestic Violence Act, 1996.

¹⁹⁵ Guyana. (1940). Firearms Act, 1940.

¹⁹⁶ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará" <https://www.oas.org/Juridico/English/Sigs/A-61.html>

¹⁹⁷ Follow-up Mechanism Convention of Belém do Pará [MESECVI]. (2012). Guyana Country Report Second Round.

¹⁹⁸ Guyana. (1996). Domestic Violence Act, 1996. Section 5.

¹⁹⁹ Ibid. Section 6.

The capacity to revoke a firearm licence must also be reflected upon. Section 18 establishes the conditions for revoking a licence, basing it on the same circumstances for granting one, which have been mentioned previously. If the competent authority believes that said conditions are no longer being met, they are legally allowed to revoke the licence. However, there is no explicit mention of the commission of a domestic violence offence or the issuance of a protection order as grounds for revoking one's licence.

Section 36 refers to criminal history as grounds for restrictions in possessing a firearm. The provision establishes that a person who has been sentenced to three months or more in prison for committing an offence under the Criminal Law (Offences) Act, will not be able to possess a firearm for a period of five years immediately following their sentence or their release from prison, as the case may be. It is important to highlight that, as mentioned earlier, criminal legislation in Guyana does not consider femicide nor the aggravation of gender-based crimes.

Accordingly, Section 40 determines that in cases where a person is convicted of an offence outlined in the Firearms Act or any other offence that carries a prison sentence, or if they are placed under police supervision, the court that issued the sentence or decided on the supervision of such a person, can order the seizure of firearms in their possession and the cancellation of their licence. Similarly, the Prevention of Crimes Act creates the possibility for attaching a police supervision programme to any citizen who has been convicted of a crime. This possibility advocates that in cases where certain offences are committed, including those involving domestic violence, a police supervision program is put in place for a period of three years which should be counted from the end of their sentence.²⁰⁰ This police supervision means imposing certain restrictions, among them are those concerned with the use and possession of firearms, although the law does not delve into what these restrictions could be.

The Firearms Act also considers the possibility that a police officer, not below the rank of inspector, can seize a firearm, even in the absence of a court order, if they have reasonable grounds to suspect that a crime that puts public safety and order at risk has been committed or is going to be committed.

Section 5 of the Prevention of Crimes Act mandates the registration of persons convicted of crimes and offences, including those subjected to police supervision. These records are the responsibility of the Commissioner of Police. This Act was completed with subsidiary legislation, called the Register of Convicted Persons Order. This register is essential for verifying criminal histories of those referred to in Section 3 of the Firearms (Licensing) Regulations.

The main conclusion of the joint analysis of laws surrounding gun control, as well as those concerning violence against women in Guyana is that mutual remissions have not been clearly articulated that allow for establishing a suitable connection between both legal frameworks and a more efficient public policy for the protection of women. To this end, a key measure would be explicitly stipulating that criminal histories of domestic violence prevents one from possessing a firearm. Similarly, in cases where an aggressor is a licenced firearm holder, a primary measure would be determining the suspension of the licence, as well as immediate seizure of the firearm. The same is recommended if a person is subject to one of the protection orders provided under the Domestic Violence Act.

²⁰⁰ Guyana. (1996). Prevention of Crimes Act, 1885. Section 3.



JAMAICA

Jamaica has introduced essential legislation to tackle sexual offences in 2009 and trafficking in persons in 2013. In recent years, the country has focused on the area of sexual harassment. Consequently, government efforts have resulted in the implementation of a sexual harassment policy²⁰¹ and debate around a Sexual Harassment Bill in 2015,²⁰² which continued throughout 2019.²⁰³ Jamaica's Domestic Violence Act, passed in 1996, underwent essential reforms in 2004. With respect to firearms and ammunition control, there is the Firearms Act of 1967, which was subsequently amended in 2010.

Jamaica is a State Party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)²⁰⁴ and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Para).²⁰⁵ The country has yet to include femicide in its legal framework.²⁰⁶

The Domestic Violence Act contains a series of provisions to protect individuals from domestic violence, even though domestic violence is not clearly defined in the Act. On the other hand, it is possible to find two types of orders: protection orders and occupation orders. Both are granted by either the Resident Magistrate's Court or the Family Court.²⁰⁷

Orders, in general, are granted by the aforementioned courts following the submission of an application, which may be submitted by inter alia a spouse, parent, guardian of a child, member of the respondent's household, constable or person in a visiting relationship.²⁰⁸ The definition of a visiting relationship may broaden or narrow the ratio of protection in the absence of the limitation of a shared residence. In the case of Jamaica, in a visiting relationship, a man and a woman do not share a residence, however they do share a close personal relationship, which is characterized by a series of elements, such as the amount of time spent together, the place and manner in which that time is spent, the duration of the relationship and the existence of a child (if any) of both parties.²⁰⁹

According to the Domestic Violence Act, an application for a protection order is intended to prohibit the respondent from engaging in certain conducts. The Act focuses mainly on two issues, prohibiting the respondent from entering or remaining in certain spaces -among them the household residence, the area of the household residence, place of work and education- where the prescribed person might be or inhabit; and the second consists of prohibiting the respondent from molesting the prescribed person. Such conducts may include -but are not limited to- besetting the household residence, using abusive language, causing annoyance resulting in ill-treatment or damaging of property.²¹⁰ The court may grant the protection order once it is satisfied that the use or threat of violence has occurred, if there is physical or mental injury, or if the order is necessary for the protection of the person.²¹¹ It is important to mention that courts may grant protection orders on an ex-parte application, which will result in an interim protection²¹² order.

²⁰¹ Follow-Up Mechanism Convention of Belém Do Pará [MESECVI]. (2017). Jamaica Country Report Third Round, p. 3, number a.

²⁰² Jamaica. (2015). Sexual Harassment Bill. Accessed on: 29 October 2019 in: <https://jparliament.gov.jm/attachments/article/339/The%20Sexual%20Harassment%20Act,%202015.pdf>

²⁰³ Jamaica information service. (2019). Minister Grange Tables Sexual Harassment Bill. Accessed on: 29 October in <https://jis.gov.jm/minister-grange-tables-sexual-harassment-bill/>

²⁰⁴ Convention on the Elimination of All Forms of Discrimination against Women https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4
²⁰⁵ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará <https://www.oas.org/Juridico/English/Sigs/A-61.html>

²⁰⁶ Follow-Up Mechanism Convention of Belém Do Pará [MESECVI]. (2017). Jamaica Country Report Third Round, p. 3.

²⁰⁷ Jamaica. (2004). Domestic Violence Act. Section 2.

²⁰⁸ Ibid., Section 3.

²⁰⁹ Ibid., Section 2.

²¹⁰ Ibid., Section 4 (1).

²¹¹ Ibid., Section 4 (2).

²¹² Ibid., Section 4 (3).

The Firearms Act includes a series of provisions related to the use of firearms and ammunition, such as establishing a Firearms Licensing Authority (FLA), requirements to grant different types of firearm licences and revocation reasons, among others. In a similar vein, in Jamaica, in order to possess ammunition and firearms, individuals must follow the terms and conditions specified in a Firearms User's Licence.²¹³

The Firearms Licensing Authority (FLA)²¹⁴ is comprised of five members: a retired Director of Public Prosecutions or Senior Civil Servant; a retired Judge of the Court of Appeal or the Supreme Court; a retired Police Officer with at least the rank of Senior Superintendent at the time of retirement; and two other individuals appointed by the Minister and considered to be of high integrity. Members are elected for a three-year period and are eligible for re-appointment.²¹⁵

Some of the functions of the FLA include inter alia receiving and considering, granting, or renewing, revoking, amending the terms of any firearm licence, certificate or permit, as well as receiving and investigating complaints concerning firearm licences, permits and certificates.²¹⁶ Nevertheless, from a gender-violence prevention standpoint, it is of extreme importance the power of the Authority to summon witnesses, call for and examine documents and to undertake that which is considered necessary or expedient to carry out its functions,²¹⁷ since firearm licences, certificates or permits are granted under its discretion.²¹⁸ This seems to leave a window open for the FLA to investigate further into the background of an individual to determine if he/she is fit to hold a firearm licence, certificate, or permit.

The Act includes a series of provisions in which the granting of licences, certificates and permits can be denied;²¹⁹ no licence shall be issued to a restricted person or a person²²⁰ believed by the Authority to be of intemperate habits, or of unsound mind or unfitted to be trusted with a firearm and ammunition.²²¹ A restricted person is considered, inter alia, a person who has been convicted of a crime involving violence and sentenced to a term of imprisonment exceeding three months. Given the lack of specific provisions on domestic violence, the concept of "restricted person" including the associated behavioural profile, offer a legal basis for the denial of a licence for crimes involving violence against women. However, as in other Caribbean jurisdictions, no specific provisions were found in the legislation, which expressly prohibit the issuance of licences for persons with criminal records of interfamilial violence or violence against women.

In order to be granted a firearm licence, the Authority must be satisfied that, inter alia, the applicant has a good reason for possessing a firearm or ammunition, without endangering the public safety or peace²²² and must also be satisfied with the applicant's proficiency in the use and management of the firearm.²²³ In the absence of a more specific provision, and depending on the discretionary scope of the National Authority, when deciding whether to grant a licence, the condition of "endangering public safety or peace" could also include acts of violence against women.

In Jamaica, a licence is granted for a period of five years,²²⁴ however it may be revoked by the FLA if the holder is of inter alia intemperate habits, or of unsound mind, or unfitted to be trusted with the firearm and ammunition in the terms specified in the licence;²²⁵ also if the holder has been convicted in the country or abroad of illegal possession or use of a firearm or ammunition, in the case of violence, for which the holder is sentenced for imprisonment of at least three months;²²⁶ and for the unlawful use of the firearm to threaten violence against a person.²²⁷ As indicated previously, all the aforementioned cases could provide coverage for domestic violence acts, under the discretion of the FLA.

²¹³ Jamaica. (2010). The Firearms Act. Section 20 (1).

²¹⁴ *Ibid.*, Section 26A.

²¹⁵ *Ibid.*, Third Schedule (1).

²¹⁶ *Ibid.*, Section 26B (1).

²¹⁷ *Ibid.*, Section 26B (2).

²¹⁸ *Ibid.*, Section 29 (1).

²¹⁹ *Ibid.*, Section 29 (3).

²²⁰ Under Section 2 (1) of the Firearms Act a restricted person is: a habitual criminal under section 54 of the Criminal Justice (Administration) Act, or a person who within five years next before the event was declared a restricted person by a court as a result of a conviction of an offense under the Firearms Act, or if the person has been convicted of an offense involving violence and sentenced to imprisonment exceeding three months.

²²¹ *Ibid.*, Section 29 (4).

²²² *Ibid.*

²²³ *Ibid.*, Section 29 (4a).

²²⁴ *Ibid.*, Section 34 (1a).

²²⁵ *Ibid.*, Section 36.

²²⁶ *Ibid.*, Section 36 (b).

²²⁷ *Ibid.*, Section 36 (d).

The Act includes the possibility to review the decisions of the FLA regarding the refusal to grant, amend or refuse to amend, revoke, or refuse to revoke any licence, certificate, or permit.²²⁸ This process is undertaken by a Review Board, which is appointed by the Minister²²⁹ and shall consist of three members, including a former Director of Public Prosecutions or senior staff member of the Office of the Director of Public Prosecutions; a former Judge of the Court of Appeal or the Supreme Court; and a former Officer of the Jamaica Constabulary Force with at least the rank of Superintendent.²³⁰ The members are appointed for a period of three years²³¹ and are eligible for re-appointment.²³²

It is important to highlight that no suspension process of a firearm licence was found in Jamaica's Firearms Act.

Although Jamaica's Firearm Act does not include specific provisions tackling gender-based violence, there are some provisions that could help fill that gap in theory; such as the penalties prescribed for the possession of firearms and ammunition with intent to endanger life,²³³ attempt to make any use of a firearm with intent to commit a felony,²³⁴ and the contravention of the terms or conditions of a licence, certificate or permit by the holder, which constitutes an offence.²³⁵

Additionally, the Act includes in Part VI a series of provisions granting law enforcement with specific competencies to search and obtain information regarding firearms, ammunition and their respective licences, certificates or permits. From a gender-based violence perspective, the most relevant provision refers to search warrants. In that sense, a Justice of the Peace may grant a warrant for a constable to enter any premises to search such premises, as well as any person found therein, to seize any firearm or ammunition in connection with an offence -under the Firearms Act- which has been, is being or is about to be committed.²³⁶ However, the most relevant part of this provision grants law enforcement the ability to retain firearms and ammunition for the purpose of investigation; if the investigation results in legal proceedings, the firearms and ammunition shall be retained for the duration of the investigation.²³⁷ Such a measure could undoubtedly have a positive impact limiting the possibilities of an alleged offender to gain access to the means to commit any firearm-related crime or revictimize an individual. To complement the aforementioned measure, law enforcement may proceed to make an arrest with or without a warrant within the premises if there is a reason to believe the person is guilty of an offence under the Firearms Act.²³⁸

When the legal proceedings result in conviction, police supervision or entering into recognisance to keep the peace or be of good behaviour, the court may make an order for the forfeiture or disposal of the firearm or ammunition. However, most importantly, this section allows the Authority the possibility of revoking the licence, certificate or permit of the convicted person.²³⁹

Finally, it is important to take into consideration that Jamaica has implemented a Gun Court into its judicial system, which has the task of trying cases involving the use of firearms. This court was established by the Gun Court Act, which details inter alia the court's jurisdiction, powers, mode of trial, proceedings, rules, and regulations. This court and its different divisions try crimes, such as murder and certain crimes included in the Firearms Act,²⁴⁰ Gunpowder and Explosives Act, Malicious Injuries to Property Act, the Offences Against the Person Act,²⁴¹ however, the Act makes no specific reference to the Domestic Violence Act.

It is possible to find other examples of linkages between gender-based violence legislation and firearms control in the Sexual Offences Act, specifically in reference to the attempts to commit the offences of rape and grievous sexual assaults²⁴² armed with a firearm,²⁴³ which both include an increase in imprisonment time.

²²⁸ Ibid., Section 37 (1).

²²⁹ Ibid., Section 37A (1).

²³⁰ Ibid., Fourth Schedule, Section 1.

²³¹ Ibid., Section 2.

²³² Ibid., Section 3.

²³³ Ibid., Section 24.

²³⁴ Ibid., Section 25(1).

²³⁵ Ibid., Section 26(1).

²³⁶ Ibid., Section 43(1).

²³⁷ Ibid., Section 43(1b).

²³⁸ Ibid., Section 43(2).

²³⁹ Ibid., Section 46.

²⁴⁰ Jamaica. (2014). The Gun Court Act. Section 5.

²⁴¹ Ibid., Schedule.

²⁴² Jamaica. (2009). The Sexual Offences Act. Section 6.

²⁴³ Ibid.

A similar case can be found in the Trafficking in Persons (Prevention, Suppression and Punishment) Act, where the use or threat to use an offensive weapon -including a firearm- in the commission of the offence of Trafficking in Persons is considered an aggravating factor for the Court to dictate a term of imprisonment.²⁴⁴

The Offences Against the Person Act also includes some offences involving the use of firearms that could be used in cases of gender-based violence, that is the case of attempting to administer poison, etc.,²⁴⁵ shooting or attempting to shoot or wounding with intent to do grievous bodily harm²⁴⁴ and unlawful wounding.²⁴⁷

Additional provisions can be found in Jamaica's legislation, such as in the Criminal Justice (Reform) Act, which presents a series of alternatives of punishment besides imprisonment. Nevertheless, these provisions do not apply when the person was in possession of an illegal firearm²⁴⁸ and when the offence involved the use of a firearm.²⁴⁹ The country's legislation also includes a protection and assistance programme, explained in detail in the Justice Protection Act, in specific civil matters and offences,²⁵⁰ such as the possession or use of firearms and ammunition with intent to injure, possession or use of firearms in furtherance of any criminal offence and domestic violence.²⁵¹



SAINT KITTS AND NEVIS

Saint Kitts and Nevis has relatively recently - 10 November 2014 - introduced new Domestic Violence legislation. This new piece of legislation repealed the Domestic Violence Act Cap. 12.04 of 2009.²⁵² Regarding firearms and ammunition control, the country is governed under the Firearms Act of 1967, which had two recent amendments in 2009 and 2017.

The country is a State Party to the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para)²⁵³ and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).²⁵⁴

Saint Kitts and Nevis has not yet incorporated specific criminal legislation on femicide into its framework, therefore relying on general criminal law to address gender-based violence.

The Domestic Violence Act was introduced to "provide greater protection for victims of domestic violence."²⁵⁵ The Act applies to a 'domestic relationship', which refers to a relationship between the applicant and the respondent, including -but not limited to- marriage; family members related by consanguinity, affinity or adoption; engagement, dating or visiting relationship. Domestic violence includes -but is not limited to- physical abuse or threats of physical abuse; sexual abuse or threats of sexual abuse, emotional, verbal or psychological abuse.²⁵⁶

This Act incorporates the possibility for the victim to pursue an interim protection or final protection order, issued by a Family Court,²⁵⁷ which according to the Act's Schedule I, may receive the request at any moment.²⁵⁸

²⁴⁴ Jamaica. (2014). Trafficking in Persons (Prevention, Suppression and Punishment) Act. Section 4A (2).

²⁴⁵ Jamaica. (2014). The Offences Against the Person Act. Section 16.

²⁴⁶ Ibid., Section 20.

²⁴⁷ Ibid., Section 22.

²⁴⁸ Jamaica. (2005). The Criminal Justice (Reform) Act. Section 3(d).

²⁴⁹ Ibid., 6(1).

²⁵⁰ Jamaica. (2001). The Justice Protection Act. Section 5.

²⁵¹ Ibid., First Schedule.

²⁵² Saint Kitts and Nevis. (2014). Domestic Violence Act, 2014. Section 49 (1).

²⁵³ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará" <https://www.oas.org/Juridico/English/Sigs/A-61.html>

²⁵⁴ Convention on the Elimination of All Forms of Discrimination against Women https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4

²⁵⁵ Saint Kitts and Nevis. (2014). Domestic Violence Act, 2014, p. 1.

²⁵⁶ Ibid. Section 2.

²⁵⁷ Ibid.

²⁵⁸ Ibid., p. 25.

Currently, Family Courts issue interim protection orders following the presentation of an application alleging domestic violence.²⁵⁹ The interim protection order is issued while “the hearing and determination of the proceedings for a protection order” are pending. Prior to issuing the protection order, the court has to be satisfied that the respondent has committed, is committing or is likely to commit an act of domestic violence.²⁶⁰ Additionally, orders must follow a format included in the Domestic Violence Act, which includes a series of terms prohibiting the respondent of inter alia engaging in acts of domestic violence, entering the residence of the applicant and, as an additional measure, to seize the firearm in possession of the respondent.²⁶¹ Ultimately, interim protection orders shall not exceed 28 days.²⁶²

Family Courts grant final protection orders once a series of requisites are fulfilled. Among them, an interim protection order granted by the court,²⁶³ following a notice of the proceedings, which must be served to the respondent. Finally, the court will consider the evidence available and decide whether “to confirm, amend, or set aside the interim protection order,”²⁶⁴ Consequently, the parties are notified by the Registrar of the Court. The final protection order shall not exceed three years.²⁶⁵

Provisions regarding firearms control are concentrated in Section 9 of the Act. According to these provisions, the Court may order a police officer to seize any firearm in the possession of the respondent providing any of the following two scenarios occur: (1) “the respondent has threatened or expressed the intention to kill or injure any person in a domestic relationship including himself or herself whether or not by means of the firearm”; and (2) when the possession of the firearm is not in the best interest of the respondent due to his/her state of mind or mental condition inclination to violence; or use or dependence on intoxicating liquor and drugs.

The court order seems to be conditioned on the existence of an affidavit describing either one of the abovementioned scenarios, which must be presented by the applicant or any other person with a material interest in his or her well-being.²⁶⁶ The time required to issue such an affidavit could prevent law enforcement from acting swiftly and in a timely manner.

The Domestic Violence Act refers to the Firearms Act in relation to firearm seizure. Specifically, Section 9 grants courts the capacity to direct the Registrar to refer a copy of the to the Commissioner of Police to consider the seizure of any firearm in relation to the Firearms Act.

Finally, firearm control provisions are also included among the duties of police officers. In that regard, officers are required to respond to every domestic violence complaint or report, and file a domestic violence report, which will form part of the Domestic Violence Register maintained by the Commissioner of Police. Among the information to be included is the detail of the abuse and the weapon used.²⁶⁷

Additional duties include informing the victim of a series of rights, inter alia, to request assistance for the victim’s protection -including the victim’s children- to obtain a protection order from a Court at any time, request medical treatment or lodging a criminal complaint against the abuser.²⁶⁸ Nevertheless, no provision related to firearms is included in the schedule format, which could later translate to missing information in the affidavits supporting the protection order application.

With regard specifically to firearms, the country relies on the Firearms Act, which details a general restriction in place to carry firearms and ammunition in public places, unless that person carries a licence, certificate or permit.²⁶⁹ The authorities responsible for granting, amending and revoking firearms licences, permits or certificates are: the Minister of National Security -to grant a Firearm Manufacturer’s Licence-; the Comptroller of Customs -in the case of Firearm Transshipment Permits-; and the Chief of Police in charge of the Firearm User’s License, among others.²⁷⁰

²⁵⁹ Ibid., Section 5 (1).

²⁶⁰ Ibid., Section 6.

²⁶¹ Ibid., Page 30.

²⁶² Ibid., Section 6 (6).

²⁶³ Ibid., Section 6.

²⁶⁴ Ibid., Section 13 5(a).

²⁶⁵ Ibid., Section 13 7.

²⁶⁶ Ibid., Section 5 (3).

²⁶⁷ Ibid., Section 29.

²⁶⁸ Saint Kitts and Nevis. (2014). Domestic Violence Act, 2014, p. 25.

²⁶⁹ Saint Kitts and Nevis. (2009). Firearms Act. Section 21.

²⁷⁰ Ibid., Section 38.

The grant and issue of licences, certificates and permits falls under the discretion of the abovementioned authorities.²⁷¹ However, according to the Firearms Act, no licence, certificate or permit shall be granted to a restricted person²⁷² or to a person “whom the appropriate authority has reason to believe to be of intemperate habits or unsound mind, or to be for any reason unfit to be entrusted with such a firearm or ammunition.”²⁷³ Consequently, the application form directly inquires if the person has been detained in a Mental Hospital five years before the date of application. However, no indicator of how that information was corroborated was found in the Act. If granted, a firearm licence or permit is valid for a period of one year.²⁷⁴

Licences, certificates, and permits may be revoked by the appropriate authorities, when it is determined that the holder has intemperate habits, is of unsound mind or is unfit to be trusted with such firearm and ammunition.²⁷⁵ No clear reference was found indicating how the aforementioned is determined by the authorities. In the case of appeals, the aggrieved party may appeal decisions before the Minister of National Security.²⁷⁶ The powers granted to the Minister allow for a broad coverage of several possible scenarios related to the revocation of the licence. However, because there is no specific mention of domestic violence, it also leaves room for omission of same.

The Firearms Act does not include specific provisions to tackle gender-based violence. However certain provisions may help fill that gap, such is the case of Section 43, through which a Justice of Peace could grant a search warrant to a police officer if there is information that an offence under the Act has been, is being or is about to be committed. This section also grants the ability to seize any firearm or ammunition found on the premises and retain them for as long as necessary for purposes of investigation.

Section 46 allows courts to order the forfeiture or disposal of any firearm and ammunition found in possession of a convicted person, and to give notice to the appropriate authority in order to revoke any firearm licence, certificate or permit.

Additional provisions linking firearm control and gender-based violence include the Trafficking in Persons (Prevention) Act (2008) and the Justice Protection Act (2012). In the case of the Trafficking in Persons Act, references can be found in Section 8 as conditions to be considered by the court to adjust the sentence for the crime of trafficking in persons; consequently the use or threat to use a dangerous weapon results in increasing the original sentence by two years.²⁷⁷

According to the Justice Protection Act, the Minister of Justice shall establish the Justice Protection Programme with the purpose of providing protection or assistance or both²⁷⁸ to its participants, among which are: witnesses, jurors, judicial officers, legal officers, law enforcement personnel, and associates of such persons.²⁷⁹ The offences, which may result in protection by the Programme include inter alia any domestic violence offence and any offence under the Firearms Act.²⁸⁰

²⁷¹ Ibid., 29 (1).

²⁷² Ibid., 29 (3) “restricted person” means any person who (a) is a habitual criminal; (b) has at any time within five years next before the event in relation to which the term is used (i) been declared by a court pursuant to section 3 to be a restricted person; or (ii) been convicted of an offence involving violence and sentenced to a term of imprisonment, whether with or without hard labour, exceeding three months.

²⁷³ Ibid., 29 (4).

²⁷⁴ Ibid., Section 34 (1).

²⁷⁵ Ibid., Section 36.

²⁷⁶ Ibid., Section 37.

²⁷⁷ Saint Kitts and Nevis. (2008). Trafficking in Persons (Prevention) Act, p. 15.

²⁷⁸ Saint Kitts and Nevis. (2012). Justice Protection Act. Section 3.

²⁷⁹ Ibid., Section 2.

²⁸⁰ Ibid., p. 17.



SAINT LUCIA

Saint Lucia's legal framework includes the Domestic Violence (Summary Proceedings) Act (1995), the Equality of Opportunity and Treatment in Employment and Occupation Act (2000), and the Counter-Trafficking Act (2010). Regarding the carrying and use of firearms and ammunition, the country is governed by its Firearms Act (2003).

The country is a State Party to both the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para)²⁸¹ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).²⁸² No legal provision criminalizing femicide was found in the country's legal framework.²⁸³

The Domestic Violence (Summary Proceedings) Act of 1995 includes a series of definitions, as well as provisions aiming to protect individuals from acts of domestic violence. Relevant protection mechanisms include protection and interim protection orders, which aim to prevent a respondent from committing certain actions, such as entering the household residence or surrounding area and making persistent telephone calls.²⁸⁴

However, it is important to highlight two elements. Firstly, the definition of domestic violence is limited to acts of violence committed by a member of the household to another member of the same household²⁸⁵ -with very few exceptions-, which leaves individuals, such as those involved in a visiting relationship outside the scope of protection. Secondly, no provisions have been made to prohibit the use or surrender of firearms if an application for a protection/interim protection order is presented.

Section 2 of the Act establishes orders issued by a Family Court or a Court of Summary Jurisdiction, similar to other legislation in the region, while proceedings are developing or when an ex parte notification is made. Courts have the possibility to issue an interim protection²⁸⁶ order, which could later be substituted by a protection order.²⁸⁷

In addition to covering the conditions to issue orders, the Act also details the responsibilities and capacities of police officers in a context of domestic violence. According to Section 5, when a protection order is in force, police officers are able to arrest a person without a warrant if there is reasonable cause to suspect that a breach of an order was committed, or if the arrest is reasonably necessary to protect the applicant. However, it is important to highlight that law enforcement is also able to exercise the power of arrest even when there is no order in place with the goal of protecting a victim of domestic violence from further abuse.

Under Section 22, provisions related to court ordered counselling are included. However, considering the risk of re-victimization faced by the victim, it is important to analyse the implications or possible effects of said counselling. Involved parties who do not attend the recommended counselling may be summoned to reappear before the court whereby fines could also be potentially imposed.

In the reviewed Domestic Violence Act, no references to firearms, weapons, or the existence of a Domestic Violence Register were found.

²⁸¹ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará" <https://www.oas.org/Juridico/English/Sigs/A-61.html>

²⁸² Convention on the Elimination of All Forms of Discrimination against Women https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4

²⁸³ Follow-Up Mechanism Convention of Belém Do Pará [MESECVI]. (2017). Saint Lucia Country Report, p. 2.

²⁸⁴ Saint Lucia. (1995). Domestic Violence (Summary Proceedings) Act. Section 4(1).

²⁸⁵ Ibid., Section 2.

²⁸⁶ Ibid., Section 4 (4).

²⁸⁷ Ibid., Section 17 (1).

In the case of the Counter-Trafficking Act of 2010, the only reference to firearms appears as an aggravating circumstance, when committing the offence of trafficking in persons, in such a case two years are added to the sentence if a person used or threatened to use a dangerous weapon.²⁸⁸

The Firearms Act of 2003 regulates the carrying and use of firearms and ammunition in Saint Lucia. According to this Act, a firearm user licence is needed to use, carry, possess, purchase or acquire a firearm or ammunition.²⁸⁹ Such a licence could be granted or renewed by the Commissioner of Police,²⁹⁰ if he/she is satisfied that the applicant *inter alia* has completed a firearms and ammunition safety course, obtains a certificate of competence from a designated institution, is not a restricted person, and demonstrates a good cause for the purchase. However, even when all the requisites in the Act are fulfilled, the instrument leaves a wide margin for the authority to decide whether to grant the licence. In this sense, the Commissioner of Police must be satisfied the applicant has a justifiable need to acquire a firearm²⁹¹ and that by approving the issuance of the licence, the public or the peace will not be endangered.

The Act includes a series of prohibitions to grant licences. A licence shall not be granted to someone declared by a court as a restricted person, defined by section 2 of the Act and comprising the following: a person over 18 years of age who, in the past two years, was convicted of an offence under the Firearms Act and any other national law, those convicted and sentenced of an offence to imprisonment exceeding two years, and a person convicted of an offence involving violence and sentenced to imprisonment exceeding six months.²⁹² Additional prohibitions include granting licences to persons of intemperate habits and known violent nature, under 18 years old, and persons for any reason considered unfit to be entrusted with a firearm and ammunition.²⁹³

The abovementioned prohibitions also constitute reasons to revoke a firearm licence.²⁹⁴ Additionally, it is important to highlight that a firearm licence can be revoked not only upon conviction, but also when the holder is charged.²⁹⁵ Given that, in many cases, convictions take a significant amount of time to be issued by Courts, allowing alleged perpetrators the opportunity to exert violence. The revocation of the licence when a holder is charged provides a protection opportunity in cases of gender-based violence.

The Act also includes specific timeframes for the submission of the firearm and associated firearm licence, following receipt of the notice of revocation of the related firearm²⁹⁶ (three days after the notice is delivered to the holder). Additionally, the Act also establishes provisions for scenarios including a holder with multiple licences,²⁹⁷ whereby all licences will be deemed to be revoked.

Similar measures are also included in the case of the suspension of a licence, which proceeds when in the opinion of the Commissioner of Police, the suspension is in the public interest, pending the results of the proceedings, and when a firearm was involved in the commission of offences contemplated under Saint Lucian law.²⁹⁸ Like revocation, when suspended, a licence and the related firearm have to be delivered to the Commissioner of Police. In this instance, the timeframe is extended to seven days.²⁹⁹ It is important from a gender-based violence prevention perspective to evaluate whether the aforementioned timeframes are in fact optimal to preserve the life and well-being of victims of violence.

The Act also establishes an appeal process in the following cases: denial to grant or amend a licence; revocation of a licence; refusal to grant exemptions regarding the possession of firearms and ammunition. The appeal shall be presented before the High Court. However, it is imperative to highlight that if the aggrieved party already holds a licence and is in possession of a firearm and ammunition, these must be deposited with the Commissioner of Police before appealing.³⁰⁰

²⁸⁸ Saint Lucia. (2010). Counter Trafficking Act. Section 10 (a).

²⁸⁹ Saint Lucia. (2003). Firearms Act. Section 13 (1a).

²⁹⁰ *Ibid.*, Section 4 (4).

²⁹¹ *Ibid.*, Section 4 (6).

²⁹² *Ibid.*, Section 2.

²⁹³ *Ibid.*, Section 11 (1).

²⁹⁴ *Ibid.*, Section 9.

²⁹⁵ *Ibid.*, Section 9 (c).

²⁹⁶ *Ibid.*, Section 9 (2).

²⁹⁷ *Ibid.*, Section 9 (3).

²⁹⁸ Section 8 (1).

²⁹⁹ *Ibid.*, Section 8 (2).

³⁰⁰ *Ibid.*, Section 10.

Certain types of licences³⁰¹ (firearm dealer licence or the antique firearm collector licence³⁰²) include, among their requisites, the mandate to maintain a register. However, no reference was found detailing the extent or scope of a licence register.

Finally, it is important to outline that the Act also includes provisions regarding the use of firearms when committing certain offences related to gender-based violence, such as rape or unlawful carnal knowledge,³⁰³ offences which -in many cases- are not contemplated in Firearms Acts.



SAINT VINCENT AND THE GRENADINES

The country is a State Party to both the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para)³⁰⁴ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).³⁰⁵

On 30 April 2015, Saint Vincent and the Grenadines (SVG) passed the Domestic Violence Act, 2015, replacing the Domestic Violence (Summary Proceedings) Act, 1995.³⁰⁶ The new Act defines domestic violence as “any controlling or abusive behavior that harms the health, safety or well-being of a person or any child.”³⁰⁷

The Domestic Violence Act establishes that “firearm”³⁰⁸ shall have the meaning assigned to it under the Firearms Act, 1995 (amended in 2004). One of the most relevant provisions regarding firearms control in the Domestic Violence Act relates to seizing: “The Court may make an order directing a police officer to seize any firearm or dangerous weapon in the possession of the respondent” if the affidavit made pursuant to section 5 (6) -application of a protection order- contains information to the effect that **1)** “the respondent has threatened or expressed the intention to kill or injure any person in a domestic relationship, including himself or herself whether or not by means of the firearm or dangerous weapon” or **2)** “possession of the firearm or dangerous weapon is not in the best interests of the respondent or any other person as a result of the respondent’s” state of mind or mental condition, and inclination to violence (whether a firearm or a dangerous weapon was used in the violence or not).³⁰⁹

In accordance with the Domestic Violence Act, in order for the firearm seizure to be ordered by the court, the applicant shall request in the “Application for protection order” that a member of the police force seizes “the arm or dangerous weapon as specified in the affidavit.”³¹⁰ The firearm seizure shall be carried out providing the court grants it; in this case, the court will direct the Registrar³¹¹ to submit a copy of the mentioned affidavit to the Commissioner of Police for consideration in accordance with the Firearms Act.³¹²

The importance of seizing a firearm lies in being a cautionary measure aimed at mitigating the chances for a respondent to use a firearm to intimidate, threat to kill or kill the applicant before a protection order is issued by the

³⁰¹ Ibid., Section 15 (4).

³⁰² Ibid., Section 17 (4).

³⁰³ Ibid., Section 47 (1).

³⁰⁴ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará" <https://www.oas.org/Juridico/English/Sigs/A-61.html>

³⁰⁵ Convention on the Elimination of All Forms of Discrimination against Women https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4

³⁰⁶ <https://caribbean.unwomen.org/en/caribbean-gender-portal/st-vincent-and-grenadines>

³⁰⁷ Domestic Violence Act, 2015, Section 2, p. 165.

³⁰⁸ Domestic Violence Act, 2015, Section 2, p. 166.

³⁰⁹ Domestic Violence Act, 2015, Section 9 (1), p. 175.

³¹⁰ Domestic Violence Act, 2015, Schedule 2, Form 1, Application for Protection Order, p. 191.

³¹¹ The Domestic Violence Act, 2015, in Section 2, defines Registrar as “any person assigned to the Court to perform the functions of registrar of the Court”.

³¹² Domestic Violence Act, 2015, Section 9 (2), p. 175.

court. However, this provision is relevant to the extent that it is carried out in an expedited manner. It would be convenient that the court issue the firearm seizure order with the least possible delay to ensure greater protection of applicant. A slightly more aggressive provision could also be administered whereby the firearm is seized at the same moment the complaint is made. This cautionary measure could then be reviewed by the court once the application for the protection order is submitted.

Regarding the powers of police officers related to cases of domestic violence, when responding to a case in that regard, a police officer shall complete a report, which shall form part of a “Domestic Violence Register” to be maintained by the Commissioner of Police.³¹³ It is relevant to note that a domestic violence report must include, *inter alia*, the type of abuse “and the weapon used, if any.”³¹⁴ This Register could be helpful for SVG Government to maintain data on domestic violence with firearms.

The Firearms Act of 1995 (amended in 2004), provides that a Magistrate or Justice of the Peace may authorize a police officer “to seize any firearm or ammunition” in respect of which he/she has reasonable grounds for suspecting that “an offence has been, is being or is about to be committed.”³¹⁵ Even though the Firearms Act does not specifically refer to a domestic violence-related offence, this provision allows one to interpret that an offence in relation to the Domestic Violence Act can also lead to the seizure of a firearm. This provision is important since seizing a firearm is not limited to circumstances related to prior domestic violence cases, but rather contemplates the respondent to be inclined to act violently. If the respondent has threatened to kill or injure a person within a domestic relationship, this would constitute sufficient justification to seize a weapon in the interest of the victim.

The Firearms Act also refers to provisions regarding the possession of a firearm with intent to injure: “Any person having in his possession any firearm or ammunition with intent to endanger life or cause injury to person or property or to enable any other person to endanger life or cause injury to person or property whether or not any injury has been caused commits an offence and is liable”³¹⁶ on summary conviction. Additionally, no licence or permit shall be granted to a person “of intemperate habits” or who “for any reason is considered unfit to be entrusted with a firearm or ammunition.”³¹⁷ According to the Firearms Act, the authority “may revoke” a licence or permit if he/she is satisfied that the holder “is of intemperate habits or unsound mind.”³¹⁸ It would be relevant that domestic violence cases be considered by the Commissioner of Police in this regard. In the absence of a specific regulation or law, the powers granted to the Commissioner allows for a broad coverage of several possible scenarios related to the revocation of the licence. However, since there is no specific mention of domestic violence, it also leaves room for its omission.

According to the Firearms Act, a person shall not have in his/her possession any firearm or ammunition unless he/she is in possession of the appropriate licence or permit. It is worth mentioning that the Firearms Act establishes that a court may declare as “restricted person” –for whom no licence or permit shall be granted– to a person who within the preceding five years has committed, *inter alia*, an “offence involving violence and sentenced to a term of imprisonment exceeding six months.”³¹⁹ An interpretation could arise in the sense that an “offence involving violence and sentenced to a term of imprisonment exceeding six months” includes a domestic violence offence. If that is not the case, it would be important that the Commissioner of Police –the responsible authority for granting, renewal or revocation of a licence or permit– consider the record of domestic violence offences when deciding to declare whether a person is “restricted”.

Finally, in the Prevention of Trafficking in Persons Act, 2014, there is a brief reference to violence against women and arms control. In this Act, there is a reference of using and threatening to use a “dangerous weapon” as an aggravating circumstance when a person convicted of an offence in trafficking in persons used such weapon.³²⁰ While matters related to the trafficking in persons fall outside the purview of this legal study, it is worth mentioning said reference due to the linkage between these offences and gender-based violence.

³¹³ Domestic Violence Act, 2015, Section 19 (2), p. 180.

³¹⁴ Domestic Violence Act, 2015, Section 19 (2), e, p. 181.

³¹⁵ Firearms Act, 2004, Section 32 (1).

³¹⁶ Firearms Act, 2004, Section 18.

³¹⁷ Firearms Act, 2004, Section 7.

³¹⁸ Firearms Act, 2004, Section 12.

³¹⁹ Firearms Act, 2004, Section 2.

³²⁰ Prevention of Trafficking in Persons Act, 2011, Section 8 (1), p. 142.



THE BAHAMAS

The Bahamas introduced its domestic violence legislation in 2007 with the Domestic Violence (Protection Orders) Act Chapter 99A,³²¹ which subsequently came into force in December 2008. The legislative provision for the control of firearms and ammunition is the Firearms Act Chapter 213,³²² which was amended in 2014.

The country is a State Party of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para)³²³ and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).³²⁴

The Bahamas has not yet incorporated specific criminal legislation on femicide to its framework, therefore relying on general criminal law to address gender-based violence.

The Domestic Violence Act provides for the court to grant Protection Orders where an application has been made for such an order and the court is satisfied that a person -has engaged in, threatened to engage in, or attempted to engage in conduct that is capable of constituting domestic violence, or, has engaged in conduct that may be regarded as harassment of the spouse, partner, child or other member of a household. If the court is satisfied that such a person has or is likely to engage in such conduct, the court may issue a Protection Order.³²⁵

Protection Orders are intended to restrain persons from engaging in both domestic violence and harassment.³²⁶ They can be applied for by a spouse or partner who is a victim of domestic violence, any other member of a household, a child of the household, an agent of the victim, the Commissioner of Police or an officer of the Department of Social Services.³²⁷ Unlike other jurisdictions, persons in 'visiting relationships' are not expressly covered. However, 'partners' as defined in the legislation, are afforded relief as victims of domestic violence, if they are living together with persons of the opposite sex, or not living together, but have had or are having an intimate relationship with a member of the opposite sex.³²⁸

The Act provides for relief for victims of domestic violence in the form of an Interim Order, which may be granted before an application for a Protection Order is determined.³²⁹ For the Interim Order to be granted, the complainant must have given oral evidence on oath or in an affidavit, and the Interim Order may be for such period as the court deems necessary.

Applications for Protection Orders are heard within two days after the date of service of the application to the respondent or as soon as possible after.³³⁰ As a preliminary measure, and upon the appearance of a respondent, the Act allows magistrates to ameliorate complaints "through counselling or parenting sessions."³³¹ Magistrates may also accept under oath, an undertaking from the respondent that they will not engage in any acts of domestic violence stated in the complaint and proceed to make a Protection Order/Interim Order in respect of the undertaking. The undertaking shall remain in force for a period not exceeding two years.³³²

³²¹ Domestic Violence Act Chapter 99A.

³²² Firearms Act Chapter 213.

³²³ Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women "Convention of Belém do Pará" <https://www.oas.org/Juridico/English/Sigs/A-61.html>

³²⁴ Convention on the Elimination of All Forms of Discrimination against Women https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4

³²⁵ Domestic Violence Act Chapter 213, Section 3.

³²⁶ *Ibid.*, Section 3.

³²⁷ *Ibid.*, Section 4.

³²⁸ *Ibid.*, Section 2.

³²⁹ *Ibid.*, Section 4.

³³⁰ *Ibid.*, Section 4.

³³¹ *Ibid.*, Section 5.

³³² *Ibid.*, Section 5.

Protection Orders are available for domestic violence victims who suffer physical abuse at the hands of a respondent, in relation to several firearm-related offences, including possession of firearm with intent, shooting or wounding with intent or inflicting injury with or without a weapon. The Act includes one firearm control provision that is similar to provisions in other Caribbean domestic violence legislation. It states that a Protection Order may, amongst other prohibitions, direct that the respondent or abuser, among other things, “relinquish to the police any firearm licence, firearm or other weapon which may or may not have been used but which the court considers just to order.”³³³

The Act provides police officers with various duties, which can be gleaned from various sections. Police officers can apply for Protection Orders on behalf of a complainant. These officers must maintain copies of Orders in their district and are entrusted with a power to arrest persons in breach of an Order. They may likewise enter premises without a warrant to provide assistance to victims of domestic violence and provide a written report on such actions. They must also compile such reports, obtain medical treatment for victims, take victims to places of safety and advise victims on preserving evidence and their rights to victim services. Unlike other jurisdictions, there is no expressed provision for magistrates to order the removal of the abuser from the home, or for police to enforce such an order. However, if victims need assistance to retrieve personal belongings from where the respondent resides, then police officers must protect victims and assist them to retrieve the same. There is no explicit requirement for officers to respond to every domestic violence complaint or report, file a domestic violence report, or maintain a National Domestic Violence Register.³³⁴

The Firearms Act Chapter 213 is the primary legislation for the control of arms and ammunition. The Act originated in 1969 and was updated several times since, notably in 2014. The Act places a general restriction on persons from purchasing, acquiring, or having in their possession any firearm, including a smooth bore gun, or ammunition unless he/she holds a firearm certificate granted by the Commissioner of Police.³³⁵ In granting permission to acquire a firearm certificate, the Commissioner must be satisfied that the applicant would not be a danger to the public safety or peace, is not of intemperate habits or unsound mind, or otherwise unfit to be entrusted with a firearm. Similarly, the Commissioner may revoke the firearm certificate if he/she is no longer satisfied that the certificate holder meets those stipulations. Revocation can be appealed to the Licensing Authority who can confirm, vary or revoke the decision of the Commissioner.³³⁶

No clear reference was found in the Firearms Act indicating how the Commissioner would determine that a person has intemperate habits, is of unsound mind or unfit to be trusted with a firearm or ammunition. This apparent gap in the legislation presents the Commissioner with discretion, when assessing the application of an individual, to find that the applicant’s violent inclination renders them unfit to hold such a licence.

The Commissioner of Police has the discretion to withdraw a licence where a licence holder has been convicted of an offence under the Firearms Act or when the Licensing Authority deems it necessary for public peace.³³⁷ A person aggrieved by the Commissioner’s decision can appeal to the Licensing Authority, however, a decision of the Authority is final and shall not be called into question by any court.³³⁸

The Act prohibits several categories of persons from possessing firearms and ammunition. These include persons under 18 years of age and persons convicted and sentenced to imprisonment for three months or more. The latter are restricted from having a firearm or ammunition in their possession for five years following their release from custody. Additionally, a person under supervision of the police or subject to a recognisance to keep the peace, shall not possess a firearm or ammunition.³³⁹ These provisions can be indirectly related to convictions that may arise from breaches of the Domestic Violence legislation. However, domestic violence offenders are not explicitly restricted from acquiring a

³³³ Ibid., Section 8.

³³⁴ Ibid., Section 3, 4, 8, 10, 14, 16, 27, 28.

³³⁵ Firearms Act Chapter 213, Section 9, 10, 16.

³³⁶ Ibid., Section 10.

³³⁷ Ibid., Section 19.

³³⁸ Ibid., Section 20.

³³⁹ Ibid., Section 32.

firearm certificate as in some Caribbean jurisdictions. It is noteworthy that persons debarred from having firearms or ammunition based on a conviction, can apply for removal of these prohibitions.³⁴⁰ Thus, there is the potential for a convicted domestic violence offender to regain their certificate to possess firearms and ammunition.

Other legislative provisions incorporating linkages between firearms control and gender-based violence include the Trafficking in Persons (Prevention and Suppression) Act Chapter 106 of 2008 and the Justice Protection Act, Chapter 64A 2006. In the case of the Trafficking in Persons Act, references can be found under Section 8 for the court to adjust the sentence for the crime of trafficking in persons, if the convicted person used, threatened to use, or caused another person to use or threaten to use a dangerous weapon. In such instances, the sentence may be increased by up to two years. In the legislation, a “dangerous weapon” means an instrument capable of inflicting death or serious bodily injury.³⁴¹

The Justice Protection Act Chapter 64A provides for the establishment of a justice protection programme which offers protection or assistance to participants in criminal cases³⁴² including possession or use of firearms and ammunition with intent to injure, possession or use of firearms in furtherance of any criminal offence, shooting or wounding with intent to do grievous bodily harm and any domestic violence offence.³⁴³ Like other Caribbean jurisdictions, witnesses and victims of domestic violence can receive formal physical protection from the State under this Act.

Additional linkages can be found between gender-based violence, firearm control and bail. While bail is a right, the Bail Act Chapter 103 of 1994 as amended in 2011, 2012 and 2014, restricts the right to bail for persons charged with firearm-related offences, after having been previously convicted of a similar offence and the imprisonment on that conviction ceased within the last five years.³⁴⁴



TRINIDAD AND TOBAGO

Trinidad and Tobago introduced Domestic Violence legislation into its national laws in 1991 and updated this in 1999, in 2006, and most recently in 2020. The current legislation is the Domestic Violence Act Chapter 45:56.³⁴⁵ The legislative provision for the control of firearms and ammunition is the Firearms Act Chapter 16:01,³⁴⁶ recently amended in 2019.

The country is a State Party of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belém do Pará)³⁴⁷ and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).³⁴⁸ Furthermore, Trinidad and Tobago has not yet incorporated specific criminal legislation on femicide to its framework, therefore relying on general domestic violence and complementary legislation to address gender-based violence.

The Domestic Violence Act Chapter 45:56 was introduced to “provide greater protection for victims of domestic violence.”³⁴⁹ The aims of the legislation as documented in Section 2 are to “(a) provide immediate injunctive relief to victims of domestic violence; and (b) ensure a prompt and just legal remedy for victims of domestic violence.”³⁵⁰ To get

³⁴⁰ Ibid.

³⁴¹ Trafficking in Persons (Prevention and Suppression) Act Chapter 106 of 2008, Section 8.

³⁴² Ibid., Section Sec 12.

³⁴³ Ibid., Section First Schedule.

³⁴⁴ Bail Act Chapter 103, Section 4.

³⁴⁵ Domestic Violence Act Chapter 45:56.

³⁴⁶ Firearms Act Chapter 16:01.

³⁴⁷ UNDP and UN Women. (2017). From Commitment to Action: Policies to End Violence Against Women in Latin America and the Caribbean. Panamá.

³⁴⁸ UN Women. (n.d.). Trinidad and Tobago.

³⁴⁹ Domestic Violence Act, p. 5.

³⁵⁰ Ibid., Section 2.

relief under the Act, a victim of domestic violence need not be subject to physical harm only nor limited to being in a marital relationship with the abuser. In addition to physical abuse, sexual, emotional, psychological and financial abuse are classified as domestic violence, if committed against a person who is in a domestic relationship with the respondent.³⁵¹ The recent amendment of the Domestic Violence Act modifies the definition of domestic violence by incorporating a broad concept of domestic relationship, which extends to the relationship between the alleged abuser and the spouse or former spouse, a cohabitant or former cohabitant, a person who is or was in a visiting or dating relationship, a member of the household of the respondent or the victim, a person who has a child with the respondent, among others.

The Act provides for two forms of relief for victims of domestic violence, a Protection Order and an Interim Order. Among the concurring conditions to be an applicant for a Protection Order are the existence of a 'domestic relationship' between the applicant and the respondent or abuser.³⁵² As mentioned above, these include, but are not limited to marriage. Police officers, probation officers and social workers can also apply on behalf of any person to whom the norm grants the possibility of being a beneficiary of a Protection Order.

A Protection Order may, amongst other prohibitions, direct that the respondent or abuser, "relinquish to the police any firearm licence, firearm or other weapon which he may have in his possession or control and which may or may not have been used."³⁵³ The Order shall be in force for no more than three years. The Act provides for the possibility for the victim to apply for a Protection Order, and obtain an Interim Order,³⁵⁴ prior to the completion of the full adjudication of the application. An Interim Order shall be in effect until it is revoked, the application for a Protection Order is withdrawn or dismissed or the Protection order is made; and can include the same prohibitions as the Protection Order itself.

The Domestic Violence Act has been also amended by incorporating the Emergency Protection Orders. If it is not feasible for the applicant to access the Court seeking for an Interim Order, a police officer of or above a certain rank may, on behalf of the applicant, make an emergency application to the Family Court for a Protection Order. The concurring condition to place such application is that the applicant has suffered or is in imminent danger of serious physical injury at the hands of the respondent.³⁵⁵

Another amendment to the Domestic Violence Act is to give the Court the possibility to issue or extend a Protection Order against a person convicted of a serious crime, provided that the victim consents and has a domestic relationship with the convicted person. In such cases, the duration of the measure may exceed the general term of three years, always with the purpose of protecting the victim. The same Act incorporates a list of what is to be considered a serious offence for this purpose. These include crimes, such as attempted murder or rape.

Firearm control provisions are included among the duties of police officers under the Domestic Violence legislation, similar to provisions in other Caribbean domestic violence legislation. In that regard, the Commissioner of Police has to ensure that every order, as well as domestic violence reports are entered in the National Domestic Violence Register maintained, in electronic form, by the Commissioner of Police. Among the information to be included is the detail of the abuse and the type of weapon used.³⁵⁶

The Firearms Act Chapter 16:01 is the primary legislation for the control of arms and ammunition. The Act originated in 1970 and was last updated in 2019. The Act places a general restriction on persons from possessing, selling, transferring or acquiring a firearm without a licence, certificate or permit duly authorised by the Commissioner of Police.³⁵⁷ The Commissioner has a discretion to grant a licence, certificate or permit,³⁵⁸ can impose conditions to hold

³⁵¹ Ibid., Section 3.

³⁵² Ibid., Section 4.

³⁵³ Ibid., Section 6.

³⁵⁴ Ibid., Section 8.

³⁵⁵ Ibid., Section 20 A.

³⁵⁶ Ibid., Section 21.

³⁵⁷ Firearms Act Chapter 16:01., Section 5, 6.

³⁵⁸ Ibid., Section 17.

³⁵⁹ Ibid., Section 18.

same,³⁵⁹ and may revoke a licence, certificate or permit if the licence holder is of intemperate habits or of unsound mind, or is otherwise unfit to be entrusted with such a firearm or ammunition.³⁶⁰ Yet no clear reference was found in the Firearms Act indicating how it is determined by the Commissioner that a person has intemperate habits, is unsound of mind or unfit to be trusted with a firearm or ammunition. This apparent gap in the legislation presents the Commissioner with discretion, when assessing the application of an individual, to find that the applicant's violent inclination renders him unfit to hold such a licence. Notwithstanding this, a person dissatisfied with the decision of the Commissioner not to issue, or to revoke a licence, certificate or permit may appeal that decision to the Firearms Appeal Board.³⁶¹

Domestic violence offenders are restricted from acquiring a licence, certificate or permit for a period of five years following conviction, or, can have their licence, certificate or permit revoked for a similar period. Notwithstanding this, the Firearms Act grants such a person the right to appeal these decisions. It is interesting to note that in 2011,³⁶² the Firearms Act was amended by deleting the word "shall" which connotes a mandatory action and substituting it with the word "may", which is not mandatory, in Section 21B³⁶³ thereby granting the Commissioner some flexibility in suspending the licence or certificate of a person convicted of domestic violence. This appears to be a setback, leaving the Commissioner with discretion to suspend the licence of a convicted offender.

While the Firearms Act appears to have limited scope in relation to gender-based violence, Section 22 of the Act presents an opportunity for the Commissioner to, for the purpose of safeguarding the public, temporarily suspend any licence, certificate or permit and to require persons to temporarily hand them over to the police.³⁶⁴

Legislative provisions incorporating linkages between firearms control and gender-based violence include the Trafficking in Persons (Prevention) Act, 2008 and the Justice Protection Act, 2012. In the case of the Trafficking in Persons Act, references can be found under Section 21 as conditions to be considered by the Court to adjust the sentence for the crime of trafficking in persons. Consequently, the use or threat to use a dangerous weapon in such a crime can result in an increase in sentence of up to fifteen years.³⁶⁵

The preamble to the Justice Protection Act Chapter 5:33 states that the Act shall provide for the establishment of a programme for the protection of certain witnesses and other persons,³⁶⁶ including participants, among which are witnesses, jurors, judicial officers, legal officers, law enforcement personnel, associates of such persons.³⁶⁷ The offences which may result in protection by the programme are inter alia any domestic violence offence, possession or use of firearms and ammunition with intent to injure and possession or use of firearms in furtherance of any criminal offence.³⁶⁸ Potentially, witnesses and victims of domestic violence can receive formal physical protection from the State under this Act.

Additional linkages can be found between gender-based violence, firearm control, bail and sentencing. In 2019 the Bail Act was amended to deny bail for up to one hundred and twenty days, for someone charged before the courts for a firearm related offence, and who has been convicted of or has an outstanding charge for a similar offence.³⁶⁹ Additionally, a court may impose a sentence of community service³⁷⁰ for domestic violence offences but not for firearms related crimes. Likewise, electronic monitoring³⁷¹ can be condition for the granting of bail, a Protection Order under the Domestic Violence Act or utilised in lieu of a custodial sentence. Electronic monitoring is not available for an offence under the firearms act.

³⁶⁰ Ibid., Section 21.

³⁶¹ Ibid., Section 21A.

³⁶² Act No. 2 of 2011.

³⁶³ Firearms Act Chapter 16:01., Section 21B.

³⁶⁴ Ibid., Section 22.

³⁶⁵ Trafficking in Persons Act Chapter 12:10.

³⁶⁶ Justice Protection Act Chapter 5:33.

³⁶⁷ Ibid., Section 3.

³⁶⁸ Ibid., First Schedule.

³⁶⁹ An Act To Amend the Bail Act Chapter 4:60.

³⁷⁰ Community Service Orders Act Chapter 13:06.

³⁷¹ Act No. 11 of 2012.

4.

CONCLUSIONS AND RECOMMENDATIONS

It is complex to draw conclusions that may be equally applicable to each of the legal frameworks of the Caribbean States analysed in this study. Having addressed this review country by country, this section proposes to offer generic conclusions regarding the analysis undertaken. It is thus possible to highlight the incorporation of the following basic measures with nuances between countries:

- Countries in the Caribbean region have incorporated Domestic Violence Acts, which revolve around the protection of victims through protection orders and interim protection orders, where the scope of protection is determined by establishing if there is a domestic relationship between the alleged perpetrator and the victim. This scope of protection varies from country to country, depending on whether the concept of domestic relationship is broader or more restricted.
- Most countries in the Caribbean have included in their Domestic Violence legislation the possibility to order the seizure/surrender of firearms and licences when used in acts of domestic violence, and when there has been a threat of committing such acts or whether there is a risk of such acts occurring.
- Countries in the region contemplate the discretionary granting and cancellation or revocation of firearm licences. Requirements and prohibitions are included in substantive legislation, which provides a major level of juridical security (Firearms Act). Countries in the region have not incorporated gender-specific considerations into provisions that state the requirements or prohibitions for the application or revocation of a licence. The granting of these licences, and -in most cases- their revocation depends upon the concurrence of the concept of restricted person (related to their criminal record) or on another set of requirements. However, some of these requirements and provisions present a difficulty, as there is no indication of how they are to be determined. For instance, determining if a person is of intemperate habits, unsound mind or unfitted to be entrusted with a firearm licence. Additionally, it is important to note that, while the concept of a restricted person and other requirements incorporated in the national provisions may provide a legal basis for considering violence against women through a discretionary assessment by the competent authority, this consideration is not specifically reflected in the provisions and is therefore not guaranteed to be automatically assessed.

In the criminal sphere, it was also noticed that, generally, the crime of femicide is not incorporated within the legal framework across the region.

Existing legislation does not mandate the need to keep statistical records or compile and maintain statistical information on acts of violence committed against women, especially when committed with a firearm. The configuration and the data available in the domestic reports, where they do exist, have not been analysed in this document, but it is worth noting the need to deepen the study of statistical data in order to establish the links between the possession of firearms and the prevalence of gender-based violent crimes. It is essential to broaden the scope of the data recorded in relation to acts of violence against women committed with firearms, so that these are not just limited to the means of commission.

A significant number of homicides and other crimes against women occur in domestic or intimate settings. It is estimated that many of these crimes are not reported and, since they take place in a private sphere, are unknown.

For all the abovementioned reasons, it is necessary that the issuing authority of a firearm user licence carries out an analysis of suitability of the applicant. When the suitability of the candidate is analysed, his non-violent profile is

normally established by excluding the existence of criminal records or interim/protection orders. Nevertheless, this might not be effective enough. In order to determine a risk profile, it is important to know whether there is a police record or complaints of violent behaviour, which may not have resulted in criminal records or restraining or protection orders. This could help identify a violent profile and, therefore, determine the existence of a high-risk situation.

The competent authority could receive information from the police, or even from current or former partners of the person requesting the licence.³⁷² These practices have already been incorporated by countries, such as Australia and Canada, whose legislation gives the competent authority the possibility of interviewing spouses/partners and even neighbours, social or community workers, dependents, co-workers, or any other person who can provide useful information to determine or exclude a risk of violent behaviour inside or outside the home.³⁷³

In addition, the absence of a criminal record is sometimes only referred to serious crimes, thus excluding those relating to less serious crimes (for example, minor injuries) or misdemeanours, and consequently discarding valuable elements of analysis.

On the other hand, the consideration to justify the need for a firearm at the time of applying for a firearms user licence could contribute to the analysis of each situation, avoiding a disproportionate or unjustified volume of firearms. Although this is a condition that could be applied in general, the potential favourable effects of its application in terms of prevention and reduction of gender-based violence should be assessed.

Measures to limit the presence of firearms in the household may consist of **restricting the bearing of firearms to law enforcement or private security workers, so that it is limited to their service or working hours**. In Argentina,³⁷⁴ for example, the Ministry of Security restricted the possession and bearing of the service firearm for law enforcement personnel with a history of family violence, psychiatric leave or under investigation for the use of force in the exercise of their functions. The regulation is an explicit reference to the Law of Comprehensive Protection of Women and the Law of Protection against Family Violence.³⁷⁵ The interrelation of regulations governing possession of firearms and those relating to the prevention of violence against women may only be effective if they are accompanied by effective data recording systems linked to both the possession of firearms and incidents related to violence against women. Likewise, action protocols and effective channels for information exchange between competent authorities (the judiciary, prosecutor, police, the authority for the control of firearms, entities for the care and protection of victims, etc.) are needed.

From the previously considered elements, the following recommendations can be put forth:

- Implement effective regulation to prevent the proliferation of firearms, both from the point of view of access of civilians to firearms, and the combat against illicit trafficking. This regulation could consider incorporating the requirement to justify the need for the firearm among other requirements to access a firearms user licence, as already implemented by some of the countries in the region.
- A positive and effective measure would be the establishment of links between the regulations governing the possession of firearms and those related to the prevention and eradication of violence against women.
- The reasons to deny/grant a firearms user licence should not be limited to the absence of a criminal record or even a history of gender-based violence, but rather an evaluation of the candidate that

³⁷² Guns and Violence against Women (2015).

³⁷³ Australia: Firearms National Agreement (1996) y Canada: Firearms Act (1995).

³⁷⁴ Argentina: Resolución 1515/2012 que afecta al personal de la Policía Federal, la Prefectura Naval, la Gendarmería y la Policía de Seguridad Aeroportuaria, los cuerpos policiales y las fuerzas de seguridad con el objetivo de proteger la integridad física, psicológica y moral de las personas (2012).

³⁷⁵ Argentina: Ley de Protección integral para prevenir, sancionar y erradicar la violencia contra las mujeres en los ámbitos en que desarrollen sus relaciones interpersonales y Ley de Protección contra la Violencia Familiar.

allows the competent authority to include and outline the risk of violent behaviour. This should be applied both for the issuance of first-time licences and for renewals.

- Consider suspending and revoking licenses in cases related to gender-based violence, domestic or intra-family violence.
- Precautionary measures must be established by seizing any firearm from an aggressor, or any other firearm in the household, legal or illegal, before the suspension of the possession licence or the issuance of a protection order.
- Strengthen data recording systems related to firearms and licences, as well as data related to episodes of violence against women, expanding the data recorded to improve not only regulatory provisions, but also public policies in general for prevention of violence against women. Along that line, effective action protocols and channels for exchanging information between competent authorities (judiciary, prosecutor, police, control authority for small arms, bodies for care and protection of victims, etc.) must be established.

BIBLIOGRAPHY

- Committee on the Elimination of Discrimination against Women (2017): General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/GC/35&Lang=en
- Follow-Up Mechanism Convention of Belém Do Pará [MESECVI]. (2012). Dominica Country Report.
- Follow-up Mechanism to the Belém do Pará Convention [MESECVI]. Antigua and Barbuda Country Report Third Round. (2017). Available at <https://www.oas.org/en/mesecvi/docs/FinalReport2017-AntiguaBarbuda.pdf>
- Follow-up Mechanism Convention of Belém do Pará [MESECVI]. (2012). Guyana Country Report Second Round. Available at <http://www.oas.org/en/mesecvi/NationalReportsSecondRound.asp>
- Follow-Up Mechanism Convention of Belém Do Pará [MESECVI]. (2017). Jamaica Country Report Third Round. Available at: <http://www.oas.org/es/mesecvi/docs/FinalReport2017-Jamaica.pdf>
- Follow-up Mechanism Convention of Belém do Pará [MESECVI]. (2017). Saint Kitts and Nevis Country Report Third Round. Available at <http://www.oas.org/es/mesecvi/docs/FinalReport2017-SaintKitts.pdf>
- Follow-Up Mechanism Convention of Belém Do Pará [MESECVI]. (2017). Saint Lucia Country Report. Available at <http://www.oas.org/es/mesecvi/docs/FinalReport2017-SaintLucia.pdf>
- Follow-Up Mechanism Convention of Belém Do Pará [MESECVI]. (2017). Saint Vincent and the Grenadines Country Report Third Round. Available at <http://www.oas.org/es/mesecvi/docs/FinalReport2017-SaintVincentGrenadines.pdf>
- Follow-up Mechanism to the Belém do Pará Convention [MESECVI]. (2017). Inter-American Model Law on the Prevention, Punishment and Eradication of Violence against Women in Political Life. Available at <http://www.oas.org/en/mesecvi/docs/LeyModeloViolenciaPolitica-EN.pdf>
- Follow-up Mechanism to the Belém do Pará Convention [MESECVI]. (2018). Inter-American Model Law on the Prevention, Punishment and Eradication of the Gender-Related Killing of Women and Girls (Femicide/Feminicide). Available at <http://portal.oas.org/en/mesecvi/docs/LeyModeloFemicidio-EN.pdf>
- Geneva Declaration Secretariat. *Violencia armada y desarrollo*. Available at <http://www.genevadeclaration.org/fileadmin/docs/Leaflet/GD-Leaflet-Espagnol.pdf>
- Geneva Declaration Secretariat. (2006). *Geneva Declaration on Armed Violence and Development*. Available at <http://www.genevadeclaration.org/fileadmin/docs/GD-Declaration-091020-EN.pdf>
- Geneva Declaration Secretariat. (2008). *Armed Violence Prevention and Reduction. A Challenge for Achieving the Millennium Development Goals*. Available at <http://www.genevadeclaration.org/fileadmin/docs/Geneva-Declaration-Millennium-Development-Goals.pdf>
- Geneva Declaration Secretariat. *Carga Global de la Violencia Armada 2015*. (2015) available at <http://www.genevadeclaration.org/fileadmin/docs/GBAV3/GBAV-2015-ExecSum-SP.pdf>
- Geneva Declaration Secretariat. (2015). *Global Burden of Armed Violence 2015: Everybody Counts*. Available at <http://www.genevadeclaration.org/measurability/global-burden-of-armed-violence/global-burden-of-armed-violence-2015.html>
- Geneva Declaration Secretariat. (2019). *Who has signed it?*. Available at <http://www.genevadeclaration.org/the-geneva-declaration/who-has-signed-it.html>

International Committee of the Red Cross [ICRC]. 1949. Geneva Convention IV relative of the Protection of the Civilian Persons in Time of War. Available at

https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_cha_chapter39_rule134

Inter-American Development Bank (IADB). (2017). The Costs of Crime and Violence. New Evidence and Insights in Latin America and the Caribbean. Available at

<https://publications.iadb.org/publications/english/document/The-Costs-of-Crime-and-Violence-New-Evidence-and-Insights-in-Latin-America-and-the-Caribbean.pdf>

Jamaica information service. (2019). Minister Grange Tables Sexual Harassment Bill. Available at

<https://jis.gov.jm/minister-grange-tables-sexual-harassment-bill/>

Small Arms Survey [SAS]. (2017). Global Violent Deaths 2017. Time to Decide. Available at

<http://www.smallarmssurvey.org/fileadmin/docs/U-Reports/SAS-Report-GVD2017.pdf>

Small Arms Survey [SAS]. (2019). Global Violent Deaths: Interactive Maps and Charts of Armed Violence Indicators. Available at

http://www.smallarmssurvey.org/fileadmin/docs/M-files/Armed_violence/Small-Arms-Survey-DB-violent-deaths.xlsx

Organization of American States [OAS] (1994). Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará). Available at

<https://www.oas.org/en/mesecvi/docs/BelemDoPara-ENGLISH.pdf>

United Nations General Assembly. (2009). Promoting development through the reduction and prevention of armed violence. Report of the Secretary-General, 64th session. Available at <https://undocs.org/en/A/64/228>

United Nations General Assembly. (1993). Resolution 48/104 entitled Declaration on the Elimination of Violence against Women 48th session. Available at <https://undocs.org/en/A/RES/48/104>

United Nations Security Council. (2000). Resolution 1325 (2000). Available at

[https://undocs.org/S/RES/1325\(2000\)](https://undocs.org/S/RES/1325(2000))

United Nations Security Council. (2013). Resolution 2117 (2013). Available at

[https://undocs.org/S/RES/2117\(2013\)](https://undocs.org/S/RES/2117(2013))

United Nations. (2018). "Securing our Common Future. An Agenda for Disarmament", Available at

<https://s3.amazonaws.com/unoda-web/wp-content/uploads/2018/06/sg-disarmament-agenda-pubs-page.pdf>

United Nations and the European Union. (2018). Spotlight Initiative to eliminate violence against women and girls – Annual report 1 July 2017 – 31 March 2018. Available at

https://www.un.org/en/spotlight-initiative/assets/pdf/Spotlight_Annual_Report_July_2017-March_2018.pdf

UN Women. (n.d.). Barbados. Available at

<https://caribbean.unwomen.org/en/caribbean-gender-portal/caribbean-gbv-law-portal/gbv-country-resources/barbados>

UN Women. (n.d.). Jamaica. Available at

<https://caribbean.unwomen.org/en/caribbean-gender-portal/caribbean-gbv-law-portal/gbv-country-resources/jamaica>

UN Women. (n.d.). Saint Kitts and Nevis. Available at

<https://caribbean.unwomen.org/en/caribbean-gender-portal/caribbean-gbv-law-portal/gbv-country-resources/saint-kitts-and-nevis>

UN Women. (n.d.). The Bahamas. Available at

<https://caribbean.unwomen.org/en/caribbean-gender-portal/caribbean-gbv-law-portal/gbv-country-resources/the-bahamas>

UN Women. (n.d.). Trinidad and Tobago. Available at

<https://caribbean.unwomen.org/en/caribbean-gender-portal/caribbean-gbv-law-portal/gbv-country-resources/trinidad-and-tobago>

United Nations Committee on the Elimination of Discrimination against Women. (2013). General recommendation No. 19: Violence against women. Available at

<https://www.globalhealthrights.org/wp-content/uploads/2013/09/CEDAW-General-Recommendation-No.-19-Violence-against-Women.pdf>

United Nations Office on Drugs and Crime [UNODC]. (2013). Global Study on Homicide 2013. Available at

https://www.unodc.org/documents/data-and-analysis/statistics/GSH2013/2014_GLOBAL_HOMICIDE_BOOK_web.pdf

United Nations Office on Drugs and Crime [UNODC]. (2019). Global Study on Homicide 2019 – Executive Summary. Available at <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet1.pdf>

United Nations Office on Drugs and Crime [UNODC]. (2018). Global Study on Homicide. Gender-related killing of women and girls. Available at

https://www.unodc.org/documents/data-and-analysis/GSH2018/GSH18_Gender-related_killing_of_women_and_girls.pdf

United Nations Office on Drugs and Crime [UNODC]. (2019). Global Study on Homicide. Homicide Dataset 2019, National Data. Available at https://dataunodc.un.org/GSH_app

United Nations Entity for Gender Equality and the Empowerment of Women [UNWOMEN]. (2013). Annual Report 2012-2013. Available at

<https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/6/unwomen-annual-report2012-2013-en%20pdf.pdf?la=en&vs=1457>

UN Women Caribbean. Antigua and Barbuda. Available at

<https://caribbean.unwomen.org/en/caribbean-gender-portal/caribbean-gbv-law-portal/gbv-country-resources/antigua-and-barbuda#WITLS>

United Nations Development Programme [UNDP]. (2019). Goal 16: Peace, justice and strong institutions. Available at

<http://www.undp.org/content/undp/es/home/sustainable-development-goals/goal-16-peace-justice-and-strong-institutions.html>

United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean [UNLIREC]. (2015). Violencia Armada, Violencia por Motivos de Género y Armas Pequeñas: Sistematización de datos disponibles en América Latina y el Caribe. Available at

http://unlirec.screativa.com/wp-content/uploads/2018/05/ViolenciaArmadaViolencia_Motivos_Genero_ArmasPequenas-ESP.pdf

UNDP and UN Women. (2017). From Commitment to Action: Policies to End Violence Against Women in Latin America and the Caribbean. Panama. Available at:

<https://www.undp.org/content/dam/rblac/docs/Research%20and%20Publications/Empoderamiento%20de%20la%20Mujer/UNDP-RBLAC-ReportVCMEnglish.pdf>

UNICEF. (2015). **Current State of Legislation in the Eastern Caribbean & British Overseas Territories from a Children's Rights Perspective.** Barbados. Available at <https://www.unicef.org/easterncaribbean/media/771/file/Current-State-of-Legislation-in-Eastern-Caribbean-&-British-Overseas-Territories-2016.pdf>

UN Women. (n.d.). **Belize Overview of Country Gender Equality Status.** Available at <http://caribbean.unwomen.org>: <http://caribbean.unwomen.org/en/caribbean-gender-portal/belize>

Secretariat of the Arms Trade Treaty. (2014). **Arms Trade Treaty.** Available at https://thearmstradetreaty.org/hyper-images/file/ATT_English/ATT_English.pdf?templateId=137253

World Health Organization [WHO]. (2012). **Understanding and addressing violence against women.** Available at https://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf?sequence=1

TEXTOS LEGALES

Antigua and Barbuda. (1973). Firearms Act, Chapter 171.

Antigua and Barbuda. (1999). Law Revision (Miscellaneous) (Amendments) Act, No. 8 of 1999.

Antigua and Barbuda. (2010). The Trafficking in Persons (Prevention) Act of, No. 12 of 2010.

Antigua and Barbuda. (2015). Firearms (Amendment) Act, No. 8 of 2015.

Antigua and Barbuda. (2015). Domestic Violence Act No. 27 of 2015.

Antigua and Barbuda. (2016). Firearms (Amendment) Act, No. 19 of 2016.

Antigua and Barbuda. (2017). Firearms (Amendment) Act, No. 27 of 2017.

Barbados. (2013). The Firearms Act.

Barbados. (2016). Domestic Violence (Protection Orders) (Amendment) Act, 2016-2.

Belize. (2010). Firearm (Amendment) (No.2) Act.

Belize. (2011). Firearms Act.

Belize. (2011). Domestic Violence Act Revision Act 2011

Belize. **Ministry of Human Development.** (2017). National Gender-Based Violence Action Plan: A Multisectoral Plan to Prevent and Respond to Gender-Based Violence in Belize 2017 – 2020. Available at <https://www.nationalwomenscommissionbz.org/wp-content/uploads/2018/06/National-Gender-Based-Violence-Plan-of-Action-Book.pdf>

Dominica. (1981). Criminal Justice (Reform) Act.

Dominica. (1995). Offences Against the Person Act.

Dominica. (2001). Protection Against Domestic Violence Act.

- Dominica. (2011). The Firearms Act.
- Dominica. (2013). Criminal Law Procedure (Amendment).
- Dominica. (2013). Criminal Justice (Reform) (Amendment).
- Dominica. (2016). Sexual Offences (Amendment).
- Grenada. (2010). Domestic Violence Act.
- Grenada. (2014). Prevention of Trafficking in Persons Act.
- Guyana. (1940). Firearms Act.
- Guyana. (1996). Domestic Violence Act.
- Guyana. (1996). Prevention of Crimes Act, 1885.
- Jamaica. (2001). The Justice Protection Act.
- Jamaica. (2004). Domestic Violence Act.
- Jamaica. (2005). The Criminal Justice (Reform) Act.
- Jamaica. (2009). The Sexual Offences Act.
- Jamaica. (2010). The Firearms Act.
- Jamaica. (2014). The Gun Court Act.
- Jamaica. (2014). The Offences Against the Person Act.
- Jamaica. (2014). Trafficking in Persons (Prevention, Suppression and Punishment) Act.
- Jamaica. (2015). Sexual Harassment Bill. Available at <https://japarliament.gov.jm/attachments/article/339/The%20Sexual%20Harassment%20Act,%202015.pdf>
- Saint Kitts and Nevis. (2008). Trafficking in Persons (Prevention) Act.
- Saint Kitts and Nevis. (2012). Justice Protection Act.
- Saint Kitts and Nevis. (2014). Domestic Violence Act.
- Saint Lucia. (1995). Domestic Violence (Summary Proceedings) Act.
- Saint Lucia. (2003). Firearms Act.
- Saint Lucia. (2010). Counter Trafficking Act.
- Saint Vincent and the Grenadines. (2004). Firearms Act.
- Saint Vincent and the Grenadines. (2015). Domestic Violence Act.

The Bahamas. Domestic Violence Act Chapter 99A.

The Bahamas. Firearms Act Chapter 213.

The Bahamas. (2008). Trafficking in Persons (Prevention and Suppression) Act Chapter 106.

The Bahamas. Bail Act Chapter 103.

Trinidad and Tobago. Domestic Violence Act Chapter 45:56.

Trinidad and Tobago. Firearms Act Chapter 16:01.

Trinidad and Tobago. Trafficking in Persons Act Chapter 12:10.

Trinidad and Tobago. Justice Protection Act Chapter 5:33.

Trinidad and Tobago. An Act To Amend the Bail Act Chapter 4:60.

Trinidad and Tobago. Community Service Orders Act Chapter 13:0



UNLIREC

United Nations Regional Centre
for Peace, Disarmament and Development
in Latin America and the Caribbean

www.unlirec.org

5 GENDER
EQUALITY



16 PEACE, JUSTICE
AND STRONG
INSTITUTIONS



With the
support of



Canada