

DETAINED

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE IMMIGRATION JUDGE  
ELOY, ARIZONA

In the Matter of [REDACTED]  <i>Respondent.</i>  In Removal Proceedings	File No. [REDACTED]  Individual Merits Hearing: [REDACTED]  Hon. Judge Phelps
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INDEX OF DOCUMENTS IN SUPPORT OF MS. RODRIGUEZ'S APPLICATION  
FOR WITHHOLDING OF REMOVAL UNDER INA § 241(b)(3) AND  
PROTECTION UNDER THE COVENTION AGAINST TORTURE

<u>DOCUMENT</u>	<u>EX.</u>	<u>PAGE</u>
<b>I. Identity Documents</b>		
Copy of Mexican birth certificate for [REDACTED] with certified English translation	A	1-2
Copy of Mexican identification card for M [REDACTED]	B	3
Copy of biographic page of Mexican passport for [REDACTED]	C	4
<b>II. Documents Regarding Claim</b>		
Affidavit of [REDACTED]	D	5-17
Affidavit of [REDACTED] mother of [REDACTED]	E	18-24

Letter of support and testifying to abuse witnessed by [REDACTED]'s sister [REDACTED]	F	25-27
Copy of Application for Temporary Order for Protection against Domestic Violence for [REDACTED], dated December 7, 2010	G	28-39
Copy of Temporary Order for Protection against Domestic Violence for [REDACTED] issued December 7, 2010 through December 28, 2010	H	40-47
Copy of Application for Temporary Order for Protection against Domestic Violence for M [REDACTED] dated April 12, 2011	I	48-58
Copy of Temporary Order for Protection against Domestic Violence for [REDACTED] issued April 13, 2011 through May 13, 2011	J	59-66
Copy of Application for Temporary Order for Protection against Domestic Violence for [REDACTED] dated October 21, 2011	K	67-77
Copy of Temporary Order for Protection against Domestic Violence for [REDACTED] issued October 21, 2011 through November 30, 2011	L	78-85
Copy of Application for Temporary Order for Protection against Domestic Violence for [REDACTED] dated January 3, 2013	M	86-96
Copy of Temporary Order for Protection against Domestic Violence for M [REDACTED] issued January 3, 2013 through February 5, 2013	N	97-105
Copy of Application for Temporary Order for Protection against Domestic Violence for [REDACTED], dated May 16, 2013	O	106-116
Copy of Temporary Order for Protection against Domestic Violence for [REDACTED] issued May 16, 2013 through May 21, 2013	P	117-125

Copy of Extended Protection Order against Domestic Violence for [REDACTED] issued May 21, 2013 through November 21, 2013	Q	126-131
Copy of Arrest Report and Declaration of Probable Cause against [REDACTED] for assault with a deadly weapon and destruction of property, dated May 24, 2013	R	132-134
Copy of Criminal Complaint and Amended Criminal Complaint against [REDACTED]	S	135-138
Copy of Nevada Revised Statutes violated by [REDACTED] including NRS 200.471, 200.485, 200.481, 33.018	T	139-142
Copy of Medical Documents from U.S. Immigration & Customs Enforcement for [REDACTED]	U	143-164
Copy of letter from [REDACTED] MS, CADC, Director of Client Services at the Committee to Aid Abused Women (CAAW), establishing that [REDACTED] has previously resided at the emergency shelter	V	165

**III. Documents from Criminal and Immigration Proceedings**

Certified copy of Case Docket sheet demonstrating the charges and dispositions of Possession/Use of Drug Paraphernalia	W	166
Certified copy of Judgment against [REDACTED] for Possession of a Controlled Substance for the Purpose of Sale	X	167-168
State of Nevada Pre-Sentence Investigation Report	Y	169-174
Copy of Notice of Intent to Issue a Final Administrative Removal Order, dated January 21, 2014	Z	175-177
Copy of Record of Determination/Reasonable Fear Worksheet and copy of Reasonable Fear Determination, dated February 27, 2014	AA	178-184
Copy of Notice of Referral to Immigration Judge, dated April 23, 2014	BB	185-186

#### IV. Country Conditions Evidence

Women Under Siege Project, "Conflict Profiles: Mexico," CC 187-192  
December 7, 2012, available at  
<http://www.womenundersiegeproject.org/conflicts/profile/mexico>

Reuters "Violence Against Women 'Pandemic' in Mexico," DD 193-194  
March 7, 2014, available at <http://www.reuters.com/article/2014/03/07/us-mexico-violence-women-idUSBREA2608F20140307>

#### *Excerpts:*

"Violence against women isn't an epidemic, it's a pandemic in Mexico," said Ana Guezmex, Mexico's representative for United Nations Women, the U.N. entity for gender equality."

"Violence against women is so rife in Mexico that there's no political cost for those who don't deal with the issue," said a top international expert involved with the matter who didn't want to be identified so he could speak freely."

U.S. Immigration & Customs Enforcement, "Fact Sheet: ICE Air EE 195-196  
Operations," April 11, 2014, available at  
<http://www.ice.gov/news/library/factsheets/air-operations.htm>

Prospect: Journal of International Affairs at UCSD, "The U.S. FF 197-200  
Deportation Regime: Left With Nothing, Deportees Must  
Survive in the Shadow of the Fence," May 30, 2014,  
available at <http://prospectjournal.org/2014/05/30/the-u-s-deportation-regime-left-with-nothing-deportees-must-survive-in-the-shadow-of-the-fence/>

Becker, Andrew and Agustin Armendariz, California Watch, GG 201-202  
"Calif. Border crossing sees most deportations,"  
June 22, 2012.

The Economist, "Deported Mexicans, Bordering on cruelty: HH 203-204  
United States expulsion policy towards migrants carries  
a big human cost," Feb. 8, 2014.

The Center for Latin American Studies, University of Arizona, II 205  
"In The Shadow of the Wall: Family Separation,  
Immigration Enforcement and Security, Preliminary Data  
from the Migrant Border Crossing Study," pages 24-25, 2013.

Guerrero, Amparo and Ballen, Elizabeth, "Women's JJ 206-207

International League for Peace and Freedom: Towards a WILFP Section in Mexico," January 1, 2009, available at <http://www.thefreelibrary.com/Towards+a+WILPF+section+in+Mexico.-a0207527709>

U.N. Human Rights Council, Report submitted by the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya: Responses to the questionnaire on risks and challenges faced by women human rights defenders and those working on women's rights and gender issues U.N.Doc. A/HRC/16/44/Add.3, pages 1-3, 55-71, March 7, 2011, available at [http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-44-Add3\\_AEFS.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-44-Add3_AEFS.pdf) **KK 208-227**

*Excerpts:*

"Mexico has a very high rate of feminicides, which occur within the most extended impunity. Whilst women human rights defenders are not especially targeted, they do leave a message for all women, and specially for women human right defenders, that not following very traditional patriarchal role schemata is extremely dangerous in Mexico and makes them possible blank of violence and assassination without any chance to justice."

Office of the United Nations High Commissioner for Human Rights: Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Mission to Mexico, (January 13, 2006) E/CN.4/2006/61/Add.4, available at <http://www.refworld.org/docid/441182020.html> **LL 228-253**

*Excerpts:*

"Violence against women in Mexico typically resembles only the tip of an iceberg with more systemic and complex problems lurking below the surface, which can only be understood in the context of socially entrenched gender inequality on the one hand and a multilayered governance and legal system that does not effectively respond to violent crime, including gender-based violence, on the other hand."

MCC Eduardo Cabrera Ruiz, Translated by Lic. Edward V. Byrne, **MM 254-257**  
"Mexico's Cancer: Domestic Violence, A Virtual License to Kill, Two Local Cases Illustrate Continuing Problem of Violence Against Women in Mexico". The Yucatan Times, August 17, 2011, available at <http://mexicogulfreporter-supplement.blogspot.com/2011/11/mexicos-cancer-domestic-violence.html>

*Excerpts:*

“The failure of authorities to deal seriously with domestic violence places Mexican women in grave danger and indeed enables their assailants, in many cases giving the abuser a virtual license to kill without fear of legal consequences.”

Emily Wassell, “Mexico: A Machista Culture of Corruption and Violence?” *Safe World for Women*, July 15, 2012, available at

NN 258-261

<http://www.asafeworldforwomen.org/womens-rights/wr-americas/wr-mexico/2815-machista-culture.html>

*Excerpts:*

“The violence epidemic against women in Mexico is being compounded by the failings of the justice system, which passes sentence in only 1 percent of the small number of murder cases that ever make it to court.”

“In Mexican culture, women are usually targeted and blamed for the violence committed against them. The local authorities have been known to denounce rape victims as ‘prostitutes’. Not only does this nullify any criminal complaint against the assailant, it can also endanger the life of the woman.”

“[D]omestic violence is pervasive in Mexico. This is exacerbated by the rate of alcohol consumption, and there are no legal measures to help or protect victims. For example, there are no restraining orders against an abusive spouse. And in some cases, when a man is notified by the police that his wife has reported him for assault, he goes home and beat her harder, or even kills her.

“A recent case of judicial inaction was an unnamed woman who went to the police to report that she was raped by a bus driver, César Librado. She identified him and his bus route, but no action was taken. Librado went on to rape and kill eight other women in his bus, before a nationwide media campaign finally forced the authorities to arrest him.”

Bureau of Democracy, Human Rights, and Labor,  
U.S. Dep’t of State, 2013 Human Rights Report: Mexico,  
available at,

OO 262-308

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

Amnesty International, “Women’s Struggle for Justice and Safety: Violence in the Family in Mexico,” August 1, 2008, available at

PP 309-356

<http://www.amnesty.org/en/library/info/AMR41/021/2008/en>

*Excerpts:*

"...the fear that paralyzed them and made them a prisoner of their abuser. They spoke of isolation and of being undermined, leaving them with deep feelings of inadequacy. Years of such treatment can be debilitating, causing profound psychological damage requiring professional help which is often difficult to access."

"Most of those responsible for violence against women are not held to account. As with all human rights violations, impunity is a powerful factor in perpetuating abuses."

"Several women interviewed...said that they had been told their cases did not amount to criminal offences or that the Prosecutor simply could not take their complaint because they did not have the time and violence in the family was not a priority."

"Lack of accessible specialist domestic violence units in rural areas and many towns means most women have no option but to file a complaint with the local unit of the public prosecutor's office in their own communities. This can be problematic if local officials lack specialist training, know the alleged aggressor, or dismiss the allegation as not serious and not a priority."

CEDAW: "Concluding observations of the Committee on the Elimination of Discrimination against Women," (9 - 27 July 2012) [See also section V(b)]  
QQ 357-368  
<http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-MEX-CO-7-8.pdf>

Amnesty International, "Press Release: Mexico fails to tackle increased levels of violence against women" PRE01/334/2012, July 12, 2012, available at,  
RR 369-370  
<http://www.amnesty.org/en/for-media/press-releases/mexico-fails-tackle-increased-levels-violence-against-women-2012-07-12>

*Excerpts*

"In the past years, Mexico has approved a number of laws and institutions designed to protect women from discrimination and violence. Much of the problem, however, lies in the lack of effective implementation of these laws and the weakness of the institutions"

"According to a report published by UNIFEM and local human rights organizations, at least 34,000 women were murdered in Mexico between 1985 and 2009 - 2,418 in 2010 alone."

Office of the United Nations High Commissioner for Human Rights  
SS 371-398

Rights: Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Mission to Mexico, May 23, 2012, available at, [http://www.ohchr.org/Documents/Issues/Women/A.HRC.20.16\\_En.pdf](http://www.ohchr.org/Documents/Issues/Women/A.HRC.20.16_En.pdf)

*Excerpts:*

"In Mexico, 60 per cent of the women who were murdered by their intimate or ex-intimate partners had previously reported domestic violence to public authorities."

Washington Office on Latin America (WOLA), "Hidden in Plain Sight, Violence Against Women in Mexico and Guatemala," March 2007, [See Also Section VI] available at <http://www.wola.org/media/ViolenceAWomen.pdf> TT 399-418

*Excerpts:*

"The killings are the result of governmental and societal apathy towards and tolerance of gender-based violence, the product of a criminal justice system that has been unable and unwilling to guarantee women equal access to justice and protection under the law."

Declaration of Mexico Expert Alicia Elena Perez Duarte y Norona, (March 10, 2010). UU 419-436

Wong, Brad "Lawsuit: Domestic Violence Survivor Killed by Ex-Boyfriend After U.S. Immigration Agents Deport her to Mexico," Equal Voice, June 19, 2013 available at <http://www.equalvoiceforfamilies.org/lawsuit-domestic-violence-survivor-killed-by-ex-boyfriend-after-u-s-immigration-agents-deport-her-to-mexico/> VV 437-439

**V. Additional Documents**

Documents Relating to Ms. ██████████ Children WW 440-451

Copy of Hospital Birth Confirmation Report for ██████████

Copy of Certificate of Live Birth for ██████████

Copy of Hospital Birth Confirmation Report for ██████████  
██████████

Copy of Hospital Birth Confirmation Report for ██████████  
██████████



Copy of Pre-Baptismal Class Certificate of Completion for

[REDACTED]

Copy of Baptism Certificate for M

[REDACTED]

Copy of Social Security cards for

[REDACTED]

Copy of reminder card for [REDACTED]'s annual hearing test and new hearing aids, with photograph of [REDACTED] and note, with certified English translation

School drawing from [REDACTED], showing his distress due to separation from his mother

**Letters of Support**

XX 452-467

Letter of support from R

[REDACTED]

Letter of support from [REDACTED], Recess Aid at Marinosa Academy

[REDACTED]

Letter of support from

[REDACTED]

[REDACTED]

Letter of support from

[REDACTED]

Letter of support from

[REDACTED]

Letter of support from

[REDACTED]

Letter of support from [REDACTED]

Letter of support from [REDACTED]

Letter of support from [REDACTED]

Letter of support from [REDACTED]

Letter of support from [REDACTED]

Letter of support from [REDACTED]

Letter of support from [REDACTED]

Copy of Certificate of Completion awarded to [REDACTED] for  
Successful Completion of WCSO Peaceful Family Parenting  
Program, dated August 1, 2013

Copy of letter from the Washoe County Sheriff establishing that  
[REDACTED] completed 8 weekly Substance Abuse counseling  
sessions while in custody at the Washoe County Jail,  
dated August 26, 2013

**Documentation of application for U Nonimmigrant Status**      YY      468-472

USCIS Receipt Notice for Form I-765

USCIS Receipt Notice for Form I-192

USCIS ASC Appointment Notice

# WOMEN UNDER SIEGE

email

zip

submit

# (HTTP://WWW.WOMENUNDERSIEGEPROJECT.ORG)

Tweet 2,155

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CONFLICTS (HTTP://WWW.WOMENUNDERSIEGEPROJECT.ORG/CONFLICTS)

## CONFLICT PROFILES

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OTHER CONFLICT PROFILES  
(HTTP://WWW.WOMENUNDERSIEGEPROJECT.ORG)

### MEXICO

In 1888, while Jack the Ripper went about sadistically murdering a number of lower-class London sex workers, halfway across the world in the northern suburbs of Mexico City, a lesser-known man named Francisco Guerrero, a.k.a. "El Chalchiquero" ([https://muse.jhu.edu/login?](https://muse.jhu.edu/login?auth=0&type=summary&url=/journal/hispanic-american-historical-reviews/081/81.3/piccolo.html)

Mexico

- [How Sexualized Violence Is Used as a Weapon of War](#)
- [Patterns of Violence](#)
- [Numbers](#)
- [Cultural Gender](#)
- [Attitudes](#)
- [Witness](#)
- [Fallout](#)
- [Legal Precedents](#)

was preying upon poor women in a similarly vicious and calculated manner. Few remember Guerrero; his crimes hardly garnered the same attention as the British serial killer's. Guerrero's immediate community knew that he had raped and murdered multiple women and yet he roamed free for years before eventually being apprehended by the police. Sexualized violence against women in Mexico has a long history that has been directly tied to state impunity—the lack of proper legal action—and, more recently, to drug cartels and organized crime.

Today, violence in Mexico is often associated with the shocking public displays (<http://www.breitbart.com/in-focus/2012/05/mexico-drug-war-50-000-dead-in-6-years/100229/>) of carnage inflicted by warring drug cartels and the controversial steps ([http://www.nytimes.com/2012/01/19/world/americas/mexico-drug-war-bloodies-arcas-though-safe.html?page=2&\\_r=1](http://www.nytimes.com/2012/01/19/world/americas/mexico-drug-war-bloodies-arcas-though-safe.html?page=2&_r=1)) taken by outgoing President Felipe Calderón Hinojosa to counter their growing influence. However, a silent, gendered war is also being waged against women throughout the country. Women are being raped, strangled, and tortured, their bodies mutilated and discarded in desolate locations, sending a message to Mexican society: Women's lives are expendable. Their predators will not be punished.

Professor [Rosa Linda Fregoso](http://hls.nyu.edu/faculty/singleton.php?&singleton=mc&criz_id=ffrpoa) ([http://hls.nyu.edu/faculty/singleton.php?&singleton=mc&criz\\_id=ffrpoa](http://hls.nyu.edu/faculty/singleton.php?&singleton=mc&criz_id=ffrpoa)) of the Latin American & Latino Studies Department at University of California, Santa Cruz, explained to WMC's Women Under Siege: "There is a common, grave mentality that wants to lump all the violence within the war on drugs and not to differentiate. Both kinds of violence are interrelated; violence against women flourishes and proliferates in societies where force and violence are seen as a legitimate response to conflict." Marusia Lopez Cruz, the Mesoamerica Regional Coordinator of the international women's rights organization, [JASS \(Just Associates\)](http://www.justassociates.org) (<http://www.justassociates.org>), told us that one Mexican woman is raped every four minutes—amounting to 120,000 rapes per year.

Gender-based violence in Mexico was once closely associated with Ciudad Juárez (a border town on the Rio Grande River facing El Paso, Texas) shortly following the passage of the North American Trade Agreement (NAFTA) in 1994. Trade barriers had been lowered, factories sprung up, and many rural Mexicans who formerly farmed for a living—including a significant number of women—were forced to migrate to border cities in search of work.

Over the next 20 years, hundreds of women—the Mexican newspaper *El Diario* estimating close to 900, according to the *New Statesman* (<http://www.newstatesman.com/south-america/2011/02/ciudad-juarez-women-mexico>)—were tortured, raped, and murdered, their bodies often being discarded in the desert. Initially, many feared a deranged serial killer was responsible, but over time it became apparent that there was no single culprit behind the murders. The term "femicide" was used to describe these killings—the murder of women and girls because they are female. (The Mexican term "feminicide" differs from "femicide" (<http://www.womenundersiegeproject.org/blog/entry/women-words-and-violence-in-mexico>) because the translation of "femicide" in Spanish is simply the killing of female, and does not include the gendered motivation behind the murder.)

[Burma](http://www.womenundersiegeproject.org/conflicts/burma)

[North Korea](http://www.womenundersiegeproject.org/conflicts/north-korea)

[Democratic Republic of Congo](http://www.womenundersiegeproject.org/conflicts/democratic-republic-of-congo)

[Libya](http://www.womenundersiegeproject.org/conflicts/libya)

[Egypt](http://www.womenundersiegeproject.org/conflicts/egypt)

[Sri Lanka](http://www.womenundersiegeproject.org/conflicts/sri-lanka)

[Darfur-Sudan](http://www.womenundersiegeproject.org/conflicts/darfur-sudan)

[Rwanda](http://www.womenundersiegeproject.org/conflicts/rwanda)

[Bosnia](http://www.womenundersiegeproject.org/conflicts/bosnia)

[Sierra Leone](http://www.womenundersiegeproject.org/conflicts/sierra-leone)

FEATURED BLOG POSTS  
(HTTP://WWW.WOMENUNDERSIEGEPROJECT.ORG)

[UK summit on sexualized violence: 'A time warp in the wrong direction'](http://www.womenundersiegeproject.org/blog/uk-summit-on-sexualized-violence-a-time-warp-in-the-wrong-direction)

[UK summit on sexualized violence: a time warp in the wrong direction](http://www.womenundersiegeproject.org/blog/uk-summit-on-sexualized-violence-a-time-warp-in-the-wrong-direction)

By [Jody Williams](#) ([/author/profile/jody-williams/](#)) Guest Blogger — June 15, 2014

[Siege Photo winner: Holding the keys as a reminder of home](http://www.womenundersiegeproject.org/blog/siege-photo-winner-holding-the-keys-as-a-reminder-of-home)

By [Shazdeh Omari](#) ([/author/profile/shazdeh-omari/](#)) Associate Editor — March 25, 2014

[Portraits of three women in Congo: Their lives, their rapes, their recovery](http://www.womenundersiegeproject.org/blog/portraits-of-three-women-in-congo-their-lives-their-rapes-their-recovery)



Neretzin Rojaselli, an environmentalist from Petatlan in the southwest of Mexico, tells journalists her mother disappeared in December 2011 during a trip to Mexico City for a meeting on peace and security. "Please be brave, mom," she said. "I know you're alive. I will never stop negotiating for your freedom." (Judy Land)

Violence against women, at the hands of their husbands, family members, or state officials, extends to all states in Mexico, not just Chihuahua, where Ciudad Juárez is located. The level of brutal violence being waged upon Mexican women seems misplaced in a country that is a 1981 signatory of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which the United States [has yet to sign](http://www.huffingtonpost.com/2011/09/20/hillary-clinton-women-rights-treaty_n_972555.html) ([http://www.huffingtonpost.com/2011/09/20/hillary-clinton-women-rights-treaty\\_n\\_972555.html](http://www.huffingtonpost.com/2011/09/20/hillary-clinton-women-rights-treaty_n_972555.html)). However, the combination of traditional, narrow gender roles, the growing [normalization of violence](http://www.nytimes.com/2012/05/16/world/americas/mexicans-unflinching-in-face-of-drug-wars-carnage.html?pagewanted=all) (<http://www.nytimes.com/2012/05/16/world/americas/mexicans-unflinching-in-face-of-drug-wars-carnage.html?pagewanted=all>), and the continued lack of political will and resources from the Mexican government have resulted in an enormous spike in sexualized violence against women.

While it affects women of all classes, gendered violence is higher among certain parts of the Mexican population. As [Hector Dominguez-Ruvalcaba](http://www.utexas.edu/opa/experts/profile.php?id=19111) (<http://www.utexas.edu/opa/experts/profile.php?id=19111>), an associate professor in the department of Spanish and Portuguese at the University of Texas, Austin, explained in an interview with WMC's Women Under Siege: "We have observed gender violence is more prevalent in those communities with a greater presence of criminal organizations, and a greater marginalization: Most of the victims are poor and have little access to education, and other public services like health, street pavements, etc."

Whether in poor rural villages or amid the hustle of the capital, Mexico City, Mexican women, unable to rely on the government to protect them, are organizing and pushing their communities to stop this epidemic of gender-based violence themselves.

### How Sexualized Violence Is Used as a Weapon of War

**To exert power:** A 2012 report (<http://nobelwomensinitiative.org/wp-content/uploads/2012/06/Report-AmericasDelegacion-2012.pdf>) analyzing the effects of violence on women in Mexico, co-produced by the Nobel Women's Initiative (<http://nobelwomensinitiative.org/about-us/>) and JASS, found that government officials and their security forces were often the worst perpetrators of sexualized violence and used it as a tool to "intimidate and subdue" women. The 45,000 troops deployed by President Felipe Calderón Hinojosa in 2007 to fight drug cartels contribute to a growing culture of violence and fear, especially for women, youth, indigenous communities, and migrants who are vulnerable in the face of the corrupt and often misogynist security institutions. Francisco González, a professor of Latin American Studies at Johns Hopkins University's School of Advanced International Studies in Washington, argues in a 2011 [Current History](http://www.currenthistory.com/Article.php?ID=867) article (<http://www.currenthistory.com/Article.php?ID=867>): "It is not far-fetched to say that the average Mexican citizen lives in fear of both criminals and public authorities."

**To silence:** President-elect Enrique Peña Nieto was governor of the State of Mexico in 2006 when protests against the building of a new airport in San Salvador Atenco erupted into violence. Two protesters were killed and 26 women were sexually assaulted (<http://www.amnestyusa.org/our-work/cases/mexico-women-of-atenco>) by state and federal authorities. Laila Barrera, the president of the steering committee for Amnesty International, Mexico (<http://www.amnesty.org.mx/>), said she believes the assaults were a "tool to demonstrate political control and power" and to deliver a clear, threatening message to other protesters. As of this publication, not a single police officer has been found guilty of assaults. When recently [confronted by college students in Mexico City](http://mexico.snn.com/inacional/2012/06/04/atenco-el-toma-que-encendio-a-la-thero-origino-vocovl32) (<http://mexico.snn.com/inacional/2012/06/04/atenco-el-toma-que-encendio-a-la-thero-origino-vocovl32>) about the lack of justice surrounding the incidents, Peña Nieto was unapologetic and argued that he had used necessary force to restore public order.

**To make money:** Increasingly, women are being used by drug cartels ([http://www.nytimes.com/2011/08/14/sunday-review/mexico-drug-war-draws-in-women.html?\\_r=2](http://www.nytimes.com/2011/08/14/sunday-review/mexico-drug-war-draws-in-women.html?_r=2)) to transport drugs and fulfill logistical roles. However, Mexican crime groups also earn huge profits in the prostitution industry and have forcibly kidnapped women to traffic them across the border into the U.S. "It's the third most profitable market after drugs and small arms for organized crime," said Tetesa Inclán-teguel, former director of the National Women's Institute in Mexico City and representative to Mexico's Chamber of Deputies. "Paradoxically," she told WMC's Women Under Siege, "it's a well-known phenomenon

### of three women in Congo— their lives—their rapes—their recovery)

By Lauren Wolfe  
/author/profile/lauren-wolfe/Director — March 6, 2014

#### Tweets

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Women Under Siege that documented how and why rape is used as a Weapon of War. [http://www.womenundersiege.org/blog](#)

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OPINION: Empowering DR Congo's Sexual Violence Survivors by Enforcing Reparations [ow.ly/3nFVWz](#)

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- Women Under Siege** [@WomenUnderSiege](#)

UN sends 'unofficial' aid to Syria [ow.ly/3nFVWz](#)

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- Women Under Siege** [@WomenUnderSiege](#)

PALESTINE activist puts rumored sexual violence in perspective: "I cannot claim it's as widespread as in Egypt." [ow.ly/3CUyl](#)

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- Women Under Siege** [@WomenUnderSiege](#)

"[Behind the story] of almost every brutalized woman, there's a man." Photo project by [@pkmiller](#) [ow.ly/3nFVWz](#) #Congo #war

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- Foreign Affairs** [@ForeignAffairs](#)

Watch to [@WomenUnderSiege](#)

but at the same time very hidden, and many people think that authorities are involved with the trafficking of women." Women face torture, rape, and murder at the hands of criminals and state agents while being transported from rural areas to larger Mexican cities and across the border.

### Patterns of Violence

- A 2009 study conducted by the Mexican Institute for Women in Mexico City showed that women are three times more likely than men ([http://cedoc.inmujeres.gob.mx/documentos\\_download/00\\_feminicidas\\_1985-2009.pdf](http://cedoc.inmujeres.gob.mx/documentos_download/00_feminicidas_1985-2009.pdf)) to die directly at the hands of their perpetrator through gruesome tactics such as hanging, strangulation, burning, suffocation, drowning, and stabbing, and are more likely to be killed by someone they know.
- Organized criminal gangs use women's bodies to underscore their power and influence and to send messages to each other, government officials, and the wider community. "Criminal organizations use sexual violence as a weapon in their war as a form of revenge, but also use rape and killing women for their celebrations—for instance, when they have success in transporting an important shipment of drugs across the border," said Professor Jicuri Domínguez-Ruvalcaba (<http://www.utexas.edu/opa/experts/profile.php?id=1911>) of the University of Texas. "In general, the threat of sexual violence is used in daily life as a strategy of control of women."
- Lulú Barrera of Amnesty International told us that several lawyers working on feminicide cases in Ciudad Juárez have pointed out that mutilated female bodies have often been disposed of in the desert, bearing evidence of the violent tactics associated with drug cartels. This has led authorities to reclassify these crimes as being associated with the war on drugs instead of being investigated and prosecuted as feminicide.
- The Nobel Women's Initiative and JASS report that half ([http://nobelwomensinitiative.org/wp-content/uploads/2012/06/Report\\_AmericasDelegation-2012.pdf](http://nobelwomensinitiative.org/wp-content/uploads/2012/06/Report_AmericasDelegation-2012.pdf)) of the female human rights defenders they surveyed reported being violently targeted as a direct result of their work. The violence was almost always gendered and often sexualized. Alarming, government and security forces were responsible for such violence in 55 percent (<http://www.justosociales.org/documentos/mexico/diagnostico%20de%20defensoras%20y%20mujeres%20inmigrantes.pdf>) of the reported cases.
- Susana Chavez, poet and activist, popularized the phrase, "*Ni una muerta mas*," or "Not one more dead," in response to the hundreds of unsolved feminicide in Ciudad Juárez. In January 2011, Chavez herself was raped, strangled, and mutilated (<http://latimesblogs.latimes.com/laplaza/2011/01/activist-death-ciudad-juarez-susana-chavez-maritela-escolado.html>) (her hand was found severed) in Ciudad Juárez by three teenagers. Whether it was related to her role as an activist (officials claim it was not) or a result of the environment of violence and depravity in which she lived and worked, the death of Chavez shows the danger associated simply with being a woman in Mexico.
- Amnesty International estimates that six out of 10 (<http://www.amnesty.org/en/library/asset/AMR41/041/2012/en/c5d5476b-1807-423c-ba45-33a420762753/amr410412012en.pdf>) Mexican migrant women are victims of rape or other sexualized violence during their journey, stating in a recent report: (<http://www.amnesty.org/en/library/asset/AMR41/041/2012/en/c5d5476b-1807-423c-ba45-33a420762753/amr410412012en.pdf>) that "many criminal gangs appear to use sexual violence as part of the 'price' demanded of migrants."

### Numbers

Mexico has "one of the highest rates of gender violence in the world, with 38 percent of Mexican women affected by physical, sexual or psychological abuse, compared with 33 percent of women worldwide," writes ([http://tumb.org/index.php?option=com\\_k2&view=item&id=5875&coming-to-prime-with-feminicide](http://tumb.org/index.php?option=com_k2&view=item&id=5875&coming-to-prime-with-feminicide)) UC Santa Cruz's Fregoso. "Two-thirds of female homicides occur in the home, and 67 percent of women in Mexico suffer domestic violence. For Guatemala, the figure is 47 percent."

Carlos Echarrí (<http://cedua.colimes.mx/viejo/index.php/plana-docente-y-de-investigacion/1071>), a professor at the Colegio de México in Mexico City, has been working with Teresa Incháustegui and others to gather statistics and document violence against women in Mexico. In terms of investigating, prosecuting, and preventing sexual violence against women, Carlos told WMC's Women Under Siege that having data and critical pathways identified and understood "is the only way to measure impunity."

The difficulty in Mexico is that police and morgue officials are not required to collect essential categories of information, such as whether a female murder victim was sexually assaulted or whether there was mutilation or signs of torture on her body. Echarrí explained to us that "having data is a way for citizens to monitor government actions and ... in Mexico, we don't have a very good statistical culture." Instead, he and other researchers are using female death certificates that indicate presumed homicide as a proxy to measure violence against women. There is still no mechanism in place for officials to record or monitor rates of sexualized violence associated with homicides.

The Mexican Institute for Women estimated in 2009 that 67 out of every 100 women (<http://www.inegi.org.mx/inegi/contenidos/espagnol/prensa/Contenidos/estadisticas/2009/mujer0.doc>) aged 15 years and older have experienced some type of violence. Incháustegui clarified that about 40 percent of the cases of violence take place in the woman's home, and the data suggests that most incidents likely involve either a current partner or ex-partner. Twenty percent of the female murders have been girls under the age of 5, in which case the perpetrator is usually within the family circle: "Uncles, cousins, stepfathers, who usually behave violently toward these girls and often assault them sexually before they kill them," Incháustegui said.

Perhaps one of the most illuminating pieces of data that Incháustegui shared is that while the overall murder rate has generally dropped in Mexico over the past 25 years, the murder rate of women has remained consistent. (For the past four years, however, as the *Los Angeles Times* reports, the overall homicide rate has climbed ([http://latimesblogs.latimes.com/world\\_now/2012/08/in-midst-of-drug-war-mexico-homicide-rate-increase-for-fourth-straight-year.html](http://latimesblogs.latimes.com/world_now/2012/08/in-midst-of-drug-war-mexico-homicide-rate-increase-for-fourth-straight-year.html)).

As with any statistics, however, those on violence against women may simply be distorted. For example, Fregoso has reported ([http://rush-out.org/index.php?option=com\\_content&view=full&id=5875:coming-to-grips-with-femicide](http://rush-out.org/index.php?option=com_content&view=full&id=5875:coming-to-grips-with-femicide)) that, according to Inchiástegui, a year after the state of Mexico adopted a law on femicide, the governor released statistics showing that there had been a 30 percent decrease in the murders of women. Upon closer examination, women activists found that the state also happened to record a 30 percent increase in female suicides.

## Cultural Gender Attitudes

"Mexico is a complicated environment," Fregoso told WMC's Women Under Siege while characterizing gender identities and perceptions. "You have certain regions of Mexico that are very, very conservative and Catholic and right-wing ... and you have places like Mexico City—the first capital in the world (<http://www.guardian.co.uk/world/2009/dec/22/mexico-city-time-sex-marriage>) to legalize same-sex marriage."

A 2009 study published in *Health Care for Women International* found that among women who live in poverty, those belonging to families that reinforced traditional gender roles were more vulnerable to violence (<http://www.tandfonline.com/doi/abs/10.1080/0749332.2010.503292#preview>) and were judged or punished when gender roles were transgressed.

Even in more progressive cities and regions, sexualized violence tends to be viewed as a private matter. "Public awareness of women's sexuality is still not open," Echarrri explained. "We haven't arrived to a stage where women have the same rights as men, especially in sexual matters. There has not been a sexual revolution, especially in smaller, rural towns." When a woman does gather enough courage to report an incident to authorities, Amnesty's Barrera holds, she will often encounter emotional violence at the hands of officials who encourage her to forgive her partner and return home.

Hardened gender norms, characterized by misogyny and homophobia, infuse both "masculine" violence and the structure of political and cultural institutions, Domínguez-Ruvalcaba said; these institutions consider women inferior citizens. Their deaths go uninvestigated. Professor Alicia Schmidt Camacho (<http://americas.yale.edu/faculty/alicia-schmidt-camacho>) of Yale University analyzed state impunity ([http://hemisphericinstitute.org/journal/3.1/cp/31\\_pg\\_camacho.html](http://hemisphericinstitute.org/journal/3.1/cp/31_pg_camacho.html)) surrounding the high rates of femicide and found the common response to state inaction was for female family members, usually mothers, to organize their own group searches for their daughters' remains. As Laura Carlsen (<http://www.cipamericas.org/people/>), director of the Americas Program of the Center for International Policy, reported, one mother whose daughter disappeared received only hateful, sexist responses from the government when she brought the case to their attention. "They say she's probably just gone off with her boyfriend or she's a prostitute or drug addict," the mother said (<http://www.cipamericas.org/archives/6297/>).

Mexico City has implemented short-term measures against gender violence, such as reserving the first cars of their metro system for women and children and creating a female-only bus system (<http://www.reuters.com/article/2008/01/22/us-mexico-buses-idUSN2249703220080122>). However, Echarrri argues it cannot only be about segregating women. Violence against women in Mexico is so egregious that these temporary, exceptional measures may be warranted, he said, but they must be accompanied with educating men about why violence against women is wrong.

## Witness

Margarita Martínez, a human rights defender from the southern state of Chiapas, told her story in Spanish to a room full of international activists and journalists (<http://nobelwomensinitiative.org/2012/01/we-will-carry-their-stories/>) that included a representative from WMC's Women Under Siege in Mexico City in January. Crying as she spoke, Martínez described her rape and persecution by the police and her subsequent quest for justice:

My home was searched by 18 to 20 armed police, who beat us, tortured us, and separated our children from me and my husband because of the work we do. Afterward, we went to the prosecutor's office to ask what the charges against us were. He didn't provide any information because of the search—there was excessive police force during the search. It wasn't a search, but sheer intimidation. We submitted a complaint to the specialized office for torture and were then intimidated with telephone threats. We were told to drop the case or our children will pay the price.

We had to move to San Cristóbal [de las Casas] with the children. Attacks ranged from psychological aggression to physical aggression. I was arrested, tortured, and raped in jail. My case was brought to the Inter-American Commission for Human Rights. My crime: to work as a health promoter with indigenous people. It is actually the government's responsibility to do that. On March 5, the government was ordered to implement preventative measures and investigate. ... It's been two years and we still don't have a response; even the prosecutor's office does nothing. ... The state has denied us our right to justice. Human rights defenders are the victims today. The government of Chiapas has refused to investigate because the perpetrators are high officials.

I have no work. My children are isolated. We are stigmatized because we are always followed by police. The state is responsible if anything happens to me on the way back to Chiapas. I'm sorry for my tears.

In their book, *Terrorizing Women: Femicide in the Americas* (<http://www.amazon.com/Terrorizing-Women-Femicide-Rosal-Inda-Fregoso/dp/0822346818>), UC Santa Cruz's Fregoso and New Mexico State University's Cynthia Bejarano (<http://newscenter.nmsu.edu/7698/>) provide the testimony of Eva Arce, mother of Silvia Arce, who disappeared in March of 1998. (The authors do not say where she was living when she vanished.) Arce speaks about the threats and intimidation she faced from government security forces and officials while seeking justice for her daughter:

In 2003, they beat me and surrounded my house. They have followed me and called me on the phone to threaten me. They've tried to pick me up, too. Once they left me a message to go to the Hotel Lucerna to identify the body of my daughter, Silvia, but I didn't go. They wanted to put one over on me, and I thought: *I'm not going; they'll disappear me, just like they did my daughter, Silvia.* I went to ask for help with the investigations to a news reporter from the United States who ended up making fun of me.

The mother of Yalitra Ciudadalupe (<http://www.caravanforpeace.org/caravan/?p=2415>), who was taken from her home in Tlacolula de Matamoros, Oaxaca, by an armed group on April 13, 2011, tells the Caravan for Peace ([http://www.caravanforpeace.org/caravan/?page\\_id=753](http://www.caravanforpeace.org/caravan/?page_id=753)) what she knows about her daughter's abduction. Catholic poet Javier Sicilia leads the caravan, a group traveling from Mexico north through the United States as part of his Mexican Movement for Peace with Justice and Dignity, which Sicilia created after his son was killed in crossfire in Cuernavaca in March 2011.

I heard the statements of some of the criminals involved in my daughter's disappearance. They gave all the details about how they had forced my daughter out of her house with the support of civilian and military authorities, and how they tortured, raped and decapitated her, even when they knew she was only an innocent young 19-year-old girl. For them, her only crime was that she was from the state of Michoacan.

## Fallout

Forty-seven Mexican NGOs, forming the National Citizens' Observatory on Femicide, submitted a report (<http://www.amazon.com/Terrorizing-Women-Femicide-Rosa-Linda-Fregoso/dp/0873466818>) to the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in June of 2012. One of the main recommendations was for Mexico and the United States to reassess their current strategy of combating drug violence with military violence through the funding of the Mérida Initiative (<http://www.state.gov/l/inl/merida/>), a joint-government project. JASS' Lopez Cruz told WMC's Women Under Siege that there is "an increase in sexual violence, fear, and prostitution instead of protection among women who live in territories where the military is sent to provide security." She said there has been a 25 to 30 percent increase in the trafficking of women in areas where state troops are sent in for security operations.

U.S. funding of Mexican security officials has detrimental ramifications for the safety of women. In 2009, the Department of Justice's Bureau of Alcohol, Tobacco, Firearms, and Explosives found that more than 90 percent (<http://www.gao.gov/new.items/d09709.pdf>) of the guns seized in Mexico over the three years prior had been traced back to the United States. Men—both organized criminals and security personnel—already wield significant power over women in many Mexican communities. These guns simply make the violence swifter. In an environment rife with corruption between drug cartels and military forces and without a mechanism for citizens to access justice for violent crimes, the arming of more men contributes directly to sexualized violence. Carlsen told us that a large chunk of those guns traceable to the United States come in via illegal smuggling. But regardless of the weapons themselves, she said, the violence in Mexico is indeed being fueled by U.S. intervention.

"The problem with the Mérida Initiative," she said, "is that it supports the militarization model of the drug war and provides lethal equipment and training. Guns have been emphasized but it is really the whole model of military intervention." The initiative contributes to a "climate of 'normalized' violence," she explained, where the presence of corrupt and violent security forces in Mexico leads in turn to more cartel violence.

Femicide has shifted the identity of Mexican communities in fundamental ways. Ciudad Juárez, Fregoso said, has been called a "City of Orphans" because so many mothers have been murdered or "disappeared." Over the years, a disturbing phenomenon has surfaced, as Lopez Cruz explains, "Before, women would go with their children to [women's shelters] to be protected. But now, women leave their children there because they know their lives are in danger and so their priority is to protect their children."

Violence throughout society has been normalized because of its ubiquity, but also due the lack of government response. "In newspapers, you see people hanging off of bridges, heads cut off and displayed in the desert or on highways. Hands, body parts ... It changes how you react. When you walk on the streets, you see them on newspaper stands, on the Internet, the news. All of a sudden, those horrific images are everyday and everywhere," Barrera said. The shock threshold is raised: violence in society and against women starts to seem mundane.

## Legal Precedents

Mexico has passed a number of laws aimed at addressing the issue of gender-based violence. In the 1990s, a National Center for Gender Equity and Reproductive Health was established, and in 2007 the "General Law of Women's Access to a Life Free from Violence" was passed. Marcela Lagarde y de los Ríos (<http://www.ciudademujeres.com/articulos/Marcela-Lagarde-y-de-los-Rios-1>), a feminist professor and Mexican congresswoman who presided over the Special Committee on Femicide 10 years ago, played a central role in lobbying for this later policy and was the first to define and codify the term "femicide" in Mexico.

The difficulty, Eicharri said, is that each of the 31 states in Mexico is required to ratify a federal law (termed "general law" in Mexico) and provide a penal code (i.e., define the specifics and enumerate penalties). "More progressive, liberal states have adopted it, but conservative states have been very reticent," he said of the general law on femicide.

Pursuing international justice is also an option when the Mexican judicial system fails. In November of 2009, the "Cotton Field" ([http://www.corredh.or.cr/doc/cvna/articulos/serie\\_205\\_img.pdf](http://www.corredh.or.cr/doc/cvna/articulos/serie_205_img.pdf)) case was brought before the Inter-American Court of Human Rights. The Mexican government was charged with failing to prevent and properly investigate the murder of three young women whose slain bodies were disposed of in a cotton field in Ciudad Juárez in 2001. The court found Mexico guilty of violations of the American Convention on Human Rights and the 1994 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women. Three years later,

this verdict remains largely a symbolic one, Teresa Incháustegui holds, as only three of the simplest parts of the sentencing have been completed: publication of the sentence, compensation for the victims, and the erection of a memorial. The more complicated, difficult reforms to address safety and justice for women remain to be seen.

And the solution may not necessarily be more prosecutions. Fregoso is ambivalent about the ability of state institutions to prevent gender-based violence. She acknowledges the positive legal accomplishments: Women are now juridical subjects before the law and gender-based violence is considered a political, rather than private, issue. However, she told WMC's Women Under Siege, "This law-and-order solution—incarcerate and lock men away—it doesn't deal with structural problems in society, the entrenched gender norms." Reform is unlikely because prisons in Mexico, she said, are highly misogynistic and racist. At the end of one's sentence, a prisoner is more likely to be violent toward women than when he entered.

It is not so much the laws that are passed, many activists, scholars, and politicians agree, but rather how state institutions interpret and act upon on those laws. State impunity is one of the biggest contributors to violence. "Women have lost trust in their own authorities," said Lopez Cruz. "Most of the time, when they go to report a case of abuse, trafficking, murder, or rape, they are never listened to. Corruption is an everyday occurrence. Those that are kidnapped are sent back to those who kidnapped them."

*(Leticia Wright (<http://www.womenundersiegeproject.org/author/profile/leticia-wright/>) published on December 7, 2012. With special thanks to Suzanne Stephens in Mexico City and Yotka Montano in Virginia for interpretation.)*

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## Violence against women 'pandemic' in Mexico

Fri, Mar 7 2014

By Anahi Rama and Lizbeth Díaz

ECATEPEC, Mexico (Reuters) - So many teenage girls turned up dead in a vacant field on the outskirts of Mexico City that people nicknamed it the "women's dumping ground."

They began showing up in 2006, usually left among piles of garbage. Some were victims of domestic violence, others of drug gangs that have seized control of entire neighborhoods in the gritty town of Ecatepec, northeast of the capital.

The lot has since been cleared and declared an ecological reserve. But its grisly past is not forgotten and the killings have only accelerated.

Dulce Cristina Payan, 17, was one of the victims. Two years ago, armed men pulled up in a pickup truck and dragged her and her boyfriend away from the porch of her home. He was tossed from the truck within a few blocks but she was taken away and murdered, stabbed repeatedly in the face and stomach.

Her father, Pedro Payan, believes the killers belonged to La Familia, a violent drug gang operating in Ecatepec, and that Dulce Cristina was murdered when she resisted rape.

"I think my daughter defended herself, because her nails were broken, and her knuckles were scraped," sobbed Payan, a former police officer who now sells pirated DVDs from his home to get by. "She had a strong character."

As drug violence has escalated across Mexico in the past seven years, the rule of law has collapsed in some of the toughest cities and neighborhoods. When that happens, local gangs take control, imposing their will on residents and feeding a culture of extreme violence.

Abductions, rapes and murders of women have all soared with more women being killed in Mexico than ever before.

Since former President Felipe Calderon launched a military offensive on the drug cartels at the end of 2006, over 85,000 people have died. Between 2007 and 2012, total murders rose 112 percent. Most are young men but the number of women killed shot up 155 percent to 2,764 in 2012, official data shows.

Corruption and incompetence are rampant in under-funded police forces across Mexico and the vast majority of murders are never solved. Families routinely complain that police show little interest in the cases of missing women.

The parents of Barbara Reyes spent 18 months looking for her after she disappeared in August 2011 from Cuautitlan Izcalli, near Ecatepec. They finally discovered that their daughter's body had been found by authorities within two months of her disappearance and was dumped into a mass grave with other unidentified corpses at a cemetery.

"To this day we really don't know what happened to our daughter," her father, Alejandro Reyes, said in the living room of their home, sitting next to a photograph of Barbara smiling.

### 'PANDEMIC'

President Enrique Pena Nieto, who took office in December 2012, has pledged to reduce drugs war violence but has not made major changes to the security policies pursued by Calderon. Nor has he done much to tackle murders of women, experts say.

Before becoming president, he was governor of the State of Mexico, which encircles much of Mexico City and is home to Ecatepec. In the second half of his 2005-2011 term as governor, the murders of women doubled in the state.

"Violence against women isn't an epidemic, it's a pandemic in Mexico," said Ana Guezmez, Mexico's representative for United Nations Women, the U.N. entity for gender equality.

"We still don't see it as a central theme of the current administration. You have to send a much stronger message."

Experts say the spike in violence against women is worst in areas hit hard by the drugs war, similar to what happens during civil wars like those in Colombia, Guatemala and El Salvador.

Women in conflict zones are often seen as "territory" to be conquered, and raping and murdering women a way to intimidate rival gangs and the local population. Authorities say victims are getting younger and the attacks more violent.



In northeastern Mexico, a major drugs battleground, the number of women slain jumped over 500 percent between 2001 and 2010, according to a study by Mexico's National Commission to Prevent and Eradicate Violence against Women.

Guezmez says public violence against women intensifies when crime gangs take control. "It's associated with rape and displaying the body in public places. A lot more brutal."

The U.S.-Mexico border has long been a dangerous place for women. More than one-fifth of the women killed in Mexico in 2012 were slain in three of the four states neighboring Texas, according to the national statistics agency.

Most infamous is Chihuahua, home to Ciudad Juarez, where hundreds of women were murdered or kidnapped in the 1990s.

With 22.7 murders for every 100,000 women in 2012, Chihuahua is still Mexico's most dangerous state for women.

None of the figures include the many women who have gone missing or those corpses that are so badly mutilated that authorities cannot even identify their gender.

About 4,000 women disappeared in Mexico in 2011-2012, mostly in Chihuahua and the State of Mexico, according to the National Observatory Against Femicide.

It says many are forced into prostitution, a lucrative business for drug cartels expanding their portfolios.

The gangs even prey on women migrants looking to get to the United States. In the desert between Mexicali and Tecate on the U.S. border, rapists are so brazen that they flaunt their crimes by displaying their victims' underwear on trees.

Central American migrants trekking to the U.S. border often take contraceptive pills with them because as many as six of 10 are raped passing through Mexico, Amnesty International says.

Human rights groups say security forces are often involved in sexual abuse and disappearance of women.

#### IMPUNITY

International pressure over the tide of killings persuaded Mexican lawmakers in 2007 to approve new legislation aimed at preventing violence against women.

Defining femicide as the "most extreme form of gender violence," it created a national body to prevent the killings, and urged judges to sign protective orders for abuse victims.

The law also established so-called gender violence alerts, a tool to mobilize national, state and local governments to catch perpetrators and reduce murders. Yet in practice the gender alert has never been activated.

Pena Nieto in November pledged a broad response that includes fast-tracking protective orders and making the gender alert more effective. But doubts persist about how effective such measures can be against an overburdened, weak and often corrupt justice system.

"Violence against women is so rife in Mexico that there's no political cost for those who don't deal with the issue," said a top international expert involved with the matter who didn't want to be identified so he could speak freely.

When Payan, the former policeman living in Ecatepec, heard his daughter's screams as she was dragged from their home, he and his neighbors gave chase. Witnesses led them to a house a few miles away, but when they arrived she was already dead.

Locals helped relatives track down the killers, but it took months for police to start interviewing witnesses.

One suspect was charged with the teen's kidnapping but he was released after posting bail. The other two were jailed for the rapes of other women from the same neighborhood but have yet to be charged in Dulce Cristina's murder.

The State of Mexico's attorney general declined to be interviewed over the case.

So widespread is the impunity that barely 8 percent of crimes are reported, according to national statistics. Witnesses and victims alike are afraid to testify.

Jessica Lucero, 14, was raped in June 2012 near Ecatepec and reported the crime, implicating a neighbor. Within a month, she was raped again and killed.

At the "ecological reserve" in Ecatepec where women used to be dumped, a policeman who can only see out of one eye because of glaucoma stands guard.

"The truth is that against these people there is little we can do," he said of the gangs. "We are also helpless."

(Editing by Kieran Murray and Cynthia Osterman)

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Enforcement & Removal » Repatriation (<http://www.ice.gov/repatriation/>)

## Fact Sheet: ICE Air Operations



ARCHIVED

- ICE Air Operations (IAO) is the air transportation arm of U.S. Immigration and Customs Enforcement (ICE).
- IAO is located within the ICE Office of Enforcement and Removal Operations (ERO). ERO's mission is to identify, arrest and remove aliens who present a danger to national security or are a risk to public safety, as well as those who enter the United States illegally or otherwise undermine the integrity of our immigration laws and our border control efforts.
- IAO supports this mission by providing air transportation services to ERO's 24 field offices, to facilitate the movement of aliens within the United States and also the removal of aliens to destinations worldwide.
- IAO facilitates the transportation and removal of aliens via commercial flights; and since 2006, it has transported and/or removed hundreds of thousands of aliens using air charter services.
- IAO procures the majority of its charter flight services from vendors through the General Services Administration (GSA) Schedule. IAO chartered aircraft are a combination of Boeing 737s and MD-80s, capable of transporting 135 aliens. This arrangement provides IAO with cost effective and highly flexible flight services; and as a result, IAO can rapidly adjust to changing requirements such as dates, times and operating locations.
- Mexican nationals ordered removed from the United States travel on domestic flights from various U.S. cities to Southern tier cities such as San Diego, Calif. and Brownsville, Texas. They are then bused across the U.S.-Mexico border. Other foreign nationals ordered removed are flown from various U.S. cities or IAO hub cities such as Mesa, Ariz., San Antonio, Texas, Alexandria, La., and Miami, Fla., to Central and South America, and other countries.
- Domestic destinations include Seattle, Wash.; San Francisco, Calif.; Las Vegas, Nev.; El Paso, Texas; Boise, Idaho; Newark, N.J.; New Orleans, La.; St. Paul, Minn.; Omaha, Neb.; Denver, Colo.; Salt Lake City, Utah; Reno, Nev.; Miami, Fla.; Chicago, Ill.; Bakersfield, Calif.; Kansas City, Mo.; Columbus, Ga.; Oakland, Calif.; and Harrisburg, Pa.
- IAO routinely conducts:
  - Domestic flights to facilitate the transfer, staging and removal of aliens via land ports of entry or for flights abroad;
  - Regularly scheduled repatriation flights to countries with a high volume of removals;
  - Long-range charter flights to countries or regions (including Europe, Africa, and Asia) on an as needed basis; and
  - Special charters to accommodate aliens with serious medical conditions, those who fail to comply with removal efforts, and high-profile removals.
- The majority of IAO charter flights operate in the United States, the Caribbean, Central America, and South America. Foreign destinations include: the Dominican Republic, Jamaica, Haiti, El Salvador, Honduras, Guatemala, Nicaragua, Colombia, and Ecuador.

### Facts and Figures

In FY2013:

- IAO removed 189,000 aliens via charter aircraft to 16 countries;
- IAO managed a total of 257,213 movements via charter aircraft – including removals, returns, and transfers; and,
- Conducted an average of 43 charter flights per week to foreign and domestic locations.

In FY2012:

- IAO removed 205,762 aliens via charter aircraft to 42 countries;
- IAO managed a total of 264,478 movements via charter aircraft, including removals, returns, and transfers; and,
- Conducted an average of 43 charter flights per week to foreign and domestic locations.

In FY2011:

- IAO removed 182,655 aliens via charter aircraft to 34 countries;
- IAO managed a total of 227,835 movements via charter aircraft, including removals, returns and transfers; and,
- Conducted an average of 38 charter flights per week to foreign and domestic locations.

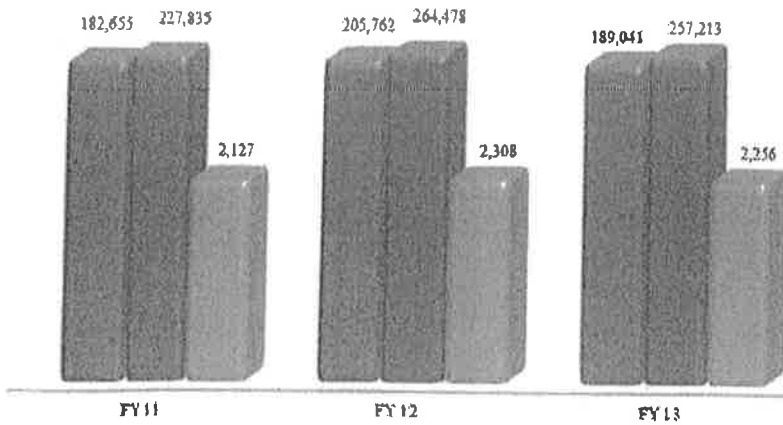
Commercial Removal Statistics

- In FY2013, IAO coordinated 2,077 escorted removals and 5,311 unescorted removals via commercial aircraft.
- In FY2012, IAO coordinated 2,289 escorted removals and 7,474 unescorted removals via commercial aircraft.
- In FY2011, IAO coordinated 2,522 escorted removals and 9,711 unescorted removals via commercial aircraft.

### ICE Air Operations Yearly Comparison

\* - FY13 data is thru September 30, 2013

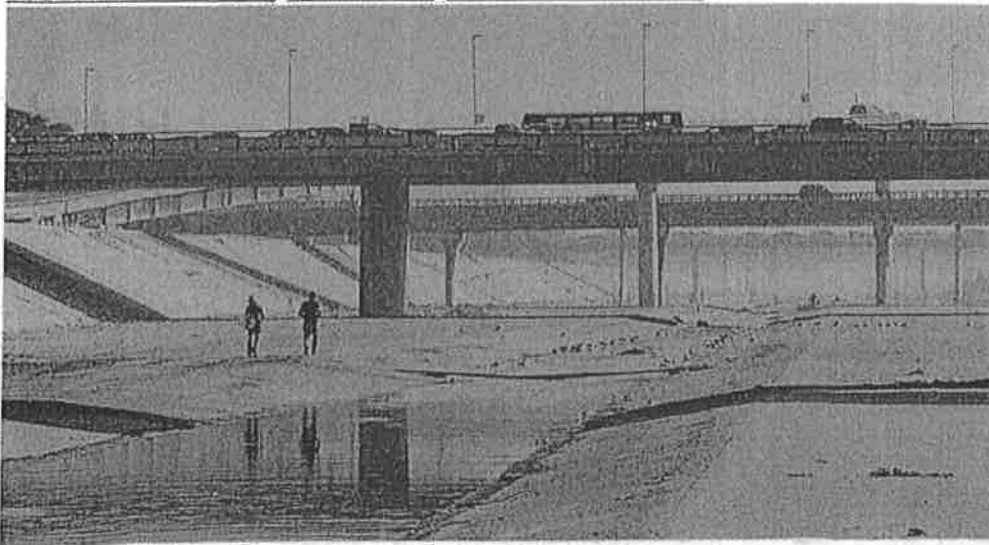
■ Repatriations ■ Movements ■ # of Missions



## Prospect Journal

# THE U.S. DEPORTATION REGIME: LEFT WITH NOTHING, DEPORTEES MUST SURVIVE IN THE SHADOW OF THE FENCE

May 30, 2014 · by [prospectjournalucsd](#) · in [HEALTH](#), [HUMAN RIGHTS](#), [LATIN AMERICA](#), [NORTH AMERICA](#), [POLITICS](#), [PUBLIC HEALTH](#) ·



by Alejandro Inzunza  
*Staff Writer*

A monumental flag marks the entry to Tijuana's new *El Chaparral* point of entry, a gleaming new facility from which southbound drivers and pedestrians enter Mexico from the United States. The new gateway is part of an ongoing binational effort that aims to modernize and expand the infrastructure of the San Ysidro Port of Entry, the largest border crossing in the San Diego-Tijuana metropolitan region and, at more than **56 million** ([http://www.sandag.org/uploads/publicationid/publicationid\\_1424\\_17572.pdf](http://www.sandag.org/uploads/publicationid/publicationid_1424_17572.pdf)) legal border crossings per year, the busiest land border crossing in the world.

Yet adjacent to this location lies one of the most striking consequences of the stringent enforcement of America's immigration policy and of Mexico's domestic neglect of its deported citizens. San Ysidro is the port of entry through which most deportations have taken place—as much as 20 percent ([http://www.huffingtonpost.com/2012/06/22/california-border-crossing\\_n\\_1619067.html](http://www.huffingtonpost.com/2012/06/22/california-border-crossing_n_1619067.html)) over the last ten years—and the results are unequivocally visible in the surrounding urban area.

Under pressure (<http://www.washingtonpost.com/blogs/wonkblog/wp/2012/08/27/obama-is-deporting-more-immigrants-than-bush-republicans-dont-think-thats-enough/>) from the political right, the Obama administration has now removed more than 2 million (<http://www.ice.gov/removal-statistics/>) undocumented immigrants from the United States. The administration claims to be targeting criminals and other serious offenders, but this is highly contested. A New York Times analysis (<http://www.nytimes.com/2014/04/07/us/more-deportations-follow-minor-crimes-data-shows.html?hp&r=4>) found that two thirds of deportations involved individuals who “had committed minor infractions, including traffic violations, or had no criminal record at all.” The report also highlights the administration's tendency to file charges against deportees that bar them from entering the country for five years, and threatening those caught in the U.S. again with prison sentences.

It is estimated that 40 percent of all Mexican deportees are repatriated through Tijuana every year (<http://www.theguardian.com/world/2014/apr/11/undocumented-migrants-stuck-tijuana-mexico-us>). The numbers have been so staggering that the daily arrival of deportees, in U.S. Immigration and Customs Enforcement (ICE) buses, overwhelms the local capacity to deal with the necessities of repatriation and exposes inherent shortcomings in the institutional will of the Mexican government to develop an appropriate solution. Shelters and charitable organizations that previously provided assistance to undocumented migrants seeking to enter the United States now focus their efforts on helping the daily waves of deportees. The lack of accessible housing, proper healthcare and nutrition, as well as proper assistance and documentation from both governments in the lead-up to deportation has led to an intersection of local rejection and federal negligence; deportees effectively become undocumented in their country of origin. With only distant hopes of being able to cross back into the United States and nowhere else to go, deportees are forced to wander and settle around the edges of the Tijuana River in a grim stretch locally referred to as “El Bordo.”

Spanish for “the edge” or “the border,” El Bordo spans two kilometers of the paved Tijuana River and is situated between the downtown area of Tijuana and the border fence of the United States. Filled with trash and flowing with sewer water, El Bordo is dotted with makeshift tents, dug-up holes and open manholes where people attempt to survive and make a living. Nicknamed “ñongos” by their inhabitants, these improvised shelters lack the most basic necessities and are usually built with the trash that's available nearby. Although an accurate census often proves difficult given the transient status of the population involved, it is estimated that more than 4,000 people currently reside in El Bordo. A study (<http://www.colef.mx/?noticia=se-presento-el-proyecto-el-bordo-del-canal-del-rio-tijuana-estimacion-y-caracteristicas-de-la-poblacion&lang=es>) by Tijuana's Colegio de la Frontera Norte (COLEF) found that 72 percent of deportees living in El Bordo had previously lived in California, most of them for more than six years. Deportees often arrive with no previous knowledge of the local area and occasionally without the ability to speak the local language. With no

access to the financial resources they earned in the United States and unable to contact their families, deportees suddenly find themselves in conditions of extreme poverty that render them vulnerable to the local machinations of organized crime.

The harsh conditions (<http://www.vice.com/Fringes/deportee-purgatory-video>) also expose them to frequent human rights violations, often at the hands of local police. Deportees allege that they are constantly arrested or beaten for no reason and occasionally have their settlements burned (<http://www.kpbs.org/news/2013/aug/09/deported-migrants-cope-after-tijuana-police-destroy/>). The police deny these claims but admit the periodic demolition of the shacks to clean up the paved riverbed and avoid the development of permanent settlements. They emphasize the health and crime risks posed by the deportees, many of whom were removed from American prisons, including a substantial number who have succumbed to drug addiction. The police claim that 75 percent of the crime in the surrounding area is connected to migrants, a claim rejected (<http://www.colef.mx/?noticia=se-presento-el-proyecto-el-bordo-del-canal-del-rio-tijuana-estimacion-y-caracteristicas-de-la-poblacion&lang=es>) by COLEF.

The inhumane characteristics that define life in El Bordo are unacceptable and exemplify a myopic view of policy on both sides. Both Mexico and the United States need to reevaluate their domestic policies and deal in proper manner with the consequences of their current approach. The United States, while certainly legally empowered to remove undocumented residents from within its borders, should deal with deportees in a humane way that live up to the ideals of its nation. Due process, access to legal counsel in every case, and the implementation of policies aimed at easing the transition for deportees are essential. It is within the current administration's power to relax the harshness of the current approach and salvage what remains of its initial promise made to the Latino population. Having removed (<http://www.newrepublic.com/article/117412/deportations-under-obama-vs-bush-who-deported-more-immigrants>) more immigrants than any president in U.S. history, Obama is increasingly ([http://www.huffingtonpost.com/2014/05/29/obama-deportation-review- n\\_5413354.html](http://www.huffingtonpost.com/2014/05/29/obama-deportation-review- n_5413354.html)) at risk of alienating (<http://www.politico.com/news/stories/0612/77282.html>) Latino voters and eroding ([http://www.huffingtonpost.com/2014/03/05/nclr-deporter-in-chief\\_ n\\_4905811.html](http://www.huffingtonpost.com/2014/03/05/nclr-deporter-in-chief_ n_4905811.html)) what has traditionally been (<http://www.pewhispanic.org/2012/11/07/latino-voters-in-the-2012-election/>) one of the strongest bases of the Democratic Party. Given the uncertainty surrounding the prospects for immigration reform in the near future, the way and manner in which current immigration law is implemented is likely to define Obama's legacy on the issue

Mexico needs to accept the responsibility it has to protect and properly assist its deported citizens by developing adequate institutional solutions to deal with their transition. After all, deportees are part of the population whose remittances constituted approximately 2 percent (<http://www.ime.gob.mx/en/remesas>) of Mexico's GDP at an estimated \$22 billion (<http://www.pewhispanic.org/2013/11/15/remittances-to-latin-america-recover-but-not-to-mexico/>) in the last year alone. As a starting point, Mexico should coordinate with American authorities and restore deportees to their original hometown where they can access social and familial networks that can mitigate the impacts of deportation. The Mexican government also needs to provide access to official documentation as part of the repatriation process to facilitate deportees' reinstatement into the Mexican labor force. The government should also coordinate with the United States and manage the repatriation of citizens with criminal backgrounds through domestic judicial channels. Additional

resources should also be devoted to provide proper housing in sufficient quantities and to implement harm reduction strategies that tackle the rampant drug abuse among recent deportees. Without efforts by both nations to address the current deportation regime's failures, spaces like El Bordo will continue to exist and proliferate, and deportees will remain trapped between two countries, struggling to survive in the cracks beneath the shadow of the border.

Photo by [Mike DuBose](#)

(<https://www.flickr.com/photos/umcommunications/8311579050/in/photolist-eiXA7B-ej4k2u-ej4k13-haRv1Z-dEnEBi-ej4jXj-eiXA4R-5S7b6-eiXA4M-ei6pHa-7WU4a4-buF315-9Vfqr-kcZ4pZ-e6eo83-aFmuNu-dEt1T5-dEt1Wy-dEnCS2-dEt1Bb-dEt1rq-dEt1NY-dEnDnK-dEnCBe-dEnCHt-dEt1L1-emgN9N-emaZFx-emgM5L-emgMVN-cibCuA-cibAMq-cibARq-cibCiY-cibBN5-cibBJG-cibCly-cibBg1-cibA1b-cibC2G-cibBpq-cibC3U-cibBTY-cibBDW-cibAgY-cibAJm-cibAeu-cibBnd-cibASm-cibA25>)

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# CALIFORNIA WATCH

PUBLIC SAFETY | DAILY REPORT

## Calif. border crossing sees most deportations

June 22, 2012 | Andrew Becker and Agustin Armendariz, California Watch



Zach Timell/Flickr [1]  
The San Ysidro port of entry between Tijuana, Mexico, and San Diego County is the busiest land border crossing in the world.

The San Ysidro port of entry – which separates Tijuana, Mexico, from San Diego County – is the busiest land border crossing in the world, with more than 30 million people crossing into the country from Mexico last year alone, according to government statistics.

U.S. Immigration and Customs Enforcement also has used San Ysidro more than any other border crossing to deport Mexicans back to their country, according to an analysis of [government data](#) [2] by California Watch. Of the 1.8 million Mexicans whom ICE deported back to their native country since 2003, San Ysidro has seen 360,172 – nearly 20 percent of the total – pass through its gates.

Tijuana also has received through the San Ysidro port of entry and its smaller sister port of Otay Mesa more than 220,000 criminals, or nearly 1 of 4 Mexicans convicted of a crime who have been removed from the United States by ICE.

The agency has a number of “hubs” along the Southwest border for removing immigrants from the country. San Ysidro, the last U.S. stop for many Mexican deportees apprehended throughout the western states, falls under the San Diego office, one of the agency’s primary hubs.

On any given day, the agency buses 100 to 160 Mexicans, many recently released from jail, from the Los Angeles area to San Diego, with most repatriated through San Ysidro. Each month, the agency flies another 1,200 or so deportees to San Diego, where they are then bused to the border crossing to be removed.

“ICE determines the volume of removals through various ports of entry based on a number of factors including geography, port of entry infrastructure and capacity, safety issues and the preferences of the receiving nation’s government, particularly in the case of Mexico and Canada,” spokesman Brian P. Hale wrote in an email.

As a drug war has raged for more than five years in Mexico between government forces and rival crime syndicates, hundreds of thousands of Mexicans have been sent back to their country by way of dusty border towns at the U.S. ports of entry.

Tijuana saw drug-related violence escalate around 2008 as crime bosses battled for dominance and control of lucrative smuggling corridors, or “plazas.” While the brazen and dramatic killings largely have dissipated just south of San Diego, mayors in the area and elsewhere along the border remain concerned about receiving violent offenders or potential crime victims back into their cities.

“If they’re not originally from the border community, then we shouldn’t be trying to integrate them back into the border community,” John Cook, mayor of El Paso, Texas, [said](#) [3] in February at a border mayors conference in Tijuana. When deporting Mexican nationals, “we should try to get them as close to the center of the country as possible.”

Spurred in part by such concerns, the Mexican and U.S. governments have pledged to explore the idea of a pilot program to deport some Mexican nationals by flying them deep into the country, away from the potentially violent and volatile border region.

A similar concept, known as the Mexican Interior Repatriation Program, has existed since 2004. Billed as a humanitarian program to curb the exploitation of migrants who rely on smugglers to sneak them through the Arizona desert in brutal summer heat, the two governments have worked together to return Mexicans apprehended by the U.S. Border Patrol. More than 125,000 Mexicans have been deported voluntarily since the program began. Mexican nationals convicted of a violent crime are ineligible. Last year, 8,893 people participated, down 38 percent from the previous year.

8/1/2014

Calif. border crossing sees most deportations - California Watch

The pilot program, which the two governments announced [4] in late February, has yet to launch [5] as officials continue to negotiate details, according to a Mexican Embassy official.

The mayors also have pushed for better sharing of police records, including arrest warrants and criminal backgrounds, between the two countries. As it stands, a deportee's U.S. criminal record is not necessarily shared with Mexican authorities, a Mexican Embassy official said.

ICE spokesman Hale said the two countries closely coordinate the deportation of Mexicans and have specific arrangements for all ports of entry through which deportees are repatriated. Those arrangements set requirements, such as when the removals occur, their volume and other information.

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**Original URL:** <http://californiawatch.org/dailyreport/calif-border-crossing-sees-most-deportations-16743>

**Links:**

[1] <http://www.flickr.com/photos/tirrell/58281362/sizes/m/in/photostream/>

[2] [http://www.bts.gov/programs/international/transborder/TBDR\\_BC/TBDR\\_BC\\_Index.html](http://www.bts.gov/programs/international/transborder/TBDR_BC/TBDR_BC_Index.html)

[3] <http://mexicoperspective.com/Border-mayors-meet-in-Tijuana.html>

[4] <http://www.utsandiego.com/news/2012/feb/27/pilot-program-to-fly-deportees-to-mexican-interior/>

[5] [http://www.stltoday.com/news/national/u-s-mexico-discuss-criminals-deportation-deeper-into-country/article\\_e64e4b7f-d4a9-5c1b-b324-c6c0333a9042.html#ixzz1xo8N8ult](http://www.stltoday.com/news/national/u-s-mexico-discuss-criminals-deportation-deeper-into-country/article_e64e4b7f-d4a9-5c1b-b324-c6c0333a9042.html#ixzz1xo8N8ult)



## Deported Mexicans

# Bordering on cruelty

**United States expulsion policy toward migrants carries a big human cost**

Feb 8th 2014 | NUEVO LAREDO | From the print edition

THEY are flown down to the Mexican border by the plane-load, and then released across the bridge at night. They shuffle into Mexico wearing the look of defeat. Their shoes are untied and their trousers hang down; their laces and belts are in a plastic bag. Often these are all they carry.

Many have no papers. Some have no money. A few have lived so many years in the United States that they cannot even speak Spanish. All have wives, children or friends that they have left behind, yet they have been thrown out without so much as a change of clothes.

A government agency from the north-eastern state of Tamaulipas, the Tamaulipas Migrant Institute, offers them free telephone calls when in Mexico. They are shown on a map exactly where they are and offered discounted bus tickets to their home towns—if, that is, they decide not to try to cross the border again. “I’m not going back,” one elderly man shouts out. “Better to go home. Up there, they don’t want us any more.”

Such comments may sound like vindication for the architects of the United States’ deportation policy; it is designed to deter. The vast majority of foreigners expelled last year were Mexicans—322,900, according to Mexican government statistics. That is 11% below the year before, but it fails to capture the growing number of Central Americans also shipped back to Mexico—sometimes because they pretend to be Mexicans, in order not to be sent all the way home, and have no papers to prove otherwise.

So far, the social impact of the mass deportations appears to be greater than the economic one. According to S arah Mart inez Pellegrini of El Colegio de la Frontera Norte, a border university, people who benefited from remittances may slip below the poverty line when the breadwinner is repatriated. The deportee may find it hard to get a job. In Michoac an, a south-western state where drug-related violence has been a focus of attention this year, some deportees have taken up arms and joined vigilante groups fighting drug gangs.

The Mexican government, meanwhile, is concerned about the rights of the deportees. Reyna Torres, a foreign-ministry official, says that some of those arrested are not given the chance to call a consul, nor sent to judges who specialise in migration cases. If they are held in detention for longer than 30 days, their documents, including IDs, are destroyed. She says there is “mistreatment and abuse” at the hands of firms subcontracted to handle detention and expulsion. Too often Immigration and Customs Enforcement, a federal body, shrugs off such abuses as the subcontractors’ fault. The deportees are sent into Mexico often far from where they lived in the United States, adding to their disorientation.

Such was the case with Vasilio Martínez, a 39-year-old irrigation worker, who was caught in Arizona trying to return to his wife and five children in Washington state, where he had lived for nine years. Since he had been deported previously, he was jailed for 2½ years. Then he was shunted to deportation facilities in South Carolina and Georgia.

On the day he was repatriated to Nuevo Laredo—about 1,500km (950 miles) east of where he had originally crossed—he did not know where he was. All he knew was that the city had a reputation for drug violence. Instead of relief at being back in Mexico on his first day of freedom, he was terrified. And he had no idea when he would see his family again.

From the print edition: Briefing





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## Towards a WILPF section in Mexico.

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For over a year now, we've been working with women in Mexico to establish a WILPF Section there. The Mexican women are motivated and want to join our organization. Amparo has been working to raise \$1,500 to visit the group and provide technical assistance. Here's what our sisters in Mexico are saying about their hopes for joining WILPF this year

### BUILDING PEACE IN MEXICO

The idea for a WILPF section in Mexico emerged from the reflection, hard work and strong desires of a group of women from Puebla. Our hope is to stimulate changes and take actions that will help build a free, equal, just and peaceful society in Mexico.

Our group consists of both students and professionals dedicated to peace and social justice. We are young women students, professionals and professors from the University of Puebla, activists and women working in NGOs. Elizabeth Ballen, a sociologist with a Masters in Gender Studies and emphasis in women and development, is the leader, facilitator and organizer.

[ILLUSTRATION OMITTED]

Why do we need a Mexican WILPF section? The history of Mexico, like many countries of Latin America, demonstrates profound inequality and injustice for women. Beginning with the Aztecs, continuing through the Spanish rule and after independence, women have been relegated to a position of subordination and marginality. Aztec women were submissive and obedient to Aztec men. They were prohibited from endeavors that conferred wealth, power and prestige: religious activities, commerce, war and hunting.

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During Spanish rule, a married woman had limited rights. Although she could inherit property and titles, her ability to exert any influence or make decisions was subsumed by her husband, who administered and controlled the family wealth. Before marriage, a girl was completely dependent on the father. After independence, women could work, but as campesinos or domestic servants. Women's participation in Mexico's political life was rare.

[ILLUSTRATION OMITTED]

### MEXICO TODAY: WOMEN MARGINALIZED BY VIOLENCE AND POVERTY

Social factors in Mexico continue to marginalize Mexican women. Our culture is characterized by "machismo" in its customs and other cultural expressions. For example, Mexico makes more "telenovelas" than any other country, which are translated into 21 languages and transmitted worldwide. Our music—boleros, rancheros, ballades—along with these TV shows, sell the idea that men have power over women and that women are only objects of their desires. Women are portrayed as accepting their role, which is to suffer, to toil and exist only to nurture others.

With respect to violence, Mexico has a heartbreaking and devastating record. The murders of women in Juarez are illustrative. After more than 15 years, the authorities are unable to stop the killings or punish those responsible for the horrendous crimes. Domestic violence is also too common. Statistics show that 50 percent of women with primary or secondary education have suffered domestic violence in the last 12 months, whereas four out of 10 women with university education have had a similar experience. While one out of every five victims seeks legal assistance, the laws are inadequate.

Poverty is also a major problem affecting women. According to the NGO Bilaterals, ([www.bilaterals.org](http://www.bilaterals.org)) between 1994 and 2000, poverty increased from 51 percent to 70 percent. This is alarming considering that a majority of those impoverished are women heads of households, lacking a formal means of generating income for their families.

Mexico is a multicultural country with 72 indigenous groups. Many indigenous peoples are monolingual, which, among other factors, increases their poverty rates and prevents assimilation. In Puebla, we have seven ethnic groups, each speaking its own language.

Indigenous women and children are the poorest of the poor, the most excluded and least visible in Mexican society. They experience the most discrimination, violence and suffering. It is also for these women that we want to establish a WILPF section. There can be no democracy, no legal state, no justice, peace or liberty, without full participation and equality for indigenous women.

We want to be part of WILPF because we respect and admire the efforts WILPF makes in its demand for world peace, social justice and freedom. We know that Mexican women can contribute to this cause, and work together with other sections to add our voice to a movement that will find strength and success only if we work together across national boundaries for the good of all people in the world.

000206

This article was translated by N. Garabedian. Amparo Guerrero is a vice president of WILPF International and a social worker with a Master's Degree in Gender & Development Studies from the National University in Bogota. Please contact her (amparolisa@hotmail.com) for more information. To financially support WILPF's work in Mexico, contact Linda Belle at JAPA (japa@jgc.org). Elizabeth Ballen is a sociologist with a Masters in Gender Studies.

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000207



# General Assembly

Distr.: General  
7 March 2011

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## Human Rights Council

Sixteenth session

Agenda Item 3

Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development

### Report submitted by the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya

#### Addendum

Responses to the questionnaire on risks and challenges faced by women  
human rights defenders and those working on women's rights and  
gender issues\*

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\* The present report is circulated as received.



## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1-4	4
II. Questionnaire.....		4
III. Responses received to the questionnaire.....	5-827	5
Argentina.....	5-18	5
Azerbaijan.....	19-22	7
Bahrain.....	23	7
Bangladesh.....	24-59	9
Cambodia.....	60-66	13
Canada.....	67-95	14
Colombia.....	96-158	17
Denmark.....	159-170	28
Dominican Republic.....	171-177	29
El Salvador.....	178-188	30
Fiji.....	189-207	32
Guatemala.....	208-217	34
Guyana.....	218-279	36
Haiti.....	280-291	42
Honduras.....	292-374	44
Ireland.....	375-379	51
Kazakhstan.....	380-388	53
Lithuania.....	389-397	54
Malaysia.....	398-403	55
Mexico.....	404-520	55
Namibia.....	521-535	71
Nepal.....	536-578	73
Nicaragua.....	579-645	78
Nigeria.....	646-661	86
Norway.....	662-675	87
Papua New Guinea.....	676-686	89
Philippines.....	687-691	90
Portugal.....	692-700	91
Serbia.....	701-714	92
Slovakia.....	715-724	95

---

Somalia.....	725–728	96
Sri Lanka .....	729–735	96
Syrian Arab Republic .....	736–754	98
Thailand.....	755–759	100
Ukraine .....	760–764	101
United States of America.....	765–773	102
<i>Regional responses</i> .....	774–827	104
Horn of Africa .....	774–792	104
Mesoamerica .....	793–827	106

396. Informal networks of NGOs (human rights, women human rights) are established, which ensures active communication and, possibly, could be a tool for prompt reaction in case of censorship, abuse or unsafety.

397. Neither specific protection programmes for women defenders, nor specific measures adopted relevant regional human rights mechanisms are known/ used in Lithuania.

## Malaysia

### Question 1: response from Women's Aid Organisation (WAO)

398. In 2000, the Women's Aid Organisation refuge, which has been gazetted by the social welfare department as a safe house for women survivors of abuse, was raided by immigration department officials in search of 'illegal immigrants'. This act, which led to the temporary detention of four Indonesian domestic workers, who were in fact 'legal', was a gross violation of privacy and an act of intimidation.<sup>14</sup>

399. Women's Aid Organisation is involved in a civil society campaign for freedom of religion in Malaysia, known as Article 11. In 2006, death threats were made to members of this freedom of religion campaign.

400. In 2010, Women's Aid Organisation made press statements condemning the whipping sentence granted to Kartika Sari Dewi Shukarnor for drinking a beer. As a result of these public statements, a police report was made by another NGO against Women's Aid Organisation.

### Question 2: response from Women's Aid Organisation (WAO)

401. There are no specific legislative measures.

### Question 3: response from Women's Aid Organisation (WAO)

402. In the wake of past threats of violence, Women's Aid Organisation increased physical security provisions in the office by installing security gates and alarms. When threats of violence do occur, groups and individuals beyond women's groups release joint press statements condemning the threats.

### Question 5: response from Women's Aid Organisation (WAO)

403. There are two relevant Association of Southeast Asian Nations (ASEAN) bodies: the ASEAN Commission for the Promotion and Protection of the Rights of Women and Children (ACWC) and the ASEAN InterGovernmental Commission on Human Rights (AICHR). However the role of these bodies in the protection of women's human rights defenders has not been tested in the Malaysian context.

## Mexico

### Question 1: response from the Government

404. Con fundamento en el artículo 44 de la Ley General de Acceso de las Mujeres a una Vida Libre de Violencia, la Secretaría de Seguridad Pública (SSP), es responsable de

<sup>14</sup> More information at: <http://www.wao.org.my/news/20001106theraid.htm> and <http://www.wao.org.my/news/20001108raidupdate.htm>

administrar el Banco Nacional de Datos e Información sobre Casos de Violencia Contra las Mujeres.

405. Por lo anterior, las autoridades competentes tienen la obligación de registrar los casos de violencia contra niñas, adolescentes y mujeres, incluidas las defensoras de derechos humanos, con el objeto de coadyuvar con las instancias investigadoras y de justicia para atender de manera integral la salvaguarda de sus derechos.

406. Asimismo, actualmente la SSP se encuentra desarrollando las plataformas tecnológicas para el registro de las órdenes de protección previstas en los artículos 17 y 27 al 34 del citado ordenamiento y que establecen la obligación del Estado mexicano de garantizar a las mujeres la erradicación de la violencia en la comunidad (17); las características de las órdenes de protección que en su momento pueden otorgar las autoridades federales, estatales y del Distrito Federal en favor de las víctimas de violencia (27); y las órdenes concedidas a menores de 12 años.

407. El gobierno de México está consciente de que tanto las defensoras como los defensores de derechos humanos, en el ejercicio de su labor, han sido objeto de amenazas, hostigamientos, persecución y otros actos que violentan sus derechos humanos. Un ejemplo de ello es el hecho de que de las 30 medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos a nacionales mexicanos, algunas de ellas corresponden a defensoras y defensores de derechos humanos.

408. Las defensoras de derechos humanos y aquéllos que trabajan en favor de los derechos de las mujeres y la perspectiva de género, requieren de necesidades de seguridad específicas que sean acordes a la situación de vulnerabilidad en la que se encuentran y del contexto en que se cometen las violaciones a sus derechos fundamentales. Por ello, el diseño de los mecanismos de protección y promoción de tales derechos debe considerar tales características y circunstancias. Entre las necesidades de seguridad se encuentran aquéllas que otorguen una protección a su integridad física, social y psicológica; además de atención médica y jurídica.

409. La Comisión Nacional de los Derechos Humanos (CNDH) ha señalado que el peligro en que se encuentra un defensor o una defensora provoca un efecto amedrentador y como consecuencia de ello, el defensor puede verse obligado a cesar alguna o todas sus actividades. Cuando esto sucede no sólo quedan desprotegidos los derechos del defensor como consecuencia de la agresión, sino que, además, grupos de la comunidad y en algunos casos comunidades enteras, quedan sin representación y, por tanto, sin protección de sus derechos.

410. La CNDH ha documentado que las agresiones que con más frecuencia denuncian los defensores civiles son las amenazas, intimidación, persecución, vigilancia, robo, privación de la vida, dilación en la procuración de justicia, ataques a la propiedad privada, ejercicio indebido de la función pública, detención arbitraria, agresiones físicas, así como las manifestaciones que se vierten en su contra con la finalidad de denostar la labor que realizan, hechos en los cuales aun cuando no ha sido identificado el origen de la agresión, se puede advertir que estos actos refieren un patrón sistemático que intenta frenar la defensa y promoción de derechos humanos que realizan las organizaciones sociales.

411. En cuanto a los homicidios cometidos contra defensores civiles de derechos, la CNDH cuenta con el siguiente registro: de 2006 a la fecha se han registrado 8 (2006=1, 2007=1, 2009=2, 2010=4).

412. Sobre este mismo punto la CNDH emitió su Recomendación 54/2010, relativo a una defensora integrante de una Asociación Civil de Derechos Humanos de Nuevo Casas Grandes, Chihuahua, en donde primero se registró el homicidio de su esposo, ocurrido el 8 de octubre de 2009, presumiblemente en razón de su labor como defensora, posteriormente

el 5 de noviembre de 2009 se tuvo conocimiento que fue privada de su libertad por un grupo armado, sin que a la fecha se tenga conocimiento de su paradero.

413. Response from Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH)

414. En México, las defensoras de derechos humanos se encuentran continuamente ante riesgos y desafíos que vulneran el goce efectivo de sus derechos. Las mujeres defensoras de derechos humanos en este país se ven expuestas, además de la impunidad generalizada que impera en casos de ataques, hostigamientos y amenazas, a una sobreexposición a la vulnerabilidad por su condición de mujeres ante una estructura social, cultural y gubernamental marcada por la misoginia y el machismo. De tal virtud, las defensoras de derechos humanos ven amenazada o vulnerada su integridad sexual, además de la física y mental, sin contar con una incidencia reiterada de patrones de violencia institucional, tanto por parte de autoridades administrativas como jurisdiccionales.

415. Esto se ve acentuado ante el escenario de creciente violencia contra las mujeres y la indiferencia e invisibilización por parte del Estado. Estos rasgos sistémicos y culturales, que evidencian un patrón de violencia estructural contra las mujeres, permite dar carta de naturalidad a la judicialización, criminalización y el uso del cuerpo de la mujer como un botín de guerra, fenómenos que se han intensificado en el actual contexto de violencia generalizada que tiene por marco común la política del gobierno federal actual de combate contra la delincuencia organizada. Esto se ha hecho tanto más notorio cuanto se acrecientan los casos de Femicidio que las autoridades han pretendido ligar sin mayor investigación a la delincuencia organizada, buscando así sustraerse de sus obligaciones fundamentales de proteger, respetar y garantizar los derechos de las mujeres y el derecho de toda persona a defender los derechos humanos.

416. Al respecto cabe destacar tres dimensiones sensibles a estos fenómenos:

417. La situación de las defensoras de derechos humanos en el marco de la actual política de combate a la delincuencia organizada:

418. A lo largo de los últimos años se han multiplicado los casos de persecución y acoso contra defensoras de derechos humanos en entidades federativas asoladas por la violencia de las bandas delincuenciales y la reacción que ha merecido por parte del Estado. Las manifestaciones más recurrentes son la criminalización y judicialización de la defensa de derechos humanos, así como diversas formas de ataque, que van desde la amenaza hasta el homicidio. Cabe citar tres casos específicos: a) los de las defensoras de policías municipales arraigados y torturados en cuarteles militares de la ciudad de Tijuana, Baja California, Silvia Vázquez Camacho, colaboradora de la Comisión Ciudadana de Derechos Humanos del Noroeste, A.C. y la Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C. (CMDPDH), y Blanca Messina Nevárez, hija de uno de los policías municipales arraigados, quienes fueron amenazadas de muerte y se vieron precisadas a abandonar sus lugares de residencia; en la misma situación se hallaron 5 mujeres, de un total de 7 personas que tuvieron que abandonar sus domicilios por amenazas y hostigamiento durante el año 2010, conforme a lo precisado por la Actualización de 2010 del Informe de la OACNUDH – México Defender los derechos humanos: entre el compromiso y el riesgo; b) asimismo, resultó trágicamente conocido el caso de la defensora Josefina Reyes, asesinada en Chihuahua el 3 de enero. Se destacó en la denuncia de abusos de militares y la policía federal en Ciudad Juárez; y c) el caso de desaparición de Alicia Salaíz Orrantía, de la Asociación Civil de Derechos Humanos de Nuevo Casas Grandes, detenida por un grupo de sujetos armados en Casas Grandes, Chihuahua.

419. Por su parte, las defensoras que trabajan con temas como los derechos sexuales y reproductivos, son constantemente hostigadas tanto por autoridades del Estado como por la

Iglesia, quienes frecuentemente involucran sus creencias con la política estatal, se oponen a reformas legislativas y cambios estructurales que benefician a las mujeres y se unen con partidos políticos para tomar acciones con el objeto de obstaculizar cualquier avance en los derechos de las mujeres;

420. Asimismo, las defensoras son frecuentemente víctimas de descalificaciones y cuestionamientos a su vida privada, con lo cual se pretende poner en duda su labor por los derechos de las mujeres. Esta situación ha provocado también la ruptura o deterioro de las relaciones familiares y sociales de las defensoras, pérdidas patrimoniales y menoscabo de su vida profesional, como resultado directo de los ataques a su honra y reputación.

421. Ante el escenario anteriormente descrito, que desde luego incluye otras manifestaciones de ataque, hostigamiento y amenaza, resulta necesario y urgente que el Estado asuma sus compromisos en materia de protección de las y los defensores de derechos humanos, incluyendo el establecimiento de un mecanismo institucional avocado a este propósito, que cuente con las herramientas y los recursos técnicos, humanos y financieros suficientes, como lo han solicitado en reiteradas ocasiones las y los defensores.<sup>15</sup>

#### **Response from Peace Brigades International- Mexico**

422. Normalization/dominance of military presence (in relation with the "war against drug cartels and organized crime"). In this context women human rights defenders in Mexico are not widely recognized as agents of peace-building working in the frame of an armed conflict and have not been granted therefore access to specific protection measures for civil society in situations of conflict and post-conflict (such as the one envisioned by the Resolution 1325).

423. Recommendation: The issue of the current armed conflict should be agreed with the Mexican Government as enough reason for the implementation of the Resolution 1325 towards women human rights defenders in this country.

424. Suppression of civil, political rights in relation with the militarization (and total impunity for members of the armed forces).

425. Increased conflict and violence against women (Violence against women is used by the armed forces as a strategy to deter social protest).

426. Lack of accountability of state and economic actors in relation with violations of human rights in the context of economical interests (the state does not promote politics of development that respect the economic, social and cultural rights, especially with regards to indigenous groups and peasant farmers. The State facilitates or collaborates with violations by non-state actors).

427. Discriminatory legal systems and barriers to women's access to justice and lack of implementation of important rulings by the Inter-American Court, achieved by women human rights defenders at a high price.

428. Mexico has a very high rate of feminicides, which occur within the most extended impunity. Whilst women human rights defenders are not especially targeted, they do leave a message for all women, and specially for women human right defenders, that not following very traditional patriarchal role schemata is extremely dangerous in Mexico and makes them possible blank of violence and assassination without any chance to justice.

<sup>15</sup> Entre otras, la solicitud expresa realizada ante la Comisión Interamericana de Derechos Humanos el pasado 28 de octubre en el marco del 140º periodo de audiencias en la ciudad de Washington, D.C.

429. The cases of Valentina Rosendo Cantu and Ines Fernandez Ortega before the Inter-American Court of Human Rights clearly demonstrate gendered dimensions of security for women human rights defenders:

430. The rape and torture committed against them by members of the military in the context of their community's struggle for self-determination is a political offence intended as an affront to their political organising. As a consequence of the rape, Valentina was ostracised from her community. Her relationship with her husband and family broke down and she became a single mother. Members of their families and their organisations were threatened and there were attacks against their daughters, with an attempted abduction of Valentina's daughter. Aside from employing sexual violence to subdue the community, gender stereotypes of women as mothers or caregivers account for this high incidence of threats or attacks against family members and children of women defenders. The Court, in deciding in their favour, ordered the Government of Mexico to pay financial compensation and as reparation, put in place comprehensive measures to guarantee the non-recurrence of violence against women in the community, including to establish a community centre so Ines can "continue with her work as a promoter of the human rights of women in her community". Integrated security is about generating an enabling environment for the realisation of women's human rights to sustain defenders, their organisations and movements. The aim is not just to keep the women human rights defenders safe, but ultimately to support the social movements in changing the situation that put them at risk.

**Response from Tlachinollan, Centro de Derechos Humanos de la Montaña**

431. In Mexico women human rights defenders face daily obstacles and risks, working in a traditionally male environment; women human rights defenders are more vulnerable to gender violence, from verbal attacks to sexual violence and abuse.<sup>16</sup> This situation is further aggravated in the state of Guerrero, where women human rights defenders are, mainly indigenous, monolingual and poor.

432. In the state of Guerrero, Mexico, indigenous women human rights defenders are in general, women who along with men have organised themselves, in order to demand that the State respect their human rights. Parallel to this, within the context of the human rights violations registered in Guerrero, there are women who have vindicated themselves as human rights defenders, a consequence of being direct victims of violations of their human rights.

433. In both cases the Mexican State response has been the same; lack of implementation of protection measures and lack of safety guarantees in order to continue with their work. We have confirmed that in most cases, the State has not succeeded in clarifying the events, to locate those who are responsible, and to process the cases, in compliance with the law.

434. Impunity, lack of investigation processes, and access to justice, has positioned human rights defenders in an increasingly vulnerable situation, and added to a lack of a clearly coordinated and efficient policy for the integral implementation of protection measures for human rights defenders.

435. Generally, the authorities, especially the local ones, are those who due to the lack of clarification of their responsibilities, do not implement the measures efficiently; proving a

<sup>16</sup> United Nations Office of the High Commissioner for Human Rights (2010) *Defender los derechos humanos: entre el compromiso y el riesgo. Informe sobre la situación de las y los Defensores de Derechos Humanos en México.* (Aquí en adelante: OHCHR. Informe sobre la situación de las y los Defensores de Derechos Humanos en México 2010.)

severe urgency to protect those groups and people; this is reflected in the unprecedented number of human rights defenders who have been forced to request protection measures.

436. Following, we present some emblematic cases.

*Valentina Rosendo Cantu e Inés Fernández Ortega.*

437. Inés Fernández Ortega y Valentina Rosendo Cantú, indigenous Me'phaa women, were raped and tortured by members of the military in 2002. At the time, they were 25 and 16 years old respectively, in the middle of a context characterised by repression against social movements and indigenous organizations in the state of Guerrero. To date, the cases have not been investigated, those who are responsible have not been sanctioned, and damages have not been integrally repaired.

438. During these years, Inés and Valentina have persisted bravely and with dignity in their struggle for justice. This would be sufficient to enhance how significant the cases are; moreover, the paradigmatic characteristics of the cases are added. What Inés and Valentina lived shows the recurrence of issues of lack of access to justice for women victims of violence in Mexico; the abuses as a consequence of the lack of civil control over the armed forces; and the persecution faced by those who are organised and defend the rights of indigenous people. These are cases evidencing the outrageous situation of human rights in Mexico and the particular situation that indigenous women face.

439. Furthermore, Inés and Valentina have been granted provisional measures from the Inter-American Court of Human Rights (IACtHR) due to aggressive acts and harassment, a consequence of reactivation of their cases at both local and international level.

440. The implications of denouncing what happened have had significant implications on their lives; both Me'phaa women have been stigmatized as a result of publicly denouncing the facts and from raising their voices against the army. During the long process, threats have been constant and extended to their families. In the case of Inés, the effects have extended to affect the integrants of the Me'phaa Indigenous People's Organisation (OPIM), where she is a member. The severe risk situation has been corroborated by the IACtHR, which in 2009 and 2010, ordered the Mexican State to adopt urgent provisional measures to prevent the deprivation of live or personal integrity of them and their families.

441. On 1st October 2010, the IACtHR notified two sentences against the Mexican State on the cases of Inés Fernández Ortega and Valentina Rosendo Cantú. The Court resolutions recognize the eight year struggle for justice of the two indigenous women who were raped and tortured.

442. The decisions addressed important issues on the current situation of the human rights in Mexico, related to indigenous people's rights, violence against women, access to justice, civil control to armed forces; and criminalization of human rights defenders.

443. To date, Valentina and Inés are reconstructing their lives after a traumatic experience that transformed their lives, with effects that last until the present day. After being victims of a gross violation of human rights, their persistent pursuit of justice and demands to the State related to the investigation, trial and punishment of the soldiers responsible for human rights violations be carried out by civilian authorities under conditions that do not result in further risks or threats: Ines and Valentina are vindicated as human rights defenders and promoters of women's right to a live without violence. Thus, it is essential to fully comply with the reparations granted by the IACtHR and guarantee their overall security in order to keep reconstructing their project of life.

444. Women human rights defenders of the Me'phaa Indigenous People's Organisation (OPIM). Obitilia Eugenio Manuel, President of OPIM



445. The Me'phaa Indigenous People's Organisation (OPIM) is an organisation which defends and promotes human rights, based in the municipality of Ayutla de los Libres, Costa Chica Region of Guerrero. Obtilia Eugenio Manuel and Cuauhtémoc Ramírez officially constituted it in 2002 along with other members of the Me'phaa indigenous community. Currently, Obtilia Eugenio Manuel is its President.

446. After denouncing the case of Valentina Rosendo Cantú and Inés Fernández Ortega, indigenous members of the OPIM who were tortured and raped by members of the armed forces in 2002, a series of acts against the life and integrity of members of the OPIM were triggered. The cases of both women were decided by the IACtHR, register number 12,579 and 12,580, as noted in the previous section.

447. Obtilia Eugenio has been the object of permanent threats since 2002 up to today; these can be proved on her reports to the Judicial Police, recorded as ALL/SC/01/065/2006 and GRO/SC/033/2009. As a consequence to these and other events in 2005, the Inter American Commission for Human Rights (IACHR) granted precautionary measures MC'6'05 in favour of Obtilia Eugenio Manuel and her family. Due to the increasing aggressions on 9 April 2009, the IACtHR provided provisional measures for her, her husband Cuauhtémoc Ramírez, their children, and a number of the OPIM members and other partner organizations.

448. While directing the OPIM, Obtilia has accompanied those who have been brave and have denounced abuses perpetrated by state authorities, army members and non-state actors, accomplices of governmental authorities.

449. In the middle of an intimidation campaign in 2009, Obtilia was followed at different times, recognizing on one occasion some supporters of the local caoique (a local political boss). In March 2009, again, she received three death threats through text messages, where someone communicated to her that she had been constantly watched and threatened to "disappear" her. In April 2009, the IACtHR granted provisional measures; however, until now, such measures have not been fully implemented and as a consequence, the threats have not ceased.

450. On 6 March 2010, Obtilia Eugenio Manuel received a written death threat at the OPIM's office. The note said: "Obtilia, calm down ..., stop denouncing against the government. I know you present claims in all levels. Do not think you are made of steal bullets still can go through you. The federal state and local governments protect us. We are close to you". The same day a stranger followed Obtilia. Obtilia contacted the authorities the next day to request more protection. There was no answer from the authorities, and fearing for her life, decided to leave her birth town and go into hiding with her partner and three children. Up to today, Obtilia is still collaborating remotely with the OPIM; however, the lack of guarantees and complementation of the granted provision measures have forced her to reduce her work activities.

#### **Question 2: response from the Government**

451. En los casos reportados de implementación de medidas cautelares y/o provisionales para la protección de las defensoras de derechos humanos, a través de la Secretaría de Gobernación se solicita la implementación de rondines policiales, acompañamientos, números de emergencia especiales, reuniones interinstitucionales, así como atención psicológica, entre otras medidas. Las acciones de protección en el corto plazo se diseñan acorde a la situación particular de riesgo en que se encuentre la persona protegida.

452. La Secretaría de Gobernación trabaja en el diseño e implementación de un mecanismo de protección a personas defensoras de derechos humanos, a fin de que se cuente con capacidad de respuesta inmediata y pueda ser activado por los propios defensores. Se contempla que dicho mecanismo sea un esfuerzo interinstitucional y que en

su construcción participe la sociedad civil y los propios defensores de derechos humanos. El esquema del mecanismo es tal que permitirá dar atención inmediata a las solicitudes de protección, así como el seguimiento necesario para garantizar los derechos de las y los defensoras de derechos humanos en nuestro país. El mecanismo está basado en el esquema desarrollado para proteger a periodistas.

453. Dicho mecanismo fue presentado por la Secretaría de Gobernación el 1º de octubre de 2010, como resultado de una instrucción presidencial de crear, a la brevedad posible, un mecanismo de protección a periodistas que pudiera ser de utilidad para enfrentar de mejor forma el crítico tema de amenazas y hostigamientos a periodistas en nuestro país.

454. El Convenio establece, entre otras, las acciones de protección y prevención a partir de una estrategia de coordinación entre los siguientes actores: SEGOB, PGR, SSP, SRE, CNDH y gobiernos de los estados, conforme a sus competencias y obligaciones de ley.

455. Por su parte, la Secretaría de Seguridad Pública desarrolla ya las siguientes medidas en favor de las y los defensores de derechos humanos:

456. Cuenta con el Registro nacional de personas extraviadas el cual tiene por objeto coadyuvar con las autoridades competentes en la localización de cualquier persona, incluidas niñas, adolescentes y mujeres que por cualquier causa y/o delito se desconozca su paradero.

457. Implementación interinstitucional, de los tres órdenes de gobierno, del Protocolo "ALBA", ordenado por sentencia de la Corte Interamericana de Derechos Humanos para el caso particular de Ciudad Juárez, Chihuahua.

458. Coordinación de la Red nacional de atención a víctimas en el marco del Acuerdo nacional por la seguridad, la justicia y la legalidad que tiene como finalidad sumar y articular los mecanismos, atención y apoyos, tanto institucionales como de la sociedad civil de todo el país, en favor de las víctimas del delito y en contra de la violencia, misma que actualmente cuenta con 580 adherentes.

459. Sistema Integral de Atención a Víctimas de la Secretaría de Seguridad Pública, el cual proporciona servicios de atención psicológica individualizada y grupal, orientación y representación jurídica y legal, programas de trabajo social, atención de primeros auxilios paramédicos, grupos de autoayuda para víctimas del delito y la violencia, justicia restaurativa para niños, niñas y adolescentes infractores a en conflicto con la ley, brigadas de auxilio para la elaboración del duelo y la pérdida, programas de atención para niñas madres en situación de calle, atención integral para esposas y familiares de policías caídos en el cumplimiento del deber, protocolos de atención a víctimas de delitos sexuales y de violencia familiar, entre otros.

460. Atención a las medidas cautelares y provisionales solicitadas por las Comisiones estatales, Nacional e Interamericana de Derechos Humanos, así como por la Corte Interamericana de Derechos Humanos en favor de las y los defensores de derechos humanos de las mujeres así como de aquellas personas sin distinción de sexo que hubieren sido víctimas de algún ilícito a cualquier otro acto de violencia.

461. Aunado a lo anterior, la Secretaría de Seguridad Pública es miembro integrante de los siguientes mecanismos interinstitucionales relacionados con la materia:

- Sistema Nacional para Prevenir, Atender, Sancionar y Erradicar la Violencia contra las Mujeres;
- Sistema Nacional para la Igualdad entre Mujeres y Hombres;
- Comisión Intersecretarial para Prevenir y Sancionar la Trata de Personas;
- Comisión de Política Gubernamental en Materia de Derechos Humanos.

462. Diseño de políticas públicas basada en un modelo de investigación e inteligencia para la prevención del delito. Algunas de sus principales responsabilidades son:

- Desarticular redes de pornografía y prostitución sexual infantil que operan a través del ciberespacio;
- Implementación de un Nuevo Modelo Policial basado en la investigación, profesionalización, utilización de nuevas tecnologías de la información y comunicación, alineación de las capacidades del Estado mexicano, desarrollo de la Estrategia Nacional Penitenciaria, entre otras;
- Conformación de la “Plataforma México”, que consiste en la interconexión de redes de dependencias e instituciones vinculadas directamente al ámbito de la seguridad pública, que propicie y facilite el intercambio de información de sus diferentes bases de datos a fin de optimizar la eficacia de estrategias y operativos para enfrentar a la criminalidad.

463. Por su parte, la CNDH elaboró la Guía para implementar medidas cautelares en beneficio de los defensores de derechos humanos en México

464. Con miras a optimizar la instrumentación de las medidas de protección consideradas en la citada guía por parte de las autoridades federales y estatales correspondientes, las medidas fueron presentadas a la opinión pública en octubre de 2010.

465. Esta Guía tienen como objetivo proporcionar lineamientos en relación con las medidas cautelares que pueden solicitarse a las autoridades encargadas de procuración de justicia y seguridad pública a nivel federal y estatal, a fin de evitar la consumación irreparable de las violaciones denunciadas en cada caso particular.

466. Asimismo, describe los procedimientos de implementación de las medidas cautelares a nivel estatal en favor de defensores. Pero, además, establece los criterios mínimos que se deben seguir para la implementación de medidas cautelares, es decir, las características de los esquemas de protección, la definición de la urgencia, la temporalidad de las medidas. Asimismo, la necesidad del estudio de riesgo y la modalidad de las medidas, así como los ejes de la participación de las fuerzas policiales, la intervención de las telecomunicaciones y la atención psicológica que requerirá el defensor o defensora. De igual manera se establecen parámetros para desarrollar la custodia y la necesidad de proteger la identidad y la información y se subraya la importancia del seguimiento.

#### **Response from Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH)**

467. En 2007, se publicó en México la Ley General de Acceso de las Mujeres a una Vida Libre de Violencia<sup>17</sup>, la cual contempla dos tipos de mecanismos de protección. Por un lado, la Declaratoria de Alerta de Violencia de Género, la cual puede solicitarse por organizaciones de la sociedad civil para que la Federación convoque a un Sistema Interinstitucional con el objeto de analizar la situación específica y, en su caso, tomar las medidas necesarias para prevenir, investigar y sancionar la violencia contra las mujeres en un lugar determinado. Sobre este mecanismo es preciso decir que tan sólo los plazos contemplados para conocer de la situación dan como resultado un mecanismo ineficaz que no puede reaccionar ante un contexto de carácter urgente, además que para que la sola solicitud sea procedente, es necesario cumplir con una serie de requisitos que por su propia

<sup>17</sup> Ley General de Acceso de las Mujeres a una Vida Libre de Violencia, publicada en el Diario Oficial de la Federación el 1º de febrero de 2007, en <http://www.diputados.gob.mx/LeyesBiblio/pdf/LGAMVLV.pdf>

naturaleza significa que la carga de la prueba y la investigación recaiga en las organizaciones y no en el Estado.

468. Esta misma ley contempla otro tipo de mecanismos llamados órdenes de protección, las cuales sólo son aplicables para casos de violencia en el ámbito familiar.

469. El 23 de abril de 2010 se publicó en la Gaceta Oficial del Distrito Federal el acuerdo A/010/2010 del Procurador General de Justicia del Distrito Federal, por el cual se establecen Lineamientos respecto a la investigación e integración de averiguaciones previas donde se encuentren involucradas personas defensoras de los derechos humanos como víctimas de delitos, por el ejercicio de sus funciones o con motivo de ellas;<sup>18</sup> a través de este acuerdo la Fiscalía Central del Investigación para la Atención de Asuntos Especiales y Electorales será competente para conocer e investigar sobre delitos cometidos en agravio de personas defensoras de los derechos humanos. Sin embargo, además de que este acuerdo sólo es aplicable para los casos ocurridos en el Distrito Federal, también es necesario implementar y capacitar a los funcionarios públicos una perspectiva de derechos humanos que acentúe asimismo la perspectiva de género para apreciar las condiciones específicas que vulneran los derechos de las defensoras, así como mejorar la atención a víctimas, cuyo margen de cobertura se encuentra limitado al acompañamiento (custodia), rondines y números de emergencia, así como por la lentitud de los procesos y el presupuesto restringido.

#### **Response from Peace Brigades International -Mexico**

470. The Mexican Government after requests of the NGOs of the civil society and in a process in with the Office of the High Commissioner for Human Rights in Mexico also played a proactive role is actually working towards the development of a protection programme and mechanism for human rights defenders under attack. However, women human rights defenders state that there is little reaction of the State and nothing so far has been agreed about the form of participation of the human rights defenders and women human rights defenders in the mechanism. Further on, there is not clarity regarding the definition of human rights defenders that is going to be applied, the criteria to determine the risk of defenders and the recognition of the special protection needs in a frame of gender specific aggressions.

#### **Response from Tlachinollan, Centro de Derechos Humanos de la Montaña**

471. In Mexico, at federal level, there is a Human Rights Promotion and Defence Unit (UPDDH) within the Interior Ministry (SEGOB), a governmental entity which is responsible for implementing and coordinating the precautionary and provisional measures granted by international organizations.

472. The experience of Tlachinollan in relation to the requested actions of UPDDH, in order to implement the measures and protect women human rights defenders, has not been satisfactory. Three main issues limited the efficiency of the UPDDH; lack of resources to grant infrastructural measures; the wide discretionary spaces left to the federal entities, which lead to inoperability, justified by the characteristics of a federal system; and lastly, the slow response to urgent situations.

473. The lack of a clear mechanism to coordinate and implement measures has made it extremely strenuous for the beneficiaries of the process to access such measures. On this issue, OHCHR Mexico has reported that inside UPDDH "there is no mechanism for risk evaluations (...); no protocol which defines proceeding and established clear criteria of

<sup>18</sup> Acuerdo A/010/2010, Gaceta Oficial del Distrito Federal, decimoséptima época N° 825

coordination rules between federal and local entities, nor, a specific budget section to face the costs the measures imply.” The lack of mechanisms in order for the authorities to respond to these cases where measures from international entities have been granted, debilitates and deteriorates trust between authorities and defenders”.<sup>19</sup> The obligations of the Public Federal Administration are included in the National Human Rights Programme 2008-2012,<sup>20</sup> in which the guidelines, concerning actions and responsibilities, are included and have not been implemented:

474. Strategy 1.4. To guarantee space for effective and safe participation of civil society on the elaboration of public policies of the Public Federal Administration.

475. Action Guidelines: (Ministry of Public Security, Attorney General’s Office, and SEGOB), Define the assumptions and modalities in which special protection to the human rights defenders have to be delivered.

476. Attorney General’s Office: To establish a specific protocol allowing the investigation of illegal acts against human rights defenders

477. Strategy 4.1 Promote the effective implementation and application of international human rights treaties, through legislation measures at all Mexican judicial levels.

478. Action Guidelines Attorney General’s Office: Promote a normative framework for the protection of human rights defenders.

479. Additionally, the National Commission of Human Rights (CNDH) has competence on matters regarding the protection of human rights defenders. The CNDH can provide precautionary measures, based on Article 40 of the Law of CNDH.<sup>21</sup> Moreover, CNDH is the only entity with a specific attention programme, the Offences against journalist and Human Rights Defenders Programme, however, both the Programme and the precautionary measures, in most of the cases are no functional, due to the lack of political will of the authorities to guarantee the safety of human rights defenders.

480. Finally, at the state level, in Guerrero, which is the state with the largest number of human rights defenders protected by the IACtHR, no specific measures exist, nor have programmes or governmental entities been created, adopted or planned to guarantee the safety and protection of human rights defenders.

### Question 3: response from the Government

481. De acuerdo a los registros de la Secretaría de Gobernación, en México existen 76 refugios para mujeres víctimas de la violencia, de los cuales 43 han sido creados y administrados desde la sociedad civil en medio de los riesgos que este trabajo implica para su integridad y seguridad y sorteando con entereza las dificultades financieras para mantenerlos funcionando.

<sup>19</sup> OHCHR Informe sobre la situación de las y los Defensores de Derechos Humanos en México 2010. Op cit.

<sup>20</sup> Diario Oficial de la Federación. Poder Ejecutivo. Secretaría de Gobernación. Decreto por el que se aprueba el Programa Nacional de Derechos Humanos 2008-2010. Published on 29 August 2008.

<sup>21</sup> Diario Oficial de la Federación. Poder Ejecutivo. Ley de la Comisión Nacional de los Derechos Humanos. Published 29 June 1992. “Article 40. ‘ The General Auditor will have the faculty to request in any moment to the competent authorities to take precautionary or provisional measures needed to prevent any irreparable consumption of the denounced or claimed violations, or damages of difficult reparations to those affected, and request to modify the measure when the situations that justified them changed (Author’s translation)

482. Cabe destacar que, los servidores públicos de la Secretaría de Seguridad Pública y de sus órganos administrativos desconcentrados, incluida la Policía Federal, están obligados a servir y proteger a la comunidad bajo los principios de honestidad, legalidad, eficiencia, profesionalismo, objetividad y respeto irrestricto a los derechos humanos, tal como lo ordena el artículo 21 constitucional.

**Response from Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH)**

483. En ausencia de mecanismos de protección, además de las denuncias a las autoridades sobre los actos de hostigamiento del que son objeto, las defensoras de derechos humanos buscan reforzar sus redes de apoyo con otras defensoras y organizaciones de derechos humanos, como una forma de compartir el riesgo y hacer del conocimiento a otras/os de los hechos.

484. Por citar dos ejemplos, el pasado 14, 15 y 16 de octubre se llevó a cabo el Encuentro Nacional de Defensoras de Derechos Humanos en la Ciudad de México, en el que las presentes tuvieron oportunidad de compartir experiencias y evaluar el nivel de riesgo al que se encuentran sometidas. De igual manera, el 26 de noviembre pasado se realizó un Encuentro de Defensoras y Defensores de Derechos Humanos, convocado por organizaciones de la sociedad civil, que contó con la participación de representantes de organizaciones de todo el país y que permitió el avance hacia mecanismos más efectivos de protección gubernamental y no – gubernamental, tales como el impulso para el establecimiento de un Mecanismo de Protección a Defensoras y Defensores del gobierno federal, mecanismos de alerta temprana y redes de solidaridad y acompañamiento entre defensores de la sociedad civil.

**Response from Peace Brigades International -Mexico**

485. Mexican women human rights defenders struggle in the last years to meet, share experiences on their work and define common goals such as asking for a recognition of the special risk they face as women human rights defenders.

**Response from Tlachinollan, Centro de Derechos Humanos de la Montaña**

486. As a result of the lack of protection measures and guarantees for human rights defenders to continue with their work, Tlachinollan has had to resort to applying for emergency funds granted by particular international organisations and foundations to protect the life and integrity of individuals. Additionally, specific funding has been requested in order to relocate temporarily, women human rights defenders and for psychological support.

487. Moreover, collective actions of denounce of threats and harassment have been implemented; urgent actions and communications.<sup>22</sup>

**Question 4: response from the Government**

488. Como se menciona en la pregunta anterior, en nuestro país las organizaciones no-gubernamentales han trabajado en la creación y operación de una serie de albergues en locaciones secretas, en donde brindan protección a las personas que la necesitan. Una de las

<sup>22</sup> See, Amnesty International Protección Efective: Todavía una ilusión para Defensora Mexicana en Peligro AMR41/053/2010. July 2001 and Amnesty International Acción Urgente AU 33/03. Temor por la seguridad. Inés Fernández, Fortunato Prisciliano Sierra, su esposo. Otros habitantes de Barranca Tecoani, estado de Guerrero, México. 3 February, 2003.

fortalezas de este tipo de iniciativas es que, al no ser un esfuerzo gubernamental, los usuarios de los albergues tienen un mayor grado de confianza. Sin embargo, por el mismo motivo estos albergues se han enfrentado en varias ocasiones a situaciones de peligro tal que no cuentan con la capacidad de darles respuesta por sí mismos.

489. En este rubro se recuerda que la Secretaría de Seguridad Pública cuenta con los siguientes programas, tal y como se señaló en la pregunta 2 de este cuestionario:

- Registro nacional de personas extraviadas;
- Protocolo Alba;
- Atención a las medidas cautelares y provisionales solicitadas por las Comisiones estatales, Nacional e Interamericana de Derechos Humanos, así como por la Corte Interamericana de Derechos Humanos;
- Coordinación de la Red nacional de atención a víctimas;
- Sistema Integral de Atención a Víctimas

490. Response from Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH)

491. Las organizaciones de derechos humanos han adoptado diferentes formas de apoyo y protección a defensoras/es que se han visto en una situación de riesgo, las cuales van desde las acciones urgentes en las que hacen algún tipo de llamado o petición a las autoridades obligadas a salvaguardar la seguridad y la vida de las personas que están en riesgo por alguna amenaza o acto de intimidación y hostigamiento, hasta tomar medidas de carácter urgente como salvaguardar con sus propios recursos a las/os defensoras/es que han sido amenazadas, proporcionándoles refugio en un lugar seguro.

492. Asimismo, se han realizado los encuentros y foros señalados en la respuesta anterior. Las fortalezas de estos mecanismos estriban en la formación de capacidades colectivas intra e interorganizacionales para enfrentar amenazas y situaciones de riesgo en general, así como mejorar las acciones de comunicación, denuncia y acompañamiento que deben generarse a partir de incidentes de seguridad. Entre las debilidades cabe señalar que estos mecanismos están en su etapa embrionaria, por lo que su efectividad tendrá que ser aún puesta a examen en los próximos meses.

#### **Response from Peace Brigades International- Mexico**

493. PBI is an international non-Governmental organization (NGO) which at the request of threatened social organizations, provides international accompaniment and observation. The presence of international volunteers backed by a support network helps to deter violence against women human rights defenders.

494. Strength: PBI in the majority of the cases achieved to protect the physical integrity of the women human rights defenders.

495. Challenge: Do the work in an increasing climate of insecurity and violence in which it is easy to argue that women human rights defenders are not especially targeted for the work they do, but victims of general violence.

#### **Response from Tlachinollan, Centro de Derechos Humanos de la Montaña**

496. Due to the lack of response from the responsible entities to provide the needed conditions to defend human rights, diverse organisations have jointly developed risk pattern assessments, analysis and accompaniment proposals to allow for the achievement of the proper conditions to perform our activities. Therefore, Civil Society Organisations

(CSO) have conveyed the necessity of having a Protection Mechanism for Human Rights Defenders and Journalists.

497. The proposed CSO Mechanism is based on prevention, protection and investigation, of the various manners in which for human rights defenders and journalists work, according to their specific needs.

498. The Mechanism should have as its objective, to lead the State to comply with its fundamental responsibility and duty to protect; promote and make effective all human rights and fundamental freedoms, through the adoption of needed measures to establish all necessary conditions; in addition, to promote and comply with all judicial guarantees, in order that, all individuals within its jurisdiction be able to put in practice all these rights and freedoms, including human rights defenders, journalists and other groups, individuals or in association.

#### **Question 5: response from the Government**

499. El Estado mexicano reconoce la importante labor de las y los defensores de los derechos humanos, de ahí que realiza esfuerzos institucionales para garantizar su seguridad y ejercicio de funciones, como parte de esas acciones se encuentra la implementación de las medidas cautelares y provisionales dictadas por la Comisión y Corte Interamericanas de Derechos Humanos.

500. Para la implementación de dichas medidas se realiza un previo análisis de los hechos que las originaron así como de las violaciones de derechos humanos cometidas y el grado de vulnerabilidad en el que se encuentran las beneficiarias. Lo anterior, permite diseñar la estrategia de implementación acorde con las necesidades de protección de los derechos, en este caso, de las mujeres defensoras, y determinar las autoridades cuyo ámbito de competencia deben concurrir a su implementación.

501. Por otra parte, cabe precisar que el Estado mexicano cuenta con políticas públicas con perspectiva de equidad de género y participación de las mujeres en la toma de decisiones, inclusive en el Programa Nacional de Derechos Humanos 2008-2012 se establecen como líneas de acción, impulsar un marco normativo de protección a las y los defensores de derechos humanos y realizar acciones que definan los supuestos y modalidades en que se deba otorgar protección especial a éstos.

502. Por su parte, la Secretaría de Seguridad Pública, a través de la Policía Federal preside la Comunidad de Policías de América (Ameripol), para el periodo 2010-2013. Este mecanismo agrupa a 20 países del continente. Ameripol, es un mecanismo de cooperación hemisférico, cuyo objetivo es fortalecer la cooperación policial en materia técnico científica, promover la capacitación y hacer más efectivo el intercambio de información entre sus miembros. En la actualidad, la Ameripol se encuentra integrada por los cuerpos policiales de los siguientes países: Argentina, Bolivia, Brasil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Estados Unidos de América, El Salvador, Guatemala, Haití, Honduras, México, Nicaragua, Panamá, Paraguay, Perú, República Dominicana y Uruguay.

503. Asimismo, mediante el Acuerdo de Concertación de Acciones entre la Secretaría de Seguridad Pública con la Delegación Regional para México, Centroamérica y Cuba del Comité Internacional de la Cruz Roja para la "Formación y Certificación de Instructores en Derechos Humanos y principios humanitarios aplicables a la función policial", la SSP adopta medidas de protección de los derechos humanos, considerando estándares universales entre los que incluyen la actuación policial frente a grupos vulnerables, incluyendo a las mujeres.

504. Sobre este rubro, la Comisión Nacional de los Derechos Humanos en 2009, emitió la Recomendación 12/2009, en que se acreditó violación a los derechos humanos a la



legalidad, a la seguridad jurídica y al debido acceso a la justicia, en perjuicio de los integrantes del Centro de Derechos Humanos “Fray Bartolomé de las Casas”, derivado del incumplimiento de la función pública en la procuración de justicia por parte de los agentes del Ministerio Público del estado de Chiapas, así como de los elementos de la Agencia Estatal de Investigación de esa entidad, encargados de realizar las investigaciones respectivas, quienes incurrieron en omisión y dilación durante la investigación de los hechos ocurridos a integrantes del organismo civil en cuestión.

505. La Recomendación fue aceptada por las autoridades señaladas como responsables, lo que originó la creación de la Dirección General de Orientación y Protección a Instituciones y Defensores de Derechos Humanos dependiente de la Procuraduría General de Justicia del Estado de Chiapas.

**Response from Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH)**

506. Las y los defensores de derechos humanos que se han visto en una situación de riesgo han optado por recurrir a organismos internacionales como la Comisión Interamericana de Derechos Humanos, solicitando medidas cautelares y medidas particulares de protección (tales como el Mecanismo ya mencionado); sin embargo, a pesar de que este organismo regional ha otorgado este tipo de medidas a algunas personas dentro del territorio mexicano, la implementación de éstas a nivel local se ha visto obstaculizada tanto por la burocracia en el sistema nacional como por falta de voluntad política de algunas instituciones de gobierno, la mayoría de las veces, por parte de los gobiernos de las entidades federativas de que se trate. Esto se ha visto acentuado dada la falta de un mecanismo de cooperación y seguimiento más efectivo entre el sistema interamericano y el Estado mexicano.

507. Cabe destacar que a partir de la solicitud de las organizaciones de la sociedad civil para el establecimiento de un mecanismo permanente de protección a las y los defensores de derechos humanos, se generó una atenta petición a la CIDH para realizar en los próximos meses una visita in situ para documentar y en su caso, denunciar la situación de las defensoras y defensores de derechos humanos, así como reforzar el seguimiento de medidas cautelares por parte del Estado.

**Response from Peace Brigades International -Mexico**

508. Under the EU Guidelines on Human Rights Defenders (revised in 2008), the EU can adopt a range of different measures to protect women human rights defenders. In Mexico, a liaison officer has been appointed and a local implementation strategy has been developed. However, there is no systematic effort to guarantee the access of women human rights defenders who may be marginalized due to their gender, but also to the fact that their work is based in remote areas away from the capital and to the lack of acknowledgement of sexual, reproductive, economic, social, cultural and environmental rights in comparison with “traditional” civil and political rights. Cases of sexual violence against women human rights defenders need to be attended to by personnel who are qualified from a gender perspective. The victim must be consulted during each step of documentation and action. Specific training programmes for embassy staff could be developed so as to ensure the sensitivity, and consequent ability, of diplomatic staff to act in these cases.

**Response from Tlachinollan, Centro de Derechos Humanos de la Montaña**

509. On 14 January 2005, IACHR granted precautionary measures registered as MC 6-05 in favour of Obtilia Eugenio Manuel, her husband Cuauhtémoc Ramírez Rodríguez, both of her daughters all of whom are Me’Phaa and members of the OPIM, as a result of the

threats and harassment against Obtilia as a result of her work defending indigenous rights in the state of Guerrero.

510. On 4 September 2007, IACHR granted precautionary measures MC-167-07 in favour of Inés Fernández Ortega, whose case was brought before the IACHR, her husband, Fortunado Prisciliano Sierra, their three daughters and son, all of them minors, based on the information related to continuous State threats to Inés Fernández and her husband, looking to obstruct their struggle for justice before the Inter-American System.

511. On 27 June 2008, the IACHR extended the measures MC 6-05 in favour of another forty-one OPIM members<sup>23</sup> after the extrajudicial execution of Lorenzo Fernández Ortega, as a consequence of his activism and participation in the organisation, as well as on the case of her sister Inés Fernández Ortega.

512. The IACHR requested the Mexican State to adopt the necessary measures to protect the life and integrity of the beneficiaries and to inform it about the adopted actions on the investigations of the facts that originated from the adoption and extension of the precautionary measures. During the validity period of the measures the beneficiaries continued to receive threats against their lives and personal integrity, suffering from harassment; the situation was aggravated in the last two months of validity.

513. The requested measures consist of infrastructure and communication equipment, as well as to present achievements on the investigations.

514. On 7 April 2009, the IACHR submitted a request to the IACtHR proposing that provisional measures be adopted which provided for the protection of life and physical integrity of Obtilia Eugenio Manuel and her family; of forty-one members of the OPIM of Inés Fernández Ortega and her family; of twenty-nine members of Tlachinollan; as well as of the next of kin of Mr. Raul Lucas and Manuel Ponce Rosas.

515. The IACHR<sup>24</sup> decided to grant the provisional measures based on the legal arguments of the IACHR, which pointed out: "The Mexican State has not adequately or effectively implemented the measures necessary to protect the life and integrity of the beneficiaries of the precautionary measures, and it has not acted with total diligence in relation to the duty to investigate the facts that gave rise to the measures. In spite of the enforcement of the precautionary measures, the threats and the attacks against the life and physical integrity of the beneficiaries had increased in the last month and had directly affected other human rights defenders and their families".

516. Moreover, "coupled with the death threats and the pursuit of human rights defenders and their families, there would be statements made by civil and military public officers as well as from people near them that, following a pattern of harassment against such defenders, including discrediting their work by calling them liars or by connecting them to

<sup>23</sup> Victoriano Eugenio Manuel, Gabino Eugenio Manuel, Juan Remigio Guzmán, Raúl Hernández Abundio, Rarael Rodríguez Dircio, Severo Eugenio Remigio, Manuel Cruz Victoriano, Orlando Manzanares Lorenzo, Natalio Ortega Cruz, Romualdo Santiago Enedina, Braulio Manzanares Lorenzo, José Eugenio Cruz, Félix Ortega Dolores, Merced Santiago Lorenzo, Arturo Cruz Ortega, Leopoldo Eugenio Manuel, Ubaldo Santiago Eugenio, Arnulfo Cruz Concepción, Silverio Remigio Guzmán, Crisóforo Manzanares Lorenzo, Taurino Fernández Santiago, Ocotlán Fernández Ortega, Mauricio Cruz Morales, Viviano García Santiago, Julio Bolanos Santiago, José Espinoza Eugenio, Ramón Ortega Cruz, Virgilio Cruz Ortega, Victoriano Ortega Cruz, Marcelino Santiago Flores, Justino García Santiago, Crispín Santiago González Natalio Eugenio Catarino, Fausto Santiago González Cresencio, Milenio Flores de Jesús y Romualdo Eugenio Estrada.

<sup>24</sup> Inter-American Court of Human Rights Order of the Inter-American Court of Human Rights of April 30, 2009 Provisional Measures regarding Mexico Matter of Fernández Ortega et al.

alleged drug-trafficking activities. The role of the defenders is limited by the dissemination of these speeches, which discredit their jobs and generate or affect a context unfavourable to the defence of human rights. Furthermore, as a consequence of the facts above mentioned, the potential beneficiaries of these provisional measures so requested were forced to modify their lives, in order to reduce, where possible the risk of suffering irreparable damage to their lives and physical integrities”.

517. Finally the IACtHR considers the severe cases on which the lack of implementation of the protection measures to defenders has demonstrated the highly risky situation in which they live:

518. “The extreme gravity and urgency is evidenced by the disappearance and death of two human rights defenders from the area and the serious threats against the people in whose favour provisional measures are requested. In addition, the nature of the legal interests threatened, the right to live and physical integrity, as well as the capacity to continue defending the human rights of the people in respect of whom provisional measures are requested, constitute the matter of irreparability of the consequences that this request for provisional measures intends to avoid.”

519. Up to now, Tlachinollan is involved as representative on the provisional measures of Rosendo Cantú et al, and Fernandez Ortega et al. ordered and monitored both by the IACtHR; in the latter, Tlachinollan is simultaneously, representative and beneficiary. As it has been mentioned, the level of compliance has not been completely satisfactory.

520. In both processes of measures implementation, Tlachinollan recognizes three main action points: provided infrastructure, police accompaniment and investigation. Failure to execute had been seen in all levels. In the case of infrastructure, delays on delivery of the requirements are frequent, justified on the basis of lack of resources; on the issue of the accompaniment, it is no viable in situations of emergencies and we have attested that both state and federal authorities elude their responsibility, referring competence issues of the federal system; finally on the investigations, a fundamental measure to send a message of denunciation of aggressions against human rights defenders, there have been no accomplishments.

## **Namibia**

### **Question 1: Response from the Government**

521. As far as Namibia is concerned, there are no reports of risks for women or any other person who works on human rights and gender issues. We have no people in custody or threatened because of their involvement with human rights and gender issues. People in Namibia debate issues of human rights and gender openly, be it in the media and they agree to disagree. The Namibian Government, through the Constitution, commits itself to continued improvement of the status of women in the society, and to eradicate the injustices of the past. In this respect, measures have been put in place to ensure economic and social justice for women as guaranteed in the Constitution and enacted laws (Article 95 of the Namibian Constitution). Fundamental Human Rights and Freedoms are enshrouded in Chapter 3 of the Namibia Constitution: and they are to be respected and upheld by the Executive, Legislature and Judiciary and all organs of the Government and its agencies, also by all natural and legal persons and are enforceable by the Courts.

### **Question 2: Response from the Government**

522. The following legislation measures in place, create a legal basis for gender equality and provide formal recourse to justice with effects on gender relations, and are addressing



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**INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND A  
GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN**

**Report of the Special Rapporteur on violence against women,  
its causes and consequences, Yakin Ertürk**

**Addendum\***

**Mission to Mexico**

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\* The summary of this mission report is being circulated in all official languages. The report itself is contained in the annex to the summary and is being circulated in the language of submission and in Spanish only.

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### Summary

The present report contains the findings of the Special Rapporteur on violence against women, its causes and consequences on her mission to Mexico, which took place from 21 to 25 February 2005. It addresses the diverse forms of violence against women in the country and identifies key measures and initiatives needed to ensure the protection and promotion of the rights of women and the elimination of violence against women.

The Government of Mexico is party to a range of international standards that provide women with protection, including the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Elimination of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women. While the different levels of Government have taken significant steps towards fulfilling their international obligations, there is a need to do more to improve the police and justice sectors as well as the coordination between federal and State levels.

The present report makes the case that the high levels of violence against women in Mexico are both consequence and symptom of widespread gender discrimination and inequality. Additional layers of discrimination on the basis of national origin, ethnicity or socio-economic status coupled with a lack of equal access to State protection intersect with gender discrimination and make some groups of women - namely migrant, poor and indigenous women - particularly vulnerable to violence.

In view of the remaining challenges, the Special Rapporteur on violence against women calls on the Government of Mexico to take action under six broad categories: (a) end impunity for violence against women; (b) investigate and prosecute perpetrators of violence against women, especially in the State of Chihuahua; (c) provide protective and support services; (d) create a gender-sensitive information and knowledge base; (e) strengthen institutional infrastructure for the advancement of women; (f) promote training, operational and awareness-raising programmes.

The Special Rapporteur also calls on civil society, including human rights organizations and the media, to develop solidarity networks to develop common strategies for the advancement of women, to support and monitor the efforts of the Government to empower women, undertake research and continue to play a strong advocacy role in eradicating violence against women.

The Special Rapporteur calls on the international community to prioritize funding initiatives of groups providing research and advocacy projects that aim to contribute towards the advancement of women and to provide sufficient resources to strengthen the capacity of the United Nations Country Team to integrate the promotion and protection of women's rights into all of its activities.

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST  
WOMEN, ITS CAUSES AND CONSEQUENCES, YAKIN ERTÜRK, ON  
HER MISSION TO MEXICO

(21-25 FEBRUARY 2005)

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
I. INTRODUCTION .....	1 - 6	4
II. CONTEXTUALIZING VIOLENCE AGAINST WOMEN .....	7 - 18	5
A. Gender discrimination in the <i>machista</i> culture .....	8 - 13	5
B. Multiple governance and the legal systems .....	14 - 18	6
III. MANIFESTATIONS OF VIOLENCE AGAINST WOMEN .....	19 - 62	7
A. Violence against women in society at large .....	20 - 25	7
B. Most vulnerable groups of women .....	26 - 37	9
C. Murder and disappearances of women in Chihuahua State .....	38 - 62	11
IV. CONCLUSIONS AND RECOMMENDATIONS .....	63 - 71	17

## I. INTRODUCTION

1. At the invitation of the Government, the Special Rapporteur on violence against women, its causes and consequences visited Mexico from 21 to 25 February 2005. The mission was primarily motivated by the situation in Ciudad Juárez, where hundreds of women have been murdered over the last 12 years.<sup>1</sup>
2. The Special Rapporteur on violence against women visited Mexico City, the States of Chihuahua and Puebla and had extensive consultations with national and local authorities, parliamentarians, law enforcement and justice authorities, and representatives of national human rights institutions. She would like to thank the Government of Mexico for its excellent support and collaboration throughout the visit. The Government showed serious concern about the persisting violence and commitment to take action towards its elimination. The openness to acknowledge the problems and discuss strategies to address the issue provides an enabling environment in this regard.
3. The Special Rapporteur on violence against women also met with the United Nations resident coordinator, representatives of United Nations specialized agencies and civil society. She is most grateful for their support and the insightful information they provided. Last but not least, the Special Rapporteur would like to express deep appreciation to the victims of violence or their families for sharing their stories.
4. The present report is not a substitute for official inquiries. Its scope is limited to the mandate entrusted to the Special Rapporteur and makes reference to the general human rights situation only to the extent that it can contribute to the understanding of the causes and consequences of violence against women in Mexico and the identification of areas of intervention towards its elimination.
5. The Government of Mexico has assumed a range of obligations relating to violence against women by ratifying international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará). While the different levels of Government have taken significant steps towards fulfilling their international obligations, there is need to do more to improve the police and justice sectors as well as coordination between federal and State levels.
6. The situation in Ciudad Juárez, which occupies a central focus in the present report, should be perceived as an exemplary case since similar patterns of violence against women are observed in other parts of Mexico. Ciudad Juárez has simply become visible due to the national and international attention it has attracted. This selective attention to the problem may allow the violence in other parts of Mexico, particularly on the southern border with Guatemala, to continue out of sight with impunity. The present report should be understood as an appeal to identify and address these patterns comprehensively and with urgency.

## II. CONTEXTUALIZING VIOLENCE AGAINST WOMEN

7. Violence against women in Mexico typically resembles only the tip of an iceberg with more systemic and complex problems lurking below the surface, which can only be understood in the context of socially entrenched gender inequality on the one hand and a multilayered governance and legal system that does not effectively respond to violent crime, including gender-based violence, on the other hand.

### A. Discrimination in the *machista* culture

8. Since the 1970s, the Government and civil society have continuously undertaken strong efforts to overcome social attitudes based on gender discrimination. Although much has since been achieved, the *machista* culture is still a dominant social paradigm causing and perpetuating high levels of violence against women.<sup>2</sup>

9. The *machista* culture relegates women to a subordinate role in their family and community. Irrespective of women's contributions to family sustenance, it is the man who is perceived as the provider. Women are defined and ultimately come to define themselves through their relation with the men that dominate different phases of their lives. This factor, which denies women an independent existence, makes it difficult for many women to escape abusive relationships as it may appear tantamount to a loss of identity and subjection to greater vulnerability. As a result, it may often be the victimized women themselves who evoke distorted notions of privacy to preserve the impunity of their tormentors, a situation that is reinforced by societal norms and practices.

10. In the *machista* culture, a man will see no inherent contradiction in taking offence in his wife's style of dress while simultaneously considering her complaints about his infidelities to be an unacceptable encroachment on his personal liberty. Violence serves as the ultimate tool to uphold these double standards. Studies demonstrate that many abused women have internalized these social norms to such an extent that they may blame their husband's alcoholism, violent childhood or personal insecurity for the violence instead of identifying the discriminatory social norms, which are instrumentalized to condone and justify violence against women in society.

11. The extended family, still the backbone of Mexican society, often perpetuates gender discrimination. The family of the man - often other women such as the mother-in-law or sisters-in-law who want to preserve the privileges of their son or brother - will impose specific norms of conduct on the woman and put pressure on the husband to enforce them, if necessary through violence. A woman in such an abusive environment may find little support from her own family, who will advise her to comply with her domestic responsibilities. The informal support networks that many women have, therefore, entangle them in a life of discrimination and violence. The Special Rapporteur is pleased to note that Mexico has set up the national telephone hotline "A life without violence", which provides support and information to persons trapped in violent relationships. Not surprisingly, 90 per cent of all callers are women.

12. While patriarchal institutions still continue to disempower women contradictory forces of change challenge the very basis of the *machismo*. As men fail to fulfil their role as providers, women fill the income gap by entering the workforce. This gives them the economic independence to provide for themselves and their children, if necessary. Perhaps more



importantly, working opens up opportunities for additional training and education; women become more self-confident and build non-family support networks which can facilitate departure from an abusive environment. Increased human rights consciousness, created through the efforts of the State and civil society, the international gender agenda, including the promotion of non-violent forms of masculinity, are other important factors.

13. While ultimately empowering women to overcome structural discrimination, these factors may exacerbate violence and hardship in the short-run. The inability of men to fulfil traditional *machista* roles as providers cause family abandonment, unstable relationships or alcoholism, which in turn may increase the risk of violence. Even cases of rape and murder, may be understood as desperate attempts to uphold discriminatory norms that are outpaced by changing socio-economic conditions and the advance of human rights.

### B. Multiple governance and legal systems

14. Mexico has a federalized structure of government. The country is divided into 31 federal states and a Federal District encompassing Mexico City and its immediate environs. In addition to the federal Government, each state exercises legislative, judicial and executive functions. Within each state the municipalities have a certain degree of autonomy. This division of powers is also reflected in the criminal justice system which is composed of a federal jurisdiction (*fuero federal*) and a state jurisdiction (*fuero común*). Different police forces exist at the federal, state and municipal level. The federal authorities only have jurisdiction over a limited number of specific matters, namely drug-related crimes. The rest, an estimated 95 per cent of all crimes, fall under the jurisdiction of the state and local authorities.

15. While decentralization offers unquestionable advantages with regard to democratic governance, it also presents challenges for Mexico to effectively comply with its international obligations, particularly with regard to those related to violence against women. Legal standards to prevent and respond to violence against women differ significantly throughout the country. Many states have taken important legislative steps forward. During her visit to the State of Puebla, for instance, the Special Rapporteur was informed that the State Parliament had adopted legislation to prevent and punish domestic violence. Among other things, the legislation calls for the creation of a Council on Domestic Violence tasked with the evaluation, integration and coordination of all measures to prevent and respond to domestic violence.<sup>3</sup> According to the National Institute of Women (*Inmujeres*), 23 out of 31 Mexican states and the Federal District have similar domestic violence legislation.<sup>4</sup> A further 19 states and the Federal District have amended their penal code to include domestic violence as a specific offence. Altogether 19 states also take part in an integrated system for victims of domestic and sexual violence that aims at sharing good practices and developing joint referral systems.<sup>5</sup>

16. Other states, however, continue to uphold norms that sanction discriminatory patriarchal gender clichés and violence against women. In some states, for example, the seduction of minors is only considered to be an offence, if the victim proves to have conducted herself “with chastity and honesty” (which is usually interpreted as being a virgin) prior to the offence. Article 122 of the Chiapas Penal Code stipulates that the physical abuse of spouses and partners is not punishable if the perpetrator “exercised his right of correction towards those against whom he may exercise it” and the inflicted injuries take less than two weeks to heal. In eight states,

no shelter exists for women victims of violence.<sup>6</sup> Shockingly, the penal codes of 20 states fail to criminalize marital rape<sup>7</sup> and 11 states do not recognize domestic violence as a specific ground for divorce.<sup>8</sup> In this context, it is positive to note that the First Chamber of the Mexican Supreme Court, in a decision handed down on 16 November 2005, reportedly recognized marital rape as a wrongful act thereby departing from previous jurisprudence that only considered marital rape to be an illicit exercise of a right.

17. The duality of jurisdictions may also cause federal and state authorities to waste time, resources and legitimacy on blame games over public security deficits. The Special Rapporteur must stress that human rights obligations exist for all levels of Government - federal, state and local - even though criminal justice functions are mainly exercised by State and local authorities. States and municipalities are bound by the same international obligations to which the Mexican federal Government has committed itself.<sup>9</sup> Therefore, the competence of states to investigate, prosecute and adjudicate in criminal matters also entails the international obligation to respond with due diligence to all cases of violence against women that fall in their jurisdiction. At the same time, the federal Government retains a residual obligation to ensure that applicable international human rights standards are observed at State and local levels.<sup>10</sup> For this reason, the Special Rapporteur was very pleased to be informed about the draft amendment to article 73 of the Constitution, introduced in the Senate against the backdrop of the impunity in Ciudad Juárez. The amendment would give the federal authorities jurisdiction over local crimes that are related to human rights violations. This would allow the Prosecutor-General of the Republic to exercise jurisdiction, for instance, when state authorities fail to investigate murders or other violent crime with due diligence.

18. The Special Rapporteur has also been informed that, while the states have broad responsibilities, the resources to fulfil them are often controlled by the federal Government. Therefore, it is particularly important that state and the federal Government accept non-penal measures to prevent and respond to violence against women as their joint responsibility. In this regard, the Special Rapporteur is pleased to note that the federal Government has correctly identified domestic and sexual violence as a national public health problem. Reportedly, funds from the national health budget have been used, for example, to support a national network of over 30 shelters for violently abused women.<sup>11</sup>

### III. MANIFESTATIONS OF VIOLENCE AGAINST WOMEN

19. While violence against women, fuelled by gender discrimination and impunity is a widespread phenomenon, women who lack access to State authorities and equal protection of the law, namely undocumented migrant women, indigenous and other marginalized women, suffer from particularly high levels of violence.

#### A. Violence against women in society at large

20. According to a 2003 national survey, one in four women has been the victim of physical violence at least once in her lifetime and one in six women has experienced sexual violence.<sup>12</sup> The same survey has identified domestic violence to be by far the most prevalent type of violence against women. Of all victims of violence a mere 3.6 per cent identified strangers as the perpetrators; the rest had exclusively suffered violence at the hands of partners or family

members. One in five women currently lives in a relationship that is characterized by physical, sexual and/or psychological abuse. Out of all women 2.8 per cent were physically forced to have sexual relations by their current or last partner.<sup>13</sup>

21. Police and prosecutors often fail to intervene decisively in the early stages of an abusive intimate relationship that becomes incrementally more violent over the course of time. Cases of domestic violence are often not taken seriously, partly since many police agents share the same gender bias that motivates the perpetrators. In many cases, women also fail to give evidence against the perpetrators due to a lack of confidence in the authorities or because protection is not provided to the victim who is injured and terrified.

22. Women are also subject to high levels of the gravest forms of violence. While the murder rate for women has actually dropped over the last two decades from 3.4 cases for every 100,000 women in 1985 to 2.6 cases in 2003, this coincided with a general decrease of murder in the country. Indeed, the murder rate for men decreased more sharply than that for women meaning that today a higher percentage of murder victims are women than in 1985.<sup>14</sup> At the same time, Mexico has one of the highest rates of rape for women in the world. Most Mexican states lack comprehensive and sex disaggregated statistics, however, according to a 2004 study an estimated 13.3 cases of rape are reported annually for every 100,000 women.<sup>15</sup> The study concludes that only 32 out of the 136 countries with available data have a higher rate of reported rapes.

23. The number of rape cases might actually be far higher since many victims reportedly do not approach the authorities out of fear or shame. The internalized feeling of guilt that victims of sexual violence typically experience is often exacerbated by the speculations about the victim's particular lifestyle or outward appearance that might have provoked the sexual assault. 23.1 per cent of the men interviewed in a 2005 national survey hold the opinion that women provoke their rapist.<sup>16</sup> Widespread impunity for sexual violence and lenient sentencing also discourage victims from reporting crimes of sexual violence to the authorities. In only 25 per cent of all rapes reported to the authorities is the perpetrator apprehended and convicted,<sup>17</sup> and in 19 per cent of all convictions the sentence is between one month and five years, of which the perpetrator typically only serves half.<sup>18</sup>

24. The positive correlation between impunity and high crime rates is evidenced by the situation in Quintana Roo and Tlaxcala, two states with the highest rate of crime and impunity.<sup>19</sup> There is also a positive correlation between poverty and violence against women. Apart from the special case of Chihuahua, only the poorer southern states - Guerrero, Morelos and Chiapas - stand out with rape and murder rates for women above the national average.<sup>20</sup>

25. Also a matter of concern are reports of sluggish and unprofessional investigations into rape cases that often lead to illegal, unsafe abortions endangering the reproductive health and life of the women. Reportedly, abortion-related death is the fourth highest cause of death for women in Mexico. Abortion laws differ from state to state, but generally speaking, rape constitutes a ground for legal abortion within the first months of the pregnancy. However, police often fail to promptly investigate rape cases making it difficult for victims to obtain a certificate in a timely manner to allow health institutions to carry out an abortion. In addition, the physician may reportedly refuse to carry out the abortion on the grounds that it is "immoral". The Special Rapporteur was informed about the case of Paulina, who was raped and became pregnant at

age 13. Despite a judicial order to perform an abortion, the doctor responsible first refused and then convinced her parents that they would bear responsibility in case Paulina died or became sterile due to the abortion.<sup>21</sup>

### **B. Most vulnerable groups of women**

26. While the levels of violence against women in Mexico are generally high, migrant and indigenous women, who systematically lack access to justice, are particularly vulnerable. As a result, the gender discrimination they suffer is compounded by an additional layer of discrimination on the basis of ethnicity and/or migrant status.

#### **Violence against migrant women**

27. Changing patterns of migration over the past two decades and to some extent the increased incidence of trafficking in women and girls in the region at large<sup>22</sup> have led to a feminization of population movements across national borders. In this regard, Mexico is a sending, receiving and transit country. Women and girls from other parts of Central and Latin America enter Mexico either to find economic opportunities or transit to the United States of America. The southern border with Guatemala is particularly volatile. The often illegal nature of the migratory flows makes female migrants vulnerable to exploitation, abuse and violence. Statistics of the Mexican immigration authorities suggest that one out of every six undocumented migrants is a woman.<sup>23</sup>

28. Widely held prejudices against women who travel unaccompanied, coupled with their irregular status, make undocumented migrant women likely targets of violence. As a result, the patterns of violence against migrant women in Chiapas, on the border to Guatemala, increasingly resemble those observed in the State of Chihuahua. According to information provided by the National Human Rights Commission, 1,000 women have been killed in the south of the country over the past three years, far exceeding the figures in Chihuahua.<sup>24</sup> Having paid organized human smugglers (*coyotes*) to cross the border, unaccompanied women and girls interrupt their journey in border towns for weeks or even months to earn money or await remittances from friends and relatives abroad before they continue northwards to more affluent regions. Without papers or financial means these women and girls are vulnerable to extortion, exploitation, sexual violence and even murder at the hands of powerful organized criminal gangs and the corrupt officials with whom these gangs are said to be allied.

29. The victims' vulnerability is exacerbated by the fact that Mexican migration law bars undocumented migrants from accessing State authorities. The General Population Act (*Ley General de Población*) prohibits State authorities from dealing with any request from a non-citizen who has not demonstrated legal status in Mexico.<sup>25</sup> Information received indicates that even victims of severe sexual violence are sometimes deported to their country of origin before they can denounce their perpetrators to the authorities.

30. Mexico has concluded memorandums of understanding on protecting migrants, especially women, children and trafficking victims, with Guatemala in March 2004 and with El Salvador in May 2005. It is hoped that the swift implementation of these agreements will ameliorate the situation.

### **Violence against indigenous women**

31. Living mainly in the south and south-east of the country, Mexico's indigenous population of approximately 13 million people continues to be marginalized.<sup>26</sup> Most indigenous people live in the poorest and least developed localities. Oaxaca, Guerrero and Chiapas, the states with the largest indigenous populations, occupied the bottom three places in the United Nations Development Programme (UNDP) human development index for Mexico, which compared literacy and school enrolment rates, life expectancy at birth and gross domestic product per capita in all Mexican states.<sup>27</sup>

32. Indigenous women are particularly disadvantaged since they experience four layers of discrimination - on the basis of sex, ethnicity, poverty, and of being rural. For this reason, the risk of maternal mortality, for instance, is more than twice as high for indigenous women as for non-indigenous women.<sup>28</sup> They also suffer from disproportionately high levels of physical and sexual violence within their own communities as well as within the wider society.

33. The violence against indigenous women is rooted in the traditional patriarchal gender hierarchies of indigenous communities, ethnic stereotyping and discrimination in the wider society as well as in the relationship between the indigenous population and State institutions within the context of multiculturalism.<sup>29</sup> Authorities in indigenous communities instrumentalize customary norms to condone domestic violence,<sup>30</sup> particularly if women attempt to deviate from the masculine discourse and assert their own will on matters such as the number and spacing of their children.<sup>31</sup> Indigenous women are also likely to face stigmatization and rejection by their family and community if they denounce acts of sexual violence. Both State law and custom demand that indigenous women conform to "traditionally" ascribed behaviour. The general understanding that women often provoke domestic violence by failing to perform as expected legitimizes violence as a disciplinary and corrective tool.

34. Indigenous women's inability to overcome their political and social disempowerment is linked to their economic dependency. The penetration of the cash economy into the agriculture sector undermined subsistence farming, where women were an important and integral part of household production. Under market forces rural households had to diversify their household labour use patterns through migratory work. Research shows that this has actually increased the dependency of rural indigenous women since they often remain on the land and perform labour intensive tasks while men temporarily migrate to the cities or coastal plantations to earn cash,<sup>32</sup> giving men both a monopoly over cash and a familiarity with the wider society. This has increased their control of the family and deepened the asymmetric gender power structure. However, indigenous women are also increasingly seizing temporary migration opportunities. A large majority of Mexico's estimated 2.7 to 3.7 million temporary agricultural migrants, are indigenous people, half being women.<sup>33</sup>

35. In addition, indigenous women are also organizing and establishing micro-businesses that, for instance, produce and market traditional indigenous artwork. These self-help initiatives are crucial in laying the economic base for overcoming gender discrimination and the violence emanating from it. Programmes to support the productive organization of women such as that of the Mexican National Commission for the Development of Indigenous Peoples are important contributions towards addressing the root causes of violence against indigenous women. The

head of the Commission cautioned about romanticized notions of “preserving indigenous culture” which according to her can serve to uphold practices that violate women’s rights, thus preserving a system of oppression.

36. Indigenous women resort to national law in their struggle to overcome marginalization in their own communities and challenge the multiple normative practices that have been homogenized as “traditional”. However, the State legal and justice system is also shaped by patriarchal conceptions of gender relations and are embedded in prejudicial conceptions of indigenous communities. Therefore there is a tendency to perceive violence against indigenous women as an inherent component of their culture, which naturally obstructs justice. Indigenous women also encounter multiple barriers in accessing State institutions, which are often located far away from their homes in larger towns and cities. Furthermore, since many indigenous women are illiterate and speak little or no Spanish, they are often inhibited from approaching formal institutions.

37. The insufficient protection offered by the State justice system, makes indigenous women also vulnerable to violence perpetrated by persons outside their own communities. The allegations that soldiers have raped indigenous women with impunity are particularly alarming. These incidents reportedly occur in areas of southern Mexico where the Government had deployed substantial military forces in response to the emergence of armed insurgent groups. Since 1997, soldiers have allegedly raped at least six women in the State of Guerrero alone. In all six cases, military authorities asserted jurisdiction relying on a contested interpretation of the Regulations for the Internal Service of the Army Corps. Rather than carrying out full and impartial investigations, military investigators have reportedly delayed criminal proceedings and tried to disprove the allegations thereby placing the burden of proof on the victim.<sup>34</sup> As of September 2005, not one soldier had been convicted in connection with the rapes. In this climate of impunity, it is very likely that far more indigenous women have experienced sexual violence but have kept silent about it due to fear or shame.

### **C. Murder and disappearances of women in Chihuahua State**

38. The State of Chihuahua borders the United States. Its largest city, Ciudad Juárez, is situated on the border crossing to El Paso, Texas. Long a gateway for migration to the United States, Ciudad Juárez has seen the rapid growth of export industries (the *maquiladoras*) since the conclusion of the North American Free Trade Agreement (NAFTA) in 1992. The prospect of employment and migration opportunities has attracted migrants from other parts of Mexico and Central America causing the city’s population to rapidly swell to its current 1.5 million inhabitants. Social inequality in Ciudad Juárez is marked. A small group of wealthy, powerful families own the land on which the *maquiladoras* and urban districts are located, while the majority of the population, especially female-headed households,<sup>35</sup> live in extreme poverty. This situation of destitution is exacerbated by the fact that vital public services, such as health, education, housing, sanitation and general infrastructure, have not been able to keep up with the basic needs of the rapidly growing population.<sup>36</sup> The combination of destitution and inequality on the one hand and the proximity of the international border on the other hand spurred the growth of various forms of organized crime such as trafficking in drugs and persons, human smuggling or money laundering, among others.

39. From 1993, Ciudad Juárez became the focal point of national and international attention due to the high incidence of murders and disappearances of women.<sup>37</sup> According to official figures, 377 women were murdered in Ciudad Juárez between the beginning of 1993 and 12 December 2005. At least 33 more women have disappeared.<sup>38</sup>

40. The murders are said to have different motives ranging from domestic violence to drug trafficking. About one third of all murders involved sexual violence.<sup>39</sup> In many cases the victims were also tortured and their bodies mutilated. The victims came typically from poor, underprivileged families and often worked in the *maquiladoras*, local bars or nightclubs. Some were continuing their education or were young, single mothers with several children.

#### **Continuing impunity for the perpetrators of crimes against women**

41. Notable success in responding to the murder wave such as the conviction of 10 gang members on numerous counts of murder in early 2005, are overshadowed by the fact that the majority of cases remain unsolved and the perpetrators continue to enjoy impunity. A study undertaken by federal prosecution authorities analysing 203 of the murder cases indicates that only in 46.7 per cent of all cases was a conviction of the perpetrator secured. For murders involving sexual violence, the study suggests an even lower conviction rate of 33.3 per cent.<sup>40</sup>

42. The failure to convict and curb the murders has been to a large part the result of extremely poor, indifferent and negligent investigations by the authorities of the State of Chihuahua, who have jurisdiction over these cases. According to reports, in some instances, investigators deliberately obstructed the investigations by concealing or planting evidence. In the murder case of Paloma Escobar, for instance, expert analysis showed that the police commander initially heading the investigation had fabricated evidence to incriminate the boyfriend of the victim and the police commander was later convicted on charges of making false accusations.

43. The complete erosion of public confidence in administrative, judicial and political authorities has fuelled speculations that the major perpetrators have been systematically shielded from investigation and prosecution. In 1998, the National Human Rights Commission examined a sample of the case files and concluded that the conduct of investigations had included human rights violations of the victims and their relatives as well as violation of international regulations and instruments, to the detriment of the aggrieved persons.<sup>41</sup>

44. Since then various international human rights monitoring mechanisms beginning with the Special Rapporteur on extrajudicial, summary or arbitrary executions in 1999, have drawn international attention to the problem in the State of Chihuahua.<sup>42</sup> In 2002, the Special Rapporteur on Women's Rights of the Inter-American Commission on Human Rights (IACHR) visited Mexico and issued recommendations specifically relating to Ciudad Juárez.<sup>43</sup> In 2003, responding to a formal request by the federal Government, the United Nations Office on Drugs and Crime (UNODC) selected an independent commission of law enforcement experts to study the Ciudad Juárez murders. The expert group provided a set of detailed recommendations to enhance the investigating, prosecutorial and judicial capacities linked to the murders in

Ciudad Juárez.<sup>44</sup> At the beginning of 2005, the Committee on the Elimination of All Forms of Discrimination against Women issued a report pursuant to an inquiry under article 8 of the Optional Protocol to the Convention.<sup>45</sup>

45. Despite these numerous interventions, the murders in Ciudad Juárez continue. According to the National Commission of Human Rights, at least 38 women were murdered between January 2004 and August 2005. Moreover, the same problem has also become visible in other parts of the State of Chihuahua. For instance, a similar pattern of murders and disappearances of women in the city of Chihuahua, approximately 300 km south of Ciudad Juárez, have increased concerns. The murders of women in Ciudad Juárez and Chihuahua as well as those in other parts of the country form part of the same problem and ought to be treated as such.

#### **Steps taken by the federal Government**

46. In view of the poor investigations in the State, both IACHR and UNODC have called for the participation of the federal Government in addressing the violence and the related impunity. While, the federal Government was initially very reluctant to assume a direct role in responding to the problem, this stance has significantly improved over the last two years. In 2003, the Government adopted a 40-point plan committing itself to implement all relevant international obligations and recommendations. The plan also contains additional pledges that elaborate on international recommendations. Unfortunately, the scope of the Plan is restricted to violence against women in Ciudad Juárez and does not address similar patterns elsewhere or violence against women as a general phenomenon. Despite this shortcoming, there has been some notable progress in implementing the Plan. However, significant steps remain to be taken.

47. The Constitution of Mexico, as it currently stands, limits the jurisdiction of the Prosecutor-General of the Republic to homicide cases that are connected to criminal offences under federal jurisdiction such as drug trafficking or organized crime. Taking into account this constitutional limit, the federal and state authorities set up a joint investigation and prosecuting agency in 2003. In practice, this *Fiscalía Mixta* has so far had a disappointingly limited role since the joint investigation stage comes to an end once it is determined which level of government has prosecutorial jurisdiction.

48. At the end of 2003, the role of the federal Government was strengthened when President Vicente Fox appointed Guadalupe Morfín as Special Commissioner heading a Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez. The Commission is mandated to focus on repairing the social fabric of Ciudad Juárez and on supporting the families of victims in dealing with state authorities. The Special Commissioner has also extended her work to the Ciudad de Chihuahua and established a high degree of credibility amongst civil society actors and families of victims. Many have demanded that the Commission be awarded the power to access and scrutinize individual case files in order to be able to closely monitor the work of the investigation and prosecution authorities. In January 2004, a Special Federal Prosecutor was also appointed to oversee the crimes related to the murder of women in Ciudad Juárez. Because of the constitutional limits to her jurisdiction, the Special Federal Prosecutor had only asserted jurisdiction in nine cases involving 24 victims at the time of this visit and even in those few cases little progress has been achieved.



### **Criminal conduct of public officials**

49. The Special Federal Prosecutor has managed, however, to shed some light on the extent of negligence and misconduct in the investigations undertaken since 1993. At the time of the Special Rapporteur's visit, 101 state prosecutors, support staff, police agents and forensic experts who are possibly liable for criminal and/or disciplinary sanctions for negligence, omission, and other related offences had been identified.

50. The new Governor of Chihuahua, who took office at the end of 2004, appointed a new state Attorney-General, who in turn appointed a new prosecutor for the jurisdiction covering Ciudad Juárez. The Special Rapporteur was informed that the entire staff of the former State Prosecutor's Office was suspended on 9 November 2004. However, civil society groups report that many staff members implicated in the negligent investigations are back in their posts. When the Special Rapporteur visited Mexico, none of the 101 officials identified by the Special Federal Prosecutor had been indicted by the State Prosecutor-General, who has exclusive jurisdiction in the matter. Instead, most of the 101 cases were dropped. Only five officials were indicted, but local judges dismissed the charges against them on the ground that the statute of limitation had lapsed. These findings seem questionable in the light of the fact that in cases of abuse of authority the statute of limitations only begins to run once the criminal conduct ends, i.e. on the day on which officials rectify the criminal omission in which they are involved. In addition, no consideration seems to have been given as to whether officials might have incurred additional criminal responsibility for negligence, omission and related offences, because they negligently (or knowingly) allowed the statute of limitations to expire.

51. Serious violations of due process norms continue to plague the murder investigations of the State of Chihuahua authorities. In several cases, suspects were allegedly forced to confess under torture. On 9 November 2001, Victor Javier G.U. and Gustavo G.M. were arrested for the alleged murder of eight women. They signed confessions while in custody. However, in their first hearing in court both had consistently alleged to have confessed the crimes under torture. Gustavo G.M. died in custody on 8 February 2003 under circumstances that have yet to be fully clarified. On 13 October 2004, a judge convicted Victor Javier G.U. on eight counts of murder while refusing to consider evidence that his confession was extracted under torture. The conviction was set aside on appeal (without the court of appeal making a determination on the torture allegations) and Victor Javier G.U. was released. According to the Government, a Specialized Medical/Psychological Opinion for Cases of Possible Torture and/or Mistreatment that had been initiated in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")<sup>46</sup> found no evidence of injuries that resulted from maltreatment or torture.

52. In July 2003, Miguel David M.A. and Jesús A. were arrested for the alleged murder of Neyra A. Both were allegedly tortured and held incommunicado for a number of hours. While Jesús A. was eventually released, Miguel David M.A. was allegedly forced to sign a confession that he had hired assassins to murder the victim. The State Prosecutor-General requested a Specialized Medical/Psychological Opinion under the Istanbul Protocol in February 2004. As of September 2005, David M.A. remained in custody and a Specialized Medical/Psychological Opinion had reportedly still not been completed. In December 2005, the Government informed the Special Rapporteur that a Specialized Medical/Psychological Opinion had found no evidence of injuries that had resulted from maltreatment or torture.

53. Cynthia K. and Ulises Ricardo P.I. were arrested for the murder of Viviana R., who had disappeared on 16 March 2003 in Ciudad de Chihuahua. Both were allegedly forced to sign a confession. On 17 December 2004, both were acquitted after the court considered their confession to be inadmissible evidence. According to the Government, a Specialized Medical/Psychological Opinion did not find proof or evidence of injuries resulting from maltreatment or torture in this case either.

54. The extortion of confessions through torture is not only a grave human rights violation in and by itself, but it may also compromise the entire investigation and lead to impunity for the actual perpetrators. The alleged recourse to brute force as an investigative tool also lends additional credibility to a number of reports which suggest that the State authorities have yet to implement the detailed recommendations of UNODC concerning modern investigative methods and documentation of investigative steps. The Special Rapporteur was informed that staff of the State Prosecutor-General has received additional training on the handling of evidence, interviewing, homicide, investigation techniques, kidnappings of minors, procurement of justice and human rights. Such training is clearly necessary but appears to be insufficient given that credible information about the torture of yet another murder suspect has emerged since this visit.<sup>47</sup>

55. With regard to impunity for public officials, the Special Rapporteur would also like to express outrage at the handling of the criminal proceedings against Héctor Armando L.G., a former senior police official in Ciudad Juárez who was allegedly involved in a criminal ring that recruited underage girls for pornography and prostitution. Héctor Armando L.G. was arrested on 26 February 2004. Three days later a local judge released him against 300,000 pesos on bail considering that the alleged crimes were "not grave". He has since disappeared and, as of September 2005, his whereabouts are unknown.

#### **Lack of certainty, transparency and compensation for the victims' families**

56. The corrosive impact of impunity on the legitimacy of the justice system is compounded by the uncertainty that many families of victims feel about the fate of their loved ones. This applies in particular to the families of missing women because the recovered human remains of at least 53 women have yet to be identified. Some families of women whose bodies were supposedly identified share this uncertainty because they have grave and often reasonable doubts about whether the bodies were correctly identified. Following recommendations by UNODC, the federal Government's 40-point plan promised the forensic identification of women by means of a Forensic Genetic Data Bank, established and maintained by the Prosecutor-General of the Republic. In February 2004, this undertaking was implemented. The federal prosecution authorities have also set up a database on disappeared women in Ciudad Juárez that has reportedly helped to locate several such women. This is commendable, but falls far short of the establishment of a national database on disappearances called for in UNODC recommendations and as promised in the 40-point plan of the federal Government.

57. Building on another UNODC recommendation, the 40-point plan also foresees the participation of forensic anthropology teams in the identification process. In June 2004 the Equipo Argentino de Antropología Forense (EAAF) undertook a preliminary study of recovered human remains that were not or not properly identified. EAAF concluded that an independent body composed of experts from various disciplines should study and identify the physical

remains of women in both Ciudad Juárez and Chihuahua in one integrated and comprehensive study. It was also recommended that the investigative body have the competence to revisit cases if a victim's family expresses doubts about whether the victim was correctly identified. The Special Rapporteur is pleased to note that since her visit local and federal authorities have jointly commissioned EAAF to study and identify the physical remains of women who were not or possibly not correctly identified.

58. During the visit, the Special Rapporteur also had the honour to meet with several families of victims, who have organized themselves into courageous, competent and persistent advocacy groups. These families, joined by many other NGOs and civil society initiatives, have been instrumental in drawing national and international attention to the situation in Chihuahua. Reportedly, in the past, some state officials reacted by harassing, threatening and publicly ridiculing all those who spoke out against the nexus of negligence and impunity. Fortunately, these shameful practices seem to have decreased over the last couple of years.

59. The Special Rapporteur was also pleased to hear that Chihuahua's new governor has promised to make the investigations a priority and transparent. Transparency is indeed much needed since families of victims still complain that neither State nor federal authorities sufficiently inform them about the state of investigations. In its 40-point plan, the federal Government promised to guarantee the legal right of each family or its legal counsel to access the case files and suggest lines of investigation (right of *coadyuvancia*). Yet in practice, access is frequently obstructed through bureaucratic means. Suggested lines of investigation are ignored or the burden to produce witnesses or physical evidence is placed on the family.

60. The victims' families have the right to receive compensation for the State's failure to investigate the murders of their loved ones with due diligence. In this regard, the federal and the State Governments have jointly taken a commendable first step by setting up a fund endowed with 30 million pesos. At the time of this visit, detailed criteria had yet to be published on how to assess the needs of each victim's family and assure that no family is arbitrarily excluded. Accordingly, no funds had yet been disbursed. However, in the meantime, various smaller government and civil society initiatives have provided much needed interim benefits concerning health, education, and livelihood needs to the families and dependents of victims.

#### **Limited progress in preventing additional murders**

61. Several positive steps that correspond to recommendations made by IACHR have been taken to decrease the vulnerability of women against assault in public places. The increased number of federal police agents deployed in an anti-narcotics operation in Ciudad Juárez since July 2003 has reportedly helped decrease the overall rate of violent crime in the city. In October 2003, federal, State and municipal police forces launched a joint operation to increase policing in high-risk zones of Ciudad Juárez. In addition, the lighting infrastructure was improved and a public works programme to upgrade parks and other public spaces was launched in January 2004. However, secure and reliable public transport options to the *maquiladoras* and schools, including bus stops in secure, well-lit places, are still lacking. In this regard, the corporations operating the *maquiladoras* could take on more responsibility to provide resources in order to assure the safe travel of their employees to and from work.

62. IACHR also recommended improving the practices and procedures ensuring that reports of missing persons are rapidly, thoroughly and impartially investigated. There has been some progress. In the past, the authorities often refused to open formal investigations (*averiguaciones previas*) on the first day that a woman was reported missing. This has reportedly improved. However, the rapid response mechanisms in cases of violence against women, still need to be upgraded. Reportedly, the municipal police of Ciudad Juárez does not routinely initiate search actions or other preventive measures as soon as it receives a report about a missing woman. Inexplicably, the police often wait for confirmation that a crime has actually been committed. The police authorities also fail to immediately dispatch patrols every time violence against women is reported. The Special Rapporteur was informed about one paradigmatic case that occurred on 4 November 2004. Neighbours reported an ongoing, serious assault against Martha L. to the municipal police. When police finally arrived at the scene over half an hour later, the assailant had already raped and murdered his victim.

#### IV. CONCLUSIONS AND RECOMMENDATIONS

63. **The Government of Mexico has taken significant steps to prevent, punish and eradicate violence against women with due diligence. But in the light of the unbearably high levels of violence against women that continue to exist in Mexico, the Government needs to do more to live up to its international obligations. The responsiveness of the police and justice sectors to gender-based violence remains inadequate overall and needs to be improved.**

64. **It is equally important that all levels of Government continue to strengthen their efforts to address the root causes of violence against women. Gender discrimination, which continues to permeate Mexican society, is clearly one of these root causes. The prevalence of discrimination on the basis of ethnicity, national origin or socio-economic status is another factor making indigenous women, migrant women or other socially marginalized women particularly vulnerable to violence. The lack of equal access that women in general, and these specific groups of women in particular, have to the protection of the State authorities is a related problem that also needs to be addressed.**

65. **The level of protection against gender-based violence also varies significantly between the states. Some states are clearly lagging behind and need to bring their laws, policies and implementation measures into line with their human rights obligations. The present report has placed an emphasis on the situation in the State of Chihuahua, since violence against women here has become particularly visible and acknowledged by all concerned. The indifference, negligence or even deliberate obstructionism that the state authorities have initially shown in dealing with the murders of hundreds of women in Ciudad Juárez constituted a denial of protection and justice. In response to national and international pressure, many initiatives have since been undertaken. However, both the state and the federal authorities could do significantly more to end impunity, compensate the victims' families and prevent additional murders.**

66. **The continued problems in Chihuahua noted, it needs to be re-emphasized that the case of Chihuahua is uniquely visible, but not unique. Extreme levels of violence against women are observed in other regions as well. The southern border with Guatemala**

appears to be one such region. Furthermore, while the killings and disappearances of women are an especially dramatic manifestation of violence and discrimination against women, they should be perceived as dimensions of a continuum of violence that take many forms. A comprehensive, countrywide collection and analysis of data on violence against women may well identify the inter-linkages between diverse forms of violence against women and other high-risk regions that need priority attention.

67. While a lot remains to be done by the Government, the onus is also on every individual to speak up against gender-based violence and discrimination. In this regard, Mexico's vibrant civil society, especially its women's organizations are commendable. The Special Rapporteur on violence against women considers their involvement to be an essential element of any meaningful effort to eliminate gender-based violence. It was also encouraging to see the media working with women's organizations and playing a constructive role in raising awareness about women's rights and demanding government accountability for violations of its obligation under international law to prevent and respond to violence against women with due diligence.

68. In view of the remaining gaps and challenges, and the many recommendations contained in reports of other mandate holders, the Special Rapporteur would like to make the following recommendations to the Government, civil society and the international community.

69. The Special Rapporteur recommends that the Government:

- (a) End impunity for violence against women through legislative, investigative and judicial reform:
- (i) Amend the Federal Constitution and relevant legislation to give the federal authorities investigative, prosecutorial and judicial jurisdiction whenever state authorities persistently fail to discharge their human rights obligations to investigate and prosecute with due diligence violent crime, particularly crime directed against women;
  - (ii) Remove all gender-discriminatory provisions still contained in federal or state law; link labour law with reproductive rights and laws governing migration with trafficking in women;
  - (iii) Pass specific legislation to prevent and respond to violence against women in all states and at the federal level;
  - (iv) Investigate with due diligence all instances of alleged violence against women whether it occurs in the home, in the community, or workplace with particular emphasis on the connections between violence against women and drug and human trafficking; prosecute perpetrators; grant prompt and adequate compensation and support to survivors;

- (v) Strengthen the administration of justice, with specific attention to the barriers in law and procedure that impede the access of women, especially indigenous and migrant women, to effective judicial remedies and protection. This would include a swift implementation of the memorandums of understanding with Guatemala and El Salvador on protecting migrants, especially women, children and victims of trafficking;
  - (vi) Ensure, if necessary through legislative reform, that all cases of violence against civilians committed by military personnel are investigated by civilian authorities, prosecuted by civilian authorities and adjudicated by independent and impartial civilian courts;
  - (vii) Create a digital national database for disappeared persons that makes relevant information, including DNA samples of the disappeared person or close relatives, available to all law enforcement authorities at the federal, state and municipal level;
  - (viii) Adopt a federal law criminalizing domestic violence;
- (b) Identify and prosecute all responsible for murder or other acts of violence against women in the State of Chihuahua with transparency:
- (i) Adopt a holistic approach to the murders of women in Ciudad Juárez, Chihuahua and other locations within the State of Chihuahua and expand the mandates of specialized federal and state authorities working on the issue accordingly;
  - (ii) Strengthen the Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez, grant it the competence to access and scrutinize individual case files and ensure close collaboration with the Special Federal Prosecutor;
  - (iii) Have federal and state prosecution authorities jointly investigate all cases until all relevant evidence is secured, the background of the murder is understood and the identity of the perpetrator is determined;
  - (iv) Implement all recommendations of the United Nations Office of Drugs and Crime concerning modern investigative techniques and documentation of investigative steps;
  - (v) Continue to effectively support and adequately fund the second stage of the murder victim identification project carried out by the Equipo Argentino de Antropología Forense (EAAF) forensic team;
  - (vi) Scrupulously adhere to applicable due process guarantees, especially the prohibition of torture, in all phases of the investigation and the criminal process;

- (vii) Investigate all allegations about the torture of suspects, including through the request of Specialized Medical/Psychological Opinions, and prosecute responsible officials;
  - (viii) Investigate all accusations of negligence, omission or complicity against officials relating to murder or other acts of violence against women in the State of Chihuahua, review the legality of all dismissals of cases on the basis of the statute of limitations and prosecute those against whom a criminal indictment is substantively and procedurally well-founded;
  - (ix) Ensure that the victims, their families or their legal representative can effectively exercise their legal right to review the case file and suggest lines of investigations and keep them informed of the development;
  - (x) Promptly disperse the monies from the Economic Fund to Indemnify the Relatives of the Victims of Homicides of Women in the Municipality of Juárez, Chihuahua on the basis of non-discriminatory criteria, while continuing government programmes providing immediate education, health and livelihood benefits to the victim's dependants;
- (c) Provide protective and support services to victims of violence or their families as well as women at risk of violence:
- (i) Promote the creation and expansion of shelters and counselling services (including telephone hotlines) for women subjected to violence and appropriate sufficient public resources for their maintenance;
  - (ii) Order police to react without delay and as a matter of priority to reports about ongoing acts of violence against women;
  - (iii) Put police systems and procedures in place to institute investigations into reports of missing persons at the earliest reasonable moment. In regions with a high risk of grave forms of violence against women search operations should be commenced immediately after a woman is reported missing;
  - (iv) Secure and upgrade public spaces where women are vulnerable to attack;
  - (v) Provide support for low-income families, female-headed households, and indigenous women, including through the allocation of funds for vocational training, adult literacy, credit schemes and provision of incentives for their employment, assistance with health care and subsidies for housing;
  - (vi) Institute witness protection programmes with the necessary mechanisms for their effective implementation;

- (d) Create a gender-sensitive information and knowledge base:**
  - (i) Standardize the collection and analysis of data on violence against women throughout the country and set up a national comparative database to determine which states and municipalities suffer from particularly high levels of violence against women and to identify the commonalities and linkages of diverse forms of violence;**
  - (ii) Support research on all forms of violence against women and the links between social attitudes, family structure, socio-economic change and public policy and their implications on violent behaviour;**
  - (iii) Use gender-sensitive data and research for informed policy formulation to end violence and for monitoring and evaluation of progress;**
- (e) Strengthen institutional infrastructure:**
  - (i) Create an observatory for crimes against women in the country at large;**
  - (ii) Strengthen the legal and financial base of all State institutions specifically promoting women's rights such as the National Institute of Women;**
  - (iii) Define clearly the mandates of the various national and state machineries for the advancement of women to avoid duplication, increase efficiency and ensure coordination of all public policy on gender issues between the states and the federal Government;**
  - (iv) Provide and implement gender budgeting at all levels of government to ensure that funds are appropriately utilized;**
- (f) Promote training, operational and awareness-raising programmes:**
  - (i) Intensify and amplify existing efforts to provide training to justice sector personnel, police and technical personnel such as forensic specialists on the protection of women's rights, gender-sensitive investigative techniques and sensitivity to the special needs of women survivors of violence;**
  - (ii) Conduct legal literacy campaigns to inform women about their rights and the institutions where complaints may be submitted;**
  - (iii) Undertake media campaigns against violence against women and all forms of discrimination and promote respect for human rights;**



- (iv) Ensure that girls have equal access to primary and secondary education and technical and professional training;
- (v) Work with authorities in indigenous communities to institute programmes that promote the observance of women's and children's rights in the exercise of customary law;
- (vi) Promote through school curricula and media campaigns the recognition of the multicultural nature of society and its value in cultural enrichment.

70. The Special Rapporteur recommends that civil society, including human rights organizations and the media:

- (a) Develop solidarity networks with diverse groups, with special attention to ensuring participation of indigenous and migrant women's organizations, to develop common strategies for the advancement of women and joint efforts to hold Government accountable for the promotion and protection of women's rights;
- (b) Monitor the application of law by the criminal justice system in cases of violence against women, collect data and report on the situation of women, particularly those belonging to marginalized groups, and form partnerships with authorities to develop policies to address the problems;
- (c) Undertake research on customary law and its relation to gender-based discrimination and violence, in particular sexual and domestic violence;
- (d) Continue to advocate, including through collaboration with the media, to raise awareness about the scale and gravity of violence against women;
- (e) The media, as set forth in the Beijing Declaration and Platform for Action of the Fourth World Conference on Women, must avoid gender stereotypes and show sensitivity for the needs of the victims and their families when reporting incidents of violence against women. The media, in collaboration with other civil society actors, should work towards overcoming discriminatory social attitudes towards women.

71. The Special Rapporteur recommends that the international community:

- (a) Prioritize through bilateral and multilateral funding the initiatives of women's organizations, research institutes and academia for research, advocacy and operational projects that aim to contribute to the advancement of women, including indigenous and migrant women;
- (b) Provide sufficient resources to strengthen the capacity of the United Nations Country Team to integrate the promotion and protection of women's rights into all of its activities.

### Notes

<sup>1</sup> The Special Rapporteur has also addressed similar patterns in mission reports to Guatemala (E/CN.4/2005/72/Add.3) and El Salvador (E/CN.4/2005/72/Add.2).

<sup>2</sup> According to a 2005 national survey, 94.2 per cent of all women in Mexico believe that gender discrimination remains prevalent; 21.7 per cent of all men consider it natural that women are not allowed everything that men are; 30.5 per cent find it normal that men earn more than women and 39.2 per cent believe that women should only do work befitting their sex. See Secretaria de Desarrollo Social, *Primera Encuesta Nacional Sobre La Discriminación en Mexico*, 2005.

<sup>3</sup> Ley de Prevención, Atención y Sanción de la Violencia Familiar para el Estado de Puebla, adopted by the State Congress on 21 March 2001.

<sup>4</sup> The 23 states are Baja California, Campeche, Coahuila, Colima, Chiapas, Durango, Guanajuato, Guerrero, Jalisco, Michoacán, Morelos, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz and Zacatecas.

<sup>5</sup> The following states take part in the Integral System to Attend to Women Victims of Domestic and Sexual Violence (SIAMAVIF): Aguascalientes, Baja California, Campeche, Coahuila, Colima, Chiapas, Durango, Estado de México, Guanajuato, Hidalgo, Jalisco, Michoacán, Nuevo León, Quintana Roo, San Luis Potosí, Sonora, Veracruz, Yucatán and Zacatecas.

<sup>6</sup> As of February 2005, the states of Baja California Sur, Colima, Estado de México, Guerrero, Jalisco, Nayarit, Tamaulipas and Veracruz did not have a shelter. Campeche was in the process of building one.

<sup>7</sup> As of November 2005, these were: Aguascalientes, Baja California, Baja California Sur, Campeche, Chiapas, Colima, Guerrero, Jalisco, México, Michoacán, Morelos, Nayarit, Nuevo León, Puebla, Quintana Roo, Sinaloa, Sonora, Tabasco, Tlaxcala and Zacatecas.

<sup>8</sup> As of November 2005, these were: Campeche, Chiapas, Guanajuato, Guerrero, Hidalgo, Jalisco, Nayarit, Querétaro, Tabasco, Yucatán and Zacatecas.

<sup>9</sup> Cf. *LaGrand (Germany v. United States of America)*, Provisional Measures, I.C.J. Reports 1999, 9, p. 16, para. 28.

<sup>10</sup> Cf. American Convention on Human Rights, art. 28.

<sup>11</sup> Gender budgeting is an effective way to ensure that sufficient funds are channelled to combating violence against women. The concept refers to a budget allocation process, which is based on an analysis of priorities differentiated by gender and ensures the adequate participation of women. The Special Rapporteur was concerned to learn that the institute for women in Puebla is able to dedicate only 1 million peso of its 13-million-peso budget for service delivery; the rest goes for staff salary.

<sup>12</sup> INSP-SSA, encuesta Nacional sobre Violencia Contra las Mujeres, 2003.

- <sup>13</sup> Idem. Cf. also Instituto Nacional de Estadística, Geografía e Informática, Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares, 2003.
- <sup>14</sup> Comisión Mexicana de Derechos Humanos A.C., Panorama de la violencia contra las mujeres y propuestas para su abatimiento - El caso de municipios del Estado de México, 2004.
- <sup>15</sup> Idem.
- <sup>16</sup> See Secretaría de Desarrollo Social, Primera Encuesta Nacional sobre la Discriminación en México, 2005.
- <sup>17</sup> Comisión Mexicana de Derechos Humanos A.C., supra note 14.
- <sup>18</sup> Idem.
- <sup>19</sup> Idem.
- <sup>20</sup> Idem. These are also the states with a large indigenous population.
- <sup>21</sup> See Grupo de Información en Reproducción Elegida A.C., Paulina: In the name of the law, 2000; idem, Paulina: five years later, 2005.
- <sup>22</sup> See Special Rapporteur's mission report to El Salvador, supra note 1, para 43; see mission to Guatemala, supra note 1, paras. 38-39.
- <sup>23</sup> Instituto Nacional de Migración, Delegación Regional en Chiapas, Extranjeros Asegurados en el Año 2004 en el Estado de Chiapas.
- <sup>24</sup> The situation in the south has not become a public policy concern as has Ciudad Juárez.
- <sup>25</sup> Article 67 of the Ley General de Población.
- <sup>26</sup> Cf. Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Report on the Mission to Mexico (E/CN.4/2004/80/Add.2).
- <sup>27</sup> UNDP, Human Development Report: Mexico (2002). While the average Human Development Index for Mexico is 0.8014, Guerrero, Oaxaca and Chiapas only achieve HDIs of 0.7312, 0.7135 and 0.7032 respectively.
- <sup>28</sup> Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, supra note 26, para. 46.
- <sup>29</sup> See R. Aida H. Castillo, 2002, "National Law and Indigenous Customary Law: The Struggle for Justice of Indigenous Women in Chiapas, Mexico". In Molyneux and Razavi (Eds.), *Gender Justice, Development and Rights*. Oxford: Oxford University Press: 384-412.

<sup>30</sup> Cf. also Susana Mejía Flores, *Mujer Indígena y Violencia: Entre Esencialismos y Racismos*, *Revista México Indígena*, No. 5 (March 2004).

<sup>31</sup> Women have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so. Cf. Report of the International Conference on Population and Development (Cairo, 5-13 September 1994), Programme of Action, chapter II, principle 8 (A/CONF.171/13/Rev.1) (1995). Cf. also Report of the Fourth World Conference on Women (Beijing, 4-15 September 1995), Declaration and Platform for Action, para. 94 (A/CONF.177/20) (1995).

<sup>32</sup> Paul Jeffrey, "The quiet revolution: indigenous women struggle for dignity", Response (May 2002), available at: <http://gbgm-umc.org/response/articles/indigenous.html>.

<sup>33</sup> See Quentin Wodon et al., "Migration and poverty in Mexico's southern states", World Bank: 2002 (citing data from Secretaria de Desarrollo Social, Informe de migración, ciclo otoño-invierno 1998/99, 2000).

<sup>34</sup> See Special Rapporteur on the independence of judges and lawyers, report on the mission to Mexico (E/CN.4/2002/72/Add.1, para. 78) (noting "complaints that military tribunals are not impartial, ... and that they are too lenient towards military officers who have violated the rights of civilians"). Cf. also Inter-American Commission on Human Rights, Report No. 53/01, Case 11.565, Ana, Beatriz and Clia González Pérez, Mexico, 4 April 2001 (holding Mexico responsible for rapes committed by Mexican soldiers against three indigenous women in Chiapas in 1994).

<sup>35</sup> Of all households in the State of Chihuahua, 20.6 per cent are headed by women. Their average size is 3.5 persons. 23.4 per cent of these households (compared to 10.6 per cent of male-headed households) declared not to have any income; 13.8 per cent earned less than double the minimum wage. See INEGI, XII Censo General de Población y Vivienda, 2000.

<sup>36</sup> CEDAW, report under article 8 of the Optional Protocol to the Convention on the Elimination of Discrimination against Women, and reply of the Government, CEDAW/C/2005/OP.8/MEXICO (2005), para. 23.

<sup>37</sup> It is often assumed that these incidents started in 1993. Some of the officials the Special Rapporteur spoke to link the incidents to drug trafficking which according to them became a major business around the same period. Others call for caution and maintain that the incidents may have only gained visibility in 1993.

<sup>38</sup> Cf. *Fiscalía Especial para la Atención de Delitos Relacionados con los Homicidios de Mujeres en el Municipio de Juárez, Chihuahua*, Third Report, January 2005.

<sup>39</sup> CEDAW report, supra note 36, para. 37.

<sup>40</sup> Data provided by *Fiscalía Especial para la Atención de Delitos Relacionados con los Homicidios de Mujeres en el Municipio de Juárez, Chihuahua*, First Report, June 2004; Second Report, October 2004; Third Report, January 2005.

<sup>41</sup> Recommendation 44/98 (issued in 1998).

<sup>42</sup> Mission report of Special Rapporteur on extrajudicial, summary or arbitrary executions, (E/CN.4/2000/3/Add.3). Cf. also mission report of Special Rapporteur on the independence of judges and lawyers (E/CN.4/2002/72/Add.1); Report of CEDAW (CEDAW/C/2002/EXC/CRP.3/Rev.1); Office of the High Commissioner for Human Rights in Mexico, Ciudad Juárez como Símbolo: Diagnostico sobre la Situación de los Derechos Humanos en México, December 2003.

<sup>43</sup> Relatora Especial sobre los Derechos de la Mujer de la Comisión Interamericana de Derechos Humanos, Situación de los derechos de la mujer en Ciudad Juárez: El derecho a no ser objeto de violencia y discriminación, OAS Doc. No. OEA/Ser.L/V/II.117 (2003).

<sup>44</sup> UNODC, Informe de la Comisión de Expertos Internacionales sobre la Misión en Ciudad Juárez, Chihuahua, Mexico (November 2003).

<sup>45</sup> CEDAW Committee, *supra* note 36.

<sup>46</sup> Action for Torture Survivors et al., *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 9 August 1999 (United Nations publication, Sales No. E.01.XIV.I); also available at [www.unhchr.ch/pdf/8istprot.pdf](http://www.unhchr.ch/pdf/8istprot.pdf).

<sup>47</sup> Bryan T., who was arrested in Ciudad Juárez on 19 June 2005, was allegedly tortured in order to force him to confess to his involvement in the murder of two municipal police officers. According to the Government, these allegations are currently being investigated.



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Sunday, November 6, 2011

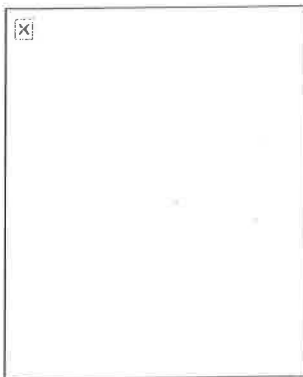
## Mexico`s cancer: domestic violence, a virtual license to kill

*Local cases illustrate continuing problem of violence against women in Mexico*

By Eduardo Cabrera Ruiz

Translated by Edward V. Byrne for *The Yucatan Times*

August 16, 2011



**Mérida, Yucatán** -- The traditional *macho* male has neither died out nor disappeared from this country, nor even gone on break. And nowadays he no longer has to go it alone. Nowadays someone helps him abuse. The failure of authorities to deal seriously with domestic violence places Mexican women in grave danger and indeed enables their assailants, often giving the abuser a virtual license to kill without fear of legal consequences.

Today communities throughout the Yucatan, like Kanasín, Ciudad Cauce and San José Tzal, are experiencing a significant increase in violence against women, and gender-based crimes are on the rise. Frequently they go unpunished.

Organizations which have tried to promote gender equality in the Yucatan have proved ineffective against domestic violence, due to bureaucratic ineptness and the fact that most people are unaware of their existence or purpose. Despite their best efforts they've been unable to change Mexican cultural and social attitudes about male-female relationships.

Like a cancer, the problem has spread throughout the country: the National Institute of Statistics and Information reports that 67% of Mexican women have experienced some incident of violence committed by a family member, spouse or other person well-known to the victim in the home, workplace or school.

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Edward V. Byrne

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attorney, Nat'l. Press Photographers Ass'n, # 263359. Responsible comments are always welcome. Todos bienvenidos - dejen sus comentarios. LinkedIn CV above.

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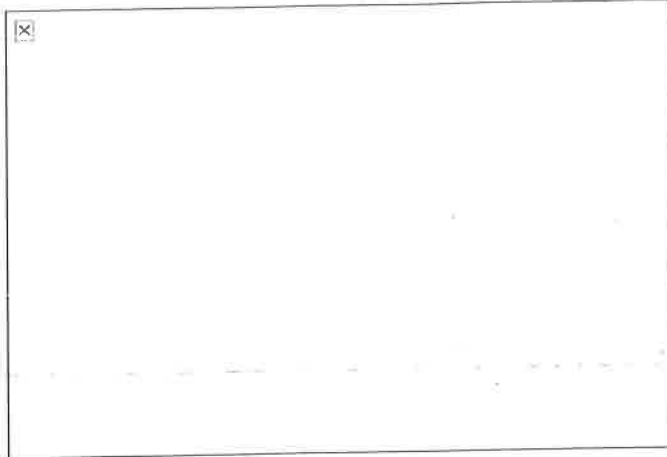
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000254

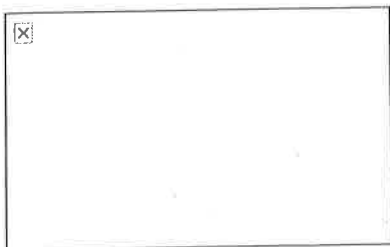


Over the past decade many international human rights organizations have urged Mexico

to confront and eradicate a culture of discrimination against women. Gender inequality (de facto or otherwise) in all of its varieties is the continuing symptom and the major challenge, but domestic violence to and including femicides remains.

Female victims of abuse in Mexico are of all ages – from young girls to adult women – and are found across the entire social strata. No female is immune from the possibility of domestic violence, including murder. The common denominator in all such cases is that before the ultimate event occurs, there is always a documented history of abuse, threats and mistreatment.

Jalisco, Tabasco, Chihuahua, Morelos, Sonora, the Federal District and Guerrero are the states with the highest number of reported cases of violence against women according to the Gender-Based Violence Report of 2010, published by the National Commission for the Prevention and Eradication of Violence Against Women, a division of Mexico's Department of Government.



The National Survey of Violence Against Women undertaken by the Department of Health in 2004 indicates that one of every three Mexican women has suffered some form of violence during her life, and one of every five has been abused by her current spouse, boyfriend or significant other. Based upon available data, the rate of homicide per 100,000 women grew more than 40% between 2005-2009, from 2.45 to 3.52. The states with

the highest rate of female homicide (per 100,000) are Chihuahua (13), Baja California (10), Guerrero (10), Durango (7), Sinaloa (6), Sonora (5), Tamaulipas (4.5), Oaxaca (3.8), Michoacán (3.8) and Nayarit (3.7). Between January 2009 and June 2010, there were 1,728 femicides across 18 Mexican states.

The Yucatan press has popularized the case of Grettel Rodríguez Almeida, who was brutally attacked with a knife by her ex-boyfriend in her own home. The case received even more attention when a local judge reduced the charges against Grettel's assailant from attempted murder to assault, which resulted in him serving a sentence of just under 21 months. Despite efforts on her behalf by some authorities, apparent threats and harassment by Grettel's assailant have continued since the attack, leaving her in constant fear and forcing her to move repeatedly.

In her desperation Grettel reached out to an international agency, the High Commission of the United Nations. In a letter she told U.N. officials that she believes Germán Alyn Ortega (the attacker) is responsible for several intimidating e-mail and text messages which she has received since November 2010. In one Ortega supposedly wrote, "Grettel, I have so many things to talk about with you," and "each time you think you're getting away from me, I'm actually [getting] closer [to you]." In another message he allegedly told her, "you're going to be so happy to see me," and in yet another, "it was daring of me just to try to communicate with you, but I managed to find you, and here I am sending you greetings." Even though the

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► 2013 (2)

► 2012 (2)

▼ 2011 (73)

▼ November (73)

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Mexico Fires 121 Immigration Agents for Corruption...

Ladies in White Founder Dies in Havana From Dengue...

Calderón Strategy Against Drug Cartels Having Posi...

Mexicans Pour Out Emotions at National Town Hall: ...

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Mexico Drug Cartels Present Greater Threat to U.S. ...

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000255

messages came from an unknown e-mail account, Grettel is convinced they originated with her attacker – a thought which terrifies her despite the fact that he is still locked up.

Grettel eventually left the Yucatan and went to Mexico City, both to escape the area and to deal with the perceived threats. On June 20 of this year she filed a formal complaint with the office of the Federal District's Special Prosecutor for Crimes of Violence Against Women, seeking their assistance. She also solicited help from the Federal District Commission on Human Rights. On June 21 the latter office promulgated procedures designed to protect her, which were then forwarded to the Yucatan's chief prosecutor, where she plans eventually to return. Legislators have written to Yucatan authorities, particularly to Governor Ivonne Ortega Pacheco, asking her to guarantee Grettel's safety and security. They've received no official response. Grettel's advocates have also called for an investigation to determine why Ortega Hernández was dealt with so lightly in court.

Grettel says that "despite our repeated requests for protection, as well as calls by the federal Human Rights Commission and legislators for action on my behalf, Yucatan authorities have done nothing to help me. Their lack of action has put me in a situation of extreme vulnerability, with the risk of another attack."

Grettel's case illustrates the sad reality of how ignored domestic violence can often have fatal consequences. On August 1, Hermenegildo Isaias Chim Zupo shot and killed his wife and young children and then committed suicide in the family home in Mérida's San José Tzal neighborhood. Neighbors reported that the man was drunk and began quarreling with his wife, whom he apparently suspected of infidelity. Other acquaintances reported that his behavior was often bizarre and abusive, that the children rarely were permitted to leave the home to play on the street and that cries and yells from the house were common events. No one called police until gunshots were heard, along with the desperate screams of a 13 year old girl who, although shot twice, managed to survive. By then it was too late for the others.

But for victims like Grettel, the nightmare continues. She asks when – if ever – will it end?

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Violence Over an Underpass  
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by Drough...

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Acts Surfaced...

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Pageviews

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**Mexico: A Machista Culture of Corruption and Violence?**



Grettel Rodriguez was assaulted by her boyfriend with a knife, with intent to kill. The case went before the National Human Rights Commission and sparked off a national crusade to combat violence against gender women. Photo: Sipse.com

By Emily Wassell, Safeworld Student Writer. July 2012.

When Grettel Rodriguez tried to break up with her boyfriend in 2009, he attacked her with a knife, wounding her across her body and face, and nicking her jugular, almost killing her.

In court, the attempted murder charge was reduced to bodily harm, and he was sentenced to only one year and nine months in prison. By the time the trial was over, he only had one more month to serve, and so was released instead.

The criticism and threats from her local society after the publicity from the case prompted Grettel to flee her hometown in fear of her life.

The violence epidemic against women in Mexico is being compounded by the failings of the justice system, which passes sentence in only 1 percent of the small number of murder cases that ever make it to court.

Emily Wassell spoke to Mexican citizen Gab Chaparro of Safe World for Women, on the violence, and society's reactions to it.

**Steeped in Machista**



Mexico is a country steeped in patriarchal tradition, says Gab, a machista background where "men are strength and women are love". Children grow up in these families, hearing of women's "obligations" to their husbands, phrases that always start with "you have to".

On top of that, children never see action taken against violence, and grow up with it normalised, and even glorified, as rich drug cartels set a terrible example of what can be achieved through violence.

The vicious cycle repeats itself through the generations, and there is no escape.

"No matter how hard you study, travel or prepare yourself, as soon as you fall in love, all of this is put to one side so you can make a family".

**Women's 'Place' in Society**

The low social status of women in Mexico has a huge impact on their situation. Women who want to work are subjected to pregnancy tests, with a positive result eliminating them from the selection.

Also disregarded are overweight women, women with tattoos, those who have recently married, and those without a university qualification. Even after all this, and with qualifications, women are never paid as much as men, and in instances of sexual harassment, it is the woman, not the man, who loses the job.

On top of that, women with advanced qualifications like PhDs can sometimes receive a higher wage, but when men are not the provider, it makes men feel "emasculated", and the shame associated with this often leads to separation or divorce.

**Women Are Responsible for The Family's Honour**

Another tradition is the notion that women are the bearers of not just their own honour, but that of their families too. They uphold it and can ruin it. By damaging their own reputation, they also detrimentally affect that of all her family. A woman's appearance and behaviour are paramount, and her reputation hangs on what people are saying about her.

Verbal insults directed at a female family member by others, can lead to serious domestic violence being committed. A brother, father, or another male relation in the family have been known to beat, or kill the woman in question. This is to purge the family's name from her "disgrace".

Several Mexican regions have legal loopholes which allow for reduced sentencing in cases of violence, or murder to avenge "family honour". Prison sentences can vary from three days to five years.

**Women Lack Support from Authorities and Criminal Justice System**

In Mexican culture, women are usually targeted and blamed for the violence committed against them. The local authorities have been known to denounce rape victims as 'prostitutes'. Not only does this nullify any criminal complaint against the assailant, it can also endanger the life of the woman.

000258



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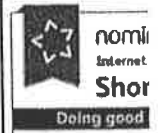
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000259

Many victims of rape and violence never come forward, for fear of tarnishing their family name. In addition, women are often told that they did something to "deserve it", and the perpetrators are never prosecuted.

Part of the problem is that domestic violence is pervasive in Mexico. This is exacerbated by the rate of alcohol consumption, and there are no legal measures to help or protect victims. For example, there are no restraining orders against an abusive spouse. And in some cases, when a man is notified by the police that his wife has reported him for assault, he goes home and beat her harder, or even kills her.

The fear of reprisal can prevent a woman from speaking out.

According to UN Women, 1,858 women were killed across Mexico in 2009, which was up by 500% from 2007. However, the levels of violence against women are unknown as the government of Felipe Calderón collected no official statistics.

Gab explains that the anti-statistics law was passed to combat false figures. This was a result of a combination of factors, such as corrupt organisations and unreliable sources. There are also issues with underreporting from victims, and many media publications have stopped reporting cases after journalists were threatened.

She says, however, that the lack of support from the authorities for cases they view as "minor issues" has forced some women to exaggerate or lie about events, in an attempt to secure help or even asylum abroad. This both skews the statistics and leaves other women with "less serious" complaints without police resources.

#### Authorities Cover Up Violent Crimes Against Women

Some critics think it has more to do with appearances. As cases of violence began to draw international news coverage, the Mexican government did not look like it had control over the situation, and may have resorted to hiding the truth to protect its reputation.

One example is Ciudad Juarez, a city near the U.S. border which was reported in the foreign press in the 90's after massacres left dozens of women dead. Foreign governments and organisations called for new policies to fight crime. However, it was in the news again recently as mass graves were discovered in a valley near the city.

This international attention is negative for the Mexican government, which had promised to lower the high murder rate and so cannot risk looking incompetent.

Gab argues that in cases that receive international press attention, the victims have been threatened by the government in an attempt to keep them quiet.

By speaking publicly about their case, they are "giving Mexico a bad name". Meanwhile, the government denies that there is a crisis to "hide its inefficiency in combating crime".

Maria de la Luz Estrada, a women's rights activist, agrees, saying there is "a pattern of violence against women, and the authorities are doing everything to deny this is happening instead of working to stop the killings of women".

The lack of information surrounding the problem makes the situation worse. Gab explains that they are living in an "unreal world", where they have "no notion of the extent of the problem we are facing".

If they can't measure the problem, they can't begin to counter it.

#### Judiciary, Bribery and Vested Interests

The government is not the only authority to be accused of corruption. The local authorities and judiciary services have come under fire as well. Gab explains that poor wages among the workers at the bottom of the ladder, leave open opportunities for bribery.

At the same time, the people running the system often have a vested interest in one outcome or another, for political or personal reasons. She says the system is based on "mutual favours", and not justice.

A recent case of judicial inaction was an unnamed woman who went to the police to report that she was raped by a bus driver, César Librado. She identified him and his bus route, but no action was taken. Librado went on to rape and kill eight other women in his bus, before a nationwide media campaign finally forced the authorities to arrest him.

Even the few women in positions of power are doing little to further the cause women in Mexico.

Gab explains that they seem to only have their own interests at heart, and are more often seen posing naked for magazines than campaigning for equal rights.

#### Corruption in the Charitable Sector Makes Women Wary

Some charities meant to be helping women have also been accused of corruption and self-interest. They rub shoulders with corrupt governors, and often have no accountability for donations made to them. Gab says that donations made to charities are tax-deductible, so some organisations are thought to exist purely for tax-evasion purposes. On top of that, donations often pay for "exorbitant" salaries to activists, or get diverted to other causes.

According to her, these organisations have a negative effect on the problem, as they distract attention away from the cause, and leave the people who need it without any help.

"These people only hear promises, but they never see or receive anything".

The women who do want to help make a difference often go unnoticed.

#### The Effect of Women Living in Fear

All of this has a negative effect on the situation of Mexican women. They live in fear of upsetting their families and of violent reprisals in their homes and communities.

It also affects their health, with breast cancer, diabetes, and obesity on the rise.

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Some also vent their frustration in the direction of their children, which aggravates the vicious cycle. Many women seek refuge or asylum abroad, where at least they and their children can be safe.

Education and Awareness are Tools to Fight Inequality

To address the need for gender equality, Gab echoes the keyword from women's organisations: "education".

She thinks that young people are more open, as the digital age is changing the information they receive. This will hopefully allow them to learn, change and act upon what they know to become better citizens.

However, she thinks it would take years for any major changes, as the older, conservative generations are set in their traditional ways.

Quicker changes can be brought about by raising awareness of the problems, and their solutions. The authorities could work on better crime prevention methods and punishment for assailants. This would set a better example of the consequences of violence. These changes could be brought about by compromising between respect for traditions and modernisation.

She says that the current problem is worsened because nobody has tried to understand and help the people, who live in the villages of Mexico. The people inhabit the bottom end of the social scale, and are the section of society that suffers the most. However, their issues are not taken into account by policy makers or charities.

Nobody has tried to get to know the real women and children who are being affected by this wave of violence.

But, little by little, awareness is being raised, and Gab hopes that help will soon be available to those who really need it.

As for Gretel, she has lodged an appeal against her ex-partner's sentence, but she will just have to wait and hope.

SOURCES

- sipse.com
- El Pais
- Yahoo News
- Safe World for Women

Emily Wassell is a Safeworld Student Writer. She is studying French and Spanish in the UK.

"Growing up with a feminist mother, I have always been interested in women's rights, so focusing on their representation in film and literature from Spanish and French-speaking cultures has made me more acutely aware of the differences between cultural beliefs regarding women. This prompted me to explore how women are perceived and treated – and what I found out made me want to help advance the cause that so many brave women have died, and continue dying, for their rights...

I hope to raise awareness of the oppression of women all over the world, and in doing so, encourage other people to be part of the change with us."

Emily Wassell | Gab Casaparra

Comments



#11sara 2014-02-08 14:44

Great article. Is there a Spanish translation? This needs to be shared with women in Mexico. There is hardly any literature floating around social media written in Spanish in Mexico that challenges the status quo. Women are isolated and ignorant. Would be great to see this translated and posted up :)

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## MEXICO 2013 HUMAN RIGHTS REPORT

### EXECUTIVE SUMMARY

*Note: This report was updated 3/27/14; see Appendix H: Errata for more information.*

Mexico is a multi-party federal republic with an elected president and bicameral legislature. On July 1, 2012, citizens elected President Enrique Peña Nieto of the Institutional Revolutionary Party (PRI) to a six-year term in generally free and fair multi-party elections; Peña Nieto took office December 1, 2012. Although authorities generally maintained effective control over the security forces, there were instances in which elements of the security forces acted independently of civilian control and committed human rights abuses.

Significant human rights-related problems included police and military involvement in serious abuses, including unlawful killings, physical abuse, torture, and disappearances. Widespread impunity and corruption remained serious problems, particularly at the state and local levels, in the security forces, and in the judicial sector. Violence attributed to transnational and local criminal organizations, violence against women, and violence against journalists that limited freedom of expression persisted.

The country's National Human Rights Commission (CNDH) and other sources reported the following problems: kidnappings; physical abuse; harsh, overcrowded prison conditions; arbitrary arrest and detention; and confessions coerced through torture. Additionally, there were reports of threats and violence against human rights defenders and lesbian, gay, bisexual, and transgender (LGBT) persons; kidnapping, robbery and abuse of migrants; domestic violence; trafficking in persons; abuse of people with disabilities; social and economic discrimination against some members of the indigenous population; and exploitation of child labor.

Despite some arrests for corruption, widespread impunity for human rights abuses by officials remained a problem in both civilian and military jurisdictions.

#### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

##### **a. Arbitrary or Unlawful Deprivation of Life**

Security forces, acting both in and out of the line of duty, arbitrarily or unlawfully killed several persons, often with impunity. As of August 31, the CNDH had received 32 complaints regarding arbitrary or unlawful killings and issued one recommendation to authorities (based on its findings that a case involved a serious human rights violation and merited further investigation or sanction).

On January 9, the government published the General Victims Law, which obligates the government to provide legal, medical, and economic assistance to victims of organized crime or abuse by government authorities. Congress subsequently passed revisions to the law that further clarified who should be considered a victim, the level of compensation to be paid by the state, and the composition and responsibilities of the new National System of Attention to Victims, which the Victims Law established.

On March 18, army personnel allegedly tortured and killed Alfredo Ruiz Rojas and a 15-year-old student in Valles Elizondo, Tamaulipas. According to media reports, the victims were travelling in a car when security forces approached and forced them from their car and into an adjacent army vehicle. The perpetrators then allegedly planted weapons in the victims' vehicle before leaving the scene. Authorities later found the victims' bodies at a separate location. The Secretariat of National Defense (SEDENA) and the Attorney General's Office of Tamaulipas issued a joint report stating that the victims died in a shootout with security forces. However, autopsy evidence of Ruiz Rojas' body suggested he had been tortured, and initial forensic evidence from the scene appeared to contradict the official account. According to the Human Rights Commission of Nuevo Laredo, Ruiz Rojas' body showed evidence that he had been beaten in the face, genitals, back, buttocks, and legs prior to being killed. The CNDH contended the incident was a case of "arbitrary detention, torture, and eventual murder" and was investigating the incident.

The military abuse case involving the arbitrary 2011 detention, torture, forced disappearance, and execution of Jethro Ramses Sanchez was officially transferred to a civilian court early in the year. In August 2012 the CNDH issued a recommendation to the former Secretariat of Public Security and SEDENA in the case. Sanchez, an engineering student, was allegedly detained and beaten in 2011 in Cuernavaca, Morelos, by municipal police officers under the command of Manrique Gonzalez Acosta. Although Gonzalez Acosta denied any participation, judicial authorities investigated his alleged role in Sanchez' detention. The municipal police later turned Sanchez over to federal police, presenting him as a transnational criminal organization (TCO) member. The federal police transferred

Sanchez to SEDENA, which took him to one of its military facilities where he was allegedly tortured and died as a result of the abuse. The Military Prosecutor's Office investigation concluded that military forces tortured Sanchez and that he died on the same day. His body was clandestinely buried in Puebla. In 2011 three military officers were detained. Lieutenant Jose Guadalupe Orizaga y Guerra and Second Lieutenant Edwin Raziell Aguilar Guerrero were charged with the disappearance and torture of Sanchez, while Colonel Jose Guadalupe Arias Agredano, former commander of the 21st Infantry Battalion, faced charges of ordering his subordinates to cover up the crime. Although his case was initially before a military tribunal, in August 2012 the Supreme Court determined that Colonel Arias Agredano must be tried in a federal civilian court in Morelos. In September the Attorney General's Office issued a warrant for the arrest of former 24th Military Zone commander Leopoldo Diaz Perez for his role in an alleged cover-up, although a district court later suspended the detention order. In November authorities arrested Colonel Marco Antonio Legorreta for his involvement in the case but later released him, citing lack of evidence. On November 28, a federal judge issued detention orders for 15 members of the police and seven members of the armed forces for their roles in Sanchez' death.

On June 3, authorities in Guerrero state found the bodies of three political activists who had been abducted on May 30. Five other activists escaped their captors and alleged that the mayor of Iguala, Jose Luis Abarca, had ordered their torture and killed one activist with a shotgun. A colleague one abductee called during his escape told reporters Abarca was connected to organized crime.

Unknown assailants in Oaxaca killed several political figures, including sitting mayors Feliciano Martinez Bautista and Jose Rene Garrido Rocha. On June 10, unknown assailants kidnapped and killed Jaime Orozco Madrigal, who was the PRI candidate for mayor of Guadalupe y Calvo, Chihuahua. Police officials continued to investigate the case at year's end.

Two local legislators from Oaxaca and Michoacan were killed within 24 hours of each other on September 11 and 12. In Oaxaca assailants attacked sitting deputy and mayor-elect of the town of San Andres, Everardo Hugo Hernandez Guzman, while he was eating at a local restaurant. On September 12, four assailants killed Michoacan deputy Osvaldo Esquivel Lucatero with machetes.

#### **b. Disappearance**



There were multiple reports of forced disappearances by the army, navy, and police. Most occurred in the course of sanctioned security operations. As of August 31, the CNDH had received 13 complaints of cases involving forced disappearance but had not issued any recommendations. In several cases security forces had detained persons incommunicado for several days. While the federal criminal code classifies forced disappearance as a crime, forced disappearances do not constitute a crime in several local penal codes. The federal criminal code and the legislation of the 16 federal entities that have classified forced disappearance as a crime do not use the same definition, and penalties vary according to the jurisdiction. Sixteen states do not classify forced disappearances as a crime. On September 12, the Jalisco State Congress unanimously approved a reform to the local penal code to define forced disappearances as a crime, punishable by 10 to 40 years in prison, with longer sentences in cases involving minors, women, seniors, or persons with disabilities.

In February the Secretariat of Government (SEGOB) reported that 26,121 individuals had disappeared between 2006 and 2012, although government officials acknowledged the figures were not precise. According to criminal justice experts, most of these were likely to have been perpetrated by TCOs. The SEGOB report identified the groups most vulnerable to forced disappearance as human rights defenders, political and social activists, migrants, men living in areas of conflict, and women and children trafficking victims.

The government published a law for the National Registry of Missing or Disappeared Persons in April 2012 with the purpose of creating a database of information for the National Public Security System to standardize and centralize information concerning missing and disappeared persons. As of October 25, the government had not published the regulations to ensure the database was operable or clearly delegated a government agency to host the database.

Amnesty International (AI) noted that the government's registry lacked any mechanism to update it when more people are reported missing, or when disappeared individuals reappear or are otherwise accounted for. AI also said that the registry made no distinction between individuals who went missing and those who were forcibly disappeared or kidnapped by criminal groups. The CNDH reported that there were at least 7,000 unidentified bodies of persons killed between 2006 and 2012 in morgues and common graves.

Human Rights Watch (HRW) released a report in February, *Mexico's Disappeared*, that documented approximately 250 cases of disappearance since

2007. The examples included 149 cases of “forced” disappearance in which HRW concluded that security officials participated in the crime. The report concluded there were widespread problems with the legal, judicial, and law enforcement systems that significantly contributed to the problem of disappearances in the country. It also maintained that authorities routinely failed to conduct thorough and expeditious searches and investigations in disappearance cases, and prosecutors rarely employed basic investigative practices critical to finding missing persons. In cases where prosecutors investigated, procedural delays and the lack of necessary investigative and legal tools often adversely affected the judicial process.

On April 10, the special prosecutor of attention to crime victims published *Protocols for the Search of Missing and Disappeared Persons*, to be implemented by all state prosecutors’ offices throughout the country. The protocols abolish the previous 72-hour waiting period before authorities would investigate a missing person’s case and instead require authorities to initiate investigations and searches in the first 48 hours of receiving a report of a missing or disappeared person.

Following a meeting with family members of disappeared individuals in May, the attorney general announced the creation of a Special Disappeared Persons Unit charged with locating disappeared individuals. The unit combines investigators with forensic experts and increases the number of investigators dedicated to disappeared persons cases from six to 12. Human rights organizations were critical that the announcement made no mention of the new unit’s budget or proposed structure, and they were widely skeptical it would have a significant effect on the situation due to its small size relative to the scope of the problem.

The Secretariat of the Navy (SEMAR) paid compensation to the family members, offered scholarships to the victims’ children, and provided psychological services to those affected by the 2011 disappearances of six civilians in Nuevo Laredo, Tamaulipas, in response to the August 2012 CNDH statement that unknown elements of the SEMAR were responsible for the disappearances. The specific units involved remained unknown. The CNDH reported that in 2011 military personnel detained the individuals in their homes, places of work, and at other commercial establishments and transported them in SEMAR vehicles to an unknown destination without a court order or judicial proceedings. The six victims remained disappeared at the end of the year. The CNDH reported that SEMAR had been cooperative during the investigations that both the Federal Attorney General’s Office (PGR) and Military Attorney General’s Office were conducting. As of August 31, no charges had been filed.

Kidnapping remained a serious and underreported problem for persons of all socioeconomic levels, and there were credible reports of police involvement in kidnappings for ransom, primarily at the state and local level. The National System for Public Security reported 1,032 reports of kidnapping filed between December 2012 and June 2013, although official estimates placed the number of unreported kidnappings considerably higher. There continued to be reports of kidnapping of undocumented migrants by criminal groups to extort money from migrants' relatives or force them into committing criminal acts on their behalf.

On May 26, several assailants raided the downtown Mexico City bar "Heaven's After" and kidnapped 12 individuals at gunpoint. Surveillance video showed the gunmen moving the victims into at least eight different vehicles before driving away from the scene. On August 17, federal police investigators located the decomposed remains of the 12 victims in a mass grave in Tlalmanalco, Mexico State. According to official reports, members of a Mexico City drug gang kidnapped and killed the victims in retaliation for the killing two days earlier of one of its leaders. One of the victims, 16-year-old Jerzy Ortiz Ponce, was the son of Jorge "El Tanque" Ortiz, who was serving a 23-year prison sentence for organized crime and extortion. State and federal authorities arrested 18 suspects, including four police officers, and continued their investigation. On October 21, the Federal District Human Rights Commission (CDHDF) issued a recommendation in the case calling on the Federal District attorney general to conduct an inquiry into alleged official involvement in the kidnappings and murders.

On June 8, SEDENA officials reported rescuing 165 migrants kidnapped by a criminal group two weeks earlier in the municipality of Gustavo Diaz Ordaz, Tamaulipas. The migrants were allegedly traveling through Tamaulipas to the United States when a criminal group kidnapped them and demanded ransom money from their relatives. The victims included 77 individuals from El Salvador, 50 from Guatemala, 23 from Honduras, 14 from Mexico, and one from India. Seven children and two pregnant women were among the victims.

On September 20, John Jairo Guzman Vazquez, a Colombian citizen, was kidnapped with the alleged help of Mexico City police officers, including Apolonio Perez Tapia, a chief investigator with the Mexico City Police Internal Affairs, subsequently arrested for his role in the kidnapping. Four other police officers wanted in the case remained at large as of November 29. On November 20, Guzman escaped his captors and was returned to Colombia on November 22.

On October 8, officials from the Guerrero State Secretariat of Public Safety arrested 18 individuals, including 13 federal police officers, who were allegedly involved in a kidnapping ring in Acapulco, Guerrero. The individuals were charged with kidnapping, murder, and participation in organized crime. No charges had been filed as the investigation continued.

On November 8, officials reported rescuing 61 migrants kidnapped by a criminal group in Reynosa and held for at least a week. The victims included seven minors and individuals from Honduras, El Salvador, Guatemala, Nicaragua, and the United States.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits torture and other cruel, inhuman, or degrading treatment and stipulates that confessions obtained through illicit means such as torture are not admissible as evidence in court. Similarly inadmissible is any confession made directly to police. To be admissible a confession must be formally recorded before a prosecutor or judge with the acknowledgement that it is being made voluntarily and after examination by a doctor confirming that the suspect has not been subjected to physical abuse.

As of August 31, the CNDH had received 1,084 complaints of cruel or degrading treatment and 25 torture complaints. The CNDH issued four recommendations in cases of cruel and degrading treatment and eight recommendations in cases of torture.

There were frequent reports of citizens and foreign nationals beaten, suffocated, tortured with electric shocks, raped, and threatened with death in the custody of arresting authorities. According to the human rights nongovernmental organization (NGO) Institute for Security and Democracy (INSYDE), other torture practices included hanging individuals from their feet, fingers, or neck. INSYDE also reported that torture methods varied by region. In the northern region, for example, the techniques were reportedly more sophisticated and designed to conceal any evidence of torture. Foreign citizens filed numerous complaints before state-level human rights commissions for egregious mistreatment at the hands of arresting authorities or while in prison.

On November 6, the Supreme Court vacated the conviction of Israel Arzate Melendez and ordered his immediate release, stating that his confession to

involvement in the 2010 killing of 15 teenagers was obtained illegally under duress of torture. Arzate had alleged that he confessed after being tortured for more than 30 hours following his arrest. He subsequently spent two and one-half years in prison and had been under house arrest since September 2012 while his case was under appeal. The Supreme Court ruling came more than two years after the CNDH's 2011 recommendation citing grave human rights violations by the 20th Motorized Cavalry Regiment in Ciudad Juarez against Arzate.

On July 18, the CNDH issued a recommendation in a case alleging that prison officials in Almoloya de Juarez, Mexico State, illegally detained and tortured CNDH employee Arturo Zarate Viten in December 2012. According to the recommendation, police authorities arrested Zarate Viten on allegations that he sexually abused a female coworker before transferring him to the maximum-security prison Altiplano. Prison officials then allegedly punched and beat him on several occasions while in detention. Despite the apparent physical evidence of alleged beatings, the CNDH recommendation noted that the on-duty physician at the prison examined Zarate Viten and concluded that there were no signs of abuse. A medical report from a different prison physician, however, as well as the CNDH staff's personal observations of the victim, confirmed that Zarate Viten had suffered injuries consistent with beatings and torture. The report also alleged that the prison officials taunted Zarate Viten saying, "We already know you are from the human rights [organization]. These are your human rights." The CNDH recommendation said that prison officials targeted Zarate Viten "in retaliation for belonging to a human rights organization." In August SEGOB delivered a statement to the CNDH accepting its recommendation.

In another example, two Ciudad Juarez municipal police officers reportedly tortured and killed 41-year-old Miguel Angel Gonzalez Parra on May 11. According to official reports, the assailants arrested Gonzalez Parra for drinking alcohol in a public space and transported him to an unknown location. Later that same day, police located Gonzalez Parra's body in an unpopulated area outside of the city. Following a tip, police arrested the two alleged assailants, who reportedly admitted to the crime. The state Attorney General's Office reported that Gonzalez Parra's body showed evidence that he was beaten severely before being killed.

On August 29, the Municipality of Tijuana Internal Affairs Department announced that former Tijuana Secretary of Public Safety and current Ciudad Juarez Secretary of Public Safety Julian Leyzaola Perez would be barred from serving in public office in Baja California for eight years due to allegations of human rights abuses under his leadership. The decision, which included barring Leyzaola's

second-in-command Gustavo Huerta Martinez, followed a 2011 recommendation by the Baja California Human Rights Ombudsman regarding accusations of torture and excessive force. In 2011 HRW alleged that Leyzaola was directly involved in the “torture of individuals who had been arbitrarily detained, transferred to military bases of the 28th Infantry Battalion in Tijuana, Baja California, and subjected to beatings, electric shocks, death threats, and suffocation by elements of the Mexican Army for the purpose of obtaining false confessions.” The Internal Affairs Department did not announce any plans to prosecute Leyzaola or Huerta.

The government took some steps to implement preventive measures against the practice of torture, including applying at the federal level, the Istanbul Protocol, which contains guidance on investigating and documenting torture and other abuses. In May the National Conference of Law Enforcement (CNPJ) agreed to instruct all state attorneys general to implement the Istanbul Protocol at the state level. The CNJP also agreed to launch a national Istanbul Protocol training program, which was under development.

Instances of cruel, inhuman, and degrading treatment reportedly occurred in public mental health institutions (see section 6, Persons with Disabilities).

### **Prison and Detention Center Conditions**

Treatment and physical conditions in prisons and detention centers were often harsh and life threatening, most notably in state-level prisons. The CNDH and NGOs continued to report that corruption, overcrowding, prisoner abuse, alcohol and drug addiction, and loss of security and control were prevalent in most facilities. As of August 31, a total of 1,060 prisoners had filed complaints with the CNDH alleging human rights abuses while in detention.

Physical Conditions: According to the National Security Commission (CNS, formerly known as the Secretariat of Public Security), as of July there were 247,065 prisoners in 405 facilities, which was approximately 22 percent above capacity. An estimated 95 percent of those inmates were men and 5 percent were women. The official number of juvenile inmates was unknown on a national level due to the decentralized recordkeeping for juvenile inmates.

Health and sanitary conditions were poor, and most prisons did not offer psychiatric care. Prisons often were staffed with poorly trained, underpaid, and corrupt guards, and authorities occasionally placed prisoners in solitary confinement indefinitely. Prisoners often had to bribe guards to acquire food,

medicine, and other necessities. Authorities held pretrial detainees together with convicted criminals. Prison overcrowding continued to threaten health and life, particularly in the state of Baja California, where the state sought to address its high incarceration rate (nearly three times the national average) through a combination of increasing facility capacity, early parole, and transfer of federal prisoners to facilities elsewhere. The CNDH noted a lack of access to adequate health care was a significant problem at all facilities. Prisoners generally had access to potable water. In a report released in February, the Jalisco Human Rights Commission revealed that 70 percent of Jalisco's jails had poor facilities and at least 50 percent were overpopulated. The prisoner population at the Jalisco state prison Cihuatlan reportedly grew by 73 percent over the past six years and was 240 percent over capacity as of September.

The CNDH continued to report that conditions for female prisoners were inferior to those for men, particularly for women who lived with their children in prison, due to a lack of appropriate living facilities and specialized medical care. There were reports that women who lived with their children in prison did not receive extra food or assistance. There continued to be reports of physical and sexual abuse of women while in detention. A CNDH report released on June 25 found that prison conditions for female inmates did not meet national or international human rights standards. Specifically, the CNDH said that female inmates were inadequately prepared to return to society, experienced inhumane treatment, lacked appropriate health-care services, and received inferior legal and judicial services.

The CNDH reported in September 2012 that organized crime controlled 60 percent of prisons. The CNDH indicated that prisons in the Federal District, Mexico State, Tamaulipas, Nuevo Leon, Quintana Roo, Oaxaca, Guerrero, Tabasco, and Nayarit had the worst prison conditions.

Several large-scale prison riots occurred, although there were no reported mass escapes as of September, compared with 130 escapees in 2012. On February 2, a riot at the Islas Marias prison complex in the state of Nayarit left one inmate dead and five correctional employees and three inmates injured. Prison officials reported that the riot involved 650 inmates, with some setting fire inside the cells and breaking through protective fences surrounding the complex. According to media reports, the riot was sparked by the inmates' complaints over the lack of water and food, limited family visitations, and reduced exercise time.

On April 23, a prison riot at the La Pila prison in San Luis Potosi killed 13 inmates and injured another 65. According to official reports, at least 100 inmates

participated in the riot. On August 29, eight inmates died in TCO-related violence during a riot at a state prison facility in Nuevo Laredo, Tamaulipas. According to a report by the state Secretariat of Public Security, several prisoners attacked the victims with shanks in response to a verbal altercation that took place following the victims' arrival to the facility only hours earlier.

Administration: There were improvements in recordkeeping in the federal prison system, largely due to a transition from a paper file system to electronic recordkeeping. At some state prisons, recordkeeping was inadequate.

The CNDH has an ombudsman dedicated to prison issues, but the office does not provide legal representation for prisoners.

Prisoners and detainees generally had reasonable access to visitors and could observe religious practices. While prisoners and detainees could lodge complaints about human rights violations, access to justice was inconsistent, and the results of investigations generally were not made public.

Independent Monitoring: The government permitted independent monitoring of prison conditions by the International Committee of the Red Cross, the CNDH, and state human rights commissions. As of August 31, the CNDH had made 586 visits to civilian and military prisons to monitor conditions.

Independent monitors are generally limited to making recommendations to authorities to improve prison conditions. The federal system made some improvements based on these recommendations.

Improvements: The federal government opened three new federal facilities in Sonora, Guanajuato, and Oaxaca, each with a capacity of 2,500 prisoners. As of September six additional facilities were under construction. The additional capacity alleviated some of the overcrowding in state prisons where federal prison inmates were held. Nine federal prisons and five state prisons in Chihuahua and Baja California received international accreditation from the American Correctional Association. Authorities added programs to promote rehabilitation and an objective prisoner classification system. They also continued to implement a new model of parole for former inmates placed on probation as an alternative to prison, which will be under supervision of parole and probation officers.

#### **d. Arbitrary Arrest or Detention**



The law prohibits arbitrary arrest and detention as well as sponsoring or concealing an illegal detention. As of August 31, however, the CNDH reported receiving 1,407 complaints and issued 11 recommendations to authorities regarding arbitrary arrests and detentions.

On May 30, the CNDH issued a recommendation to the commissioner of national security and the governor of San Luis Potosi in a case involving federal police officials who allegedly and arbitrarily arrested, raped, and tortured a 30-year-old woman in 2011. The CNDH report included, among others, recommendations to the commissioner of national security and the governor of San Luis Potosi to provide psychological and medical assistance to the victim and develop human rights training programs for federal police and other public officials under their jurisdiction.

HRW reported in 2011 that the illegal use of “flagrancia” (arresting someone caught in the act of a crime) was particularly pronounced within the military. The constitution permits the military to detain in flagrancia if suspects are actively committing a crime or immediately following the crime, but HRW concluded the military often used an illegal, broad definition of flagrancia to justify detentions. In most of the cases HRW documented, military reports justified flagrancia arrests by claiming soldiers were responding to anonymous tips and complaints by civilians.

### **Role of the Police and Security Apparatus**

The federal police, under the CNS, as well as state and municipal police, have primary responsibility for law enforcement and the maintenance of order. SEDENA, which oversees the army and the air force, and SEMAR, which oversees the navy and the marines, also play a role in domestic security, particularly in relation to TCOs.

The CNDH stated that deployment of the armed forces for domestic law enforcement in the campaign against TCOs led to an increased number of reported human rights abuses by government security forces upon civilians, sometimes with impunity. SEDENA, SEMAR, the federal police, and the PGR have security protocols for chain of custody and use of force. The protocols, designed to reduce the time that arrestees remain in military custody, outline specific procedures for the handling of detainees.

According to SEDENA's human rights website, based on the 113 CNDH recommendations issued against SEDENA between December 2006 and December 2012 (the most current data available), a total of 186 military members were charged for human rights violations, of whom 38 were prosecuted in the military justice system. Human rights NGOs continued to charge that lack of transparency, institutional bias, and other failings of the military justice system contributed to and encouraged impunity, pointing to a failure to openly and promptly investigate, prosecute, and convict members of the military for human rights violations. The human rights community continued to urge that complaints of human rights violations committed by the military be investigated and prosecuted by judicial systems outside the military chain of command.

The CNDH reported that police, immigration officers, and customs officials violated the rights of undocumented migrants and failed to provide for their safety. As of August 31, the CNDH had received 744 complaints and had issued two recommendations against SEDENA. During the same period, the CNDH received 331 complaints and issued two recommendations against SEMAR; 800 complaints against the PGR and issued two recommendations; and 735 complaints against the federal police and issued three recommendations.

SEDENA's General Directorate for Human Rights investigates military personnel for violations of human rights identified by the CNDH and is tasked with promoting a culture of respect for human rights within the institution. The directorate has no power to ensure allegations are properly prosecuted.

The CNDH continued to increase its training of military members through training agreements with SEMAR and SEDENA. As of August 31, the CNDH provided human rights training to 262,646 military members.

Numerous agencies and organizations offered training to federal and state police officers in human rights, including the CNDH, which reported training 6,173 police officials as of August 31. Evidence of their effectiveness remained limited. State-level police academies increasingly mandated human rights training as part of their curriculum, but some did not, and the training across states was not standardized.

### **Arrest Procedures and Treatment of Detainees**

The constitution allows any person to arrest another if the crime is committed in his or her presence, and a warrant for arrest is not required if an official has

reasonable suspicion about a person's involvement in a crime. Bail exists, except for persons held in connection with drug trafficking or other forms of organized crime. In the 20 states that had not yet begun implementing the 2008 constitutional reforms of the judicial system, pretrial release on bond was available only in cases in which the charged offense was not considered a serious crime. In most cases persons must be presented to a judge, along with sufficient evidence to justify their continued detention, within 48 hours of their arrest, but there were violations of this 48-hour provision.

In cases involving three or more persons who organize to commit certain crimes, suspects may be held for up to 96 hours before being presented to a judge. Only the federal judicial system can prosecute organized crime cases. Under a precautionary procedure known as "arraigo" (a constitutionally permitted form of detention, employed during the investigative phase of a criminal case before probable cause is fully established), however, certain suspects may, with the approval of a judge, be detained for up to 80 days prior to the filing of formal charges. Many human rights NGOs claimed that arraigo allows authorities to detain someone first, then seek a reason to justify that detention. In the absence of formal charges, persons so detained are denied legal representation and are not eligible to receive credit for time served if convicted. Human rights groups asserted that authorities used arraigo to obtain confessions using torture. Attorney General Jesus Murillo Karam, appointed to his position in December 2012, was an outspoken critic of the liberal use of arraigo. During a news conference January 29, he stated the practice of arraigo has a "perverse effect" on the judicial system in that it extends the judicial process and eliminates the need to use "more modern and scientific" approaches to bringing an investigation to a timely conclusion.

In May the Federal District (Mexico City) approved legislation to eliminate arraigo and replace it with a similar mechanism called "judicial control," which allows a judge to order a five-day detention with the option for an additional five days. Several human rights organizations declared the new measure to be a repackaged version of the arraigo mechanism.

Some detainees complained about lack of access to family members and to counsel after police held persons incommunicado for several days and made arrests arbitrarily and without a warrant. Police occasionally provided indigent detainees counsel only during trials and not during arrests or investigations as provided for in law. Authorities held some detainees under house arrest. Human rights NGOs documented, and the CNDH issued, several recommendations affirming that the

army continued to detain civilians for extended periods before placing them at the disposition of civilian authorities.

Arbitrary Arrest: As of August 31, the CNDH reported that it had received 187 complaints and issued five recommendations in cases of arbitrary arrests. Many arrests were made under arraigo. On April 25, HRW issued a statement calling on Congress to reject a proposal to reduce the maximum arraigo period from 80 to 40 days. HRW said the practice of arraigo did not meet international human rights standards and urged Congress to eliminate the practice altogether at both the state and federal levels. During a December 2012 interview, Attorney General Karam stated that of the 4,000 individuals held in arraigo during the previous two years, only 120 ultimately were charged with a crime. He noted that these figures amounted to “more than 3,800 Mexicans who were unjustly held in arraigo.”

Pretrial Detention: The law provides time limits within which an accused person must be tried. Such time limits generally were disregarded as caseloads far exceeded the capacity of the federal judicial system, and most state judicial systems continued to employ the written, inquisitorial criminal justice process. In 2011 the Mexican Center for Research and Teaching in Economics (CIDE) and HRW reported that more than 40 percent of prisoners continued to be held in pretrial detention, as opposed to serving time for a convicted offense. Many spent years in pretrial detention. According to CIDE the average detention period for prisoners awaiting trial was two years. Of those tried, 14 percent were declared innocent after having served time in prison, and 85 percent received sentences of fewer than five years. For many the time spent in prison exceeded the sentence.

States implementing the 2008 constitutional reforms of the judicial system, on the other hand, reduced the number of crimes with mandatory remand and presented lower pretrial detention rates. These states were also beginning to adopt other measures associated with the 2008 judicial reform, such as pretrial services, house arrest, bail, and alternative dispute resolution.

#### **e. Denial of Fair Public Trial**

Although the constitution and law provide for an independent judiciary, court decisions were susceptible to improper influence by both private and public entities, particularly at the state and local level, according to CIDE. Civil society organizations reported that corruption, inefficiency, and a lack of transparency continued to be major problems in the judiciary.

The government continued to lack a standardized process for civilian investigators to access case-related evidence from military personnel and bases, as called for by the 2011 Supreme Court decision, which found military jurisdiction in human rights cases involving civilians unconstitutional. The military's Human Rights Directorate reported that the military has turned dozens of cases involving civilian victims over to federal and state prosecutors since 2011, but information about these cases was not readily available to the public. In October states participating in the UN Universal Periodic Review of Mexico noted that allegations of human rights violations committed by members of the military continued to be prosecuted in military courts, although a non-binding Supreme Court ruling declared this practice unconstitutional.

Although the government made some progress toward limiting military jurisdiction, human rights NGOs urged amending the military justice code to ensure human rights abuses committed by the military are not tried in military courts. Legislation to amend the military justice code remained pending in the Congress as of November.

### **Trial Procedures**

The civilian legal system is a hybrid system undergoing reform. While it incorporates some aspects of common law and accusatory-style systems, it draws primarily from traditional European code-based, inquisitorial systems. The military also employed a hybrid inquisitorial-accusatorial legal system but continued to move toward an oral accusatorial system. In some states implementing the accusatory system, alternative justice centers employed mechanisms such as mediation, negotiation, and restorative justice to resolve minor offenses outside the court system. Increased use of alternative mechanisms lessened the burden of minor crimes on courts in states implementing reform.

Constitutional criminal justice reform begun in 2008 establishes that by 2016, defendants shall enjoy a presumption of innocence and have the right to attend the hearings and challenge the evidence or testimony presented. A majority of jurisdictions had not provided these rights, however, as they had not completed reform implementation and still operated under the inquisitorial system. Defendants are not tried by a jury.

As of August 31, 26 states had passed legislation transitioning to the oral, adversarial system and were at various stages of training and implementation of the reforms, while six states were still legislating reforms. Three states fully operated

with the new oral system, while 13 states partially implemented the new structure. Under the old system, still being used by the federal government, the Federal District, and 15 states (some of which had passed reforms but were still transitioning to the new system), a typical trial consists of a series of fact-gathering hearings during which the court receives documentary evidence or testimony. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the general public; only the parties involved have access to the official file and only by special motion.

The law provides defendants with the right to an attorney at all stages of criminal proceedings. Attorneys are required to meet legal qualifications to represent a defendant. Because of ongoing implementation of the 2008 reforms, not all public defenders had preparation and training to serve adequately on the defendants' behalf, and often the state public defender system was not adequate to meet demand. Public defender services were placed either in the judicial or executive branch. According to CIDE, most criminal suspects did not receive representation until after they came under judicial authority, thus making individuals vulnerable to coercion to sign false statements before being presented to a judge.

Although the law requires translation services from Spanish to indigenous languages be available at all stages of the criminal process, this generally was not available. Indigenous defendants who did not speak Spanish sometimes were unaware of the status of their cases and were convicted without fully understanding the documents they were required to sign.

According to human rights NGOs, including HRW and AI, judges continued to allow confessions coerced through torture as evidence against the accused. These confessions were often the primary evidence in criminal convictions (see section 1.c.). NGOs reported that judges often gave greater evidentiary value to the first statement of a defendant made in the absence of legal representation, providing prosecutors an incentive to obtain an incriminating first confession.

Where implemented, justice reform also establishes strict guidelines on the use of confessions, evidence, and expert testimony; allows consensual monitoring of telephone calls; and gives police more responsibility for conducting investigations. The reform requires that all hearings and trials be conducted by a judge and follow the principles of public access, immediacy, confrontation, and cross-examination in order to promote greater transparency and allow defendants to challenge their accusers. The law, however, allows the government to keep elements of an

investigation confidential until evidence is presented in court, and defendants must have access to government-held evidence.

On April 2, the implementing legislation for the “amparo” law was published to the federal register, formally codifying it. Amparo is a legal procedure, analogous to an injunction, designed to protect persons from any official act deemed to violate the rights enshrined in the constitution. An amparo can rescind the ruling of a court and provide protection against laws and administrative acts and recourse in land disputes.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent judiciary in civil matters to which citizens have access to seek civil remedies for a human rights violation. For a plaintiff to secure damages against a defendant, the defendant first must have been found guilty in a criminal case, which was a high standard in view of the relatively low number of individuals convicted of human rights abuses in the country.

### **Regional Human Rights Court Decisions**

The country is subject to the jurisdiction of the Inter-American Court for Human Rights. On February 13, the court granted precautionary measures to human rights defender Luz Estela Castro Rodriguez who, according to the court, faced “extreme risk” as a result of her work with a women’s rights organization in Chihuahua. In August the court reaffirmed its earlier ruling and further extended the precautionary measures to Castro Rodriguez through September 30.

Despite four separate court rulings ordering the government to reform its military code of justice, including its 2009 decision in the case of *Radilla Pacheco v. Mexico*, the government had not complied with the ruling as of November.

### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

Although the law prohibits such practices and requires search warrants, as of August 31, the CNDH had received 465 complaints of illegal searches or illegal destruction of private property and had issued three recommendations.

On July 30, the CNDH issued a recommendation to SEDENA denouncing alleged acts against the indigenous community of Kumiai de la Huerta in Baja California. In July 2012 approximately 30 members of the Second Motorized Cavalry Regiment and six armed civilians allegedly entered three homes without a warrant, raided personal belongings in search of drugs, threatened the occupants, including children, and beat and temporarily detained one young man. The CNDH recommendation instructed SEDENA to investigate the case and offer the victims compensation.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The law provides for freedom of speech and press, and the government generally respected these rights. Most newspapers, television, and radio stations were privately owned, and the government had minimal presence in the ownership of news media. Media monopolies, especially on a local level, constrained freedom of expression.

Freedom of Speech: On March 6, the Supreme Court ruled that anti-homosexual slurs are not protected under freedom of speech laws. In its ruling the court stated, “homophobic expressions – i.e., the frequent allegations that homosexuality is not a valid option but an inferior condition – constitute discriminatory statements since they can be used to encourage, promote, and justify intolerance against homosexuals.”

Press Freedoms: Despite federal laws supporting freedom of the press, many journalists were the victims of threats, harassment, and violence emanating, in large part, from organized crime. Reporters covering organized crime, including its links to corrupt public officials, acknowledged practicing self-censorship, recognizing the danger investigative journalism posed to them and their families. Freedom House’s 2013 *Freedom of the Press Report* called the country a ‘dangerous place for journalists’ and categorized it as “not free” for the press due to the threats and violence that reporters faced and impunity for the perpetrators of crimes committed against the press.

The law does not provide a legal framework for issuing permits to nongovernmental and noncommercial community radio stations.



Violence and Harassment: In March the human rights NGO Article 19 reported that there were 207 attacks or threats against members of the press in 2012, of which members of police forces were responsible for 44 percent and organized criminal groups for 14 percent.

On August 19, the CNDH issued a general recommendation to the federal government stating how federal, state, and local governments should more effectively investigate and prosecute crimes against journalists. The recommendation, which indicated attacks on journalists had increased by 700 percent from 2000 to July 2013, included calls to end impunity, designate journalists as a protected class, and ensure that the agencies responsible for investigating and prosecuting cases properly prioritize these cases. The CNDH report also suggested stronger sanctions for authorities that defraud the justice system or are negligent in their pursuit of cases involving crimes against journalists; measures to guarantee the safety of journalists covering high-risk and sensitive issues; reparations for victims of violence; and a full review of the efficacy and competence of the different agencies handling these issues. The CNDH reported that during the year it had registered 98 cases of violence against journalists and that the states recording the most attacks in the period from 2010 to July 2013 were the Federal District (40), Veracruz (30), Chiapas (20), Mexico State (18), and Oaxaca (18). The states with most homicides of journalists were Veracruz (12), Tamaulipas (12), Chihuahua (11), and Guerrero (10), and the states that registered most disappearances were Michoacan (20) and Veracruz (20). The states that registered most of the attacks against media installations were Tamaulipas (10), Coahuila (9), and Nuevo Leon (7).

As of August 31, the CNDH reported four journalists had been killed and two disappeared for reasons presumed to be related to their work.

Perpetrators of violence against journalists continued to act with impunity with only a few developments reported in the investigation, arrest, or prosecution of suspects in multiple cases of violence against journalists since 2006.

On August 7, citing errors in due process, the Supreme Court of Veracruz overturned the conviction of Jorge Antonio Hernandez, who in April received a sentence of 38 years and two months for the murder of prominent journalist Regina Martinez. Specifically, the court noted that the only concrete evidence implicating Hernandez in the crime was the coerced confession he gave after police officials allegedly tortured him. Forensic evidence from the crime scene, including fingerprint and DNA samples, also apparently did not match those of Hernandez.

Regina Martinez had worked for *Proceso* magazine for 10 years and had published reports before her murder that included accusations of local government corruption. In October 2012 the Veracruz State Prosecutor's Office announced that it had arrested Jorge Antonio Hernandez, who had allegedly confessed to beating Martinez to death in an attempted robbery, and that a second suspect remained at large. At year's end police continued their investigation.

Censorship or Content Restrictions: Attacks on journalists, threats of attacks, and a lack of adequate protection resulted in significant self-censorship in the media. The extent of, and reasons behind, self-censorship varied by state. Journalists reported altering their coverage in response to a lack of protection from the government, attacks against media headquarters, false charges for publishing undesirable news, and threats or retributions against family, among other reasons. For example, on April 7, police arrested Martin Ruiz, the director of the online news site e-consulta, and charged him with defamation against a senior government official from the state of Tlaxcala. The court released Ruiz Rodriguez after he posted a 35,000 peso (\$2,660) bail. The arrest came after the official, Ubaldo Velasco, filed a formal complaint of defamation against Ruiz following comments Ruiz made on his website calling the official a "mediocre" and "shackled old man." The case remained pending as of September.

In May the Committee to Protect Journalists reported that the lack of adequate protection for journalists had led to widespread self-censorship in the media.

Libel Laws/National Security: Twelve states have criminal libel laws making journalists vulnerable to imprisonment at the state level.

Nongovernmental Impact: TCOs allegedly exercised a grave and increasing influence over media outlets and reporters, frequently threatening individuals who published critical views of crime groups.

There were multiple attacks on media outlets. On February 8, five employees of El Siglo de Torreon newspaper were kidnapped, beaten, and later released with instructions from their captors to relay a message that the criminal group – believed to be a scion of the Sinaloa cartel – wanted "less coverage of the events at the Gomez Palacio Penitentiary." The events likely referred to the widely publicized unsuccessful mass escape from the prison in December 2012 that left 22 dead. The five victims of the kidnapping and beating were not journalists, but rather employees assigned to the newspaper's online, administrative, and advertising departments. Two weeks after the kidnappings, gunmen fired on the El

Siglo de Torreon headquarters on three consecutive days, February 25-27. The attacks left one bystander dead and two federal police officers injured. El Siglo de Torreon publicly abandoned all crime and investigative reporting in 2009 due to security concerns.

On March 11, Coahuila state newspaper *Zocalo*, headquartered in Piedras Negras, announced it would no longer publish stories related to organized crime to ensure the safety of the newspaper's staff and their families. The decision came after TCOs threatened newspaper director Francisco Juaristi's life using narco-banners posted in various area municipalities. In response to the threats, the federal police dispatched officials to provide additional security to the newspaper's headquarters.

### **Actions to Expand Press Freedom**

On June 10, President Pena Nieto signed a major telecommunications reform bill intended to increase competition and enhance transparency in the telecommunications industry. During the signing ceremony, the president highlighted several features of the bill, commenting that it would "strengthen fundamental rights of freedom of expression and access to information." Specifically, the law updates the legal framework for the telecommunications industry, creates a single regulatory entity, allows for foreign direct investment up to 100 percent in telecommunications and satellite communications, establishes a Universal Digital Inclusion policy and a National Digital Agenda, and promotes greater telecommunications infrastructure coverage. As of September, however, the bill lacked the implementing legislation required for the reform to take effect.

### **Internet Freedom**

According to the Federal Telecommunications Commission, 38 percent of the population used the internet in 2013. Freedom House's 2012 *Freedom on the Net Report* categorized the country's internet as "partly free." Two states continued to restrict the use of social media. A law in Veracruz, which created a "public disturbance" offense, continued to hinder the use of social media. Similarly, the state of Tabasco continued to outlaw telephone calls or social network postings that could provoke panic.

There was a growing concern about the use of violence by drug cartel gangs in retaliation for information posted online.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events; however, unidentified actors carried out attacks on academics, artists, and intellectuals.

#### **b. Freedom of Peaceful Assembly and Association**

The law provides for freedom of assembly and the government generally respected this right. There were instances of security forces using excessive force against demonstrators.

##### **Freedom of Assembly**

In May the Mexico City government formally accepted the recommendation issued by the CDHDF following protests of the inauguration of President Enrique Peña Nieto in December 2012. The CDHDF recommendation cited the government's mistreatment of protesters, including 99 who were arbitrarily detained and accused of personal assault and causing damage to public and private property. The recommendation said that several protesters also showed signs of physical injury. The CDHDF issued a statement applauding Mexico City's government for accepting its recommendation, calling it an "opportunity to avoid repeating the same events from December 2012." No charges had been filed by the end of the year related to the claims of physical injury and arbitrary detention.

##### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right.

#### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

#### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation and the government generally respected these rights. According to several NGOs, including AI, the army in the course of its operations occasionally

restricted freedom of movement. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In-country Movement: There were numerous instances of armed groups limiting the movements of migrants, including instances of kidnapping and homicide. In early July unknown assailants kidnapped a group of 81 migrants near Reynosa, Tamaulipas, and held them captive in a house for several days. Acting on a tip, state and federal police officials located and rescued the kidnapping victims on July 17. All but one of the victims were Central American, including 39 from Honduras, 38 from Guatemala, and three from El Salvador. The perpetrators of the crime remained at large as of September.

### **Internally Displaced Persons (IDPs)**

According to the CNDH, approximately 120,000 individuals were internally displaced as of July, most of whom fled their communities in response to violence related to narcotics trafficking. The CNDH blamed government negligence for the 98 percent impunity rate associated with violent crimes and cited this as a predominant factor driving IDPs' decisions to leave their homes. The CNDH also reported that criminal groups further victimized IDPs by routinely using fraudulent means to transfer or sell IDPs' abandoned homes as a means to generate income. Individuals from Tamaulipas, Baja California, Guerrero, Sinaloa, and Michoacan accounted for the majority of IDPs in the country. The CNDH alleged that the government allocated only minimal resources to assist IDPs.

Between July and August, two large groups totaling more than 2,000 residents of the state of Guerrero were internally displaced as a result of increasing violence in their communities. According to press reports, several hundred children were among the groups of IDPs. On July 16, a group of approximately 1,000 individuals from rural areas of the municipalities of Arcelia and San Miguel Totolapan fled their villages to seek refuge in a church in downtown San Miguel Totolapan. On July 30, another group of more than 1,000 individuals left their homes in Tierra Caliente, Guerrero, following armed conflicts between rival criminal groups that left several people injured. On August 18, the CNDH began an investigation in the case of 131 individuals from San Migeul Totolapan who were displaced in Acapulco. Authorities in Acapulco found the IDPs living on a public space near the city's shipping port. The CNDH continued to investigate at year's end.

## Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. According to SEGOB, the country granted asylum to 1,569 individuals between 2012 and 2013.

## Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage.

### Elections and Political Participation

Recent Elections: Observers considered the July 1, 2012, presidential election, which Enrique Pena Nieto won by a 6.6 percent margin, mostly free, fair, and transparent. The Federal Electoral Institute oversaw the electoral process, and the Federal Electoral Tribunal, after conducting a comprehensive review of all electoral irregularities, declared the election valid on August 31, 2012.

On July 7, 14 states held statewide and local elections, including the highly contested race for governor of Baja California. These elections were also considered mostly free, fair, and transparent.

Participation of Women and Minorities: In the July 1, 2012, legislative elections, 42 of 128 senators elected and 184 of 500 federal deputies elected were women. Two female justices sat on the 11-member Supreme Court, and there were three women in the 20-member cabinet. Many state electoral codes provide that no more than 70 to 80 percent of candidates can be of the same gender, but political parties at the state level often failed to meet the established gender quotas. At the federal level, at least 40 percent of all candidates for elected office must be women.

There were no established quotas for increased participation of indigenous groups in the legislative body, and no reliable statistics were available regarding minority participation in government. The law provides for the right of indigenous people to elect representatives to local office according to "usages and customs" law

rather than federal and state electoral law. Usages and customs laws applied traditional practices to resolve disputes, choose local officials, and collect taxes without federal or state government interference. While such practices allowed communities to select officials according to their traditions, the usages and customs law generally excluded women from the political process and often infringed on the rights of women and religious minorities. In some villages women were not permitted to vote or hold office, while in others they could vote but not hold office.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption, but the government did not enforce the law effectively. Credible reports indicated that officials frequently engaged in corrupt practices with impunity and that relatively few cases came to trial. Corruption at the most basic level involved paying bribes for routine services or in lieu of fines to administrative officials and security forces. More sophisticated and less apparent forms of corruption included overpaying for goods and services to provide payment to elected officials and political parties. A 2013 survey by Transparency International found that a third of citizens admitted paying a bribe to public officials in the last 12 months, up slightly from 31 percent in 2010-11 and significantly from 26 percent in 2006. The survey also found high levels of perceived corruption in public institutions. Citizens viewed political parties as the most dishonest, with 91 percent of respondents saying they were corrupt or extremely corrupt, followed by the police (90 percent), public officials/civil servants (87 percent), Congress (83 percent), and the judiciary (80 percent). More than 70 percent of respondents said the level of corruption had increased in the country in the last two years, and 79 percent said corruption in the public sector was a serious problem. An Ernst & Young representative told the press that businesses spend on average 5 percent of revenue on bribes and other corrupt practices.

By law all new applicants for federal law enforcement (and other sensitive positions) must pass a vetting process upon entry into service and every two years thereafter throughout their careers. On October 24, CNS Commissioner Manuel Mondragon y Kalb announced a one-year review of the vetting process to determine whether the process should be revised. Mondragon y Kalb noted that, while 98 percent of federal police officers and 70 percent of state law enforcement officials had been successfully vetted, applicants routinely “cheat” the system to gain approval despite their questionable backgrounds. At the state level, there was a lack of uniform vetting procedures.

The CNDH continued to report that police, particularly at the state and local level, were involved in kidnapping, extortion, and providing protection for, or acting directly on behalf of, organized crime and drug traffickers. Local forces in particular tended to be poorly compensated and directly pressured by criminal groups, leaving them most vulnerable to infiltration. Responsibility for investigating federal police criminal or administrative abuse falls under the purview of the PGR or the Secretariat of Public Administration (SFP), depending on the type of offense.

The SFP is charged with sanctioning corrupt practices among federal executive branch employees. According to the SFP, in the last six years the agency levied 50,000 administrative sanctions against public workers for corrupt acts. The SFP referred more than 2,000 cases for criminal prosecution, but only 100 government officials served time in prison as a result of the referrals.

Corruption: On February 26, police arrested Elba Esther Gordillo, the head of the country's main teachers' union, on charges of embezzling two billion pesos (\$200 million) in union funds. The Attorney General's Office alleged that Gordillo used associates to funnel union money first to bank accounts in Liechtenstein and Switzerland, then to the United States, where it was used to pay for designer clothes and handbags, homes, and expenses for Gordillo's private airplane. Gordillo remained in prison as of September while her criminal case continued.

On April 22, the Nayarit State Attorney General's Office announced that 120 state police officers had been relieved of their duties following allegations of corruption and abuse of power. In a statement to the press, the state attorney general stated that the officers were fired because "once someone is corrupt, they are always corrupt and have no place among us."

On June 14, police detained former Tabasco governor Andres Granier on charges of embezzling official funds. The media reported that federal prosecutors estimated Granier's administration siphoned off approximately 104,152,000 pesos (\$80 million) in federal funds intended for the state. Police found nearly seven million in cash in the home of Granier's former treasurer Jose Saiz Pineda, who was arrested June 8 as he attempted to cross into the United States. Both Granier and Saiz Pineda remained in prison at year's end.

Whistleblower Protection: No specific law provides protection to public and private employees for making internal disclosures or lawful public disclosures of



evidence of illegality, such as the solicitation of bribes or other corrupt acts, gross waste or fraud, gross mismanagement, abuse of power, or substantial and specific dangers to public health and safety. Criminal and labor codes, however, include provisions containing protections for whistleblowers. The Attorney General's Office operated a protection program for some witnesses who denounced activities of TCOs. In 2012 the Organization of American States (OAS) Mechanism for Follow-Up noted implementation of protection mechanisms remained inconsistent.

Financial Disclosure: The law requires all federal and state-level appointed or elected officials from the middle to high ranks to provide income and asset disclosure for themselves, their spouses, and dependents. The SFP monitors disclosures with support from each agency. Disclosures are required at the beginning and end of employment; yearly updates are also required. Declarations are not made available to the public unless the official provides consent; otherwise, it is the prerogative of SFP to monitor the statements. Criminal or administrative sanctions apply for abuses.

Public Access to Information: The Federal Institute of Access to Public Information (IFAI) is responsible for guaranteeing access to government information from the federal executive, legislative, and judicial branches. As of August 16, IFAI had received 72,648 such requests, with 2,013 requests related to the PGR and 2,156 related to the SEGOB (including CNS). The law requires that information requests be answered within 20 days. There are minimal reproduction and mailing costs for requested information that is not available in digital format. The law includes exceptions to disclosure of government information, including for information that may compromise national security, affect the conduct of foreign relations, harm the country's financial stability, endanger another person's life, or for information relating to pending law enforcement investigations. The law also limits disclosure of personal information to third parties.

Access to information continued to be difficult in some states. All states have laws complying with the 2007 constitutional reforms regarding access to information and have signed formal agreements with IFAI to make the information system on government operations, Infomex, available for petitions for state government information.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The government attempted to engage civil society on human rights issues by encouraging participation in policy debates and engaging with victims and their family members in public discussions. Civil society played a participatory role in the implementation of the Law to Protect Human Rights Defenders and Journalists, with nine members from civil society forming an advisory board for the protection mechanism, four of whom had a vote in the governing board. SEGOB also involved civil society in the development of the implementing regulations for the protection law. Some NGOs, however, expressed frustration over difficulty in engaging in constructive human rights discussions with government officials. During the October UN Universal Period Review for Mexico, several delegations raised concerns about the continued high levels of violence, killings, and threats against these human rights defenders and journalists.

The UN and NGOs reported continued harassment of human rights defenders, including by state and municipal authorities. As of August 31, the CNDH had received 38 complaints of aggression against human rights activists and one request for protection. In July the Office of the UN High Commissioner for Human Rights (OHCHR) issued a third report in its series on human rights defenders in the country. The OHCHR documented 89 aggressions against human rights activists between November 2010 and December 2012, although it acknowledged the number may be higher based on other independent figures showing 153 cases of aggressions between May 2012 and May 2013 (53 more than between 2011 and 2012). In June the OHCHR reported that 22 human rights defenders and five family members had been killed since 2006. Harassment of human rights defenders was most prevalent in the states of Oaxaca, Chihuahua, Coahuila, Guerrero, and the Federal District, where arbitrary threats and interference were among the most common forms of harassment directed at victims. In response to the threats, human rights defenders routinely were forced to move from their homes and communities. The UN report noted that impunity in many of these cases created an environment that invited new and repeat attacks on human rights defenders. A SEGOB report released July 2 indicated that the federal government was providing protection to 26 human rights defenders and journalists in accordance with requirements established in the Law for the Protection of Human Rights Defenders and Journalists. NGOs reported that application of these protection requirements was uneven.

On May 30, eight members of the indigenous rights group Unidad Popular were kidnapped in Iguala, Guerrero, following a demonstration they participated in against the local government earlier the same day, and one day after the group had filed a formal grievance with the state Attorney General's Office against local government officials. On June 3, the bodies of three of the kidnapping victims – Arturo Hernandez Cardona, Angel Roman Ramirez, and Felix Rafael Bandera – were discovered along a nearby highway, with evidence that the victims had been blindfolded and tortured before being killed. The remaining five victims managed to escape their captors and remained in hiding as of September. Unidad Popular is an indigenous rights group that lobbies for resources for indigenous communities and supports teachers' movements in Guerrero. Following the kidnapping and killings, Unidad Popular received several additional threats, including a note to the group's leader on June 8 warning it to cease all activities. Several human rights organizations, including HRW and AI, called on federal authorities to conduct a full investigation into the matter. Despite these appeals, the PGR had not initiated an investigation, and the case remained in the hands of local authorities.

Government Human Rights Bodies: The CNDH is an autonomous agency created by the government and funded by the legislature to monitor and act on human rights violations and abuses. It can call on government authorities to impose administrative sanctions or pursue criminal charges against officials, but it cannot impose legal sanctions itself. Whenever the relevant authority accepts a CNDH recommendation, the CNDH is required to follow up with the authority to ensure that it is carrying out the recommendation. The CNDH sends a request to the authority asking for evidence of its compliance and includes this follow-up information in its annual report. When authorities fail to accept a recommendation, the CNDH makes that known publicly and may exercise its power to call government authorities who refuse to accept or enforce its recommendations before the Senate. NGOs and international organizations often drew attention to the failure of an institution to comply with or even accept the CNDH recommendations. The public generally viewed the CNDH as unbiased and trustworthy.

Each of the country's 31 states plus the Federal District has a state human rights commission autonomous from the CNDH, with the authority to investigate human rights complaints against state and local authorities. The CNDH can take over cases from state-level commissions if it receives a complaint that the state level commission is not adequately investigating the case. The effectiveness of the state commissions varied.

## Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status. While the government made some progress enforcing these provisions, significant problems, particularly violence against women, persisted.

### Women

Rape and Domestic Violence: The federal penal code criminalizes rape, including spousal rape, and imposes penalties of up to 20 years' imprisonment. Twenty-three states and the Federal District have laws criminalizing spousal rape. According to the UN and NGOs, rape victims rarely filed complaints, in part because of the authorities' ineffective and unsupportive approach to victims, victims' fear of publicity, and a perception that prosecution of cases was unlikely. Human rights organizations asserted that authorities did not take seriously reports of rape, and victims continued to be socially stigmatized and ostracized. Forced disappearances and sexual violence continued to be a widespread problem along the border region.

The federal penal code prohibits domestic violence and stipulates penalties between six months' and four years' imprisonment. Twenty-eight states and the Federal District stipulated similar penalties, although actual sentences were often more lenient. Federal law does not criminalize spousal abuse. State and municipal laws addressing domestic violence largely fail to meet the required federal standards and often were unenforced, although states and municipalities, especially in the north, were beginning to prioritize domestic violence-related training.

Victims of domestic violence in rural and indigenous communities oftentimes did not report abuses due to fear of spousal reprisal, stigma, and societal beliefs that abuse did not merit a complaint. There were no authoritative government statistics available on the number of abusers prosecuted, convicted, or punished. According to the most recent National Survey on Household Relations, conducted in 2011, 46 percent of women age 15 and older had in their lifetimes been victims of violence by their partner, with the incidence ranging from 30 percent in Chiapas to 57 percent in the state of Mexico.

Femicide is a federal offense punishable by 40 to 60 years in prison. As of September, 28 states and the Federal District had added femicide to their criminal codes. In many cases state laws allow for reduced sentences when a killing was associated with infidelity. According to a report published in late 2012 by

SEGOB's Human Rights Office, the number of female homicide victims increased dramatically over the past three years, particularly in the states of Chiapas, Chihuahua, Durango, Guerrero, Michoacan, Oaxaca, Sinaloa, Sonora, and the Federal District. The study cited regional disparities in the number of female homicide victims, stating that a woman between the ages of 20 and 24 from the northeastern region of the country was 29 times more likely to be killed than a woman of the same age elsewhere in the country.

According to the National Femicide Observatory, between January 2010 and December 2012, offices of state attorneys general in 10 states (Sinaloa, Chiapas, Mexico State, Jalisco, the Federal District, Morelos, Guerrero, Veracruz, Durango and Guanajuato) registered only 388 femicides. The National Femicide Observatory disputed the figure and reported that the actual number of femicide victims was considerably higher.

The PGR's Special Prosecutor's Office for Violence against Women and Trafficking in Persons is responsible for leading government programs to combat domestic violence and prosecuting federal human trafficking cases involving three or fewer suspects. With only 15 federal prosecutors dedicated to federal cases of violence against women and trafficking countrywide, the special prosecutor faced challenges in moving from investigations to convictions, although it achieved several convictions.

On February 4, masked gunmen broke into a beach resort bungalow in Acapulco, Guerrero, and raped six Spanish women who were vacationing in the area. According to official reports, the attackers tied up and gagged several male companions before repeatedly raping the victims over a period of at least three hours. The attackers allegedly spared a seventh woman of Mexican origin. On February 13, PGR officials reported the arrest of six suspects in the case, who allegedly confessed to the crimes. Police officials arrested a seventh suspect on March 7. Following the final arrest, the Guerrero Attorney General's Office stated that its investigation into the matter was closed.

There were approximately 70 shelters for women and their children funded at least in part by the government. Shelters were mostly for victims of gender-based violence, but the PGR operated one government shelter with a focus on adult sex trafficking victims. According to the National Network of Shelters, shelter staff were professional and the shelters well equipped; however, because government funding typically only covered shelter operations for eight months, there was a

high turnover of personnel. Civil society and women's rights groups maintained numerous shelters as well.

Sexual Harassment: The federal labor law prohibits sexual harassment and provides for fines from 250 to 5,000 times the daily wage. Sexual harassment is explicitly criminalized in 15 of 31 states and the Federal District, and all states have provisions for punishment when the perpetrator is in a position of power. According to the National Women's Institute (INMUJERES), the federal government institution charged with directing national policy to achieve equality of opportunity between men and women, sexual harassment in the workplace was widespread, but victims were reluctant to come forward and cases were difficult to prove.

Reproductive Rights: Couples and individuals have the legal right to decide the number, spacing, and timing of their children and sometimes have the information and means to do so free from discrimination. Numerous NGOs reported that services, information, and public policies in the area of reproductive health were limited. Despite the existence of a national family planning program, the lack of sex education and access to contraceptives in public hospitals and rural areas continued to undermine the government's commitment to reproductive rights. In a study released in February by SEGOB, the National Commission to Prevent and Eradicate Violence Against Women (CONAVIM) reported that, of indigenous women who underwent sterilization procedures provided by public health services, 27 percent were sterilized after doctors consulted with only the woman's partner and not the woman herself. According to UN estimates from 2011, 67 percent of married women ages 15-49 used a modern method of contraception. Information on maternal health was accessible at public and private health clinics and online at the Federal Secretariat of Health's website. According to government figures, the maternal mortality rate was 47 for every 100,000 live births. Skilled attendants at delivery and in postpartum care were widely available except in some rural indigenous areas.

On October 3, an indigenous woman gave birth on the back lawn of a health clinic in San Felipe Jalapa de Diaz, Oaxaca, after the clinic staff allegedly denied her care. According to the town's mayor, the woman arrived at the clinic experiencing labor pains, but a clinic employee told her that the doctor was not available to help her. The mayor stated a nurse later refused to open the door for the woman, causing the woman to deliver the baby in a grassy space behind the clinic. The Oaxaca secretary of health acknowledged medical negligence in the case but accused the indigenous woman of not following medical instructions and for

willingly giving birth “out of desperation” in the back lawn. He further justified the refusal of service by noting the clinic’s limited resources to attend to the various needs of its patients. Another indigenous woman delivered a child outside the same clinic July 18 following similar circumstances. The CNDH opened an investigation into the October 3 case and continued to look into the incident.

Discrimination: The law provides women the same rights and obligations as men and “equal pay for equal work performed in equal jobs, hours of work, and conditions of efficiency.” According to INMUJERES, women continued to earn between 5 and 30 percent less than men for comparable work. According to the World Economic Forum, women earned 42 percent less than men for comparable work. According to the 2011 National Survey on Household Relations, 21 percent of women said they had been victims of discrimination in the workplace in the past year; this figure likely underreported the problem. Women constituted 99 percent of domestic workers and therefore were more likely to experience discrimination in wages, working hours, and benefits. The law provides labor protection for pregnant women. According to the Information Group on Reproductive Rights, some employers reportedly sought to avoid this law by requiring pregnancy tests in pre-employment physicals and by continuing to make inquiries into a woman’s reproductive status. INMUJERES reported that 14 percent of women age 15 and older had been required to take a pre-employment pregnancy test in order to get a job, despite labor laws that prohibit employers from requiring such tests. The illiteracy rate for women living in urban areas was 5 percent, compared with 18 percent for women living in rural areas. In all but two states (Sinaloa and Sonora), women had lower literacy rates than men.

## **Children**

Birth Registration: Citizenship is derived both by birth within the country’s territory and from one’s parents. Citizens generally registered the birth of newborns with local authorities. In some instances government officials visited private health institutions to facilitate the process. Failure to register births could result in the denial of public services, such as education or health care. According to the UN Children’s Fund, 93 percent of children in the country were registered, while the Child Rights Information Network found that 30 percent of children under age five were not registered. States with large rural and indigenous populations, such as Chiapas, Guerrero, Oaxaca, and Puebla, had lower registration rates. Several NGOs noted that under-registration was a significant problem, particularly for more vulnerable populations. Those without registration faced

significant barriers to education, health care, protection, and employment, according to the Be Foundation.

Child Abuse: According to data released by the CNDH in April, the number of child abuse cases reported increased by 266 percent between 2006 and 2012. During this period the CNDH reported receiving 10,727 complaints alleging child abuse. In 2012 alone the CNDH reported receiving 2,660 child abuse grievances, compared with 816 such complaints in 2006.

Forced and Early Marriage: Child marriage has historically been a problem in some parts of the country. The minimum marital age is 14 for girls and 16 for boys with parental consent, and 18 without parental consent. With a judge's consent, children can be married at younger ages. According to the National Survey of Demographic Dynamics, in 2009, 23 percent of women ages 20 to 24 were first married before age 18. The rate was 19 percent in urban centers and 31 percent in rural communities.

Harmful Traditional Practices: There were unconfirmed reports of female genital mutilation/cutting taking place in the eastern part of the country.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children; however, NGOs continued to report that sexual exploitation of minors, as well as child sex tourism in resort towns and northern border areas, were significant problems.

Statutory rape constitutes a crime in the federal criminal code. For an adult who has sexual relations with a minor between 15 and 18 years of age, the penalty is between three months and four years in prison. For an adult who has sexual relations with a minor under age 15, the penalty ranges from eight to 30 years in prison. Laws against corruption of a minor and child pornography apply to victims under 18 years of age. For the crimes of selling, distributing, or promoting pornography to a minor, the law stipulates a prison term of six months to five years and a fine of 300 to 500 times the daily minimum wage. For the crimes of involving minors in acts of sexual exhibitionism, or the production, facilitation, reproduction, distribution, sale, and purchase of child pornography, the law mandates seven to 12 years in prison and a fine of 800 to 2,500 times the daily minimum wage.

Perpetrators who promote, publicize, or facilitate sexual tourism involving minors face seven to 12 years' imprisonment and a fine of 800 to 2,000 times the daily



minimum wage. For those involved in sexual tourism who commit a sexual act with a minor, the law requires a 12- to 16-year prison sentence and a fine of 2,000 to 3,000 times the daily minimum wage. The crime of sexual exploitation of a minor carries an eight- to 15-year prison sentence and a fine of 1,000 to 2,500 times the daily minimum wage. The crimes of child sex tourism and prostitution of children do not require a complaint to prosecute and can be based on anonymous information.

There were some complaints about the complexity of the application of the laws. The lack of legislative harmonization between the general trafficking-in-persons law and the federal criminal code allowed defendants to obtain lower sentences or be acquitted for arguing that their cases were not tried under the appropriate legal framework. In addition there were differences in laws and enforcement across the country's municipalities, and specialized services for child victims of sexual exploitation were often lacking.

Institutionalized Children: In March 2012 the NGO Disability Rights International (DRI) reported to the OAS on grave human rights violations of rights of mentally and physically disabled children in orphanages and care facilities.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html) as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_5831.html](http://travel.state.gov/abduction/country/country_5831.html).

### **Anti-Semitism**

According to the 2010 census, the Jewish community numbered approximately 67,000 persons, 90 percent of whom live in Mexico City.

There were some reports of anti-Semitism during year. For example, a Twitter hashtag with an anti-Semitic theme became the second-most trending topic on January 18. The topic invited people to post derisive messages about soap, ashes, and gas in an offensive reference to victims of the Holocaust. At its peak the topic received more than 13,000 original postings on a single day. The Coordination Forum for Countering Anti-Semitism issued a statement condemning the messages.

## Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other services. The government did not effectively enforce the law. The Law for the Inclusion of People with Disabilities brings the country into compliance with the Convention on the Rights of Persons with Disabilities; however, DRI claimed that the law fails to establish new opportunities for community integration. DRI noted that under the law, the Ministry of Health is required to promote the creation of long-term institutions for people with disabilities in distress, and the Ministry of Social Development must establish specialized institutions to care for, protect, and house people with disabilities in poverty, neglect, or marginalization. As such, DRI noted that the law does not recognize the right of person with disabilities to live in the community.

On January 16, the government published a decree amending and expanding various mental health provisions of the General Health Law. The revisions establish that mental health care be “provided with a focus on community and psychosocial rehabilitation as well as strict respect for human rights.” Among others, the changes require mental health care treatment to include “the reintegration of the person through the creation of social and welfare programs such as protected homes and workshops for the proper care of these patients.” DRI noted that the changes represented positive signs that the country’s mental health services were moving from an institution-based to a community-based mental health system. Also, for the first time in law, there is a provision for independent monitoring of health establishments, in which independent experts monitor human rights conditions for people with mental and behavioral disorders that are treated in health facilities. According to DRI, as of September there had been no changes in the mental health system to create community services, nor had there been any efforts by the authorities to have independent experts monitor human rights violations in psychiatric institutions.

Public buildings and facilities continued to be in noncompliance with the law requiring access for persons with disabilities. The education system provided

special education for students with disabilities nationwide. Children with disabilities attended at a lower rate than those without disabilities.

According to data from the Federal District's Secretariat of Health, only 9 percent of the 244 hospitals in the district were wheelchair accessible, and only 9 percent had wheelchair accessible restrooms.

As of August 31, the CNDH had received 116 complaints of human rights violations against persons with physical disabilities and 17 complaints of human rights violations against persons with mental disabilities.

Widespread human rights abuses in mental health institutions and care facilities across the country, including those for children, continued to be a problem. Abuses against persons with disabilities included lack of access to justice, the use of physical and chemical restraints, physical and sexual abuse, disappearances, and illegal adoption of institutionalized children. Institutionalized persons with disabilities often lacked adequate privacy and clothing and often ate, slept, and bathed in unhygienic conditions. They were vulnerable to abuse from staff members, other patients, or guests at facilities where there was inadequate supervision. Documentation supporting the person's identity and origin was lacking, and there were instances of disappearances.

In July DRI, the CDHDF, and other human rights organizations submitted an *amicus curiae* to the Supreme Court in the case of Ricardo Adair, a 24-year-old youth with Asperger Syndrome. Adair had lived under the legal tutorship of his parents since 2007, when a judicial review ruled he was unable to make decisions on his own. As a result he was unable to make fundamental choices about his own life. In the *amicus curiae*, DRI and its counterparts urged the court to recognize the right of persons with psychosocial disabilities to make decisions for their care and life. At year's end the court had not issued a ruling.

Persons with disabilities have the right to vote and participate in civic affairs. Voting centers for federal elections are generally accessible for persons with disabilities, and ballots are available with a Braille overlay for federal elections. In Mexico City, voting centers were also reportedly accessible for local elections and Braille overlays were available; however, in local elections elsewhere in the country, the accessibility for voting centers and the availability of Braille ballots or overlays was inconsistent.

### **Indigenous People**

Indigenous groups continued to report that the country's legal framework did not respect the property rights of indigenous communities or prevent violations of those rights. Communities and NGOs representing indigenous groups continued to report that the government failed to consult indigenous communities adequately when making decisions about the implementation of development projects on indigenous land. Consultation with indigenous communities regarding the exploitation of energy, minerals, timber, and other natural resources on indigenous lands remained limited.

The CNDH reported that indigenous women were among the most vulnerable groups in society. They experienced racism, discrimination, and violence. Indigenous people generally were excluded from health and education services. The CNDH stressed that past government actions to improve the living conditions of indigenous people, namely social programs geared specifically to women, were insufficient to overcome the historical marginalization of indigenous populations. As of August 31, the CNDH's Program for Promotion and Dissemination of Human Rights for Indigenous Peoples had held 266 outreach and training activities with the participation of 78,299 people, including conferences, training for public officials and prison personnel, interagency workshops, and outreach in indigenous communities.

On July 20, the body of indigenous rights activist Heron Luciano Sixto Lopez was discovered in a field in San Sebastian Tecomaxtlahuaca, Oaxaca, five days after a group of masked assailants kidnapped him from his office. An autopsy report indicated that the victim had been shot at least six times. Sixto Lopez worked for the indigenous rights organization Center for Assessment and Orientation for Indigenous Communities that promoted human and indigenous rights in the region. On August 1, the Inter-American Commission on Human Rights issued a statement condemning the killing and calling on the federal government to investigate and prosecute the crime. The Oaxaca State Attorney General's Office continued its investigation as of September.

The law provides for educational instruction in the national language, Spanish, without prejudice to the protection and promotion of indigenous languages, but many indigenous children spoke only their native languages. Education in indigenous languages was limited by the lack of textbooks and teaching materials, as well as by the lack of qualified teachers fluent in these languages. According to the UN, 25 percent of indigenous girls were denied by their own parents the opportunity to go to school. As of August 31, the CNDH had received 43

complaints related to human rights abuses of the indigenous population, but had not issued any related recommendations. Most complaints pertained to a lack of interpreters and discriminatory practices by government officials.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

The law prohibits discrimination against LGBT individuals; however, LGBT persons reported that the government did not always investigate and punish those complicit in abuses. As of August 31, the CNDH had not received any complaints of human rights abuses against LGBT individuals. Discrimination based on sexual orientation and gender identity was prevalent, despite a growing public acceptance of LGBT individuals.

On October 6, two attackers released tear gas in an auditorium hosting the “Miss Gay 450 Durango” pageant, injuring several contestants and members of the audience. The Durango State Human Rights Commission condemned the attack and called on the community to promote tolerance and respect diversity.

### **Other Societal Violence or Discrimination**

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Self-defense militias – or civilian armed groups that claimed to fight crime – proliferated rapidly. According to the CNDH, civilian militias operated in 15 states and 101 municipalities throughout the country. These groups were concentrated in the southwestern states of Michoacan and Guerrero and emerged most frequently in small towns without a local police force and with a growing crime problem. Some groups called themselves “community police” and others “self-defense groups.” Federal and state authorities responded to the expansion of self-defense militias with conflicting statements and mixed reactions, ranging from law enforcement operations to disarm and arrest militia members to state efforts that sought to incorporate them into the law enforcement framework. The federal government issued clear condemnations of the militias. In a statement released on January 28, the CNDH said that self-defense militias were not justified, but that position subsequently was softened. The CNDH received multiple complaints from individuals alleging human rights abuses by members of the militia groups, including arbitrary detention and illegal raids.

In Michoacan dozens of self-defense groups emerged in rural communities along the mountainous western edge of the state. Armed with assault rifles and, in some cases, armoured vehicles, the groups claimed to defend their communities against kidnapping, extortion, and other violent crime perpetrated by drug traffickers. Security experts and press commentators cited difficulties in determining which of these groups were fighting crime and which were front groups for organized crime.

On June 4, the government published an amendment to the migration law passed in 2011 to protect further the human rights of unaccompanied child migrants. The amendment requires the government to assume responsibility for the child migrants and ensure appropriate measures are taken to protect their human rights. Several NGOs criticized the law's implementing regulations, which allow migration officials discretion in application of the law.

The World Organization Against Torture and the NGO network Todos Los Derechos para Todas y Todos released a joint report in October 2012, the *State of Torture in Mexico* that describes inhuman conditions and severe overcrowding in migrant holding centers, in particular in the Iztapalapa center in Mexico City and Century XXI center in Tapachula, Chiapas.

On August 25, 11 Central American migrants were killed and several more were injured when the cargo train they were riding derailed in rural Tabasco. According to Tabasco officials, at least 250 Honduran migrants were aboard the northbound train when it derailed. The train, commonly referred to as "The Beast," served as a regular means of transportation for thousands of migrants willing to pay a fee to criminal organizations in exchange for a ride on the train's roof. According to the CNDH, more than 140,000 Central American migrants transit the country each year.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

National labor reform, which took effect on December 1, 2012, provides for the right of workers to form and join unions, to strike in both the public and private sector, and to bargain collectively. The law requires a minimum of 20 workers to form an independent union and requires official recognition from the government to register the union. A union established in accordance with its own bylaws may call for a strike or bargain collectively. Before a strike may be considered legal, a

union must file a “notice to strike” with the appropriate labor authorities. These elements of the federal labor law were unchanged in the reform.

Although the law authorizes the coexistence of several unions in one worksite, it sets rules on which union has priority and limits collective bargaining to the union that has the largest number of workers. The fact that only one union is legally recognized to negotiate for all workers effectively shuts out all but one union and prevents meaningful negotiations when that one union is a protection (company controlled) union. It is not mandatory for a union to consult with workers or have worker support in order to sign a first collective contract with an employer.

The government did not consistently protect worker rights. Its general failure to enforce labor law, to strengthen key elements of the federal labor law with the reform, and to enforce other laws left workers with little recourse regarding violations of freedom of association, poor working conditions, or other problems. The government failed to address the serious lack of transparency surrounding unions. For example, it is not mandatory that the election of union leadership be conducted by secret ballot, and often workers forming a union may not even know there is already a union in place and recognized by a company. A proposed requirement that workers ratify union contracts was dropped from the reform legislation. Union organizers from several sectors complained about the overt and usually hostile involvement of the government when organizers attempted to create independent unions.

The process for official government recognition of unions was politicized, and the government occasionally used the process to reward political allies or punish political opponents. According to union organizers, government labor boards frequently rejected union registration applications on technicalities. In addition independent union activists claimed that the requirement that the government approve strikes in advance gave authorities the power to show favoritism by determining which companies would be protected from strikes. Because of numerous restrictions, few formal strikes occurred, but protests and informal work freezes were fairly common.

Protection (company-controlled) unions continued to be a problem in all sectors, and many observers noted that a majority of workers in unions belonged to unrepresentative unions. Officially sanctioned “protection contracts” – formal agreements whereby the company created an unrepresentative union in exchange for labor peace and other concessions – were common in all sectors and often prevented workers from fully exercising their labor rights as defined by law.

These contracts often were developed before the company hired any workers and managed without direct input from workers. Collective bargaining agreements resulting from protection contracts usually failed to provide worker benefits beyond the legal minimum and impeded the rights of independent unions to effectively and legitimately bargain collectively on behalf of workers.

According to several NGOs and unions, many workers continued to face intimidation during bargaining-rights elections from other workers, union leaders, hired thugs, or employers favoring a particular union. Practices such as providing very limited notice prior to an election and allowing management or nonemployees to vote were increasingly common. The Supreme Court declared illegal the practice of a voice vote, but the practice was still used. The new labor reform law establishes that internal union leadership votes may be held via secret ballot, either directly or indirectly.

Workers were excluded from official unions for trying to organize their colleagues into separate, independent unions. The “exclusion clause” in the labor law gives these unions the right to prevent the formation of an authentic union by expelling agitators from the “official” union, thereby obliging the company to fire these individuals. Some fired workers accused official or protection unions of harassment and intimidation.

For example, according to Proyecto de Derechos Economicos, Sociales y Culturales (ProDesc), an NGO that states its primary mission is the defense of economic, social, and cultural rights of underrepresented workers and communities, the Canadian company Excellon, which operated the silver mine “La Platosa” in the state of Durango, did not respect its workers’ and landowners’ rights protected under the law. In 2008 the company signed an agreement with landowners for the use of their land in exchange for rental payments and other contributions to the social and economic development of the community. ProDesc reported that Excellon failed to uphold fully the agreement. After losing what workers and observers claimed was a rigged bargaining rights election in July 2012, Excellon workers affiliated with the local 309 of the National Mining Union joined the landowners’ peaceful protest. Excellon denied that workers were intimidated into voting in favor of a union leader imposed on them by the company. On October 24, ProDesc reported that armed security forces broke into the protest camp (located on privately owned land with the consent of the landowners) to force the miners and landowners to end their protest. The landowners and the workers filed complaints with the Canadian authorities and the Organization for Economic Cooperation and Development. In November 2012 the



organization's national contact point in the country, which operates as part of the Ministry of the Economy, released its initial evaluation and concluded that the facts presented did not substantiate the need for further investigation. The decision was widely criticized, according to ProDESC.

Worker's rights advocates also decried labor law violations in the Atento call and data-processing centers in Mexico City. In recent years threatened workers made complaints to NGOs and the International Labor Organization (ILO) citing poor working conditions and violations of freedom of association. According to the independent Mexican Telephone Workers' Union (STRM), as well as national and international industrial and labor rights experts, the company holds a protection contract that it signed without informing the workers years ago. Workers reported that the company fired, harassed, and otherwise discriminated against worker activists who led or supported a democratic movement to oust the protection union. Since 2009 STRM reported that workers faced subsequently two fraudulent bargaining rights elections at which managers voted while thugs prevented eligible workers from placing their ballots. In June the ILO reported evidence of irregularities in the election process, including the inability of the protection union to prove that it has members. In addition workers reported that wage theft, unpaid overtime and bonuses, illegal firings, sexual harassment, and unsafe working conditions continued.

#### **b. Prohibition of Forced or Compulsory Labor**

Although the law prohibits all forms of forced or compulsory labor, the government did not effectively enforce such laws. Forced labor persisted in the agricultural and industrial sectors, as well as in the informal sector. Women and children were subjected to domestic servitude. Migrants, including men, women, and children, were the most vulnerable to forced labor.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

#### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits children under the age of 14 from working and allows those between the ages of 14 and 17 to work limited daytime hours in nonhazardous conditions, and only with parental permission. The December 2012 labor reform law made it a federal crime to employ children under the age of 14.

The government did not effectively enforce such prohibitions. According to sources, including the ILO, government enforcement was reasonably effective in large and medium-sized companies, especially in factories run by U.S. companies, and in the “maquila” (in-bond export) sector, as well as other industries under federal jurisdiction. Enforcement was inadequate in many small companies and in the agriculture and construction sectors, and nearly absent in the informal sector, in which most children worked. Complex divisions and a lack of coordination between federal and state jurisdictions complicated the labor inspection process. The Secretariat for Social Development, the PGR, and the National System for Integral Family Development all have responsibility for enforcement of some aspects of child labor laws or intervention in cases where such laws are violated. The Secretariat of Labor and Social Security (STPS) is responsible for carrying out child labor inspections.

According to the National Institute of Statistics and Geography (INEGI), the percentage of employed children fell slightly from 10.8 percent in 2009 to 10.5 percent in 2011. Of employed children, 29.5 percent worked in the agricultural sector in the harvest of melons, onions, sugarcane, tobacco, and tomatoes. Other sectors with significant child labor included services (26.7 percent), retail sales (25.4 percent), manufacturing (11.9 percent), and construction (4.8 percent).

The government made significant efforts to address child labor in the sugarcane sector. The government of Veracruz was in the process of formally installing the Committee for Planning, Evaluating, and Monitoring the Prevention and Eradication of Child Labor to address child labor in the state’s agricultural industry, as part of the cooperation agreement signed with the ILO in August 2012, the first of its kind in the country. ILO’s International Program on the Elimination of Child Labor and the System of Productivity Measurement and Progress (SIMAPRO) worked with sugarcane producers to develop corporate social responsibility programs to improve the safety, welfare, and future of the children and families of cane cutters. On June 27, the government established a Cross-Sectoral Commission for the Prevention and Eradication of Child Labor and Protection of Adolescent Workers of Legal Age.

#### **d. Acceptable Conditions of Work**

The minimum wage was set at 64.76 pesos (\$4.90) per day for Zone A and 61.38 pesos (\$4.65) per day for Zone B. Most formal sector workers received between one and three times the minimum wage. The National Council for Evaluation

of Social Development Policy estimated the poverty line at 77.60 pesos (\$5.90) per day for the year.

The law sets six eight-hour days and 48 hours per week as the legal workweek. Any work more than eight hours in a day is considered overtime, for which a worker receives double the hourly wage. After accumulating nine hours of overtime in a week, a worker earns triple the hourly wage; the law prohibits compulsory overtime. The law includes eight paid public holidays and one week of paid annual leave after completing one year of work. The law requires employers to observe occupational safety and health regulations, issued jointly by the STPS and the Mexican Institute for Social Security. Legally mandated joint management and labor committees set standards and are responsible for overseeing workplace standards in plants and offices. Individual employees or unions may complain directly to inspectors or safety and health officials.

The STPS is responsible for enforcing labor laws. Early in the year, the STPS was authorized to hire 179 additional inspectors. The STPS carried out regular inspections of workplaces, using a questionnaire and other actions to identify victims of labor exploitation. Between January and July, it undertook 59,746 inspections in 40,078 workplaces, including the monitoring of industries identified as having a high incidence of child labor (agriculture, coal mines, and construction). On April 9, the STPS trained 300 federal and local labor inspectors on child labor. According to the STPS, training for labor inspectors included a program focused on enforcement of labor laws in the agricultural sector, but there was no program for labor inspections in the informal sector. Nevertheless, all workplaces are subject to STPS inspection.

According to labor rights NGOs, employers in all sectors sometimes used the illegal “hours bank” approach – requiring long hours when the workload is heavy and cutting hours when it is light – to avoid compensating workers for overtime. In addition many companies evaded taxes and social security payments by employing workers informally. INEGI estimated that 59 percent of the workforce was engaged in the informal economy.

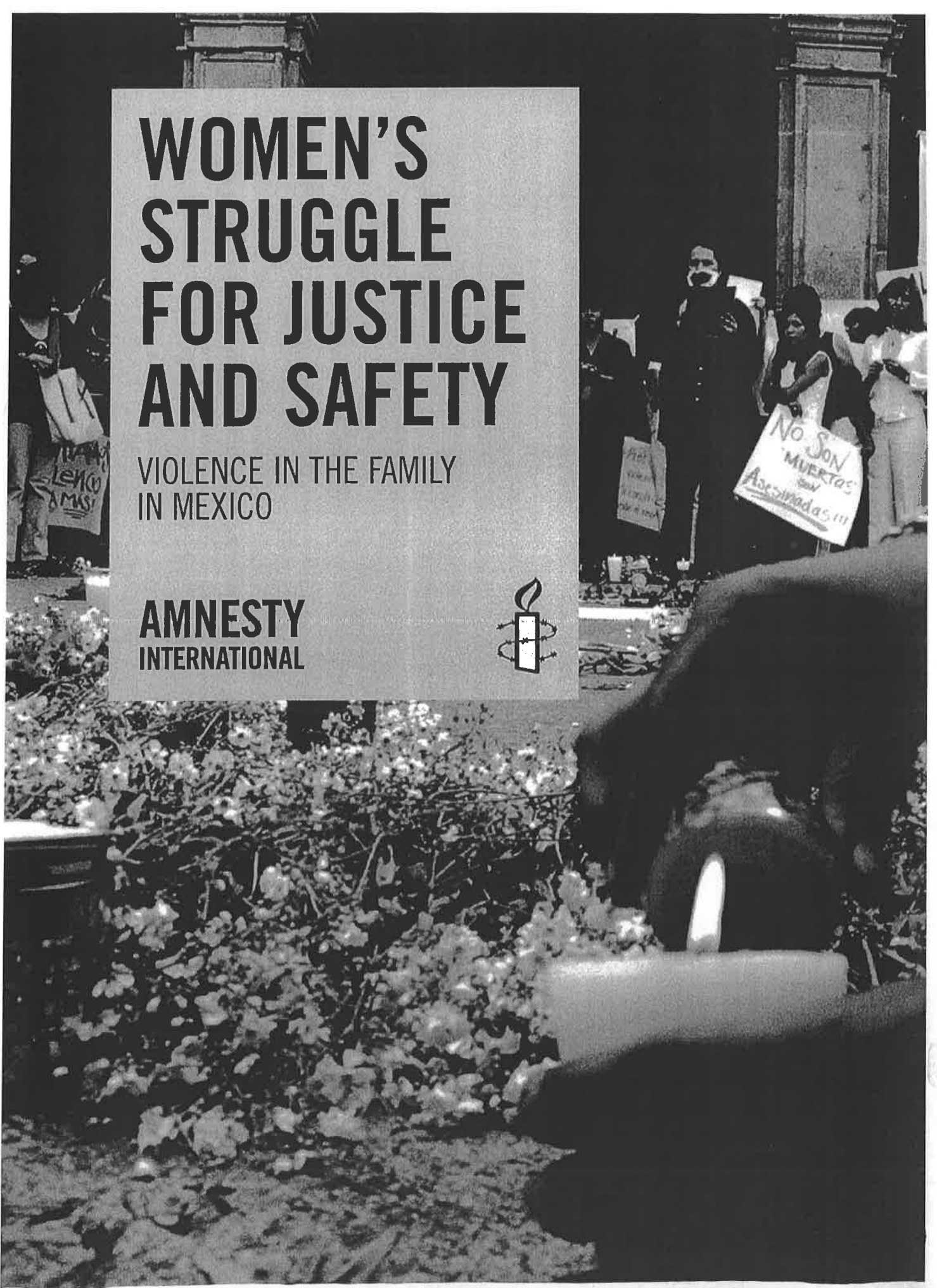
There were several complaints of poor working conditions in maquiladoras. Low wages, poor labor conditions and relations, long work hours, unjustified dismissals, the lack of social security benefits and safety in the workplace, and the lack of freedom of association were among the most common complaints. Most maquilas hired employees through outsourcing with few social benefits. According to INEGI data, in 2008 more than 53,000 workers were employed under the

outsourcing model in the maquila sector, but as of April this number had declined to 45,000, largely due to the economic recovery and the labor reform.

# WOMEN'S STRUGGLE FOR JUSTICE AND SAFETY

VIOLENCE IN THE FAMILY  
IN MEXICO

**AMNESTY**  
INTERNATIONAL



Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion – funded mainly by our membership and public donations.

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*Cover photo:* Protesters demand justice for victims of violence against women, Cuernavaca, Morelos state, Mexico, 2006. © Jorge Medina Palomino

# **WOMEN'S STRUGGLE FOR SAFETY AND JUSTICE**

VIOLENCE IN THE FAMILY  
IN MEXICO

**AMNESTY  
INTERNATIONAL**



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# CONTENTS

A note on terminology .....	3
Methodology .....	3
1/Introduction .....	5
2/Legal framework .....	8
State responsibility.....	8
Due diligence .....	8
A federal country with international obligations .....	10
Legislation and other measures.....	10
2006 Special federal commission.....	11
2007 General Law on Women's Access to a Life Free from Violence.....	12
3/The scale of the problem .....	14
4/Obstacles to safety and justice.....	18
Attitudes towards violence against women in the family.....	19
Police response.....	19
Complaints procedures .....	20
Conciliation .....	22
Medical evidence .....	24
Official medical examiners.....	25
Health professionals .....	25
'They told me to bring two witnesses' .....	27
Legal advice and access to case information .....	28
Protection measures .....	29
Shelters .....	30
Accountability.....	31
Restitution and reparations .....	33
5/Conclusions and Recommendations.....	35
Recommendations.....	37
ENDNOTES .....	40



## A NOTE ON TERMINOLOGY

Amnesty International bases its work on violence against women on the definition set out in the UN Declaration on the Elimination of Violence against Women. Article 2 of the Declaration states:

"Violence against women shall be understood to encompass, but not be limited to, the following:

- (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs."

Throughout this report a variety of terms are used to describe violence against women in the context of intimate relationships, including domestic violence, violence in the family and intimate partner violence. No single term is universally accepted in all contexts to describe acts or conduct by an individual that a woman considers to be, or to have been, intimately connected to her – regardless of sex, marital status or residence – which results in death, physical, sexual or psychological harm or suffering to the woman.

## METHODOLOGY

This report is based on interviews and research carried out by Amnesty International delegates in 2006 and 2007. Delegates visited the states of Oaxaca, Chiapas, Morelos and Sonora – all states in which women's organizations are documenting violence against women and campaigning for improved access to justice.

Delegates carried out one-to-one and group interviews with survivors of and relatives affected by more than 20 cases of violence in the family. They also spoke to lawyers, staff in women's shelters, and representatives of the women's movement and of non-governmental organizations (NGO) working on a range of human rights. The focus of the interviews was the experience of survivors of violence in the family seeking assistance from the social services and justice system and those supporting their efforts. Amnesty International researchers also consulted official documentation where available, such as surveys, medical reports and other case file documentation.

Amnesty International interviewed representatives of federal and state institutions, including senior officials with public prosecutors' offices, women's institutes, human rights commissions and family development services. This enabled researchers to compare the official procedures which these institutions follow with the experience of some of those seeking help.

Amnesty International also wrote to the State Attorney Generals in Oaxaca, Sonora and Morelos in February 2008 requesting data gathered on offences against women. No reply had been received at the time of writing.

In this report the names of most survivors have been changed or withheld in order to protect their privacy and ensure that their security is not compromised. Real names have been used when either the survivor or relative wished them to be used.

# 1/INTRODUCTION

**“In May 2006, after he attacked me with a knife, I went back to the local public prosecutor’s office, and on that occasion they didn’t even take my complaint... I remember exactly what they said: ‘When you have got one foot in the grave and the other still out, then come back here.’”**

Neomi, in Hermosillo Women’s Shelter, Sonora, Mexico, November 2006

Violence in the family is the most common form of gender-based violence experienced by women worldwide. According to UN estimates, one in three women is subjected to physical violence by an intimate partner during their lifetime. In Mexico, in a 2006 national survey almost one in four women said that they had suffered physical and/or sexual violence at the hands of an intimate partner.<sup>1</sup>

Few cases of violence against women are reported, fewer still result in the prosecution or conviction of those responsible or restitution for victims. The most well documented pattern of violence against women in Mexico is that involving the murder over the past 15 years of more than 430 women and girls, with more than 30 others still missing in Ciudad Juárez and Chihuahua City, Chihuahua state. Many of the murdered women were victims of abduction and sexual violence. However, a significant proportion were also victims of violence in the family.

A factor common in many of these crimes is the failure of the authorities to take adequate steps to prevent or punish them. This is true of sexually motivated murders, years of physical and mental abuse in the family, and reported abductions. In 2005 in Ciudad Juárez, 177 local public officials were implicated by federal investigators in negligent criminal investigations into the murder of nearly 300 women over a 10-year period. Virtually none of

those implicated has been held to account. In San Salvador Atenco, Mexico state police were responsible for torture and sexual assaults on at least 26 female detainees between 3 and 4 May 2006. Despite state and federal level investigations, to date only six officials have been charged, all for minor offences.

Some states, including the Federal District, have been more proactive than others in improving prevention and punishment of violence against women and combating discrimination. Nevertheless, Amnesty International found that many women who experience violence in Mexico continue to face serious obstacles in accessing safety and justice.

A significant factor in deterring women from reporting violence is the response of local officials, including police and prosecutors. Several women told Amnesty International that officials had refused to accept their report because they consider it a private family matter, or because they assume women will withdraw the complaint later, or because, in their view, the violence is not serious enough to merit attention.

Even when women overcome these initial hurdles and a complaint is registered, there is no guarantee that medical evidence, including psychological evidence, will be gathered adequately or presented to the courts. Survivors of violence in the family usually have the primary burden of providing evidence. Victims of domestic violence are frequently required to deliver summons letters to the aggressor, putting them at risk of further violence. Even when protection measures are ordered, they are rarely applied or enforced. In this climate, prosecutions and convictions are rare and women and their families remain at risk of new attacks, some of which prove fatal.

The Mexican government has ratified all international instruments to fulfil women's rights, end inequality and eradicate gender-based violence. Legislative reforms enacted at federal and state level over the past 10 years have begun to give weight to these international commitments, as have increased training of officials and investment to improve access to justice and information on women's rights. Nevertheless, levels of violence and impunity remain extremely high and the real impact of many official initiatives has yet to become apparent.

The women's movement in Mexico has been at the forefront of efforts to raise awareness of the high levels of gender-based violence and discrimination. It has been instrumental in bringing the issue to the attention of the Mexican government and tracking the authorities' prevention and punishment record, particularly in relation to the murder of women. This has resulted in an increasing acknowledgement by the authorities that they have a responsibility to take action against all forms of gender-based violence. For example, in February 2007 the General Law on Women's Access to a Life Free From Violence was enacted (from here on referred to as the 2007 General Law). By February 2008, the Federal District and 17 states had approved similar legislation at state level.<sup>2</sup>

In recent years, the Mexican authorities at different levels of government have been active in raising public awareness about violence against women. There has also been some progress in establishing legislation and institutions, particularly to address the needs of victims of violence in the family. Indeed, in some cases, authorities have sought to explain patterns of

gender-based violence almost exclusively in terms of domestic violence. At times this appears to have been driven by an attempt to deflect attention from the state's responsibility to prevent and punish all forms of gender-based violence.<sup>3</sup> The report focuses on cases of violence against women in the family in order to show that even in this area where official attention has been clearest, victims continue to encounter major barriers in obtaining justice and ensuring their safety.

One of the underlying causes of the failure to address violence against women in the family is the widespread belief that it is a private matter which should be resolved within the family, rather than through state action. Violence against women in the family is a human rights violation. The state has an obligation to ensure that women's human rights are respected, which includes preventing and punishing domestic violence. The failure to recognize this responsibility at all levels of government remains a major obstacle to the development of effective policies to address violence in the family.<sup>4</sup>

Amnesty International believes that Mexico has made some important advances in recent years in defending women's right to freedom from violence. In particular, human rights standards have gradually been incorporated into national and many state laws. However, there remains an urgent need to bridge the gap between the law and its implementation and to evaluate the impact of measures in order to ensure that effective strategies are developed to address violence against women. This report ends with recommendations to the authorities at all levels on the measures which they should take to fulfil their obligations under international law and to ensure that the protections promised by the law are made a reality in practice for women and their families throughout Mexico.

## 2/LEGAL FRAMEWORK

### STATE RESPONSIBILITY

Human rights treaties require states to respect, protect and fulfil a wide range of rights that are essential for women and girls to lead a life free from violence and discrimination. These include: the right to life, liberty and security of the person; the right to be free from torture and from cruel, inhuman or degrading treatment or punishment; and the right to equal protection under the law.

Mexico is a state party to the UN Convention on the Elimination of All forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará"). This defines violence against women as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere" and requires states to "pursue all appropriate means and without delay, policies to prevent, punish and eradicate such violence".<sup>5</sup>

The UN Human Rights Committee, the Special Rapporteur on violence against women and the Special Rapporteur on torture have all highlighted "striking parallels"<sup>6</sup> between violence against women in the private sphere, particularly intimate partner violence, and torture and ill-treatment.<sup>7</sup>

### DUE DILIGENCE

International law obliges governments to use their power to protect and fulfil human rights.<sup>8</sup> This includes not only ensuring that their own officials comply with human rights standards, but also acting with "due diligence" to address abuses committed by private individuals (non-state actors).

The concept of due diligence describes the degree of effort which a state must undertake to implement rights in practice. States are required to make sure that the rights recognized under human rights law are made a reality in practice. In addition, if a right is violated, the state must restore the right violated as far as is possible and provide appropriate compensation. This must include the investigation and punishment of those responsible for violating these rights including, where relevant, state officials. The standard of due diligence is applied in order to assess whether they have carried out these obligations.

When states know, or ought to know, about violations of human rights and fail to take

appropriate steps to prevent them, they, as well as the perpetrators, bear responsibility. The principle of due diligence includes obligations to prevent human rights violations, investigate and punish them when they occur, and provide compensation and support services for victims.<sup>9</sup>

State responsibility to exercise due diligence does not in any way lessen the criminal responsibility of those who carry out acts of violence. However, the state also bears a responsibility if it fails to prevent or investigate and address the crime appropriately. In addition, when a state fails to act with sufficient diligence in responding to violence against women – by using the criminal justice system and providing reparation – this often violates women's right to equality before the law.

The UN Committee on the Elimination of Discrimination against Women (CEDAW) and the Convention of Belém do Pará have set out specific measures that must be introduced in order to meet the criteria of due diligence. These include:

- establishing a legal framework consistent with international standards to prevent and punish violence against women;
- putting in place effective and timely procedures to secure legal recourse, protection and reparations;
- ensuring women are not forced to seek unsafe medical procedures such as illegal abortion;
- promoting awareness of women's rights and protecting those rights;
- modifying the conduct of women and men to counter prejudice or gender stereotyping;
- carrying out appropriate specialist training for those responsible for the prevention, punishment and eradication of violence against women;
- establishing specialist support services and rehabilitation for women who have experienced violence, including sexual violence;
- gathering data to determine the effectiveness of these measures and the prevalence of violence.<sup>10</sup>

In addition, the 1998 UN Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice also specify measures that should be taken specifically in relation to criminal law, criminal procedures, policing, sentencing and correctional measures, victim support and assistance, health services, training, and research and evaluation.<sup>11</sup>

In 2007, the Inter American Commission on Human Rights (IACHR) published a report on violence against women in the Americas, concluding that women victims of violence were unable to fully exercise and enjoy their rights under the Convention of Belém do Pará and other international instruments for the protection of human rights. It noted that the next step

towards advancing the rights of women was to move beyond formal recognition to the creation of guarantees for real and effective implementation in practice.<sup>12</sup> The IACHR recognized that many governments, including Mexico, had made some progress particularly in relation to legal norms, but this had often not translated into effective access to justice and protection for women. The report called on governments in the region, among other things, to address widespread flaws and irregularities in investigations and prosecution of cases of violence against women and ineffective preventive and protection measures.

#### A FEDERAL COUNTRY WITH INTERNATIONAL OBLIGATIONS

Amnesty International has frequently documented the particular failure of many state-level authorities to prevent and punish human rights violations. Nevertheless, under international law the federal government is accountable for all human rights violations committed in its territory.

The failure of the federal government to ensure that state governments effectively meet the obligations of international human rights treaties, including those relating to the elimination of violence against women, remains one of the key obstacles to substantial advances in the protection of human rights.

In its most recent review CEDAW noted "with concern the lack of consistent harmonization of legislation and other regulations at the federal, State and municipal levels with the Convention, which results in the persistence of discriminatory laws in several States and obstructs the effective implementation of the Convention."<sup>13</sup>

#### LEGISLATION AND OTHER MEASURES

*"The Commission urges Governments to... take action to eliminate all forms of violence against women by means of a more systematic, comprehensive, multisectoral and sustained approach, adequately supported and facilitated by strong institutional mechanisms and financing, through national action plans, including those supported by international cooperation and, where appropriate, national development plans, including poverty eradication strategies and programme-based and sector-wide approaches."*

UN General Assembly Resolution 61/143, 2007<sup>14</sup>

Women's rights have become an increasingly important issue in Mexico. In recent years there have been welcome legal measures to reinforce the right to equality and non-discrimination and to make domestic violence a criminal offence.<sup>15</sup> For example, in 2006 the National Supreme Court ruled that marital rape was a criminal offence.<sup>16</sup> Such developments are particularly important at state level, where discriminatory articles in criminal and civil codes have undermined women's right to access justice.<sup>17</sup>

A range of policy initiatives have been introduced in recent years by federal and state governments to address violence against women. The measures include:

- legislation to make domestic or family violence a criminal offence;
- accompanying legislation on measures to address the needs of survivors;
- the establishment of a National Women's Institute and state women's institutes which have promoted initiatives on combating violence against women;



- legislation on gender equality and non-discrimination;
- the establishment of specialist units in local Public Prosecutor's Offices to receive complaints, provide medical and therapeutic assistance, lead investigations and give advice on domestic and sexual violence cases; and
- the introduction of the 2007 General Law and accompanying legislation.

Offences that relate to gender violence, such as murder, rape, sexual assault, abduction, threats, harassment, wounding and domestic violence are criminalized in law. In the vast majority of cases, these crimes are dealt with by state authorities under state-level criminal codes rather than by the federal authorities.<sup>18</sup> Despite a relatively strong legal framework in most states, Amnesty International found that state or municipal officials in a number of states often fail to treat victims of gender-based violence and their relatives in a manner consistent with Mexico's human rights commitments.

There have been an increasing number of women's shelters established in different states. Official bodies, including the National Women's Institute and women's institutes at state level, have coordinated a wide range of training and awareness programmes. However, lack of effective monitoring and evaluation means that the impact of many of these initiatives remains unclear.

In January 2008, the Special Prosecutor's Office for Violent Crimes against Women was replaced by the Special Prosecutor's Office for Violent Crimes against Women and People Trafficking (FEVIMTRA), under a new Special Prosecutor. The federal authorities have often been reluctant to take charge of failed or negligent investigations into human rights violations committed at state level. The FEVIMTRA was given more authority to directly investigate and prosecute crimes against women, including those committed in state jurisdictions. Many states have also established local special prosecutors for crimes of violence against women.

## 2006 SPECIAL FEDERAL COMMISSION

In 2006 the Federal Chamber of Deputies set up a special commission to try to catalogue the levels of violence against women throughout Mexico and the institutional measures adopted by each state government to combat it. The commission was successful in highlighting widespread patterns of violence against women, promoting legislative reform and public debate, and collating disparate information. However, it also exposed the failure of state authorities to gather reliable data, consistent with the standards set out in the Convention on the Elimination of Discrimination against Women and other human rights standards. As a result, the effectiveness of police, prosecutors and courts in dealing with cases of violence against women could not be fully evaluated.

The commission particularly focused on murders of women. According to the National Institute of Statistics, Geography and Information Technology (INEGI), in 2003, 9,322 people were murdered in Mexico; 1,205 of the victims were women.<sup>19</sup> The statistical evidence indicated that while men were almost seven times more likely to be murdered than women, this gap had narrowed since 1990 as the murder rate for men had tended to drop at a faster rate than that for women. This national data also showed that in 2003 and 2004, 34

per cent of women who were murdered were killed in the home; the comparable figure for men was 12.5 per cent.<sup>20</sup>

The commission's report highlighted that because the murder rate for women was lower than for men – as is the case throughout most of the world – many state governments had ignored or marginalized the murder of women and failed to address gender-based violence and discrimination. This lack of a gender perspective had prevented the development of effective measures to identify and end patterns of gender-based violence against women.

The commission requested information from state public prosecutors' offices and state courts on judicial proceedings and sentences in cases related to violence against women, including murders, wounding, threats and harassment. However, the information provided by state authorities was often very limited, indicating that there was no systematic attempt to gather or analyze this information at state level. As a result it is virtually impossible to assess the levels of impunity for gender-based violence against women.

### 2007 GENERAL LAW ON WOMEN'S ACCESS TO A LIFE FREE FROM VIOLENCE

One of the measures promoted by the special federal commission, following consultation with women's groups, was the General Law on Women's Access to a Life Free from Violence.<sup>21</sup> The General Law was intended to give greater effect to Mexico's international human rights commitments and establish mechanisms to address all patterns of violence against women. Shortly after the General Law was enacted in February 2007, the National System to Eradicate Violence against Women was introduced to coordinate policy measures across a wide range of federal institutions and state governments. The Commission on Equality and Gender in the present Congress has continued to press for adequate funding for this new legislation.

The 2007 General Law establishes the legal basis for the authorities to assume their responsibilities in relation to the different types and contexts of gender violence:

<b>Areas of action</b>	<b>Context of violence</b>	<b>Types of violence</b>
Prevention	Family	Physical
Attention	Community	Economic
Punishment	Workplace	Psychological
Eradication	School	Patrimony
Reparation	Institutional	Sexual

The 2007 General Law institutes a Gender Violence Alert which enables the federal government to intervene to take measures to end severe patterns of violence against women where necessary in any part of the country (Articles 21-23). It also defines the criteria for the government to ensure reparations to the victims in line with international standards (Article 26). It establishes the obligation on authorities to deploy protection measures for women and girls at risk and sets out the basic gender sensitive aims and actions of a National System to

Eradicate Violence against Women. The government's six-year National Development Plan commits the administration to combat violence against women via the application of the 2007 General Law in order to comply with international human rights commitments.<sup>22</sup>

As, the 2007 General Law does not clearly identify the responsibilities and lines of accountability of the many different ministries and agencies involved, in March 2008, President Calderón issued an executive decree regulating the implementation of the General Law. This identifies more clearly some of these responsibilities and the consequences of failing to carry them out. However, much will depend on the National Women's Institute, which is responsible for coordinating the implementation of the law and evaluating its impact.

The real test of the effectiveness of the new legislation in combating violence against women will be its impact at the state and municipal level. In the vast majority of cases, it is the 32 state governments that have the primary responsibility for ensuring that women who experience violence have access to justice, security and reparations. To become effective at this level, legislation in all 32 states needs to clearly identify responsibilities, lines of accountability and budgets.

In order to independently assess the implementation of new legislation and track the authorities' response to murders of women around the country, women's organizations have established a monitoring mechanism with civil society representatives from at least 17 different states, the Femicide Citizen's Monitoring Group (Observatorio Ciudadano del Femicidio).

By February 2008, 18 state governments had approved laws on women's access to a life free from violence. However, many of these new laws simply restate the General Law and fail to identify the specific responsibilities of state and municipal institutions and agents under the law, or to strengthen accountability to ensure the law is enforced and funded. At the time of writing, only the Federal District government had issued regulations to define these responsibilities or allocated resources to meet the cost of enforcement. The other 31 states remained without clear implementation mechanisms.

## 3/THE SCALE OF THE PROBLEM

"At first they were little problems. Then he began to hit me. On one occasion I had to go to hospital because of the beatings. It was a private hospital. I was kept hidden because my husband didn't want people to know about the bruises. I was there for a month till the bruises went. The doctor in the hospital didn't report the injuries. On various occasions I went to the social services. They said 'What are you thinking of doing, Señora?' They told me to take the summons letter to my husband, but I was afraid to even leave the house." Cecilia, Oaxaca, June 2006.

Amnesty International has researched and reported on violence in the family in a wide variety of countries around the world.<sup>23</sup> Amnesty International believes that all human beings are entitled to the full enjoyment of their human rights. A person's gender or marital or relationship status do not change their right to have his or her human rights respected, protected and fulfilled.

There are many different types of violence against women. However, in the context of violence against women in the family, some forms of violence are more common than others. Physical violence, because it leaves the most visible injuries, is the most easily recognized. Many women try to cover up the signs of violence, too ashamed to admit that this is happening to them, even when injuries are so severe that they are forced to seek medical help. Physical abuse is often combined with other forms of abuse and invariably causes psychological damage.

For most women who experience intimate partner violence, physical abuse and psychological abuse are closely linked. However, some women experience intense psychological violence but are not physically attacked. Although, less visible and sometimes more difficult to define, psychological abuse can and does have devastating consequences and has been identified in international law as a form of violence against women.<sup>24</sup> Many of the women interviewed by Amnesty International described the fear that paralyzed them and made them a prisoner of their abuser. They spoke of isolation and of being undermined, leaving them with deep feelings of inadequacy. Years of such treatment can be debilitating, causing profound psychological damage requiring professional help which is often difficult to access.

Domestic violence is one of the most insidious forms of violence against women. In public debates on the issue, the needs of the woman are sometimes put in opposition to the needs of the family. If protecting women, so the argument goes, means breaking up the family, then it is too high a price to pay. In this way the needs of the children are often used to justify inaction.

There have been many studies on how domestic violence affects children. All the evidence suggests that even when children are not the immediate targets of family violence, its consequences for their future development are severe and far-reaching. Witnessing violence has a negative psychological impact on children. There is also compelling evidence that domestic violence very frequently escalates to target others in the family – the children. This pattern is true both for physical and sexual violence in the home. Studies also show that some children exposed to violence in the home go on to become abusers themselves, perpetuating the vicious cycle down the generations.<sup>25</sup>

"The beatings began after six months of being married. My husband made me have sex in front of the children. Each time the violence became more and more ferocious. I got pregnant with my third child and my husband kept on taking it out on him. My family didn't give me any support. In the end I had to give the child to another woman. Even when the child left, the violence continued. I felt like committing suicide." Isabel suffered 13 years of abuse and violence, including marital rape. Her three children were victims of repeated beatings.<sup>26</sup>

24-year old Julia told Amnesty International how the violence had started when they were girl and boyfriend. Initially it was incidental violence, but this soon turned into insults and beatings and she was also forced to have sex. In the five-year relationship with her husband there was always physical, sexual and psychological violence. "On various occasions I was locked in the house for hours". In 2000 she miscarried after a severe beating.<sup>27</sup>

Violence in the family takes an enormous toll on women's health. Health problems linked to violence against women listed by the World Health Organization include gynaecological problems, injuries (cuts, fractures, broken bones) and increased risk of HIV infection.<sup>28</sup>

Several women told Amnesty International that they had suffered miscarriages as a result of physical abuse experienced during their pregnancies. Pregnancy generally does not end or even reduce domestic violence, but it can make the consequences even graver. The World Health Organization has noted the relationship between violence and low birth weight. "Although research is still emerging, findings of six different studies performed in the USA, Mexico, and Nicaragua suggest that violence during pregnancy can contribute to low birth weight, pre-term delivery, and to foetal growth retardation".<sup>29</sup>

The repercussions on families of violence against women can reach down through generations and disfigure the political and cultural life of communities. The cost of human pain and suffering is in many respects incalculable.<sup>30</sup> However, domestic violence also has serious economic and social consequences. Some of these are more easily quantifiable, loss of working days, loss of income and the cost of health care as demonstrated in the National Survey of Violence against Women published in 2004 in Mexico.<sup>31</sup> The longer term cost may be even greater. If women are unable to take an active role in their communities, their energy and creativity is denied to society as a whole. This is an incalculable loss.

Susana, a 24-year-old mother of two, told Amnesty International that the women's shelter in Hermosillo, Sonora, was the only institution that offered her protection from a partner who had subjected her to 10 years of physical and psychological violence. She described how she had been imprisoned in her own home for long periods and how her children had been abducted. Her physical injuries included broken bones in her hand, a

fractured nose and a dislocated collarbone. When she went to the hospital in July and September 2006 with severe bruising on her arms, legs and head, no one asked her how the injuries had happened or referred her case to the authorities for investigation. Susana made as many as 10 direct complaints to the local public prosecutor's office. She said that each time she was told that it was not a crime and they could do nothing. On the majority of occasions, the prosecutor failed to even take an official statement from her. Although Susana asked for protection, no restriction order was ever placed on her partner.

On 15 September 2006, Susana filed another complaint with the local public prosecutor's office. A case was opened and her husband charged. He was detained but released one day later on bail of 3,600 pesos (approximately US\$344). The Prosecutor's Office failed to inform her of his release and she only found out accidentally. Susana and her children remained in hiding with relatives until 25 September, when the Prosecutor's Office referred her to the women's shelter. At the time of the interview, the shelter was helping Susana to relocate to another state.

The 2006 National Survey on Family Relations in Mexico carried out by the INEGI, the National Women's Institute and the United Nations Fund for Women's Development found that 67 per cent of women had experienced some form of violence at home, at school, in the community or at work. The survey sample included 35,000 women over the age of 15 in 25 states.<sup>32</sup> The same survey found that 47 per cent of women in relationships had experienced some form of violence. In some states this figure was as high as 60 per cent.

The survey showed that violence by intimate partners or ex-intimate partners took a variety of forms: women surveyed who had experienced domestic violence reported emotional violence (84 per cent); economic violence (61 per cent); physical violence (45 per cent); and sexual violence (18 per cent).<sup>33</sup> The physical violence ranged from pushes and hair pulling (37 per cent), beatings (27 per cent), kicking (11 per cent), to attempted strangulation (5 per cent), knife attacks (2.7 per cent) and shootings (0.7 per cent). In relation to sexual violence, 17 per cent of women said they were compelled to have sexual relations when they did not want to, and 6.6 per cent said they were physically forced to have sexual relations.

The survey also found that 82 per cent of women who said they had experienced physical or sexual violence had not reported this to an official body, such as the police or prosecutor's office. The reasons women gave for not reporting violence varied. Some said that they felt it was not important enough to report officially (38 per cent). Others said they did not report in order to protect their children (23 per cent). Other reasons cited were shame (19 per cent), fear of reprisals (17 per cent), not wanting their families to find out (14 per cent), lack of trust in the authorities (8.4 per cent). In 2.4 per cent of cases women said that their families had persuaded them not to file a complaint.

Violence against women in the family is not restricted to intimate or ex-intimate partners. The survey also found that 15 per cent of married women or women living with a partner had been attacked emotionally, physically or economically in the previous 12 months by a member of their family or by their partners.

The 2006 survey indicates that violence against women in the family is not improving and may in fact be worsening. A narrower survey conducted in 2003 found that 44 per cent of women over 15 living with a partner had suffered some form of gender-based violence: 9 per

cent experienced physical violence, 8 per cent sexual violence and 35 per cent psychological violence.<sup>34</sup> A survey published in 2004 of women who used health services found that 1 in 5 women had suffered violence by their partner in the previous year, and 1 in 3 had suffered intimate partner violence during their life time.<sup>35</sup>

A number of nationwide surveys carried out since the 1990s have revealed with increasing detail the prevalence of gender-based violence against women. Many of the surveys have adopted gender-sensitive indicators in line with the Convention on the Elimination of Discrimination against Women. However, they have not generally addressed the issue of impunity for those responsible for violence against women or for the effectiveness of institutions charged with investigations and ensuring access to protection and justice.

The failure to promptly and thoroughly investigate all cases of violence against women denies justice to victims and relatives and may mean that deaths of women are not properly clarified. The failure to consistently carry out rigorous gender sensitive autopsies and follow all leads, including a background of domestic violence, may prevent unexplained deaths from being properly identified as murders and investigated appropriately.

On 14 February 2005, the body of 26-year-old Flor Noemí Rodríguez Trujillo was found by a major highway outside Cuernavaca, Morelos state. The official autopsy recorded her death as accidental without establishing the nature and causes of the injuries she had suffered. On 16 February, her mother, identified her body and removed it for burial. No further autopsy was undertaken.

Despite the absence of items known to have been in her possession on her last night alive when she was seen in the company of her boyfriend, and witness statements indicating he had physically ill-treated her on previous occasions, the authorities failed to conduct a full investigation. Only after her mother pressed for a wider enquiry was a homicide unit temporarily assigned to the case. It concluded there were a number of leads to pursue, including the boyfriend and an unidentified individual seen near the location where her body was discovered. Despite this, the authorities did not interview potentially important witnesses and the boyfriend was not directly questioned till five months later. By this time, he had sold his car, preventing the authorities from gathering forensic evidence. The mother was told there was nothing more that could be done, but that she should not speak to the media or human rights organizations as that would hinder the official enquiry. Nevertheless, the enquiry was shelved without further investigation and the authorities continue to consider Flor Noemí Rodríguez Trujillo's death as accidental.



Photo: Demonstration in Cuernavaca, Morelos State, to remember women victims of violence and demand justice, November 2006. Flor Noemí Rodríguez Trujillo's portrait is the bottom one on the left © Jorge Medina Palomino

## 4/OBSTACLES TO SAFETY AND JUSTICE

On 7 September 2005, as 28-year-old Juana Mota Batalla was being beaten by her husband, one of her four children ran to a neighbour's house in the municipality of Amacuzac, Morelos state, to ask for help. The neighbour phoned the police emergency line, but was reportedly told that it was "a couple's issue" and no officers ever arrived. When the neighbour then went to the house, Juana Mota Batalla and her husband were not there. Juana Mota Batalla never reappeared. The husband later claimed that they had argued and she had left home after she had told him she was about to run off with another man.

Juana Mota Batalla's family filed a missing person's report with the local public prosecutor's office in Puente de Ixtla and informed the authorities that the husband had previously been reported for assaulting her when they were living in Temixco in 2001. Despite this, the husband was not interviewed and no measures were apparently taken to establish Juana Mota Batalla's whereabouts.

On 12 September an unidentified body was found in the nearby countryside. On 18 September the family were shown photos of her body and told that, as a full autopsy would take more than a month, it would be better to bury her immediately. The case was passed to the unit in the public prosecutor's office dealing with "crimes of passion" rather than the murder unit. The family were reportedly told to present witnesses and the neighbour who had gone to help made a statement. On 26 September the husband was arrested and questioned. On 28 September the family visited the scene where her body had been found and discovered a blanket, hair and a bloody stick, which had apparently not been collected as evidence by officials. When the family informed the authorities, they were told that the official recovery of the body had taken place, so the family should just dispose of the evidence they had found.

The husband remains in custody pending the outcome of his trial for murder. Amnesty International is not aware of any investigation into the failure of police to respond to the emergency call or to gather forensic evidence appropriately.

Women who experience violence in the family and their relatives have to confront many practical difficulties in their struggle for assistance, protection and justice. This chapter draws on Amnesty International's interviews with women and sets the experiences they described in the context of specific recommendations made by the UN General Assembly's Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice (UN Model Strategies).<sup>36</sup>



## ATTITUDES TOWARDS VIOLENCE AGAINST WOMEN IN THE FAMILY

*"Provide for court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence and that ensure the fair processing of cases"*

UN Model Strategies, para 10(d)

International human rights bodies such as the Inter-American Commission on Human Rights (IACHR) have repeatedly noted that the discriminatory manner in which cases of violence against women are handled by officials has a direct impact on the state's capacity to gather evidence and prosecute those responsible.

*"Justice systems do not adequately protect women victims' dignity and privacy during the investigation process. These women end up being re-victimised by the lack of sensitivity to their plight, their sex and the seriousness of the facts alleged."*

*Access to Justice for Women Victims of Violence in the Americas, IACHR, January 2007<sup>37</sup>*

The IACHR has noted that while this discrimination may in part result from "cultural problems" of traditional patriarchal societies, the state has an obligation to address this discrimination diligently.<sup>38</sup>

However, despite changes and improvements in the law in Mexico, violence against women in the family is still considered by many to be a private issue for the family, not a human rights concern for which the state bears responsibility. This attitude appears to be shared by many officials working in the public security and justice sectors. As a result, state government officials continue to place the burden of responsibility for addressing this abuse on the family unit.<sup>39</sup>

In recent years there has been an expansion in Mexico in public awareness campaigns informing women of their right to report domestic violence and seek justice. There has also been increased training of many officials at different levels of government aimed at breaking down traditional resistance and integrating a gender perspective in their work in order to improve the way that cases are dealt with. These initiatives have been accompanied by increased reporting rates of violence against women in the family. However, systems for determining which education programmes are most effective have not been adequately developed.

## POLICE RESPONSE

*"Empower the police to respond promptly to incidents of violence against women"*

UN Model Strategies 8 (d)

Members of municipal law enforcement police often attend incidents of domestic violence in response to emergency calls made by victims, relatives or neighbours. Amnesty International was informed that police response to such calls has improved, particularly in major urban areas where training on domestic violence has been most intensive. Nevertheless, as many of the cases included in this report indicate, there remains a tendency by police to consider such cases as private issues even when serious levels of violence have occurred which would in any other context be considered a criminal offence. Amnesty International found that some police are often still reluctant to take action against offenders and may only address the

problem by taking the woman to a relative's house. In rural areas, there was also concern that police were sometimes on friendly terms with the offender and would therefore be less likely to take action.

Police often argue that women do not want police action and that they lack powers to enter a home to arrest a man who is assaulting his wife. They fear that if they do, they may be subject to legal action by the perpetrator for violating Article 16 of the Mexican Constitution on the right to privacy in the home. In 2007 a National Supreme Court ruling gave greater powers to police to enter private homes when a crime is being committed.<sup>40</sup>

When police detain someone committing an offence, they are legally bound to present the detainee "without delay" to the public prosecutor's office to be charged. However, this may result in several hours or more spent in local police holding cells. During this time, police may try to encourage a private solution to the problem. If the woman decides to press charges, the offender will be turned over to the judicial police of the state public prosecutor's office to face a criminal complaint and potential custody.

## COMPLAINTS PROCEDURES

*"Encourage and assist women subject to violence in lodging and following through on official complaints"*

UN Model Strategies, 10 (b)

"In June [2006] I went to the local public prosecutor's office after being beaten by my husband. There was another severely beaten lady there. The local prosecutor told the lady he couldn't help her and then he said to me 'I don't know what I am going to do with this lady as she has already been here several times'. In the end they said they wouldn't take my case either and sent me to the Special Prosecutor's Office in Oaxaca City. They gave me a medical examination but didn't take any photos of my injuries. I never had any psychological help. They didn't give my kids any time with the psychologist."

Rosa, Oaxaca, June 2006

Most of those responsible for violence against women are not held to account. As with all human rights violations, impunity is a powerful factor in perpetuating abuses. Violence in the family is a violation of human rights which is committed behind thousands of doors in apparently ordinary homes. The government and its officials have a responsibility to prevent and punish violations of human rights, including violations of women's right to a life free of violence.

For a criminal investigation of domestic violence to be initiated the victim must file a complaint with the local public prosecutor's office. Only if the victim is under 18 or has a disability can a complaint be initiated without a complaint by the victim.

In order to file a complaint, the survivor must provide a statement of what has happened and return to the public prosecutor's office to ratify the complaint. If she does not return to ratify the complaint, this is usually interpreted as the person's intention not to pursue the complaint and the case is closed.

According to the law, prosecutors and the judicial police, who work under the prosecutors' authority, are required to gather sufficient evidence to demonstrate that a particular criminal offence has occurred and to establish the probable responsibility of the accused. At this stage charges can be filed with a judge.

Since the 1990s, states have gradually developed specialist units attached to the local public prosecutor's office to document complaints of violence in the family and sexual violence and provide assistance to victims. For example, the Federal District established the Centre for Victims of Domestic Violence (*Centro Atención a Víctimas de Violencia Familiar*) to provide legal, psychological and social assistance to victims. In some states, like Sonora, these are not specialist gender units, but 10 centres for victims of crime in general. In Morelos there are 26 such general units and eight specialist units dealing with sexual or domestic violence against women. According to victims interviewed by Amnesty International, regional public prosecutors' offices are often reluctant to accept cases and recommend that the woman go to the specialist gender violence units. This can involve repeated long and expensive journeys when women report the case, return to ratify the complaint, and attend hearings.

Many survivors told Amnesty International of the reluctance they encountered in many officials to register their cases and initiate an investigation. Amnesty International was informed by representatives of the public prosecutor's offices in the states visited that there was no reluctance to investigate and prosecute cases of violence against women in the family and that women could file their complaint at any available representative of the local public prosecutor's office. Amnesty International made a written and oral request to the authorities in Oaxaca, Morelos and Sonora for data relating to investigations and prosecutions, but has not so far received a reply.

Women told Amnesty International about officials who had made it clear they viewed violence in the family as a private issue that couples should resolve themselves or who believed the women were exaggerating. Several women interviewed in Sonora and Oaxaca who had tried to report cases of physical violence to the public prosecutor's office said that they had been told their cases did not amount to criminal offences or that the Prosecutor simply could not take their complaint because they did not have the time and violence in the family was not a priority.

These responses deny women access to immediate protection measures and deter them from pursuing complaints. Over time, the failure of officials to record acts of violence against women also means that information is lost that is vital in determining the level of risk women face. This can undermine future prosecutions; in at least 12 states, the crime of domestic violence requires a woman to prove repeated acts of violence.

Many factors can combine to deter women from reporting violence in the family directly to the public prosecutor's office. Fear of reprisals from their abuser and entrenched social attitudes towards violence against women and women's role in the family can make women reluctant to report. However, an additional significant factor is that women fear they will not be listened to and taken seriously by state officials.

Many women, particularly those from communities which have been marginalized or that are living in poverty, fear that lodging a complaint can result in humiliation and unsustainable costs, rather than protection and an end to violence in the family. Lack of accessible specialist domestic violence units in rural areas and many towns means most women have no option but to file a complaint with the local unit of the public prosecutor's office in their own communities. This can be problematic if local officials lack specialist training, know the alleged aggressor, or dismiss the allegation as not serious and not a priority. As a result, although there has been an increase in the rate of reporting of domestic violence, the disincentives to filing such complaints remain strong.

## CONCILIATION

*"ensure that women subjected to violence receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered,"*

UN Model Strategies, 10 (c)

In October 2006, Teresa filed a complaint for physical assault against her brother with public prosecutor's office in the community of AlpuECA in Morelos, municipality of Xochitepec, Morelos state. The official received her complaint while holding a separate conversation on a telephone and concluded by telling her that it would be best if she and her brother could be reconciled. She was given a summons to deliver to her brother requiring him to attend a conciliation meeting. The brother subsequently went to the prosecutor and struck a verbal agreement with his sister. Teresa was told: "Don't file an official complaint. He's your brother. He is going to cause problems." The agreement was that the brother would cover the bill for the private doctor Teresa had seen for treatment of her injuries and the price of a new pair of glasses to replace the pair he had broken. No official medical report was taken of Teresa's injuries, nor was the case registered, despite the fact that the brother had attacked her on previous occasions.

Mexico's National System for Integral Family Development (Desarrollo Integral de la Familia, DIF) provides important support and assistance to many minors and adults at risk. Federal health and social assistance legislation establish the DIF at federal level as a decentralized institution responsible for promoting and providing social services.<sup>41</sup> Separate DIF institutions exist in the government apparatus of the 32 federal entities and in many of the 2,400 municipalities carrying out the same function at local level.

The DIF at state or municipal level is often the first point of contact for many women who have experienced violence in the family and who have decided to seek assistance. The primary objectives of the DIF are to promote the integrity of the family and protect the interests of children.<sup>42</sup> While these services should play a fundamental role in both preventing violence against women and helping them overcome its consequences, they should never replace or become an obstacle to women accessing adequate protection, effective investigations and justice.

In many Mexican states, laws to prevent and address violence in the family give the local DIF, and in some states the local public prosecutor's offices, authority to provide arbitration or conciliation services for the victim and the aggressor.<sup>43</sup> Amnesty International's research found that officials working at the both the public prosecutors offices and the social services institutions in the states visited often relied heavily on conciliation as a means of resolving cases. For example, in Chiapas, Amnesty International was informed by representatives of the

DIF that in only 10 per cent of cases where women reported violence in the family to DIF offices was the violence considered sufficiently grave for the case to be passed to the public prosecutor's office for a criminal investigation.<sup>44</sup> The remaining 90 per cent, where DIF officials concluded the victim's injuries were insufficiently serious or the victim was not determined to seek prosecution, were referred for conciliation within the DIF.

The methods and procedures employed by the DIF when handling family violence cases vary, but according to DIF officials interviewed by Amnesty International, a woman who makes a complaint will undergo a medical and psychological evaluation in order to assess the severity of the case and the steps to be followed.

Amnesty International was informed that there were no consistent, gender-specific procedures by which medical or social services staff should document the psychological and physical evidence of domestic violence. There were no specific protocols providing for female staff to carry out interviews, nor guidelines on maintaining confidentiality or conducting interviews to gather detailed information on the context and history of the violence. There were also no specific procedures for staff to follow on how to advise women on the choices available to them, including the possibility of filing a criminal complaint with the public prosecutor's office.

DIF representatives told Amnesty International that women were never forced to pursue conciliation, but that women themselves often preferred this option in order to maintain the relationship with their aggressor.

"The times I went to the DIF [National System for the Integral Development of the Family, Desarrollo Integral de la Familia], they told me they couldn't do anything as there were no marks on me. I never got a psychological evaluation. They just passed me straight to a social worker. They told me I couldn't get any support payments for me and my kids if I left my husband as I couldn't prove his financial solvency and they could only send a summons letter via me. I stopped going to the DIF because they wouldn't take any notice of me, despite the continuing violence."

Marta, Oaxaca, June 2006

Most women who spoke to Amnesty International said that they had to deliver the letter notifying their aggressor of the mediation meeting personally. Women's organizations reported that this practice was widespread and DIF officials and public prosecutor's offices stated that this was due to lack of resources to cover delivery costs. Many women do not deliver the letters for fear of retaliation. Women's rights organizations also reported that agreements were often not adequately monitored or evaluated, leaving victims isolated and dependent on the good faith of the aggressor.

Many of those cases that reach public prosecutors' office are often deemed not serious enough to merit a criminal investigation or prosecution. In some instances, prosecutors also initiate conciliation between the victim and perpetrator; this was reportedly common in Oaxaca. In all the states visited by Amnesty International, it was common practice for women to be forced to deliver summonses to their aggressors, whether these were issued by DIF or public prosecutors' offices.

Various studies have highlighted the dangers of referring domestic violence for resolution through conciliation rather than dealing with the crime through the judicial process. Conciliation presupposes that both parties to the negotiation are starting from a point of equality. However, this equality is almost never present between the victim of violence in the home and the abuser, so that conciliation becomes not merely a flawed approach, but a dangerous one for the victim. The IACHR has noted that in Latin America it has become clear that given the unequal power relationship between the victim and assailant, agreements reached in the framework of mediation compound the physical and emotional risks for women. The Commission has also noted that, as a rule, the assailant does not abide by the agreement which, in any case, does not address the causes and consequences of the violence. .<sup>45</sup>

The Special Rapporteur on Violence against women and the CEDAW Committee have both expressed concern about the use of conciliation by the authorities in order to avoid investigating and punishing violence against women in the family.<sup>46</sup>

Turning to conciliation mechanisms may be part of the steps that a victim of domestic violence takes to deal with and change her situation, but it can never substitute, diminish or rescind her right to access justice.

When the state prioritizes and promotes conciliation mechanisms as a response to domestic violence, there is a danger that these may be promoted and perceived as the only viable option available to women seeking help from family violence. Even where the authorities or the perpetrator do not exercise direct or indirect pressure on the victim to agree to engage in a conciliation process, victims of domestic violence may experience being put in the position of having to opt for or against conciliation. In such circumstances, women may opt for conciliation at the cost of their right to seek justice.

## MEDICAL EVIDENCE

*"Develop investigative techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence"*  
UN Model Strategies 8(b)

Whether or not a criminal investigation into a report of domestic violence takes place depends in large part on the medical evidence gathered by the public prosecutor's office.<sup>47</sup>

According to the criminal codes in force around the country, the severity of the offence depends on an assessment of the lasting impact of physical injuries. Cases where the injuries will heal within 15 days are considered minor offences. If injuries are semi-permanent or permanent, such as scarring, disability or loss of the use of limbs or faculties, legislation sets out a sliding scale of increasingly severe fines and prison terms.<sup>48</sup>

However, according to the women interviewed by Amnesty International who had received medical examinations, many medical professionals and particularly official medical examiners working with the local public prosecutors' offices, focus almost solely on physical evidence, such as bruising. As a result the majority of injuries are assessed as lasting 15 days or less and therefore the result of a minor offence, which is less likely to result in a

prosecution. While this categorization in the federal and state criminal codes is explicitly applicable to determining the severity of crimes of bodily harm, it is frequently used in domestic violence cases by prosecutors and medical examiners as a benchmark criterion to determine whether to register a case and open a preliminary investigation, or to discourage a victim from pursuing a complaint and recommend reconciliation.<sup>49</sup>

According to women survivors of violence in states such as Oaxaca, Sonora and Morelos, local prosecutors often rely on their own appraisal of physical injuries because medical examiners are often not available. Prosecutors tend to rely on clearly visible signs of injuries, often ignoring important issues such as psychological trauma sustained over many years. The psychological impact of violence against women in the family is such that victims may not necessarily come forward at a time when they are most visibly affected. The failure to take psychological trauma into account therefore effectively discriminates against women and often prevents all but the most glaring cases from continuing.

Even when survivors are examined by medical professionals, they may not have the expertise needed to conduct gender-sensitive medical evaluations of physical and psychological symptoms, such as those developed by the international community to document medical evidence of torture, including rape.<sup>50</sup> Prosecutors generally prefer to rely on strong physical evidence when building a case because an assessment of psychological injuries is generally considered to have less weight in court. The IACHR has observed "the majority of evidence-collection efforts related to acts of violence against women focus on physical and testimonial evidence, neglecting other types of evidence that can be crucial to establishing the facts, such as that of a scientific and psychological nature."<sup>51</sup>

#### OFFICIAL MEDICAL EXAMINERS

Most states have enacted laws that require victims of domestic violence to receive medical treatment. However, in order to ensure that the results of a medical examination carry legal weight as evidence in court, prosecutors require an official forensic medical examiner to carry out the examination. Medical examiners working in the forensic departments of public prosecutors' offices work on a wide range of forensic issues, but may not be specialists trained to treat and evaluate violence in the family or sexual violence. For example, a member of the forensic science unit in Morelos state informed Amnesty International in November 2006 that of 11 medical examiners in the state, none was expert in gender-based violence. In recent years, training of prosecutors, police and medical examiners to deal with cases of violence against women has increased, particularly in specialist domestic and sexual violence units.

#### HEALTH PROFESSIONALS

Health professionals in medical facilities around the country play an important role treating women who have been victims of violence and advising them of the options available to them. In 2000, Ministry of Health Directive 190 on procedures for dealing with cases of violence in the family was issued to all medical professionals working in the national health system.<sup>52</sup> This requires doctors to assess and register all patients they believe to be victims of domestic violence; to report their cases to the public prosecutor's office; and to advise the victim of their right to file a complaint. In cases where the victim is unable to file a complaint, or where doing so would put her at heightened risk, the doctor should contact the

prosecutor's office directly and request that an official medical examiner go to the health centre. The Directive also states that the patient should receive legal services, forensic medical services and social assistance.

This Directive requires medical professionals to treat domestic and sexual violence as a public health and legal issue. It also helps detect levels of violence against women in the family, including sexual violence.

Nevertheless, according to women's organizations and some victims interviewed by Amnesty International, some medical professionals are not following the Directive and do not inform women of their rights or register cases. As a result, data gathered does not necessarily reflect the true extent or nature of domestic violence and sexual violence cases treated by the medical profession. In addition, the Directive does not require private doctors to report incidents.

In 2005 a review of the Directive was initiated following a ruling by the IACHR that Mexico had violated the legal right to abortion of a young woman who had been raped.<sup>53</sup> However, at the time of writing the Ministry of Health had not issued a revised Directive.<sup>54</sup>

In 2000, 18-year-old Julia tried to report that her husband had physically assaulted her to a representative of the Sonora State Public Prosecutor's Office based in the hospital where she was being treated. The official reportedly told her that for him to do anything "you have to arrive like that" pointing at a person lying on a stretcher in the corridor. Julia reportedly had a miscarriage as a result of the assault. When she returned to the hospital she insisted on filing a complaint and the prosecutor finally allowed her to be examined by a forensic doctor from the public prosecutor's office.

Julia's husband was summonsed to make a statement, but no further action was reportedly taken against him. Julia told Amnesty International that she heard nothing more for a year and was then summonsed on several occasions in the same week to make a statement. Fearing that she might lose her job because she was taking time off work to attend, she officially pardoned her husband and the case was closed. In 2002 she started civil divorce proceedings on the grounds of domestic violence. However, when she tried to exercise her right to access the previous case file to prove domestic violence, this was refused. She said she was only able to get a copy after she bribed a local official.

Julia's husband continued to subject her to physical attacks until July 2004, when she filed two domestic violence complaints. On one occasion she rang the police who reportedly told her when they arrived, "this isn't for us. You have to put a complaint in with the public prosecutor's office". The police took her to her mother's house, but took no action against the husband. When she went to the public prosecutor's office she was sent onto the specialist domestic violence unit. When she was finally able to file the complaint, the official medical report indicated she had suffered a serious beating. Her husband was not prosecuted and she was not provided with protection. No protective measures were issued until some time later when a civil court issued a restraining order on the husband as part of divorce proceedings.



**'THEY TOLD ME TO BRING TWO WITNESSES'**

*"The primary responsibility for initiating prosecutions lies with prosecution authorities and does not rest with women subjected to violence"*

UN Model Strategies, 7(b)

In September 2006 the National Supreme Court ruled that for the civil courts to grant a divorce on the basis of domestic violence, the victim must specify the time, manner and place where violence took place.<sup>55</sup> This ruling reinforced the onus on the victim to prove they have been subjected to violence in the home. It has also reinforced the tendency of prosecutors to request that victims of domestic violence provide detailed evidence of violence when filing a criminal complaint. During its research Amnesty International found that women or family members filing a complaint of domestic violence were often required to produce two witnesses willing to testify to the offence.

Several survivors living in Oaxaca and Sonora states told Amnesty International that they had been informed prosecutors would not take an active interest in or even register a case unless they or their families produced two witnesses to corroborate their statement. This practice has no legal basis and in both states the authorities denied that prosecutors ever required complainants to produce two witnesses as a precondition for opening an investigation. However, both also argued that without such evidence it was difficult for a prosecutor to bring charges.

At the preliminary investigation stage, the aggressor is summonsed directly, or via the victim, to provide their statement. The medical report is appended to the case file and the victim provides the witnesses who present themselves in the prosecutor's office to make their statement. The reliance on these standard elements of proof and the frequent failure of police investigators to seek or gather corroborating evidence severely hinders the chances of a successful prosecution. The IACHR has noted that in the region a "persistent problem cited is the fact that the public prosecutors' offices solely rely on evidence like medical reports of physical injuries and the testimony of witnesses, without efficiently compiling evidence that can be used to prove and reconstruct the crime."<sup>56</sup>

It is often difficult for survivors to provide two corroborating witnesses. Most violence against women in the family occurs behind closed doors, this means that women are faced with asking their children to testify against their father; many women would rather withdraw their complaint or pardon the aggressor. In the absence of police guarantees for their protection, witnesses are also exposed to heightened risk of intimidation. Several survivors and witnesses of violence in the family told Amnesty International that potential witnesses had been threatened by the alleged aggressor and had moved away to avoid further harassment or involvement in the case. Delays by prosecutors in gathering evidence and in ensuring that witnesses can come forward without fear of reprisal are a serious hindrance to prosecutions.

Merícia Hernández López, a young teacher and mother of a six-month-old baby, disappeared from her home on the outskirts of Oaxaca City on 21 August 2005. Her sister, Adela Hernández, concerned at her disappearance, visited the home Merícia Hernández shared with her husband. He said she had left to do a teaching job, but did not know where or when she would return. Adela Hernández tried to file a complaint with the local public prosecutor's office, but was told not to worry as her sister would return home soon. On Adela Hernández'

insistence, an investigation was finally opened eight days after Mericia Hernández went missing. Adela Hernandez described to Amnesty International how it was left to her to approach neighbours for information and evidence. Some had reportedly witnessed incidents of violence against Mericia Hernández but were reluctant to come forward, fearing reprisals. Neither the police nor prosecutors interviewed these witnesses. Seven months after her disappearance forensic scientists examined Mericia Hernández's home, but found no evidence. Prosecutors told Adela Hernandez that there was nothing more they could do. Mericia Hernández's whereabouts remain unknown at the time of writing. Her family continues to struggle for an effective investigation into her disappearance.



Photo: Poster prepared by the family of Mericia Hernandez Lopez asking for help in finding her. The lack of effective investigation by the authorities means that families are often left to organize the search for their missing loved ones themselves. November 2006 © Amnesty International

### LEGAL ADVICE AND ACCESS TO CASE INFORMATION

*"Make available to women who have been subjected to violence information on rights and remedies and on how to obtain them, in addition to information about participating in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings"*

UN Model Strategies, para10(a)

Domestic violence legislation already provides for victims and family members to receive legal advice. As victims of a criminal offence they also have the right to access the case file and act as auxiliaries to the official investigation. However, witnesses and survivors told Amnesty International of frequent and repeated violations of these rights. Prosecutors often fail to provide copies of complaints or statements, allow access to case files, or provide basic updates on the progress of investigations. Victims or relatives said they were often told not to

worry as the investigation was progressing and to return sometime in the future. Several relatives of women who had been murdered as a result of violence in the family said they were told the case file was not available. One family interviewed by Amnesty International received no official documentation; the only document they had was one press cutting relating to their daughter's murder. These failures have a particularly grave impact on the poorest victims who cannot afford independent legal advice on their rights and often have little option but to defer to the authority of prosecutors and police.

## PROTECTION MEASURES

*"Measures can be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation"*

UN Model Strategies, para7(h)

Article 27 of the 2007 General Law states that protection orders "must be issued by the competent authority, immediately that they are made aware of acts that probably constitute offences or crimes implying violence against women." Most state legislations grant the local public prosecutor's office and civil court judges separate authority to issue protection orders on behalf of women at risk.

However, during Amnesty International's research in 2006 and 2007, women's organizations, victims and several local authorities recognized that protection or restraining orders were rarely used or enforced. Representatives of the State Public Prosecutor's Office argued that this was an issue for the courts and no action could be taken until a criminal offence had been proven, despite the fact that most state legislation recognizes the authority of the prosecutor to seek protection orders from civil or criminal courts. In Sonora, where existing legislation already provides for public prosecutors to issue protection orders, the State Attorney General informed Amnesty International delegates that such powers did not exist and that only judges could issue such orders.<sup>57</sup> Representatives of the Attorney General's Offices in Chiapas, Oaxaca and Morelos also acknowledged that protection orders were rarely sought or used and argued that, as there were no police resources available to enforce the measures, there was no value in issuing them.

On 27 October 2005, Lula Lecuana Figueroa Haro was killed by her husband in the Colonia Caridad, Hermosillo, Sonora state. She had first filed a complaint for domestic violence with the State Public Prosecutor's Office in 2002 and a medical examiner documented her injuries. After taking her two children to live with her parents for six months, she dropped the case and returned to the family home. Her husband reportedly threatened to file a civil case for desertion if she tried to leave again, threatened her mother, and moved the family to another neighbourhood. In the following three years, Lula Lecuana Figueroa filed three more complaints against her husband for assault.

In June 2005, her husband attempted to strangle her and beat her in the stomach. She filed a complaint and a medical examiner confirmed her injuries. Her husband was arrested, but immediately released on bail. Lula Lecuana Figueroa initiated divorce proceedings in the civil courts and a judge issued a restraining order preventing the husband from approaching her home. In July, when he violated the civil order, police went to the house but reportedly left without arresting him. Lula Lecuana Figueroa then reportedly agreed to conciliation with him.

In late October 2005, her mother went to the house, concerned at not hearing from her daughter for several days. The husband initially informed her that her daughter had hanged herself, although he later confessed to her murder and was put on trial. Lula Lecuana Figueroa's parents repeatedly sought access to the case file of the investigation into their daughter's murder, but this was refused by prosecutors. Amnesty International is not aware of any investigation into the failure to deal adequately with the previous complaints of domestic violence.

Almost all of those interviewed by Amnesty International said that the only protection orders they were aware of in the context of violence in the family were those issued by civil court judges. None was aware that prosecutors also had the powers to seek temporary protection orders or petition a criminal court for a restraining order.

This lack of awareness appears to extend to senior officials. For example, in Chiapas, senior members of the State Public Prosecutor's Office informed Amnesty International that protection or restraining orders were not an option.<sup>58</sup> They stated that all they could do was order the arrest of the aggressor, which was usually not worthwhile as either the complainant would immediately drop the case or the perpetrator would be released straight away on bail for what the courts considered a lesser offence not meriting preventive custody. The failure of many prosecutors and police officials to provide reliable information on protection orders seriously undermines women's right to safety.

Even in cases where civil court judges issue orders prohibiting the aggressor from approaching the victim or their home, specific, dedicated mechanisms run by police and social services to deal urgently with breaches of the order are largely lacking. The only option women have if the order is breached is to ring the police emergency number or complain to the court. Despite these severe limitations, several women stressed that the official restraining order was one of the few means of protection available to them.

## SHELTERS

*"Establish, fund, and coordinate a sustainable network of accessible facilities and services for emergency and temporary residential accommodation for women and their children who are at risk"*

UN Model Strategies, 11(a)

In recent years there has been an increase in the number of shelters for survivors. These play an important role in providing women and their children with temporary safety, medical and psychological treatment, legal advice, professional training and information on the options available to them in order to avoid returning to a violent situation. There are now 60 shelters throughout Mexico which are part of the National Network of Refuges. Thirty-six refuges are run by civil society organizations and the rest by state or municipal authorities. Some are the responsibility of the state or municipal DIF, while others fall under the authority of the local women's institute. Shelters offer a wide range of services and approaches. However, the National Network promotes standard procedures for addressing the needs of women and their families; they were in the process of being updated at the time of writing.

Neomi, a 20-year-old mother of two from Hermosillo, Sonora state, was subjected to two years of repeated and sustained violence at the hands of her husband. In May 2006, after her husband physically attacked her she

went to the public prosecutor's office to report the crime. She told Amnesty International that they refused to register the complaint and told her there were no places in the women's shelter and she should leave the city. They told her: "when you have one foot in the grave and the other still out, then come back here".

On 24 October 2006, Neomi was taken to hospital by ambulance after her husband beat her so badly he fractured her eye socket and left her vomiting blood. The local hospital reportedly only provided pain killers and discharged her. On 25 October she filed a new complaint with the local public prosecutor's office. She was able to make a statement and was examined by the medical examiner. She was not provided with a copy of her statement or medical certificate, but was referred to the local women's shelter. Her husband was summonsed, but initially refused to comply. When she later enquired about the case, she was told that he had been charged and was being prosecuted, but officials failed to provide any documentary evidence of this or keep her informed of judicial proceedings. When her eye failed to heal, the shelter took her to a private hospital where she was told she needed an operation to prevent permanent damage. At the time Amnesty International interviewed Neomi, the shelter was trying to raise funds for her operation and prepare for her transfer to a shelter in a different city.

In recent years, those working in shelters have reported increasing threats, attacks and reprisals by aggressors. In 2005, Lydia Cacho, a well-known journalist and women's rights activist running a shelter in Cancun, state of Quintana Roo, and staff at three other shelters around the country, were repeatedly threatened by known criminals and a former police officer in reprisal for providing shelter to their estranged wives.<sup>59</sup> Federal Police provided protection to Lydia Cacho, but no legal action was taken against the perpetrators on the grounds that death threats left on answering machines could not serve as evidence in legal proceedings.

## ACCOUNTABILITY

*"Ensure that applicable provisions of laws, codes and procedures related to violence against women are consistently enforced in such a way that all criminal acts of violence against women are recognised and responded to accordingly"*

UN Model Strategies para8(a)

Impunity for criminal offences and for officials who fail to carry out their duties in accordance with the law remains a key problem. In the case of violence against women, impunity appears to remain high, although the limited availability of reliable data prevents a more detailed analysis.

One of the barriers to improving official responses to reports of violence against women in the family has been the absence of effective means for victims and families to pursue complaints against the authorities. One of the most notorious failures to do this has been in Ciudad Juárez, where despite two National Human Rights Commission recommendations and a federal enquiry concluding that more than 177 officials may have been responsible for criminal or administrative acts of negligence in the scores of bungled murder investigations, virtually none has ever been held to account.

In many cases, women and relatives are not made aware of their rights and what they should expect from the authorities. This limits their ability to judge whether the authorities have acted appropriately or with sufficient diligence. If a victim or relative does seek redress, the

options available are assistance from a local NGO or a lawyer; filing a complaint with internal complaints units of the local police or public prosecutors' offices; or approaching the State Human Rights Commission.

Internal complaints units have the authority to institute disciplinary proceedings against an official. However, Amnesty International has documented in several reports the failure of many law enforcement agencies or prosecutors' offices to conduct impartial and effective investigations into allegations against colleagues.<sup>60</sup> This appears to be particularly true in relation to possibly negligent investigations into violence against women.

The National Human Rights Commission (Comisión Nacional de Derechos Humanos, CNDH) and the network of 32 State Human Rights Commissions (Comisiones Estatales de Derechos Humanos, CEDHs) are empowered to investigate official abuses of power and to call on the authorities to correct abuses. As Amnesty International has documented in previous reports, the record of the different human rights commissions in exercising these powers to advance the application of international human rights standards varies widely.

In relation to violence against women, the record of human rights commissions is also mixed. The CNDH issued two recommendations in relation to the failure of the state and federal authorities to prevent and punish violence against women in 1998 and 2003 in Ciudad Juárez, Chihuahua. However, these were the exception as the CNDH has rarely taken up the issue in other contexts. At state level, human rights commissions can also often appear reluctant to tackle the issue. For example, during the period between 1993 and 2005 the Chihuahua CEDH failed to issue a single recommendation in relation to the pattern of violence against women in the state. In 2006 and 2007, Amnesty International interviewed officials from CEDHs in Chiapas, Oaxaca, Sonora and Morelos. Although not all officials expressed the view that violence against women, particularly violence against women in the family, was not directly relevant to the work of their commission, most officials considered their function to be restricted to an educational or advice role.<sup>61</sup>

The weakness of accountability and oversight mechanisms means that there is often only limited pressure on police and prosecutors and other agencies to meet their legal obligations to ensure access to justice and safety for women victims of violence.

As the following case highlights, Amnesty International believes that the CEDHs could play a more effective role in improving women's right to safety and justice.

On 5 April 2002, 14-year-old María from the Indigenous community of Zacatpexco, near Tlapa de Comonfort, Guerrero state, was raped and left for dead. While recovering in hospital, she was unwilling to report the rape because of a lack of female experts to support her. However, with the support of a family adviser, she filed a complaint for rape on 16 May. The case was then passed to a woman prosecutor in the Specialist Sexual and Domestic Violence Unit.

María was initially informed that the perpetrator would be charged and arrested. However, some weeks later, the prosecutor visited her home with the lawyer of the accused in order to persuade her to drop her complaint. María said that the prosecutor told her that the medical evidence was unlikely to prove rape, so it would be better to come to a financial agreement with the perpetrator. When María's legal representative was given

access to the case file, she established that the official medical report had concluded that there was no evidence of rape and had failed to document the other extensive injuries that were still visible. The prosecutor had failed to visit the crime scene, seek the medical records at the hospital where María was first treated or investigate the case in any other way. In June 2002, the prosecutor closed the case without informing María.

In July 2002 a formal complaint was filed against the prosecutor and the medical examiner with the Guerrero State Human Rights Commission. This resulted in a recommendation to the Guerrero State Public Prosecutor's Office to carry out an investigation. This investigation was completed in November 2002 and found that the forensic medical examination had not been carried out correctly and that the prosecutor had failed to carry out basic responsibilities. An internal enquiry found the officials responsible of "irregularities in carrying out their duties", for which they were suspended for two months, though no further action was taken against them. María had to relocate to another region of Mexico to rebuild her life. No one has been brought to justice for raping her.

## RESTITUTION AND REPARATIONS

*"Ensure women subjected to violence receive, through formal and informal proceedings, prompt and fair redress for the harm that they have suffered, including the right to seek restitution or compensation from the offender or the State"*

UN Model Strategies, para10(c).

New legislation in Mexico establishes women's right to reparations as victims of violence, in line with international human rights standards. Nevertheless, the majority of survivors interviewed by Amnesty International had not received any reparations from the perpetrator or the state. In most cases, survivors focus their efforts on securing custody of children and support payments through civil divorce proceedings. If a woman cannot demonstrate the perpetrator's capacity to pay, she may not be able to secure any support.

In criminal cases, the public prosecutor is required to file for reparations as part of the claim against the perpetrator. However, the assessment of damages is based primarily on physical injuries recorded. These records are often inadequate and fail to take account of many years of abuse. In some instances, the state may make some discretionary payments or, as in the case of one woman interviewed, award a small incapacity pension when serious injury prevents a woman from earning a living. The state rarely provides compensation to women in other circumstances, arguing that it is only the perpetrator who is legally liable.

In 2002 the federal Constitution was reformed to recognize the responsibility of the State to provide compensation for damages to peoples' goods and rights resulting from "irregular administrative activity".<sup>62</sup> However, to prove this case, the internal administrative enquiry of the agency responsible must find in favour of the complainant against its own officials.<sup>63</sup> This limited advance at federal level has not been incorporated into the legal framework of many states. As a result, in the majority of cases it is not an effective legal recourse to seek redress from the state for its failure to act diligently in providing access to safety and justice.

Despite the failure of the authorities in many cases to act with due diligence to prevent, investigate and punish the cases of violence against women documented in this report, Amnesty International is not aware of any case where a woman has been offered reparations for the failure of the state to meet its own obligations.<sup>64</sup>

International human rights standards incorporate a number of elements into the obligation to provide full reparations for human rights violations. These include: adequate restitution, rehabilitation, compensation, satisfaction and the guarantee of non-repetition.

Article 26 of the 2007 General Law is a welcome advance in the legal standard. It specifically states that restitution for the murder of women should be consistent with international human rights law. According to the law, the following should be considered as restitution for injury: justice should be prompt, thorough and impartial; violations of women's rights should be investigated and those responsible brought to justice; rehabilitation for direct and indirect victims, should including provision of free and specialized legal, medical and psychological services; satisfaction should be in the form of measures to repair the damage or injury caused by preventing violations, including acknowledgement by the state of its responsibility for damage caused and its commitment to provide compensation; investigation and punishment of negligent officials whose actions resulted in human rights violations and impunity for abusers; the development and implementation of policies that prevent crimes against women; and the verification of facts and publication of the truth.<sup>65</sup>

On 31 August 2005, Marcela Blumenkron Romero's former husband broke into her home in Hermosillo, Sonora state, and stabbed her in the back leaving her paralyzed for four months and with serious long-term nerve damage and limited mobility.

The 49-year-old mother of three had divorced her former husband in 1993, but he had continued to harass and threaten her. On numerous occasions over the years, she had made emergency calls to police. However, when officers arrived she says they invariably told her there was nothing they could do. She told Amnesty International that she filed more than 10 complaints at the public prosecutor's office. On every occasion she was refused protection. Despite being divorced for 13 years, prosecutors advised her to resolve the issue directly with her former husband as it was an issue for couples.

Between June and August 2005 Marcela Blumenkron filed six complaints with the public prosecutor's office for sexual harassment, intimidation and death threats. On one occasion, she says she was told: "When you come with a bruise, we'll do something". When she asked why her former husband had not at least been interviewed, she was told they could not find him.

Two weeks before the attack, prosecutors ordered the former husband's arrest after Marcela Blumenkron refused to leave their office unless they took action. When he was taken into custody, Marcela Blumenkron says she saw the local police chief joking with her former husband and she was later told: "Don't be afraid, he's not going to do anything to you". He was released shortly after she left the office.

After the stabbing, the former husband was arrested and prosecuted for attempted murder; no charges were brought for years of threats and sexual harassment. He was sentenced to 10 years in prison and ordered to pay damages and Marcela Blumenkron's hospital bills. However, he was declared insolvent and she has not received any compensation from her ex-husband or the state. Marcela Blumenkron receives a small incapacity benefit. Her former husband has filed an appeal against the length of his sentence; this was pending before the courts at the time of writing.

Marcela Blumenkron told Amnesty International that she feared for her safety when he is released from prison as she believes he will try to kill her. The authorities have not yet made a commitment to ensure her protection once he is released.



## 5/CONCLUSIONS AND RECOMMENDATIONS

According to official studies, all forms of violence against women, including violence in the family, remain widespread in Mexico. The Mexican government has recognized the major challenge it faces in addressing this form of discrimination against women. It has made a commitment to implement the recommendations of various international human rights bodies and to meet its obligations under international human rights law regarding women's rights.

Legal and institutional steps have been introduced to improve the prevention and punishment of violence against women. These are gradually being adopted across the country, to a greater or lesser extent.

This report shows there is still insufficient understanding or acknowledgement by many senior officials, particularly at state level, that violence against women constitutes a serious human rights violation and that the state has a responsibility to take appropriate steps to prevent it. This is particularly true of violence against women by intimate partners, in the family or in the home, which is still often wrongfully portrayed as a private matter

Amnesty international found that this lack of understanding may in part explain, but is not the sole reason for, the fact that on many occasions the duty to protect survivors of violence in the family and their dependents is being underestimated or is given insufficient consideration. Failure to respond in an effective and timely manner frequently exposes women to greater danger. Discrimination against women is another underlying reason why complaints of violence against women frequently do not receive the attention required under both domestic and international law.

Amnesty International welcomes the 2007 General Law on Women's Access to Life free from Violence and accompanying legislation as a positive advance. It is now vital that this is backed up with political commitment, resources, training and accountability to ensure gender perspectives are effectively integrated into the policies and activities of key institutions.

The obstacles to justice and security identified in this report apply particularly to women who are victims of violence in the family. However, they are also relevant to other forms of gender-based violence, such as that which occurs in the community, in workplaces or in schools. The UN Model Procedures and the analysis of the Inter American Commission on Human Rights offer a road map for effective improvements in the performance of law enforcement and judicial institutions, particularly at state and municipal level.

Amnesty International found that state authorities often encourage conciliation processes between victims and offenders in place of criminal prosecutions, and as a result women and their dependents may be placed at greater risk. It is vital that there is full review of the use of conciliation processes to prioritize the safety of the woman and their dependents and ensure conciliation is not promoted as a substitute or replacement for judicial investigations. The organization also found that medical examinations often do not document adequately the physical and psychological evidence associated with violence against women in the home, undermining investigations and prosecutions. Improving access to high quality gender-sensitive medical examinations for women who have been victims of violence is crucial to ending impunity and increasing their protection.

Major reforms to the criminal justice system which are beginning to take place across the country offer important opportunities for strengthening measures to investigate and prosecute violence against women. However, steps need to be taken to ensure these reforms do not also encourage prosecutors to seek conciliation via alternative resolution mechanisms between victim and perpetrator in serious gender-based crimes of violence, including sexual violence.

Turning legal reforms into practical advances requires action from both federal and state governments to ensure that sufficient budgets are allocated to implement the new legislation protecting women's rights and that the reforms are diligently enforced. All authorities must take the lead in moving beyond broad statements of intent to practical measures to protect women's rights.

There is an urgent need to undertake a full and impartial evaluation of the effectiveness of the institutions involved. Such an evaluation requires the collection, analysis and publication of reliable data and is needed to form the basis of programmes to enhance reporting and prosecution rates as well as ensuring the protection of those at risk.

The challenge that faces all levels of government in Mexico is to ensure that new legislation and accompanying measures remove the barriers women face in accessing their rights in order to guarantee them safety, justice and reparations.

## RECOMMENDATIONS

Amnesty International calls on federal, state and municipal authorities to implement Amnesty International's 14-Point Programme for the Prevention of Domestic Violence in order to ensure women's safety, protection and autonomy, as well as their physical, mental and social wellbeing in the aftermath of suffering abuse.<sup>66</sup>

### **Condemn domestic violence**

State officials and political leaders at every level, national, district and local, should publicly and consistently condemn violence against women in the family, highlighting its gravity. They should acknowledge that domestic violence is a human rights violation, and therefore a public concern, not a private matter. Officials may not invoke customs, culture, traditions or religion to evade their responsibility to eliminate violence against women.

### **Raise public awareness of violence against women**

Widespread public awareness campaigns should be launched in schools, colleges, citizens' forums and workplaces to denounce violence against women, to remove the stigma from women targeted for violence, to encourage survivors to seek redress and to combat prevailing discriminatory social attitudes against women. All available media should be used, including the press, the internet, lectures and debates, and the campaigns should involve community leaders, municipal politicians, journalists and civil society. All information should be easily accessible and available in local languages.

### **Use the education system to challenge prejudice**

Educational materials should be developed and incorporated into curriculums at all levels of the education system, aimed at preventing violence against women and challenging ideas that regard such violence as acceptable. Teachers, lecturers and other education workers should be part of the effort to overcome prejudices and stereotypes that confine women and girls to subordinate roles and contribute to violence against women.

### **Abolish legislation that discriminates against women**

All laws, including criminal, civil, family, housing and land laws, should be reviewed to ensure that they comply with human rights principles. Any laws, regulations, or procedures that discriminate against women or that allow such discrimination to persist should be reformed, as well as any laws that facilitate or perpetuate violence against women. Legislation and regulations on women's access to a life free from violence should clearly identify responsibilities and penalties for officials who fail to carry out their duties with due diligence.

### **Ensure violence against women is treated as a criminal offence**

Ensure that all forms of violence against women in the family are treated in law and practice, as human rights violations and criminal offences, that such acts are investigated, prosecuted and punished in accordance with the gravity of the crime, and that victims receive appropriate reparations. No matter where in a country a woman lives, her complaint should be pursued with equal determination and thoroughness.

### **Investigate and prosecute complaints of violence against women in the family**

Ensure that appropriate authorities provide a safe and confidential environment for women to report violence against them in the home, that registration of all complaints of such violence is mandatory, and that all such complaints are promptly, impartially and effectively investigated. When there is sufficient admissible evidence, suspects should be prosecuted in

accordance with international standards for fair trial, while ensuring that sentences are commensurate with the gravity of the crime. If a case is dropped, the reasons should be made public.

**Remove obstacles to prosecutions for violence against women in the family violence**

Investigate why reporting, prosecution and conviction rates for violence against women in the family are so low, and tackle obstacles and shortcomings identified by these investigations. Implement 1998 UN Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice. Protocols should be developed and implemented on gathering and assessing evidence, including psychological examinations and autopsies, to ensure that all evidence of gender violence, including sexual violence, is adequately gathered, stored and analyzed.

A directive should be issued prohibiting officials from requesting that victims deliver a summons letter to their aggressor.

Procedures for conducting conciliation or mediation services should be reviewed nationwide to ensure that women are not placed in increased danger or pressured to pursue such proceeding in place of a criminal prosecution.

**Provide compulsory training on violence against women in the family for officials**

Fund and implement compulsory training programmes for officials – including police, lawyers, judges, forensic and medical personnel, social workers, immigration officials and teachers – to ensure a gender perspective is fully integrated into procedures for identifying cases of violence against women, ensuring the safety of survivors and collecting, safeguarding, evaluating and presenting evidence.

**Provide adequate funding**

Allocate adequate funding to programmes to address violence against women in all sectors including the criminal justice system, education, social services, health and housing, to ensure that assistance is equally available and of comparable quality throughout the country.

Federal, state and municipal authorities should ensure funding is sufficient to allow effective implementation of legislation protecting women from violence, and to provide necessary support and rehabilitation measures for survivors. Funding should also ensure evaluation of the impact and implementation of measures to guarantee women's access to justice and protection.

**Provide places of safety for women fleeing violence**

Fund and extend the coverage of sufficient temporary shelters for women, without compromising their privacy, personal autonomy and freedom of movement. Such places should support and assist women's physical and mental recovery, and help them to access suitable, safe housing in the longer term in accordance with best practices.

All states should develop effective emergency response measures to reports of violence against women and reports of women going missing.

**Provide support services and legal advice for women**

Fund and create services for women who have suffered domestic violence, in co-operation with civil society organizations as appropriate, so that they can access the criminal and civil justice systems, including free legal advice when necessary on divorce, child custody and inheritance. Ensure that they have access to adequately funded health-care and support

services, including counselling. Services should be culturally appropriate and provided in a language that is accessible to the women using them.

Finalize and implement the replacement to Directive 190 (NOM-190-SSA1-1999) on the provision of health services for cases of domestic violence. The replacement directive (NOM-046-SSA2-2005) should address all forms of violence against women, including sexual violence. It should incorporate a mandatory offer to provide voluntary, legal and free termination of a potential pregnancy for all victims of sexual violence.

#### **Reduce the risks of armed violence**

Remove all firearms from homes where incidents of domestic violence have been reported. Ensure that health and social workers include questions on the possession of guns in all demographic, health and social services surveys.

#### **Collect and publish data on violence against women**

Ensure that violence against women is fully reflected in official reports and statistics, that the collection of qualitative and quantitative data is standardized and disaggregated according to gender and other relevant factors, and that it is open to verification. Ensure that all relevant government departments collect and publish data and statistics on violence against women, that they share data, and that the data is used by policy makers in devising effective policies and programmes to address violence against women. Develop indicators to determine the effectiveness of key institutions at federal, state and municipal level, charged with the prevention, investigation and punishment of violence against women, particularly violence in the family.

#### **Let women know what they are entitled to**

Ensure that women experiencing violence have access to information about their rights and the services and support they are entitled to. In collaboration with civil society, a practical handbook for survivors and relatives should be designed and distributed, setting out their rights and how to ensure they are respected. The handbook should clearly detail the authorities' obligation to address violence against women, including civil and criminal remedies; the rights of the victim to receive protection; and information on how to file a complaint against those authorities that fail to meet these obligations. Police stations, health facilities and other state agencies should be required to publicize this information. All relevant agencies should be required to draw up, implement and monitor guidelines and procedures covering every stage of their response to cases of violence against women in the family, specifying what action is to be taken if these standards are not met.

Support the work of non-governmental human rights and women's rights organizations that provide assistance to women who are victims of violence and monitor the enforcement of new legislation to guarantee women's access to a life free from violence. Ensure that the recommendations of civil society to improve the enforcement of legal obligations are implemented.

## ENDNOTES

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<sup>1</sup> Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares, [http://www.e-mujeres.gob.mx/wb2/eMex/eMex\\_Encuesta\\_Nacional\\_sobre\\_la\\_dinamica\\_de\\_las\\_re](http://www.e-mujeres.gob.mx/wb2/eMex/eMex_Encuesta_Nacional_sobre_la_dinamica_de_las_re), visited 7 May 2008.

<sup>2</sup> Mexico is a federal republic composed of 31 states and the Federal District. There is a federal executive, legislature and judiciary. The Mexican Constitution sets out the relation between federal and state governments, which are "free and sovereign", each with its own constitution, executive, legislature and judiciary. Each state also has its own law enforcement police, judicial police and public prosecutor's office. State criminal codes establish proceedings and punishments for all offences that are not federal in nature. Federal offences are primarily international or inter-state crimes, particularly organized crime.

<sup>3</sup> The Federal Attorney General's Office concluded in its special investigation into the killing of women in Ciudad Juárez over more than a decade that there was not a pattern of gender violence, only a number of cases of domestic violence and other largely unrelated killings of women.

<sup>4</sup> When Amnesty International interviewed one of the former special federal prosecutor's investigating murders of women in Ciudad Juárez in August 2005, she stated that domestic violence could not be considered gender-based violence.

<sup>5</sup> Convention of Belém do Pará, Articles 1 and 7.

<sup>6</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, para 70, A/HRC/7/3, 15 January 2008.

<sup>7</sup> In 2000, the Human Rights Committee indicated that domestic violence can give rise to violations of the right not to be subjected to torture or ill-treatment under Article 7 of the International Covenant on Civil and Political Rights. In line with this statement, the Committee has mentioned the need for states to adopt specific legislation combating domestic violence, including legislation criminalizing marital rape. More specifically, it has called upon states to ensure that their justice systems incorporate restraining orders to protect women from violent family members, provide shelters and other support to victims, establish measures to encourage women to report domestic violence to the authorities, and offer "material and psychological relief to the victims".

The Committee against Torture has also referred to the prevalence of domestic violence, and the urgent need to protect women by adopting specific legislative and other measures. The Committee has stressed the need to take action in cases where a woman is reportedly being confined against her will by members of her family and the importance of ensuring that fair standards of proof are required. See the report of the Special Rapporteur on torture and other

cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3, 15 January 2008.

<sup>8</sup> See, for example, Article 2 of the International Covenant on Civil and Political Rights.

<sup>9</sup> See, for example, General Comment 31 of the Human Rights Committee, the expert committee that monitors states' implementation of the International Covenant on Civil and Political Rights. See also, Committee on the Elimination of Discrimination against Women, General Comment 19.

<sup>10</sup> Convention Belém do Pará Articles 7 and 8, Committee on the Elimination of Discrimination against Women, General Recommendation 19.

<sup>11</sup> United Nations General Assembly Resolution on Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women, UN Doc. A/RES/52/86, 2 February 1998, <http://www.un.org/Depts/dhl/resguide/r52.htm>

<sup>12</sup> *Access To Justice For Women Victims Of Violence In The Americas*, IACHR, Organization of American States, January 2007, paras 123-237 (OEA/Ser.LN/III., Doc. 68). <http://www.iachr.org/women/Access07/exesummary.htm>

<sup>13</sup> CEDAW/C/MEX/CO/6, 25 August 2006, para 8.

<sup>14</sup> UN General Assembly Resolution, Intensification of efforts to eliminate all forms of violence against women, GA Res 61/143, 30 January 2007, para 8. <http://daccessdds.un.org/doc/UNDOC/GEN/N06/503/01/PDF/N0650301.pdf?OpenElement>

<sup>15</sup> Federal law to Prevent and Eliminate Discrimination (11 July 2003); General Law on equality between men and women (3 August 2006). Legislative advances at state level include: 32 federal entities now have laws to deal with, prevent and punish domestic violence and civil or family codes which recognize domestic violence as grounds for divorce. Twenty-nine states have made domestic violence a criminal offence (those which have not are Campeche, Querétaro y Tlaxcala) and 18 federal entities have made marital rape a crime (the 14 which have not are Campeche, Colima, Guerrero, Jalisco, Estado de México, Michoacán, Morelos, Nayarit, Quintana Roo, Sinaloa, Sonora, Tabasco, Tlaxcala y Zacatecas). Twenty-six states have made sexual harassment a criminal offence (those which have not are Campeche, Guanajuato, Quintana Roo, San Luis Potosí, Tamaulipas y Tlaxcala). Source: Inmujeres: [http://estadistica.inmujeres.gob.mx/documentos\\_download/PRESENTACIONLEYINMUJERES.ppt](http://estadistica.inmujeres.gob.mx/documentos_download/PRESENTACIONLEYINMUJERES.ppt)

<sup>16</sup> *Semanario Judicial de la Federación y su Gaceta*, 9a. Época; 1a. Sala; XXIII, Enero de 2006; Pág. 659, SCJN. The previous jurisprudence considered it to be the undue exercise of a man's right (Tesis: 1a./J. 10/94).

<sup>17</sup> For example, in some states the crime of domestic violence has yet to be made a criminal offence and in others such as Queretaro, the seduction by deception of a minor who is a virgin

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and honest (estupro) remains a lesser offence where the perpetrator can avoid punishment by marrying the victim.

<sup>18</sup> Federal offences are usually only those considered to be connected to organized crime activities, or where there are inter-state or cross-border aspects or where the perpetrator is believed to be a federal agent.

<sup>19</sup> The overall murder rate was 8.85 murders per 100,000; 2.28 women per 100,000 and 15.48 men per 100,000. "Violencia feminicida en la Republica Mexicana"; Comisión Especial para conocer y dar seguimiento a las investigaciones relacionadas con los feminicidios en la republica mexicana y a la procuración de justicia vinculada; Congreso de la Unión, Cámara de Diputados, LIX legislatura.

<sup>20</sup> Hombres y Mujeres en México, 2007, P442, Instituto Nacional de Estadística, Geografía e Informática, [http://www.inegi.gob.mx/prod\\_serv/contenidos/espanol/bvinegi/productos/integracion/sociodemografico/mujereshombres/2007/MyH\\_2007\\_6.pdf](http://www.inegi.gob.mx/prod_serv/contenidos/espanol/bvinegi/productos/integracion/sociodemografico/mujereshombres/2007/MyH_2007_6.pdf)

<sup>21</sup> <http://info4.juridicas.unam.mx/ijure/tcfed/151.htm?s=>

<sup>22</sup> National Development Plan, Strategy 5.4, <http://pnd.calderon.presidencia.gob.mx/index.php?page=procuracionjusticia>

<sup>23</sup> *Spain: More than words -- Making protection and justice a reality for women who suffer gender-based violence in the home* (Index: EUR 41/005/2005); *Albania: Violence against Women in the Family: "It's not her shame"* (Index: EUR 11/002/2006); *Belarus: Domestic violence - more than a private scandal* (Index: EUR 49/014/2006); *Jamaica: Sexual violence against women and girls in Jamaica: "just a little sex"* (Index: AMR 38/002/2006); *Nigeria: A statement for the public hearing on the hearing on the domestic violence and related matters bill* (Index: AFR 44/010/2006); *Ukraine: Domestic Violence - Blaming the Victim* (Index: EUR 50/005/2006); *Hungary: Cries unheard – The failure to protect women from rape and sexual violence in the home* (Index: EUR 27/002/2007); and *Maze of injustice: the failure to protect Indigenous women from sexual violence in the USA* (Index: AMR 51/035/2007).

<sup>24</sup> The UN Declaration on Violence Against Women (Article 2) and the Belém do Pará Convention (Article 2) include psychological violence in their definition of violence against women.

<sup>25</sup> *In-depth study on all forms of violence against women*, Report of the Secretary-General, UN General Assembly, 6 July 2006, A/61/122/Add. 1, paras 167-70. <http://www.un.org/womenwatch/daw/vaw/violenceagainstwomenstudydoc.pdf>

<sup>26</sup> Amnesty International interview, Oaxaca, June 2006.

<sup>27</sup> Amnesty International interview, Sonora, November 2006.



- <sup>28</sup> *Researching Violence against Women* – WHO, PATH 2005 – [http://www.path.org/files/GBV\\_rvaw\\_complete.pdf](http://www.path.org/files/GBV_rvaw_complete.pdf), page 22. See also *Violence against Women*, WHO consultation, 1996, [http://whqlibdoc.who.int/hq/1996/FRH\\_WHD\\_96.27.pdf](http://whqlibdoc.who.int/hq/1996/FRH_WHD_96.27.pdf), visited 20 February 2008.
- <sup>29</sup> *Researching Violence against Women* – WHO, PATH 2005 – [http://www.path.org/files/GBV\\_rvaw\\_complete.pdf](http://www.path.org/files/GBV_rvaw_complete.pdf), page 22. See also *Violence against Women*, WHO consultation, 1996, [http://whqlibdoc.who.int/hq/1996/FRH\\_WHD\\_96.27.pdf](http://whqlibdoc.who.int/hq/1996/FRH_WHD_96.27.pdf), visited 20 February 2008.
- <sup>30</sup> *In-depth study on all forms of violence against women*, Report of the Secretary-General, UN General Assembly, 6 July 2006, A/61/122/Add. 1, paras 173-7, <http://daccessdds.un.org/doc/UNDOC/GEN/N06/419/74/PDF/N0641974.pdf?OpenElement>, visited 11 February 2008
- <sup>31</sup> National Survey on Family Relations 2003 (Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares 2003), Instituto de la Mujer, November 2004, p94. [http://cedoc.inmujeres.gob.mx/documentos\\_download/100776.pdf](http://cedoc.inmujeres.gob.mx/documentos_download/100776.pdf)
- <sup>32</sup> National Survey on Family Relations 2006 (Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares 2006), [http://www.e-mujeres.gob.mx/wb2/eMex/eMex\\_Encuesta\\_Nacional\\_sobre\\_la\\_dinamica\\_de\\_las\\_re](http://www.e-mujeres.gob.mx/wb2/eMex/eMex_Encuesta_Nacional_sobre_la_dinamica_de_las_re), visited 7 May 2008.
- <sup>33</sup> According to the survey, 83 per cent of perpetrators of domestic violence were men and 17 per cent were women.
- <sup>34</sup> National Survey on Family Relations 2003 (Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares 2003), Instituto de la Mujer, noviembre 2004, Page 50. [http://cedoc.inmujeres.gob.mx/documentos\\_download/100776.pdf](http://cedoc.inmujeres.gob.mx/documentos_download/100776.pdf)
- <sup>35</sup> National Survey of Violence Against Women (Encuesta Nacional sobre Violencia contra las Mujeres, ENVIM), Instituto Nacional de Salud Pública, Mexico City, 2003, p50, [http://www.mujerysalud.gob.mx/mys/doc\\_pdf/encuesta.pdf](http://www.mujerysalud.gob.mx/mys/doc_pdf/encuesta.pdf)
- <sup>36</sup> United Nations General Assembly Resolution on Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women, UN Doc. A/RES/52/86, 2 February 1998
- <sup>37</sup> IACHR, OEA/Ser. LV/II. Doc 68, 20 January 2007, para141.
- <sup>38</sup> IACHR, OEA/Ser. LV/II. Doc 68, 20 January 2007, para149.
- <sup>39</sup> On 19 February 2007, the Morelos State Attorney General reportedly told the local newspaper, *El Sol de Cuernavaca*, that “Prostitution and infidelity are the principle reasons for the murder of women” (“La prostitución y la infidelidad es la principal causa por la que se han realizado los asesinatos contra las mujeres”). He subsequently retracted the statement.

<sup>40</sup> The 7 February 2007 jurisprudence recognized the admissibility of evidence gathered by police, when acting without a search warrant, to enter a house to apprehend those in the process of committing a crime. 9a. Época; 1a. Sala; Semanario Judicial de la Federación y su Gaceta; XXVI, Agosto de 2007; Pág. 224.

<http://www2.scjn.gob.mx/ius2006/UnaTesisInkTmp.asp?nlus=171739&cPalPrm=&cFrPrm=>

<sup>41</sup> General Law on Health, Article 172, Social Assistance Law, Article 27.

<http://info4.juridicas.unam.mx/ijure/tcfed/22.htm?s=>

<sup>42</sup> National system for Integral Family Development, strategic objectives, website:

<http://dif.sip.gob.mx/dif/?contenido=16>

<sup>43</sup> For example, Law for prevention and assistance against interfamily violence in Morelos state, Article

23 <http://info4.juridicas.unam.mx/adproius/leg/18/461/default.htm?s=>

<sup>44</sup> Interview, Chiapas DIF, May 2006.

<sup>45</sup> *Access To Justice For Women Victims Of Violence In The Americas*, IACHR, Organization of American States, OEA/Ser. L/V/II. Doc 68, January 2007, para161.

<sup>46</sup> E/CN.4/2006/61, 20 January 2006, para53; CEDAW concluding observations, El Salvador. 20/03/2003 (Doc e la ONU: A/58/38) para257; *CEDAW concluding observations*, Colombia. (Doc de la ONU: CEDAW/C/COL/CO/6), para19.

<sup>47</sup> "Forensic medical examinations are not always helpful in establishing the facts because those who perform them are not trained in cases involving violence against women and the findings may simply be a physician's subjective interpretation". See, IACHR, OEA/Ser. L/V/II. Doc 68, 20 January 2007, para143.

<sup>48</sup> See, for example, Federal Criminal Code, Articles 288-293; Sonora Criminal Code, Article 243; Morelos Criminal Code, Article 121, Oaxaca Criminal Code, Article 271-277.

<sup>49</sup> Amnesty International has documented how this same categorization of injuries has been used by prosecutors to justify not pursuing allegations of torture, where the victim cannot provide evidence of serious lasting physical injuries. *Mexico: Laws without justice: Human rights violations and impunity in the public security and criminal justice system*, (Index: AMR 41/002/2007).

<sup>50</sup> *Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, known as the Istanbul Protocol. <http://www.unhchr.ch/pdf/Bistprot.pdf>

<sup>51</sup> *Access to Justice for Women Victims of Violence in the Americas*; IACHR, OEA/Ser. L/V/II. Doc 68, 20 January 2007, paras128 and 136.

<sup>52</sup> NORMA Oficial Mexicana NOM-190-SSA1-1999, Prestación de servicios de salud. Criterios para la atención médica de la violencia familiar. <http://www.salud.gob.mx/unidades/cdi/nom/190ssa19.html>

<sup>53</sup> Paulina; a minor, was raped and became pregnant. She was then denied her legal right to abortion. She subsequently won her case in the IACHR and the government agreed to take remedial measures. <http://www.cidh.org/annualrep/2007sp/Mexico161.02sp.htm>

<sup>54</sup> Steps to introduce the new Health Directive (NOM-046-SSA2-2005, Criteria for the medical Attention of family and sexual Violence and violence against women), began in 2005. However, it remained under discussion in government ministries at the time of writing.

<sup>55</sup> Novena Época; Primera Sala, Semanario Judicial de la Federación y su Gaceta XXV, Enero de 2007, Página: 173; Tesis: 1a./J. 69/2006; Jurisprudencia: Materia(s): Civil. <http://www2.scjn.gob.mx/ius2006/UnaTesisInkTmp.asp?nIus=173572&cPalPrm=DIVORCIO,&cFrPrm=%20>

<sup>56</sup> *Access to Justice for Women Victims of Violence in the Americas*; IACHR, OEA/Ser. LV/II. Doc 68, 20 January 2007, para146.

<sup>57</sup> Interview with Sonora State Attorney General, November 2006.

<sup>58</sup> Interview with Deputy State Attorney General, Chiapas, June 2006.

<sup>59</sup> See Urgent Action 37/05 (AMR 41/004/2005), 16 February 2005, and follow-ups.

<sup>60</sup> *Mexico: Laws without justice: Human rights violations and impunity in the public security and criminal justice system*, (Index: AMR 41/002/2007); *Mexico: Oaxaca – clamour for justice* (Index: AMR 41/031/2007); *Mexico: Violence against women and justice denied in Mexico State* (AI Index: AMR 41/028/2006); *Mexico: "How can a life be worth so little?" Unlawful killings and impunity in the city of Reynosa* (Index: AMR 41/27/2006); *Mexico: Allegations of abuse dismissed in Guadalajara: reluctance to investigate human rights violations perpetuates impunity* (Index: AMR 41/034/2004); *Mexico: Intolerable Killings: 10 years of abductions and murder of women in Ciudad Juárez and Chihuahua* (Index: AMR 41/026/2003); *Mexico: Unfair trials: Unsafe convictions* (Index: AMR 41/007/2003). Reports available on [www.amnesty.org](http://www.amnesty.org)

<sup>61</sup> The Sonora State Human Rights Commission is one of the few to have carried out an enquiry (in 2006) into the handling of official investigations in the murder of women, but did not find negligence.

<sup>62</sup> Political Constitution of the United States of Mexico, Article 113; <http://info4.juridicas.unam.mx/ijure/fed/9/114.htm?s=>

<sup>63</sup> Ley Federal de Responsabilidades de los Servidores Públicos, Article 77 bis, <http://www.diputados.gob.mx/LeyesBiblio/pdf/115.pdf>

<sup>64</sup> An exception to this is the case of Ciudad Juárez, where a special fund was created to assist victims and their families. However, this has not included official acknowledgement of the state's liability for failings.

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<sup>65</sup> Ley General del acceso de las mujeres a una vida libre de violencia, Article 26. "Ante la violencia feminicida, el Estado mexicano deberá resarcir el daño conforme a los parámetros establecidos en el Derecho Internacional de los Derechos Humanos y considerar como reparación: I. El derecho a la justicia pronta, expedita e imparcial: Se deben investigar las violaciones a los derechos de las mujeres y sancionar a los responsables; II. La rehabilitación: Se debe garantizar la prestación de servicios jurídicos, médicos y psicológicos especializados y gratuitos para la recuperación de las víctimas directas o indirectas; III. La satisfacción: Son las medidas que buscan una reparación orientada a la prevención de violaciones. Entre las medidas a adoptar se encuentran: a) La aceptación del Estado de su responsabilidad ante el daño causado y su compromiso de repararlo; b) La investigación y sanción de los actos de autoridades omisas o negligentes que llevaron la violación de los derechos humanos de las Víctimas a la impunidad; c) El diseño e instrumentación de políticas públicas que eviten la comisión de delitos contra las mujeres, y d) La verificación de los hechos y la publicidad de la verdad".

<sup>66</sup> <http://www.amnesty.org/en/library/info/ACT77/012/2006>



**Convention on the Elimination  
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**Committee on the Elimination of  
Discrimination against Women**  
Fifty-second session  
9 – 27 July 2012

**Concluding observations of the Committee on the  
Elimination of Discrimination against Women**

**Mexico**

1. The Committee considered the combined seventh and eighth periodic report of Mexico (CEDAW/C/MEX/7-8) at its 1051<sup>st</sup> and 1052<sup>nd</sup> meetings, on 17 July 2012 (see CEDAW/C/SR.1051 and 1052). The Committee's list of issues and questions is contained in CEDAW/C/MEX/Q/7-8 and the responses are contained in CEDAW/C/MEX/Q/7-8/Add.1.

**A. Introduction**

2. The Committee expresses its appreciation to the State party for its combined seventh and eighth periodic report. It expresses as well its appreciation to the State party for its written replies to the list of issues and questions raised by its pre-session working group. It welcomes the oral presentation of the delegation and the further clarifications provided in response to the questions posed orally by the Committee.

3. The Committee commends the State party for its large delegation, headed by Ms. María del Rocío García Gaytán, President of the National Women's Institute which included representatives from various Ministries, the National Supreme Court, the Office of the Federal Attorney General, the Federal Electoral Tribunal, the Federal Electoral Institute, the National Council to Prevent Discrimination, the National Commission for the Development of Indigenous Peoples as well as women parliamentarians. The Committee appreciates the constructive dialogue that took place between the delegation and the members of the Committee.

**B. Positive Aspects**

4. The Committee commends the Constitutional Reform on Human Rights (2011) which gives constitutional rank to the international human rights treaties ratified by the State Party, including the Convention and which enshrines the pro-personae principle;

5. The Committee takes note with appreciation of the amendments made to the Federal Code of Electoral Institutions and Procedures (COFIPE-2008) which introduced a gender

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quota system to register candidates in a proportion of 40-60. It welcomes the preliminary results of the federal elections (2012), indicating that 36.46% of the seats in the National Congress will be held by women.

6. The Committee takes note with appreciation of the progress of the State party's legislative and institutional framework to address violence against women at the Federal level, which includes, *inter alia*:

a) The adoption of the General Law on Women's Access to a Life Free of Violence (LGAMVLV-2007) and its regulations (2008);

b) The enactment of the new General Law on the Prevention, Punishment and Eradication of Crimes of Trafficking in Persons and the Protection and Assistance of Victims of such crimes (LGPSETP-2012) as well as of the Law for the Protection of Human Rights Defenders and Journalists (LPPDHYP-2012); and

c) The establishment of the National System to Prevent, Treat, Punish and Eradicate Violence against Women (SNPASEVM) to promote inter-institutional coordinated actions on violence against women.

7. The Committee notes with appreciation the adoption of the Mexican Regulation on Employment Equality (NMX-R-025-SCFI-2009), a non-binding instrument which certifies public, social and private organizations that include a gender perspective in their employment practices.

8. The Committee also welcomes the ratification by the State party of the following international human rights treaties since the consideration of the last State party report in August 2006:

a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2007;

b) The Second Optional Protocol to the International Covenant on Civil and Political Rights in 2007; and

c) The International Convention for the Protection of All Persons from Enforced Disappearance in 2008.

### **C. Principal areas of concern and recommendations**

9. **The Committee recalls the obligation of the State party to systematically and continuously implement all the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on the actions taken and results achieved in its next periodic report. The Committee calls upon the State party to submit the present concluding observations to all relevant ministries, to the National Congress and to the judiciary, so as to ensure their full implementation.**

#### **National Congress and local Congresses**

10. **While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of Government and invites the State party to encourage its National Congress as well as the Congresses of its states, in line with their procedures and where appropriate, to take the necessary steps with regard to the implementation of**

the present concluding observations between now and the next reporting process under the Convention.

#### **General context and gender-based violence**

11. The Committee is concerned that the high levels of insecurity and violence in the State party are not limited to the fight against organized crime and therefore are negatively impacting the population in the enjoyment of their human rights, particularly women and girls. It is deeply concerned that the public security strategy to combat organized crime combined with persistent impunity and corruption have contributed to the intensification of already existing patterns of widespread discrimination and violence against women in the State party, rooted in patriarchal attitudes, and to the minimization and invisibility of this phenomenon. The Committee is concerned that women and girls have been subjected to increasing levels and different types of gender-based violence, such as domestic violence, forced disappearances, torture and murders, especially feminicide, by state actors, including law enforcement officials and the security forces, as well as by non-state actors such as organized crime groups.

12. **The Committee urges the State party to:**

a) **Revise its public security strategy to combat organized crime to accord it with its international human rights obligations, including the Convention and to end the high levels of insecurity and violence in the country, affecting women and girls disproportionately;**

b) **Reverse the strategy's negative impact on women and girls and comply with its due diligence obligations to prevent violence against women, including domestic violence, forced disappearances, torture and murders, especially feminicide; investigate, prosecute and punish state and non-state perpetrators, and provide redress to women who have been victims of violence regardless of the context and of the alleged perpetrators;**

c) **Provide systematic training on human rights, in particular on women's rights, to all law enforcement officials, the military and the navy forces involved in operations in the context of the public security strategy and establish and enforce a strict code of conduct so as to effectively guarantee the respect of human rights; and**

d) **Take all necessary measures to establish a standard system for the regular collection of statistical data on violence against women, disaggregated by type of violence and the circumstances in which the violence was committed, including information on perpetrators and victim and their relationship.**

#### **Harmonization of legislation and repeal of discriminatory laws**

13. The Committee notes the State party's federal legislative advances such as the Constitutional Reform on Human Rights (2011). However, it is concerned that the different levels of authority and competences within the State party's federal structure result in a differentiated application of the law depending on whether or not appropriate harmonization of the relevant legislation has been conducted at the state level, such as with respect to the principle of non-discrimination and equality between men and women. The Committee notes with concern that this situation results in discriminatory provisions against women or to different definitions and sanctions related to, *inter alia*, rape, abortion, forced disappearances, trafficking, injuries and homicide for reasons of so-called honour, as well as on adultery across the 32 states of the State party. It is further concerned about the lack of consistent harmonization of the State party's legislation for example, civil, penal and procedural laws at the federal and state level, with the General Act and/or local laws on women's access to a life free of violence and with the Convention. It is concerned about the lack of effective mechanisms to implement and monitor the laws on women's access to a

life free of violence and relevant legislation and regulations related to women's access to health care services and education. The Committee is also concerned about the effects of the reform of the Criminal Justice System (2008) and its progressive implementation on the situation of women before the judicial authorities as well as about the lack of official data on the number of prosecutions, convictions and sentences inflicted against perpetrators of violence against women.

14. **The Committee urges the federal authorities of the State party to:**

a) **Take the necessary measures to ensure, particularly through effective coordination, the coherent and consistent harmonization of the relevant legislation at all levels with the Constitutional Reform on Human Rights (2011) and on the Criminal Justice System (2008);**

b) **Take the necessary actions to eliminate the inconsistencies in the legal frameworks amongst the federal, state and municipal levels, including by integrating in relevant state and municipal legislation the principle of non-discrimination and equality between men and women and by repealing discriminatory provisions against women, in line with article 2(g) of the Convention and by providing consistent definitions and sanctions, related to, *inter alia*, rape, abortion, forced disappearances, trafficking, injuries and homicide for reasons of so-called honour, as well as on adultery;**

c) **Accelerate its efforts to consistently harmonize, *inter alia*, its civil, penal and procedural legislation with the General Act and/or Local laws on women's access to a life free of violence and with the Convention;**

d) **Establish effective mechanisms at the federal and state level to monitor the implementation of the women's access to a life free of violence laws, and legislation related to women's access to health care services and education; and**

e) **Put in place mechanisms to monitor and sanction law officials, including the judiciary who discriminate against women and who refuse to apply legislation protecting women's rights.**

**Violence against Women and Femicide**

15. The Committee notes with concern that key provisions of the General Act on Women's Access to a Life Free of Violence (LGAMVLV-2007) have not yet been implemented. It notes that the State party has put in place a national machinery to address violence against women, however it is concerned that the capacity and resources allocated to the national machinery have not been adequately strengthened to ensure effective coordination amongst the different bodies which compose it, such as between the National System to Prevent, Treat, Punish and Eradicate Violence against Women (SNPASEVCM) and the National Commission to Prevent and Eradicate Violence against Women (CONAVIM). It also notes with concern the deferrals in the implementation of the protection mechanisms provided in the LGAMVLV-2007 for women victims of violence, in particular the slow progress at the states level in integrating protection orders in their legislation and implementing them. It further notes with concern the procedural inefficiencies which prevent the activation of the Gender Alert Mechanism.

16. **The Committee calls upon the State party to:**

a) **Prioritize the full implementation of the General Act on Women's Access to a Life Free of Violence (LGAMVLV-2007) including by executing entirely the National Programme to Prevent, Treat, Punish and Eradicate Violence against Women and by activating the National Data and Information Bank on Cases of Violence against Women with the participation of all the 32 federal states;**



b) **Revise the existing national machinery to address violence against women with the view to simplify processes and enhance coordination amongst its members and strengthen its capacity, at the federal, state and municipal levels by providing it with sufficient human, technical and financial resources, to increase its effectiveness in executing its overall mandate to prevent, treat, punish and eliminate violence against women;**

c) **Expedite the implementation of protection orders at the state level, ensure that the relevant authorities are aware about the importance of issuing protection orders for women at risk and take the necessary measures to maintain the duration of the protection orders until the victim of violence is no longer at risk; and**

d) **Urgently address the obstacles which limit the activation of the Gender Alert Mechanism.**

17. The Committee takes note that article 21 of the LGAMVLV-2007 defines femicide as the extreme form of gender violence against women, product of the violation of their human rights, in both public and private, formed by the misogynistic set of behaviors that can lead to social and state impunity and may culminate in murder or other forms of violent death of women. However, it is concerned about deficiencies and different definitions of the crime of femicide in the local penal codes. It expresses its deep concern about the high and increasing numbers of femicides committed in several states, such as Chiapas, Guanajuato, Jalisco, Nuevo León, Oaxaca, Puebla, State of Mexico, Veracruz and Quintana Roo as well as in Mexico City and Ciudad Juárez. It is further concerned about inaccuracies in the procedures to record and document killings of women, which undermine the proper investigation of cases, prevent the families of the victims of being promptly notified, and preclude a fuller and more reliable assessment of femicide;

18. The Committee is further concerned about:

a) The increasing number of forced disappearances of women and girls in various states, such as Chihuahua, Nuevo León and Veracruz, that forced disappearances do not constitute a crime in several local penal codes, the lack of a consistent official registry of disappearances and the slow activation or not at all of the existing protocols of search, such as the Alba Protocol and the Amber Alert by the authorities;

b) The prevalence of sexual violence, including rape and the exposure of women and girls to vulnerability and risk in regions where the army and/or the law enforcement officials are conducting operations against organized crime;

c) The low numbers of cases of violence against women that are reported before the authorities because women are fearful of retaliation measures and do not trust the authorities; and the lack of standardised protocols for investigating and prosecuting cases of violence against women, which hamper the right of victims to access to justice and leave a high proportion of cases unpunished as pointed out by the Inter-American Court of Human Rights in the "*Campo Algodonero*" case; and

d) The persistent impunity with respect to the investigation, prosecution and punishment of perpetrators of acts of violence against women across the country, such as those committed by public authorities in 2006 in San Salvador Atenco.

19. **The Committee recommends that the State party:**

a) **Take the necessary steps to ensure that the codification of femicide is based on objective elements which allow its proper qualification in the local penal codes; to accelerate its codification in those pending local penal codes; standardize the police investigation protocols for femicide across the country and inform without delay the families of the victims;**

- b) **Develop a consistent official registry of forced disappearances in order to be able to assess the magnitude of the phenomenon and adopt appropriate policies; review local penal codes in order to define forced disappearances as a crime; simplify the existing procedures to activate the Alba Protocol and the Amber Alert with a view to launch the search of disappeared women and girls without delay, standardize police protocols of search;**
- c) **Undertake actions to encourage the reporting of cases of violence against women, such as rape, and ensure that appropriate and harmonized procedures exist for investigating, prosecuting and punishing perpetrators of violence against women;**
- d) **Ensure women's access to justice, including by enhancing the capacity of the Women's Justice Centres and making these centres accessible to women and girls victims of violence;**
- e) **Take measures to improve support services for women and girls victims of violence, including by guaranteeing their access to established care centres and shelters; and also by ensuring that education professionals, health-care providers and social workers are fully familiar with the Mexican Official Standard NOM-046-SSA2-2005 for the prevention of violence against women and treatment of victims, and are sensitized to all forms of violence against women and are fully capable of assisting and supporting victims of violence;**
- f) **Continue implementing the recommendations and decisions on violence against women made by various international and regional human rights mechanisms, including the decision of the "Campo Algodonero" case issued by the Inter-American Court of Human Rights; and**
- g) **Expedite the arrest of alleged perpetrators relating to violence against women offenses and provide information about the prosecution and punishment of perpetrators in its next periodic report, including those related to the Atenco case.**

#### **Trafficking in persons**

20. The Committee expresses its concern about information received which indicates a connection between the increased numbers of disappearances of women, in particular girls throughout the country and the phenomenon of trafficking in persons. It is concerned that victims of trafficking are being subjected not only to sexual and labour exploitation, but are also forced to serve, *inter alia*, as mules and sexual slaves. It reiterates its concern at the lack of uniformity in criminalizing trafficking at the state level. It notes with concern that the Office of the Special Prosecutor for Crimes of Violence against Women and Trafficking in Persons (FEVIMTRA) does not have the mandate to follow up on complaints of trafficking in persons when the offence is committed by organized criminal groups. It is further concerned that the State party does not have a system in place to record disaggregated data on the incidence of trafficking and has failed to fully address internal trafficking.

21. **The Committee recommends that the State party:**

- a) **Ensure the effective implementation of the new General Law on the Prevention, Punishment and Eradication of Crimes in Trafficking and the Protection and Assistance of Victims with the view to standardize the criminalization of trafficking in persons at the federal and state level and ensure adequate allocation of resources for its implementation;**
- b) **Elaborate a diagnosis of the phenomenon of trafficking in women and girls, including its scope, causes, consequences and purposes, as well as its possible links with the disappearances of women and girls and the emerging forms of exploitation;**

c) Systematically compile disaggregated data and analysis on trafficking in women with a view to formulating a comprehensive strategy that includes measures of prevention, prosecution and punishment of offenders, as well as improved measures to rehabilitate victims; and

d) Conduct nationwide awareness-raising campaigns on the risks and consequences of trafficking targeted at women and girls, and train law enforcement, migration and border police officials on the causes, consequences and incidence of trafficking in women and girls and different forms of exploitation.

#### **Participation in political and public life**

22. The Committee notes that the State party has made substantial progress to ensure women's equal participation with men in political life at the federal level. However, it is concerned at gaps in the federal and state electoral legal frameworks which may lead to the non-compliance of the gender quota system to register candidates in a proportion of 40-60 and that this quota system has not yet been incorporated in all the states' electoral legislation. It is further concerned at the low number of indigenous women participating in the political life of the State party.

23. **The Committee recommends that the State party:**

a) **Ensure that political parties are complying with the federal and state electoral legal frameworks, including by amending or repealing discriminatory provisions against women, such as paragraph 2 of article 219 of the Federal Code of Electoral Institutions and Procedure (COFIPE) and by establishing sanctions in cases of non-compliance with the gender quota;**

b) **Eliminate the obstacles which prevent women from participating in the political life of their communities, in particular indigenous women, including by conducting awareness raising campaigns aiming at increasing the participation of women in political life, at the state and municipal levels; and**

c) **Ensure that the political parties comply with their obligation to allocate 2% of the public funding received to the promotion of women's political leadership, especially of indigenous women at the municipal level.**

#### **Human rights defenders and journalists**

24. The Committee expresses its deep concern about the risks women human rights defenders and journalists face in the exercise of their professional activities in the State party and at the fact that a number of them had to leave their domicile to seek a place where their life and security would not be threatened. It is concerned at information indicating that they are subjected to different manifestations of violence, such as threats and defamation campaigns, sexual abuse, harassment and femicide. It is further concerned at the delays in the response of the relevant authorities to guarantee the human rights of women human rights defenders and journalists, in particular, freedom of expression, life, liberty and integrity of the person as well as access to justice. The Committee is also concerned at information alleging that most of the cases involving violence against women human rights defenders and journalists have been committed by state agents, and that there have been no efforts to prevent, investigate, prosecute and punish perpetrators.

25. **The Committee urges the State party to:**

a) **Ensure the prompt implementation of the Law for the Protection of Human Rights Defenders and Journalists (LPPDHyp-2012) at the federal and state level, in order to guarantee the life, liberty and integrity of the person of women human rights defenders and journalists and ensure that they are not subjected to any manifestation of violence;**

b) **Prioritize the establishment of the Protection Mechanism for Human Rights Defenders and Journalists provided for in the LPPDHyp-2012 and ensure that it includes a gender approach; and**

c) **Take concrete, adequate and effective measures to prevent, investigate, prosecute and punish attacks and other forms of abuse perpetrated against women human rights defenders and journalists as well as take effective measures to combat impunity.**

#### **Education**

26. While taking note of the programme PROMAJOVEN, which provides basic education grants to pregnant teenagers and young mothers, the Committee is concerned that pregnant teenage girls are stigmatized and forced to drop out from school. It regrets that the contents of the curricula on sexual and reproductive health and rights have been reduced. It is also concerned about the disparities in illiteracy rates between women living in urban areas (5.3%) and women living in rural areas (18.2%). It is concerned at the feminization of certain fields of education, such as teaching and the low participation of girls in technical vocational education, which ultimately results in sex segregation of the labour market and in low-paid jobs for women. It is further concerned that violence against women and girls in schools continues to be a problem with no clear mechanisms for preventing, punishing or eradicating sexual abuse and harassment and other forms of violence in schools.

27. **The Committee recommends that the State party:**

a) **Enhance the visibility of the PROMAJOVEN programme and ensure that the contents of the curricula on sexual and reproductive health and rights are updated and based on scientific evidence, in conformity with international standards, and introduce a comprehensive, age-appropriate programme on sexual and reproductive health and rights for both girls and boys as a regular part of the curriculum at the basic and secondary levels of the education system;**

b) **Take all appropriate measures, to reduce the gap in the illiteracy rates between women in urban and rural areas;**

c) **Continue its efforts to encourage young women to choose non-traditional fields of study and professions; and**

d) **Institute measures to prevent, punish and eradicate all forms of violence against women and girls in public educational institutions.**

#### **Employment**

28. The Committee is concerned at the persistent discriminatory practices against women in the field of employment, such as the requirement of pregnancy tests to obtain or maintain employment, the practice of subjecting pregnant women to difficult or hazardous working conditions in order to force them to resign from their jobs and that further the reform of the Federal Labour Act has been pending for several years. It is also concerned at reports indicating that 3 out of 10 women reported having experienced violence in the workplace, including sexual harassment and abuse. The Committee is also concerned about the considerable pay differentials between men and women and that 56.6% of the female working population is engaged in the informal labour sector and hence without access to social security benefits. It is further concerned at the unequal working conditions of domestic workers; 99% of whom are women and that they experience discrimination with respect to wages, working hours and benefits.

29. **The Committee reiterates its previous recommendation to the State party to bring its labour legislation in full compliance with article 11 of the Convention and to**

expedite the adoption of the Federal Labour Act which has been pending for years. It calls upon the State party to:

- a) Take measures to ensure equal opportunities for women and men in the labour market, including through the use of temporary special measures, with time-bound targets, in accordance with article 4, paragraph 1, of the convention and the Committee's General Recommendation No. 25 (2004) and by providing the general labour inspectorate directorate with the necessary and effective human and financial resources to monitor and sanction discriminatory practices against women in the field of employment, such as in the maquiladora industry;
- b) Ensure the effective implementation of the protocol on intervention in cases of sexual harassment within the public administration and envisage similar measures to prevent sexual harassment in the private sector;
- c) Take measures that enhance the situation of women in the informal sector, monitor their impact and ensure the continuation of the *Seguro Popular* programme which aims at providing health services to these women;
- d) Revise the legal social protection framework to formulate a comprehensive policy that ensures domestic workers equal access to equal remuneration and treatment for work of equal value, including benefits as well as equal access to social security and safety in working conditions; and
- e) Ratify ILO Conventions No. 156 on Workers with Family Responsibilities Convention and No. 189 on Decent work for domestic workers.

#### Health

30. The Committee notes that the State party has been implementing the campaign "*Un condón es más confiable que el destino*", which promotes condom use in order to prevent teenage pregnancies and sexually transmitted diseases. However, it is concerned at reports indicating that adolescents have limited access to quality sexual and reproductive health and education information and that the levels of teenage pregnancies have been increasing in the country. Although it notes the establishment of the Observatory of Maternal Mortality, it is concerned, however, that the current maternal mortality rate, 53.5 deaths per 100,000 live births (2010) is far from the proposed MDG target for 2015 of 22.2 deaths per 100,000 live births, which means that as has been acknowledged by the State party, the target will not be accomplished.

31. **The Committee recommends that the State party:**

- a) Ensure universal access to health care services and to information and education on sexual and reproductive health and rights, particularly to adolescent girls with the aim to prevent unwanted and teenage pregnancies;
- b) Enhance and continue its awareness raising campaign "*Un condón es más confiable que el destino*"; and
- c) Strengthen, with the guidance of the Observatory of Maternal Mortality, its efforts to decrease the maternal mortality rate including by adopting a comprehensive safe motherhood strategy which prioritizes access to quality antenatal, post-natal and obstetric services and by establishing monitoring and accountability mechanisms.

32. The Committee notes that abortion is decriminalized in Mexico City and that in the rest of the country, abortion is legal in cases of rape. It also notes inconsistencies with respect to other legal grounds for abortion in the legal frameworks of the 32 states. It is concerned that women's enjoyment of their sexual and reproductive health and rights, including access to legal abortion have been jeopardized as a result of the amendments in

local constitutions which protect life from the moment of conception, even though these amendments have not modified the already established legal grounds for abortion. It is further concerned at cases of women who have been denied access to legal abortion even when they fulfil the restrictive legal criteria; that they have been reported to the judicial authorities by medical care providers and social workers and consequently, deprived of their liberty and sentenced to long prison terms on grounds of infanticide or murder.

33. **The Committee urges the State party to:**

a) **Harmonize the federal and state legislations related to abortion to eliminate the obstacles faced by women seeking legal abortion and also to extend access to legal abortion, in light of the Constitutional Human Rights Reform and the Committee's General Recommendation No. 24 (1999);**

b) **Inform medical care providers and social workers that the local constitutional amendments have not repealed the grounds for legal abortion and also inform them of their responsibilities; and**

c) **Ensure that in all states, women whose case fall under any of the legal grounds for abortion have access to safe health care services, and ensure the proper implementation of the Mexican Official Standard NOM-046-SSA2-2005, particularly access of women victims of rape to emergency contraception, abortion and treatment of sexually transmitted diseases and HIV/AIDS.**

#### **Indigenous rural women**

34. The Committee notes that the Convention has been translated into ten indigenous languages. It notes as well the creation of Indigenous Women's Centres (CAMI) whose objectives are the prevention and treatment of violence and the promotion of sexual and reproductive health and rights for indigenous women. However, it remains concerned at the high levels of poverty, illiteracy and multiple forms of discrimination against indigenous rural women, in particular in Chiapas, Guerrero and Oaxaca. It is also concerned about harmful cultural practices within the indigenous legal systems which are based on gender stereotyped roles for men and women, such as "bride price" and which perpetuate discrimination against indigenous women and girls. It is further concerned at the lack of indigenous rural women's access to land, property and justice. It is also concerned at information indicating that the State party's public security policy against organized crime has negatively impacted indigenous rural women, who have since been subjected to higher levels of violence, including femicide by security forces.

35. **The Committee reiterates its previous recommendations and calls upon the State party to:**

a) **Ensure that all policies and programmes aiming at the eradication of poverty include a gender perspective and an intercultural approach with the view to eliminating discrimination against indigenous rural women;**

b) **Adopt temporary special measures to address the disparities that indigenous rural women face with regard to access to land and property, as well as basic social services, including education and health, and participation in decision-making processes;**

c) **Put in place a comprehensive strategy aiming at the elimination of harmful practices which discriminate against indigenous rural women including by conducting awareness-raising campaigns targeting indigenous communities in collaboration with civil society and women's organizations, to enhance a positive and non-stereotypical portrayal of women;**

d) Take all necessary measures to ensure the effective implementation of the relevant legislation to prevent violence against indigenous women, investigate, prosecute and punish perpetrators of violence against indigenous women, and ensure effective and prompt access to justice to victims, including redress mechanisms; and

e) Adopt appropriate measures to ensure that the army and law enforcement officials who are in or near indigenous peoples communities respect the human rights of indigenous women.

#### **Family and marriage relations**

36. The Committee is concerned that while the Civil Code provides that under the optional community property regime, property obtained during the time of the marriage is considered joint property to be divided equally upon divorce, this is limited only to tangible property (movables and immovables), but does not encompass intangible assets including work-related benefits (such as pensions and insurance benefits), nor does it adequately redress economic disparities between spouses resulting from the existing sex segregation of the labour market and women's greater share in unpaid work, as evidence from the 2009 National Time Use Survey (ENUT). The Committee is further concerned that the General Act on Responsible Paternity as well as the proposal to create a National Public Registry of Defaulting Alimony Debtors are still pending.

37. **The Committee recommends that the State party:**

a) Take the necessary legislative measures to recognize both tangible and intangible property, such as pension and insurance benefits, as part of the joint property to be divided upon divorce;

b) Establish adequate redress mechanisms for economic disparities between spouses resulting from sex segregation of the labour market and women's greater share in unpaid work; and

c) Accelerate the adoption of the General Act on Responsible Paternity as well as the creation of the National Public Registry of Defaulting Alimony.

#### **Beijing Declaration and Platform for Action**

38. The Committee urges the State party, in the implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention and requests the State party to include information thereon in its next periodic report.

#### **Millennium Development Goals**

39. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.

#### **Dissemination**

40. The Committee requests the wide dissemination in Mexico of the present concluding observations in order to make the people, government officials, politicians, parliamentarians, women's and human rights organizations and gender scholars, aware of the steps that have been taken to ensure formal and substantive equality of women, as well as the further steps that are required in that regard. The Committee

recommends that its concluding observations should also be disseminated at the local community level. The State party is encouraged to organize a series of meetings to discuss progress achieved in the implementation of these observations. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme "Women 2000: gender equality, development and peace for the twenty-first century".

**Follow-up to concluding observations**

41. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 19(b) and 33(a, b) above.

**Preparation of next report**

42. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next report, and to consult a variety of women's and human rights organizations during that phase.

43. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its eighth periodic report in July 2016.

44. The Committee invites the State party to follow the "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents" (HRI/MC/2006/3 and Corr.1), approved at the fifth inter-committee meeting of the human rights treaty bodies, in June 2006. The treaty-specific reporting guidelines adopted by the Committee at its fortieth session, in January 2008, must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together, they constitute the harmonized guidelines on reporting under the Convention on the Elimination of All Forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages, while the updated common core document should not exceed 80 pages.



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### Press releases

12 July 2012

#### Mexico fails to tackle increased levels of violence against women

The Mexican authorities have failed to protect women from increasing levels of violence and discrimination or to ensure those responsible face justice, said Amnesty International in a report handed to a UN body due to examine the state of women's rights in Mexico. Region Americas  
Country Mexico  
Media Centre

On 17 July, the UN Committee on the Elimination of Discrimination against Women will evaluate Mexico's compliance with the Convention for the Elimination of Discrimination against Women. The UN body will publish their conclusions and recommendations after the session finishes on 27 July. "The state of women's rights in Mexico is alarming," said Rupert Knox, Researcher on Mexico at Amnesty International. "In recent years we have witnessed not only an increase in killings of women but a continuing routine lack of effective investigations and justice."

"In the past years, Mexico has approved a number of laws and institutions designed to protect women from discrimination and violence. Much of the problem, however, lies in the lack of effective implementation of these laws and the weakness of the institutions," said Rupert Knox.

Amnesty International's submission details some of the areas in which the Mexican state is failing women's rights, including: gender discrimination, threats and attacks against women activists, violence suffered by women migrants, failure to fully comply with Inter American Court of Human Rights judgments on the rape of two indigenous women in Guerrero state and the Cotton Field abduction and killing of young women in Ciudad Juarez as well as identifying obstacles to effective access to sexual and reproductive health.

According to a report published by UNIFEM and local human rights organizations, at least 34,000 women were murdered in Mexico between 1985 and 2009 -- 2,418 in 2010 alone.

In the state of Chihuahua, where there was a sharp increase of murders, in 2010 one of every 11 victims was a woman -- up from one in every 14 in 2008. In Ciudad Juarez, 320 women were murdered in 2010. The number of killings fell back slightly in 2011. In the first six months of 2012 there were more than 130 killings of women in the state of Chihuahua.

In 2009 alone, public prosecutor's office round the country received 14,829 reports of rape -- an alarming number considering that most women do not report these crimes. Only 2,795 convictions were achieved in the courts. Most cases are not effectively investigated and insufficient measures are taken to protect the survivors.

The case of San Salvador Atenco is emblematic. More than 26 women were sexually assaulted by police when detained during demonstrations in 2006. The denial of access to justice by both state and federal authorities in spite of enquiries and recommendations by the National Human Rights Commission and the National Supreme Court has forced 9 of the women to take their case to the Inter American Commission of Human Rights.

Amnesty International's submission also details the increased level of threats and attacks against women human rights activists who worked to ensure justice for their murdered relatives.

"The Mexican authorities, led by both the actual and new government to take office in December, must move to implement commitments to protect women's rights to end abuses and impunity," said Rupert Knox.

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# General Assembly

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## Human Rights Council

Twentieth session

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo<sup>\*</sup>**

#### *Summary*

This thematic report addresses the topic of gender-related killings of women. Rather than a new form of violence, gender-related killings are the extreme manifestation of existing forms of violence against women. Such killings are not isolated incidents that arise suddenly and unexpectedly, but represent the ultimate act of violence which is experienced in a continuum of violence. Women subjected to continuous violence and living under conditions of gender-based discrimination and threat are always on “death row, always in fear of execution”.

Globally, the prevalence of different manifestations of gender-related killings is reaching alarming proportions. Culturally and socially embedded, these manifestations continue to be accepted, tolerated or justified—with impunity as the norm. States’ responsibility to act with due diligence in the promotion and protection of women’s rights is largely lacking as regards the killing of women.

<sup>\*</sup> The footnotes are reproduced as received, in the language of submission only.  
<sup>\*\*</sup> Late submission.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1	3
II. Activities .....	2–13	3
A. Country visits.....	2–3	3
B. Communications and press releases.....	4–5	3
C. General Assembly and Commission on the Status of Women.....	6–9	3
D. Other activities .....	10–13	4
III. Gender-related killings of women.....	14–81	4
A. Conceptual evolution of terms .....	20–28	6
B. Global trends and manifestations.....	29–81	8
IV. International and national developments.....	82–102	20
A. International human rights law and jurisprudence .....	82–93	20
B. Some national practices .....	94–102	24
V. Conclusions and recommendations .....	103–116	26

## **I. Introduction**

1. The present report, submitted pursuant to Human Rights Council resolution 16/7, is the third thematic report submitted to the Council by the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, since her appointment in June 2009. Chapter II summarizes the Special Rapporteur's activities since her previous report to the Council up until 20 March 2012. Chapters III to V address the topic of gender-related killings of women.

## **II. Activities**

### **A. Country visits**

2. During the period under review, the Special Rapporteur requested invitations to visit Bosnia and Herzegovina, Croatia, India and Venezuela (Bolivarian Republic of). Earlier requests for country visits were also reiterated to the Governments of Bangladesh, Nepal, Turkmenistan, Uzbekistan and Zimbabwe.

3. The Special Rapporteur visited Jordan, from 11 to 24 November 2011 (see A/HRC/20/16/Add.1); Italy, from 15 to 26 January 2012 (A/HRC/20/16/Add.2); and Somalia, from 9 to 16 December 2011 (A/HRC/20/16/Add.3). In addition, she visited Solomon Islands, from 12 to 16 March 2012, and Papua New Guinea, from 18 to 26 March 2012. The Special Rapporteur would like to thank these Governments for having responded positively to her requests for a visit and urges the Governments that have not yet done so to provide a favourable response.

### **B. Communications and press releases**

4. The communications sent to Governments during the reporting period (see the joint communications report, A/HRC/20/30) concerned a wide array of issues that reflect a pattern of inequality and discrimination relating to violence against women, its causes and consequences. These included: arbitrary detention; torture or cruel, inhuman or degrading treatment or punishment; summary and extrajudicial executions; sexual violence, including rape, sexual abuse and sexual exploitation; and other forms of violence grounded in discrimination against women.

5. The Special Rapporteur issued numerous press statements, either individually or jointly with other mandate holders.

### **C. General Assembly and Commission on the Status of Women**

6. In October 2011, the Special Rapporteur presented her first written report to the General Assembly (A/66/215). It contained an overview of the mandate's work and main findings, and the challenges that continue to be identified.

7. In the report, the Special Rapporteur described how the mandate has analysed violence against women in four main spheres: violence in the family; violence in the community; violence that is perpetrated or condoned by the State; and violence that occurs in the transnational sphere. She then analysed States' obligations, under international human rights law, to prevent and respond to all acts of violence against women.

8. The Special Rapporteur argued that States' efforts to comply with their due diligence obligation must address the structural causes that lead to violence against women. In doing so, States should consider the multiple forms of violence suffered by women and the different types of discrimination they encounter, in order to adopt multifaceted strategies to effectively prevent and combat this violence. She concluded the report by presenting a proposal for a holistic approach to understanding and addressing discrimination and violence against women.

9. On 29 February 2012, the Special Rapporteur submitted a written statement to the Commission on the Status of Women, in which she highlighted the need to ensure the social, cultural, and economic participation and empowerment of rural women.

#### **D. Other activities**

10. The Special Rapporteur participated in consultations, held in Brussels in June 2011, with European civil society organizations, including representatives of European observatories on violence against women.

11. On 12 October 2011, the Special Rapporteur convened an expert group meeting in New York to inform her thematic report on gender-related killings of women. The meeting brought together 25 experts from academia, civil society organizations and United Nations agencies and bodies with technical and practical expertise on and experience in working on violence against women.

12. On 18 July, 2011, the Special Rapporteur participated in a general discussion on the protection of women's human rights in conflict and post-conflict which was organized in New York by the Committee on the Elimination of Discrimination against Women. The Special Rapporteur also held a bilateral meeting with the Committee with a view to strengthening partnerships between the two mandates.

13. The Special Rapporteur also participated as main speaker in numerous international conferences including, among others, the South Asian conference entitled "Reclaiming Space—from Victimhood to Agency: State and Civil Society Responses to Violence against Women", held in Pakistan in September 2011; the Women Building Peace conference, held in Barcelona in October 2011; and the Strengthening Girls' Rights Worldwide conference, held in Berlin in October 2011.

### **III. Gender-related killings of women**

14. In this report, the Special Rapporteur addresses the topic of gender-related killings of women whether they occur in the family or the community or are perpetrated or condoned by the State. Globally, the prevalence of different manifestations of such killings is increasing, and a lack of accountability for such crimes is the norm. Terms such as femicide, feminicide, honour killings and crimes of passion, among others, have been used to define such killings.

15. Rather than a new form of violence, gender-related killings are the extreme manifestation of existing forms of violence against women. Such killings are not isolated incidents that arise suddenly and unexpectedly, but are rather the ultimate act of violence which is experienced in a continuum of violence. Women subjected to continuous violence and living under conditions of gender-based discrimination and threat are always on "death

row, always in fear of execution”.<sup>1</sup> This results in the inability to live, and is a major part of the death process when the lethal act finally occurs.<sup>2</sup> Rather than serving isolated or individual purposes, such violence follows institutional logic “to delineate and sustain hierarchical social relations of race, gender, sexuality and class and, thereby, to perpetuate the inequality of marginalized communities”.<sup>3</sup>

16. The killings can be active or direct, with defined perpetrators, but they can also be passive or indirect. The direct category includes: killings as a result of intimate-partner violence; sorcery/witchcraft-related killings; honour-related killings; armed conflict-related killings; dowry-related killings; gender identity- and sexual orientation-related killings; and ethnic- and indigenous identity-related killings. The indirect category includes: deaths due to poorly conducted or clandestine abortions; maternal mortality; deaths from harmful practices; deaths linked to human trafficking, drug dealing, organized crime and gang-related activities; the death of girls or women from simple neglect, through starvation or ill-treatment; and deliberate acts or omissions by the State.

17. The discrimination and violence that is reflected in gender-related killings of women can be understood as multiple concentric circles, each intersecting with the other. These circles include structural, institutional, interpersonal and individual factors. The structural factors include macrolevel social, economic and political systems; institutional factors include formal and informal social networks and institutions; interpersonal factors include personal relationships between partners, among family members and within the community; and individual factors include personality and individual capacities to respond to violence.<sup>4</sup>

18. Thus an understanding of gender-related killings requires taking into account the political, social and economic contexts within which it takes place, including the responses of men to women’s empowerment; the political, legal and societal reaction to such killings; the principle of the continuum of violence; and patterns of structural discrimination and inequality that continue to form part of the reality of women’s lives. It is also important to disaggregate data by factors such as race, ethnicity, education, sexual orientation and economic status, among others, to establish systemic patterns that exacerbate existing vulnerabilities.<sup>5</sup>

19. Impunity for the killings of women has become a global concern. As noted by the Secretary General: “Impunity for violence against women compounds the effects of such violence as a mechanism of control. When the State fails to hold the perpetrators accountable, impunity not only intensifies the subordination and powerlessness of the targets of violence, but also sends a message to society that male violence against women is both acceptable and inevitable. As a result, patterns of violent behaviour are normalized”.<sup>6</sup>

<sup>1</sup> Nadera Shalhoub-Kevorkian, Reexamining Femicide: Breaking the Silence and Crossing “Scientific Borders”, *Signs*, The University of Chicago Press, Vol. 28, No. 2 (2002) at 581.

<sup>2</sup> Ibid.

<sup>3</sup> Darren Lenard Hutchinson, “Ignoring the Sexualization of Race Heteronormativity, Critical Race and Anti-Racist Politics”, 47 *Buffalo Law Review* (1999) at 20.

<sup>4</sup> See Shae Garwood explaining Moser’s framework for causal levels of gender violence, “Working to Death: Gender, Labour, and Violence in Ciudad Juárez, Mexico” pp. 4-5, citing Caroline Moser, ‘The Gendered Continuum of Violence and Conflict’ in C. Moser and F. Clark (eds) *Victims, Perpetrators, or Actors? Gender, Armed Conflict and Political Violence* (London: Zed Books, (2001).

<sup>5</sup> Gauthier, D. and W. Bankston, (2004) “*Who kills whom revisited: A sociological study of variation in the sex ratio of spouse killings*”. *Homicide Studies*, 8(2), 96-122.

<sup>6</sup> See, United Nations, *In-depth study on all forms of violence against women: Report of the Secretary-General*, A/61/122/Add.1 (2006) at 76.

## A. Conceptual evolution of terms

20. The term femicide has been used since the beginning of the nineteenth century to describe the killings of women.<sup>7</sup> It was proposed as an alternative to the gender-neutral term of homicide, a term which overlooks the realities of inequality, oppression and systematic violence against women. It reappeared in the 1970s as part of the struggle of the feminist movement to name their own experiences and create a form of resistance to this fatal form of violence.<sup>8</sup>

21. Femicide was first defined as “the murders of women by men motivated by hatred, contempt, pleasure or a sense of ownership of women”.<sup>9</sup> Subsequently, it was defined as “the misogynist killing of women by men”.<sup>10</sup> The definition was expanded to go beyond that of misogynist killings, to all forms of sexist killings, including those killings by men motivated by the socially constructed right to do so, their superiority over females, pleasure or sadistic desires towards women, or the assumption of ownership over women.<sup>11</sup>

22. The term femicide has been used in the context of killings of women in the private and public spheres. In some European contexts, such killings are described as “crimes of passion”. In South Asia the term femicide has been adopted to encompass cultural practices in the region such as female infanticide, preadolescent mortality of girls and dowry-related deaths.<sup>12</sup> The phenomena of so-called “honour killings” in the Middle East are rarely specifically labelled as acts of femicide, but some scholars have highlighted the femicidal nature of such acts and the impunity that accompanies such killings.<sup>13</sup>

23. A critical comparison, when addressing the killings of women, can be seen in the labelling in the West of femicides as “crimes of passion” stemming from individual violent behaviour; and in the East, as “crimes of honour” arising from cultural/religious practices and beliefs. This dichotomy exposes the simplistic, discriminatory and often stereotypical manner of construction, thereby obscuring the intersectionality of political, economic, social, cultural, and gender factors faced by all women around the world.<sup>14</sup>

24. With the alarming escalation of extreme forms of violence against women and girls in the 1990s, including in Mexico, El Salvador and Guatemala,<sup>15</sup> there was a pressing need to create and adopt new concepts and strategies to address the phenomenon. The disproportionate impact of economic, political and social factors in which the killings of women and girls were occurring, as well as the patriarchal nature of the societies that

<sup>7</sup> See Corry, J. (1801) *“A Satirical view of London at the commencement of the nineteenth century”*, Edinburgh: T. Hurst, Paternoster-Row; Ogilvy and Son, Holborn; R. Ogle, Turnstile; and Ogle and Aikman. Also MacNish, W. (1827) *“The confessions of an unexecuted femicide”* (3a. ed.), Glasgow: M.R. M’Phun, Trongate. And Wharton, J. and J. Smith (1987) *“The law lexicon, or, dictionary of jurisprudence”* (English edition), Littleton, CO: F.B. Rothman. (Originally published in 1848).

<sup>8</sup> Kaye, J. (2007) “Femicide”, Online Encyclopedia of Mass Violence, available at [www.massviolence.org](http://www.massviolence.org), accessed on 5 September 2011.

<sup>9</sup> Caputi, J. and D. Russell (1990) *“Femicide: Speaking the unspeakable”*. Ms.: The World of Women, 1(2).

<sup>10</sup> Radford, J. and D. Russell (eds.) (1992) *“Femicide: The Politics of Woman Killing”*, New York: Twayne.

<sup>11</sup> Harmes, R. and D. Russell (eds.) (2001) *“Femicide in Global Perspective”*, New York: Teachers College Press.

<sup>12</sup> Ibid.

<sup>13</sup> Kaye, J. (2007) “Femicide”, Online Encyclopedia of Mass Violence, available at [www.massviolence.org](http://www.massviolence.org), accessed on 5 September 2011.

<sup>14</sup> Supra note 1.

<sup>15</sup> See in particular reports on the visits to Mexico (E/CN.4/2006/61/Add.4), El Salvador (E/CN.4/2005/72/Add.2 and A/HRC/17/26/Add.2) and Guatemala (E/CN.4/2005/72/Add.3).



subordinated them, had to be taken into account. This violence has included torture, sexual abuse, deprivation of liberty, post mortem dismembering and the abandoning of bodies in public spaces by perpetrators (individual or groups), known or unknown to the victim. It is in this specific context that the concept of femicide scenarios was developed to determine the existence of a femicide crime, despite the difficulties of identifying motive, intention and perpetrators.<sup>16</sup>

25. Parallel to this conceptual discourse, Mexican feminists decided to translate the term femicide directly from its Latin origins as “*feminicidio*”.<sup>17</sup> The femicide versus feminicide debate that has taken place in the Latin American context has not been resolved as yet. In the interim, feminists and academics have simply moved past the issue and adopted either or both terms, depending on the country, the context, the campaign or the lobbying target.<sup>18</sup>

26. Despite the increasing attention paid to the killings of women, there is little consistency in the normative frameworks used by researchers and service providers.<sup>19</sup> Some scholars propose that a framework which includes the theoretical, political, operative and judicial aspects is useful, as it enables the recognition of multiple intersections of class, ethnicity, race, age, disability, migration, occupation, sexual orientation and gender identity, among others, in the killings of women.<sup>20</sup>

27. Other scholars advocate for the use of the notion of continuum as a tool of analysis where reinforcing linkages between different types of violence are complex, context-specific, and interrelated. This tool integrates a multitude of causal factors at structural, institutional, interpersonal, and individual levels.<sup>21</sup>

28. It is argued that the term feminicide could be usefully adopted when holding governments to account at the international level, as it highlights the impunity and the institutional violence aspect of such crimes, which are caused by States’ acts or omissions. Institutional violence against women and their families is present in all aspects of States’ responses to the killings of women. This can include: tolerance, the blaming of victims, lack of access to justice and effective remedies, negligence, threats, corruption and abuse by officials.<sup>22</sup> Under this scenario, femicide/feminicide is a State crime tolerated by public institutions and officials, due to the inability to prevent, protect and guarantee the lives of women, who have consequently experienced multiple forms of discrimination and violence throughout their lifetime.<sup>23</sup>

<sup>16</sup> Carcedo, A. et al. (2010) “*We will not forget nor will we accept. Femicide in Central America 2002 – 2006*”, Costa Rica. CEFEMINA.

<sup>17</sup> They considered that the Spanish use of the word femicide “*feminicidio*” simply referred to the homicide of women. See Monarrez, J. (2008) “*Morir por ser mujeres, Femicidio/Feminicidio La Violencia Maxima*”. Revista Mujer Salud. El Inventario del Femicidio Juarese. Vol. 4/2008. Chile.

<sup>18</sup> Carcedo, A. “Análisis y diagnósticos de legislación comparada”. Paper presented at the international conference on “Violence and Femicide in Bolivia”, 7, 8, 9 November 2011. La Paz, Bolivia.

<sup>19</sup> See Conference report (2009) “Strengthening Understanding of Femicide. Using research to galvanize action and accountability”, Program for Appropriate Technology in Health (PATH), *InterCambios*, Medical Research Council of South Africa (MRC), and World Health Organization (WHO). Conference held on 14–16 April, 2008. Washington, DC.

<sup>20</sup> Supra note 16.

<sup>21</sup> Supra note 4.

<sup>22</sup> Lagarde, M. (2001), Introduction in “*Feminicidio una perspectiva global*”. Harnes, R. and D. Russell (eds.) Mexico DF: Centro de Investigaciones Interdisciplinarias en Ciencias y Humanidades, UNAM.

<sup>23</sup> Ibid.

## B. Global trends and manifestations

29. Globally, the prevalence of different manifestations of gender-related killings is reaching alarming proportions. Culturally and socially embedded, these manifestations continue to be accepted, tolerated or justified—with impunity as the norm. States' responsibility to act with due diligence in the promotion and protection of women's rights, is largely lacking as regards the killing of women.

### 1. Killings of women as a result of intimate-partner violence

30. Intimate-partner violence is a problem affecting millions of women all over the world, and the overwhelming burden of partner violence is borne by women.<sup>24</sup> Research on homicide resulting from intimate-partner violence reflects, almost without exception, that females are at greater risk than males, and that the majority of female homicide victims are killed by male intimate partners.<sup>25</sup> The United Nations Office on Drugs and Crime studies also confirm that in many countries, intimate partner/family-related homicide is the major cause of female homicides, and that female homicide rates are much more likely to be driven by this type of violence than by the organized crime-related homicide typology that so affects men.<sup>26</sup>

31. As with all forms of intimate-partner violence, intimate-partner femicide is likely to be significantly underreported. Studies have shown that in some countries between 40 and 70 per cent of female murder victims are killed by an intimate partner.<sup>27</sup> In many countries the home is the place where a woman is most likely to be murdered, whereas men are more likely to be murdered in the street.<sup>28</sup>

32. One study indicates that there are approximately 3,500 intimate partner violence-related deaths every year in Europe.<sup>29</sup> Women account for more than 77 per cent of all victims of intimate partner/family-related homicide,<sup>30</sup> with women between the ages of 35

<sup>24</sup> Heise, L. and C. Garcia-Moreno, (2002) "*Violence by intimate partners*". In E. G. Krug, L. L. Dahlberg, J. A. Mercy, A. B. Zwi, and Lozano, R. (eds.). *World report on violence and health*, pp. 89-121. Geneva, Switzerland: World Health Organization.

<sup>25</sup> See Browne, A., Williams, K., and D. Dutton, (1999) "*Homicide between intimate partners*". In M. D. Smith & M. Zahn (eds.). *Studying and preventing homicide*, pp. 55-78. Thousand Oaks, CA: SAGE., Campbell, J., (1992) "*If I can't have you, no one can: Power and control in homicide of female partners*". In Radford, J. and Russell, D. (eds.). *Femicide: The politics of woman-killing*, pp. 99-113. New York, NY: Twayne. Dawson, M., and R. Gartner, (1998) "*Differences in the characteristics of intimate femicides: The role of relationship state and status*". *Homicide Studies*, 2, 378-399, and Gauthier, D. and W. Bankston, (2004) "*Who kills whom revisited: A sociological study of variation in the sex ratio of spouse killings*". *Homicide Studies*, 8(2), 96-122, Heise, L. and C. Garcia-Moreno, "*Violence by intimate partners*". In: Krug E, Dahlberg, L., Mercy, J., Zwi, A. and R. Lozano, (eds.) (2002) *World Report on Violence and Health* [First Edition]. Geneva, CH: World Health Organization; 2002:87-122. Adinkrah, M. (1999) "*Uxoricide in Fiji: the sociocultural context of husband-wife killings*". *Violence Against Women*. 1999; 5(11):1294-1321. Kellermann, A. and J. Mercy, (1992) "*Men, women, and murder: gender-specific difference in rates of fatal violence and victimization*". *The Journal of Trauma*. 1992; 33:1-5. And Mercy, J. and L. Saltzman, (1976-85) "*Fatal violence among spouses in the United States*", *American Journal of Public Health*. 1989; 79(5):595-599.

<sup>26</sup> United Nations Office on Drugs and Crime (UNODC) "2011 Global Study on Homicide", Vienna.

<sup>27</sup> Supra note 24.

<sup>28</sup> Supra Note 26.

<sup>29</sup> Project DAPHNE (2007) "*Estimation of mortality linked to intimate partner violence in Europe - IPV EU\_Mortality*", Psytel, June 2010. Available at <http://psytel.eu/violences.php>.

<sup>30</sup> Supra note 26.

and 44 at higher risk.<sup>31</sup> More recently, research indicates there has been an increase in the rates of killings of women.<sup>32</sup> For instance, in Spain there has been a 15.16 per cent increase in intimate partner femicides.<sup>33</sup> In Italy, the total number of homicides (male and female murders) is decreasing; however, female homicides increased from 15.3 per cent during 1992-1994 to 23.8 per cent during 2007-2008.<sup>34</sup> According to data, in England and Wales in 2009/10 95 female victims of homicide were killed by a current or former partner, compared to 21 male victims of domestic homicide.<sup>35</sup>

33. Studies in Honduras and Costa Rica show that more than 60 per cent of femicides are perpetrated by an intimate partner or male family member.<sup>36</sup> In Peru, 70 per cent of acts of femicide are carried out by a former or current intimate partner.<sup>37</sup> In Mexico, 60 per cent of the women who were murdered by their intimate or ex-intimate partners had previously reported domestic violence to public authorities.<sup>38</sup> In some cases in Nicaragua, while the crimes were perpetrated by persons unknown to the victim, the murders were planned and paid for by the partner or ex-partner.<sup>39</sup>

34. A 2004 national study on femicide in South Africa estimated that a woman is killed by her intimate partner every six hours.<sup>40</sup> Of the cases in which relationship status could be established, 50.3 per cent of the women were killed by an intimate partner. Furthermore, a racial analysis indicates that women of colour are disproportionately affected by such killings. The rate for coloured women was 18.3 per 100,000 women; for African women it was 8.8, and for white women, 2.8.<sup>41</sup>

35. Statistics from the United States Department of Justice estimate that 40 per cent of female homicide victims were killed by an intimate partner in 1993, increasing to 45 per cent in 2007. An estimated 6 per cent of male homicide victims were killed by an intimate partner in 1993, decreasing to 5 per cent in 2007.<sup>42</sup> Also, where the relationship between the victim and the murderer could be determined, over 90 per cent of the women knew the

<sup>31</sup> Icrs-Viu, Esplugues, J.S., Marmolejo, I.I., Esteve, Y.G., and Sánchez, P.M., (2010) “3rd International Report on Partner Violence against women”. The data was compiled in 2006, and shows the evolution of femicides between 2000 and 2006. Chapter 2, pp. 65-99.

<sup>32</sup> Spinelli, B. (2011) “Femicide and feminicide in Europe. Gender-motivated killings of women as a result of intimate partner violence”. Expert group meeting on gender-motivated killings of women. Convened by the Special Rapporteur on Violence against Women, its causes and consequences, Ms. Rashida Manjoo, New York, 12 October 2011.

<sup>33</sup> Ibid.

<sup>34</sup> Official data collected by EURES.

<sup>35</sup> Homicide Index; as published in Table 1.05 of ‘Homicides, Firearm Offences and Intimate Violence 2009/10’ at para. 280.

<sup>36</sup> See Carcedo, A. and M. Sagot (2001) “Femicidio en Costa Rica. Cuando la Violencia contra las Mujeres Mata”, San Jose: OPS/INAMU.

<sup>37</sup> Meléndez, L. (2010) “Perú – Incidencia y formación sensible al género para los legisladores y operadores de justicia”. In Jiménez, P. and K. Ronderos, (eds.) “Feminicidio: Un fenómeno global. De Lima a Madrid”. Heinrich Böll Stiftung and CAWN.

<sup>38</sup> Lagarde y de los Rios, M. (2006) “Feminicidio”, Artículos de Ciudad de Mujeres. Paper presented at Universidad de Oviedo, 12 January 2006. Available online at [www.ciudaddemujeres.com/articulos](http://www.ciudaddemujeres.com/articulos).

<sup>39</sup> Puntos de Encuentro (2006) “Lo que cocinamos: II Encuentro Feminista Centroamericano”, La Boletina No. 64. Available online at [www.puntos.org.ni](http://www.puntos.org.ni).

<sup>40</sup> See Mathews S, Abrahams N, Martin L, Vetten L, van der Merwe L, and R. Jewkes, (2004) “Every six hours a woman is killed by her intimate partner: a national study of female homicide in South Africa”. Gender and Health Research Group, Medical Research Council Policy Brief, South Africa; 2004; 5.

<sup>41</sup> Ibid.

<sup>42</sup> Catalano, S., Smith, E., Howard, S., and M. Rand, (2009) “Female Victims of Violence”, Bureau of Justice Statistics, Selected Findings. U.S. Department of Justice, September 2009. Available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/fvv.pdf>

male killer, with 60 per cent of the victims being wives, common-law wives, ex-wives, or girlfriends of the offenders.<sup>43</sup> In 2008 firearms were the most common weapon used by men to murder women, with nearly two thirds of the women having been murdered by male intimate partners. Women also suffer “hostile gun displays” as a form of intimate partner violence, by which abusive partners threaten to use guns against their victims.<sup>44</sup>

## 2. Killings of women due to accusations of sorcery/witchcraft

36. The killing of women accused of sorcery/witchcraft has been reported as a significant phenomenon in countries in Africa, Asia and the Pacific Islands.<sup>45</sup> The pattern of violations includes violent murders, physical mutilation, displacement, kidnapping and disappearances of girls and women.<sup>46</sup> In many countries where women are accused of sorcery/witchcraft, they are also subjected to exorcism ceremonies involving public beating and abuse by shamans or village elders.<sup>47</sup>

37. Although in the majority of the cases younger women are at higher risk of sorcery/witchcraft violence, a study has found that in some parts of Africa, older women are more vulnerable to sorcery-related femicide due to their economic dependence on others, or the property rights that they hold—and which younger members of the family want to inherit.<sup>48</sup> Also, if women are perceived as dangerous and a threat to men, their labelling as witches, and consequently their destruction, is then seen as justified.<sup>49</sup>

38. A study in Zimbabwe found that of the 42 cases of femicide involving women older than 50, most of the women had been accused of witchcraft by male relatives prior to the killing.<sup>50</sup> A study conducted in Ghana found that many poor, often elderly, women were accused of witchcraft and subsequently murdered by male relatives, or subjected to a range of physical, sexual and economic abuses.<sup>51</sup>

39. Women accused of witchcraft in Ghana are often violently driven from their communities and forced to take refuge in “witch camps”. Many widows are subjected to property-related violence, including violent evictions and loss of inheritance; and subjected to sexual abuse and harassment by relatives.<sup>52</sup> In India, based on accusations of being a *dayan* (witch) or practising *banamathi* (witchcraft), physical violence is sometimes employed against Dalit women as a mechanism to take possession of their family lands

<sup>43</sup> Violence Policy Center, *When Men Murder Women: An Analysis of 2008 Homicide Data*. Washington, DC, 2010, p. 10. Available at <http://www.vpc.org/studies/wmmw2010.pdf>

<sup>44</sup> *Ibid.* p. 1.

<sup>45</sup> See, Chapter on victim groups in the extrajudicial executions context of the Handbook compiling observations and recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions (hereinafter “Handbook on Victim Groups”), Chapter 8, Victim Groups, at pp. 47-50.

<sup>46</sup> Indai Sajor, “Gender-motivated Killings of Women Accused of Sorcery & Witchcraft a Form of Femicide: Papua New Guinea Case”, paper prepared for Expert Group Meeting, October 12<sup>th</sup>, 2011. pp. 9-10.

<sup>47</sup> Handbook on Victim Groups (Supra Note 45) p. 49

<sup>48</sup> Galloway, S. (1995) “*Femicide project*”. Report by country. Zimbabwe. Women in Law and Development in Africa (WiLDAF).

<sup>49</sup> Watts, C., Osam, S. and E. Win (2001) “*Femicide in Southern Africa*”, edited extracts from “*The private is public: A study of violence against women in Southern Africa*”. Harare, Zimbabwe, Women in Law and Development in Africa, 1995. In Harmes, R. and D. Russell (eds.) (2001) “*Femicide in Global Perspective*”, New York: Teachers College Press.

<sup>50</sup> Supra note 48.

<sup>51</sup> See, Adinkrah, M., “Witchcraft accusation and female homicide victimization in contemporary Ghana”, *Violence against women*, vol. 10, No. 4 (2004), pp. 325-356, in *In-depth study on all forms of violence against women, Report of the U.N. Secretary-General* at para. 125.

<sup>52</sup> A/HRC/17/16/Add.3, report of the Special Rapporteur on violence against women, its causes and consequences, Addendum, Mission to Ghana, 21 February 2008.

and/or to keep them under economic subjugation, sexual exploitation, gender domination and control.<sup>53</sup> In Nepal, particularly in the southern Terai region, elderly women, widows, destitute women and women of low caste are often targeted and deprived of their property rights or victimized to settle a personal vendetta.<sup>54</sup>

40. In Papua New Guinea, cases of torture and murder of an estimated 500 women accused of practising sorcery/witchcraft have been reported.<sup>55</sup> Sorcery allegations against women have been increasing, in particular in the Highlands region.<sup>56</sup> Suspected witches have been thrown from cliffs, tortured, dragged behind cars, burned or buried alive. Victims of such attacks and killings are mainly widows or other vulnerable elderly women who do not have children or relatives to protect them, women born out of wedlock or women who do not have any standing in the family.<sup>57</sup> According to police reports, women are six times more likely than men to be accused of sorcery.<sup>58</sup>

41. Those who torture or kill are almost exclusively men, and are often related socially or biologically to the victim.<sup>59</sup> Some accusations of sorcery are economically motivated, for the purpose of taking over land or possessions of those accused, or because payments have been made by third parties to name alleged sorcerers. According to expert reports, “increasingly, there is a perception that accusations of sorcery are a convenient disguise for premeditated killings based more on a person’s dislike for another, jealousy, envy, greed, rivalry or revenge and targeting women from the tribes or communities”.<sup>60</sup>

42. A study showing sentencing patterns in witchcraft-related cases in Southern Africa reveals that men accused of killings of women were sentenced to shorter periods of time, and often the charges were reduced to minor crimes. Overall, sentences were lenient when the perpetrator was the husband or a male relative of the woman killed. In Zambia, for instance, the average sentence was one to two years for charges of premeditated homicide of women.<sup>61</sup>

### 3. Killings of women and girls in the name of “honour”

43. As noted by the Secretary-General, certain cultural norms and beliefs are the causal factors of harmful practices resulting in violence against women, such as crimes committed in the name of “honour”.<sup>62</sup> Honour killings have been characterized as being among the most severe manifestations of harmful practices.<sup>63</sup> Murder to cleanse family honour is

<sup>53</sup> A/HRC/11/6/Add.1, 2009, at para. 228. See also Saravanan, S., *Violence against women in India: A literature review* (New Delhi, Institute of Social Studies Trust, 2000); Chen, M. A., “Widowhood and aging in India”, United Nations Research Institute for Social Development case study available at: [http://www.unrisd.org/unrisd/website/projects.nsf/\(httpAuxPages\)/25DCC0F9F3E206C3C1256BB200552FC6?OpenDocument&category=Case+Studies](http://www.unrisd.org/unrisd/website/projects.nsf/(httpAuxPages)/25DCC0F9F3E206C3C1256BB200552FC6?OpenDocument&category=Case+Studies).

<sup>54</sup> Jill Schnoebelen, “Witchcraft allegations, refugee protection and human rights: a review of the evidence”, *New Issues in Refugee Research*, Research Paper No. 169, Policy Development and Evaluation Service, 2009, p. 11.

<sup>55</sup> *Supra* Note 45 at p. 49

<sup>56</sup> The broad majority of the population in the highlands believes in extra-natural explanations to life misfortunes. When a death, sickness or an accident occurs, it is common to explain it as having been caused by the use of sorcery.

<sup>57</sup> *Sorcery, Witchcraft and Christianity in Melanesia* by Franco Zocca and Jack Urame, Melanesian Institute 2008.

<sup>58</sup> See also Amnesty International 2009 and *The National*, June 19, 2003, p. 6.

<sup>59</sup> *Supra* Note 46.

<sup>60</sup> *Ibid.*, p. 3.

<sup>61</sup> Rude, D. and M. Kazunga. (1995) “*Report on the femicide research*”. Report by country. Zambia. *Women in Law and Development in Africa*.

<sup>62</sup> *Supra* Note 6, at para. 78.

<sup>63</sup> *Ibid.*, at para. 123.

committed with high levels of impunity in many parts of the world.<sup>64</sup> Although honour crimes have mainly occurred in the vast zone spreading from the Sahara to the Himalayas, it also occurs in other regions and countries with migrant communities.<sup>65</sup>

44. Honour killings remain underreported and underdocumented globally. The United Nations Population Fund (UNFPA) has estimated that 5,000 women globally are murdered by family members each year in honour killings.<sup>66</sup> With widespread urbanization, the proliferation of media and the changing roles of women, it has become difficult for such crimes to go unnoticed, and such killings are becoming more visible.<sup>67</sup>

45. Honour killings take many forms, including direct murder; stoning; women and young girls being forced to commit suicide after public denunciations of their behaviour; and women being disfigured by acid burns, leading to death.<sup>68</sup> Honour crimes are also linked to other forms of family violence, and are usually committed by male family members as a means of controlling women's sexual choices and limiting their freedom of movement. Punishment usually has a collective dimension, with the family as a whole believing it to be injured by a woman's actual or perceived behaviour, and is often public in character. The visibility of the issue and the punishment also serves a social objective, namely, influencing the conduct of other women.<sup>69</sup>

46. Stoning is a method of capital punishment primarily used for crimes of adultery and other related offences linked to honour, of which women are disproportionately found guilty. This has resulted in 23 joint communications by mandate holders sent between 2004 and 2011, in respect of more than 30 women sentenced to death by stoning. Other communications to governments relate to honour crimes committed by family members or to the action/inaction of the State with regard to flogging or death by hanging of women for suspected premarital sex, for adultery, for failing to prove rape, and for acts deemed incompatible with chastity.<sup>70</sup>

47. It is argued that in the United Kingdom of Great Britain and Northern Ireland crimes in the name of honour are rooted in cultural traditions, not religious beliefs, and that "the conflation of the concepts of culture and religion contributes to the misunderstanding of such crimes, particularly in the context of Islamophobia and the 'war on terror'".<sup>71</sup> Similarly, the Special Rapporteur on extrajudicial, summary or arbitrary executions noted that "a number of renowned Islamic leaders and scholars have publicly condemned this practice and clarified that it has no religious basis".<sup>72</sup>

<sup>64</sup> Expert Group Meeting report "Violence against women: Good practices in combating and eliminating violence against women". Organized by the Division for the Advancement of Women in collaboration with the United Nations Office on Drugs and Crime, 17 to 20 May 2005, Vienna, Austria.

<sup>65</sup> E/CN.4/2002/83.

<sup>66</sup> See, UN In-depth study on all forms of violence against women, report of the Secretary-General, A/61/122/Add.1, 2006, at para. 78.

<sup>67</sup> Baydoun, A. (2011) "*Killing of women in the name of honour: An evolving phenomenon in Lebanon*". Paper presented at the Expert Group Meeting on gender-motivated killings of women. Convened by the Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo, New York, 12 October 2011.

<sup>68</sup> Ibid. at para. 78.

<sup>69</sup> See, In-depth study on all forms of violence against women, report of the Secretary-General, at para. 84.

<sup>70</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum, 15 years of the United Nations Special Rapporteur on violence against women, its causes and consequences (1994-2009) – A critical review, A/HRC/11/6/Add.5 (2009).

<sup>71</sup> Kelly, L. and Sen, P. (2007) "Violence against Women in the UK". Shadow Thematic Report for the CEDAW Committee.

<sup>72</sup> E/CN.4/2000/3.

48. The Special Rapporteur on violence against women has raised concerns about the phenomenon of self-immolation, reported in Afghanistan and the Islamic Republic of Iran, whereby women and girls attempt suicide by setting themselves on fire because they feel they are “dishonouring” the family.<sup>73</sup>

49. United Nations treaty bodies have expressed concerns that honour-related crimes often go unreported, are rarely investigated and usually go unpunished, and that when they are punished the sentences are far less than those for equally violent crimes without the “honour” dimension.<sup>74</sup> Reduced sentences are justified on the basis of the necessity of murdering such women, to defend the misconceived notion of family honour.<sup>75</sup>

50. In his report on working towards the elimination of crimes against women committed in the name of honour, the Secretary-General presented a series of recommendations in relation to the criminalization of such acts, and noted that those deliberately participating in, facilitating, encouraging or threatening women and girls in the name of honour should be punished.<sup>76</sup> He also noted that “in countries with immigrant communities, protection should be given to victims and potential victims in connection with asylum and immigration procedures”.<sup>77</sup>

#### 4. Killings in the context of armed conflict

51. During armed conflict, women experience all forms of physical, sexual and psychological violence, perpetrated by both State and non-State actors, including unlawful killings.<sup>78</sup> Such violence is often used as a weapon of war, to punish or dehumanize women and girls, and to persecute the community to which they belong.

52. Women and girls suffer from operations randomly or strategically targeting and terrorizing the civilian population, but also from summary and extrajudicial executions, imprisonment, torture, rape and sexual mutilations for fighting in resistance movements, for engaging in the search for and defence of their loved ones or for coming from communities suspected of collaboration.<sup>79</sup> Gender inequality becomes more pronounced in conflict and crisis situations, as competing masculine discourses place contradictory demands on women, and conflict is instrumentalized as a pretext to further entrench patriarchal control.<sup>80</sup>

53. The Special Rapporteur on the situation of human rights defenders has stated that women human rights defenders, who challenge oppressive governments and policies, are more at risk of suffering violence and other violations. While reclaiming their rights or the rights of their communities, they are perceived as challenging accepted sociocultural norms, traditions, perceptions and stereotypes about femininity, sexual orientation, and the role and status of women in society. The mission report on Colombia by the Special Rapporteur on

<sup>73</sup> E/CN.4/2006/61/Add.5. See Special Rapporteur on violence against women, “Situation of Women and Girls in Afghanistan”, A/58/421 on Afghanistan, and country mission report, at para. 29. See Special Rapporteur on violence against women, mission to the Islamic Republic of Iran, E/CN.4/2006/61/Add.3, 27 January 2006 at para. 29.

<sup>74</sup> A/65/44, para. 60 and 63. Report of the Committee against Torture, Forty-third session (2-20 November 2009), Forty-fourth session (26 April-14 May 2010).

<sup>75</sup> See report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/2000/3, 2000, at para. 78.

<sup>76</sup> A/57/169 at para. 32.

<sup>77</sup> Ibid.

<sup>78</sup> In-depth study on all forms of violence against women, report of the Secretary-General at para. 143.

<sup>79</sup> A/HRC/14/22 (2010) at para. 33, report of the Special Rapporteur on violence against women, its causes and consequences.

<sup>80</sup> A/HRC/4/34/Add.2, at para 22, Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to Turkey, 5 January 2007.

the situation of human rights defenders highlights the killings of several women human rights defenders and the gravity of the violence, persecution and sexual torture in these murders.<sup>81</sup>

54. In Afghanistan, women's rights defenders continue to be regularly threatened and intimidated, and high-profile women, mainly political activists, have been assassinated, and their killers have not been brought to justice.<sup>82</sup> The Taliban's interpretation of sharia law is used to justify harsher punishments for women seen to be mixing with men outside their immediate families.<sup>83</sup> A common means of intimidation and control of local communities, mainly women, is the use of night letters. These are threatening letters, usually hand-delivered, or pasted onto a door or in a mosque, by insurgent groups. The content of these letters varies, but the main message is a threat of harm to women and girls (or their parents) if they go to school or to work, leave their homes, speak to non-family men, or call radio stations with music requests.<sup>84</sup>

55. In the 45-year-old civil war in Colombia, women community leaders and women fighting for their rights are the main targets of gender-related killings.<sup>85</sup> These women are especially vulnerable if they promote land rights<sup>86</sup> and the rights of the most marginalized groups, such as indigenous people, ethnic and religious minorities, trade unionists, and lesbian, gay, bisexual and transgender individuals.<sup>87</sup> The Special Rapporteur on extrajudicial, summary or arbitrary executions has confirmed that defenders of women's rights are significant targets of unlawful killings by both Colombian State forces and illegal armed groups.<sup>88</sup> The gender-specific intimidation of women defenders includes the targeting of their children and families, as a way to manipulate their roles as mothers, thereby exerting additional pressure on them to stop their human rights work.

##### 5. Dowry-related killings of women

56. In some South Asian countries, a widespread practice is that of dowry-related murders. This term covers the deaths of young brides who are murdered, or driven to suicide by continuous harassment and torture perpetrated by the groom's family in an effort to extort dowry payment or an increased dowry of cash or goods. The most common manifestation of this practice is the burning of the bride. These incidents are often presented as, and accepted to be, accidents, such as death as a result of an "exploding stove".<sup>89</sup>

57. Dowry-related violence is embedded in religious and cultural traditions of the South Asian region.<sup>90</sup> The practice has permeated all communities. Pakistan enacted an anti-

<sup>81</sup> Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, "Mission to Colombia". 4 March 2010, A/HRC/13/22/Add.3.

<sup>82</sup> Human Rights Watch, Country Summary: Afghanistan. January 2011.

<sup>83</sup> Report "Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against Women in Afghanistan". United Nations Assistance Mission in Afghanistan, Kabul, and Office of the United Nations High Commissioner for Human Rights, Geneva. 9 December 2010.

<sup>84</sup> Ibid.

<sup>85</sup> Supra Note 81 at para. 31.

<sup>86</sup> Colombia Human Rights Network, Urgent Action Appeal (May 3, 2002), available at: [http://colhrnet.igc.org/newitems/may02/ai\\_urgent\\_appeal\\_3may02.htm](http://colhrnet.igc.org/newitems/may02/ai_urgent_appeal_3may02.htm).

<sup>87</sup> Human Rights First. Report to the Committee on the Elimination of All Forms of Discrimination against Women, on its Consideration of the Combined Fifth and Sixth Periodic Reports by the Government of Colombia. Thirty-seventh Session 2007.

<sup>88</sup> A/HRC/14/24/Add.2, at para 74, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Colombia. 31 March 2010.

<sup>89</sup> BBC online network, "World: South Asia Bride burning 'kills hundreds'", in BBC News, 27 August 1999 (accessed 5 September 2011).

<sup>90</sup> Flavia Agnes, "Gender Based Killings—A South Asian Perspective", Paper prepared for Expert Group Meeting, New York, October 12, 2011, p. 7.



dowry law in 1976, Bangladesh in 1980 and Nepal in 2009. Despite legislative reforms, dowry is an indispensable part of weddings in this region; it has been a cause of violence against women,<sup>91</sup> and the laws have failed to have an impact in curbing dowry or elevating the status of women within marriage.<sup>92</sup>

58. In several cases in Bangladesh, dowry-related harassment of women has been aggravated to acid attacks, leading to blindness, disfigurement and death of women.<sup>93</sup> In 2002, Bangladesh passed a law imposing the death penalty on offenders and also restricted the sale of acid, in response to the growing problem of acid attacks.<sup>94</sup> In the first half of 2009, 119 cases of dowry-related violence, including 78 deaths, were reported. In 2008, 172 women were killed, and the figure for 2007 was 187.<sup>95</sup>

59. Statistics for the period 2007 to 2009 show that there have been between 8,093 and 8,383 reported cases of dowry deaths in India.<sup>96</sup> As noted by experts, the numbers of reported cases do not add up to conviction rates. The National Crime Records Bureau of India reports that for 2008 there were 1,948 convictions, as against 3,876 acquittals.<sup>97</sup> Acid attacks are also becoming a growing phenomenon in India, with young women being targeted for spurning suitors and for rejecting proposals of marriage, as well as in connection with contestation over dowry.<sup>98</sup>

60. Human rights bodies have strongly condemned these practices.<sup>99</sup> Experts argue that there is a need to address the underlying cultural concerns, such as the subordinate status of women within their birth/natal and marital homes; issues of property and ownership within these realms; the control of women's sexuality; the stigma attached to divorce; and the lack of support for a woman after she is married.<sup>100</sup>

## 6. Killings of aboriginal and indigenous women

61. Aboriginal and indigenous women and girls experience extremely high levels of violence. The social, cultural, economic and political marginalization of aboriginal and indigenous women globally, along with a negative legacy of colonialism, historic racist government policies and the consequences of economic policies, has driven an alarming number of these women into extremely vulnerable situations. For example, the effect of certain economic policies imposed on the Central America region has exacerbated the vulnerability of indigenous women, and has forced them to migrate both internally and regionally. They have been pressed into low-skilled and low-paid jobs, mainly in *maquila* factories, domestic service, the sex trade and prostitution, under precarious and exploitative conditions.

<sup>91</sup> [http://www.gorkhapatra.org.np/rising\\_detail.php?article\\_id=45558&cat\\_id=7](http://www.gorkhapatra.org.np/rising_detail.php?article_id=45558&cat_id=7)

<sup>92</sup> *Supra* note 90.

<sup>93</sup> Law Commission of India, Report submitted to the Honorable Supreme Court of India for its consideration in the pending proceedings filed by one Laxmi in W.P. (Crl.) No. 129 of 2006 on "The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Victims of Crime", July, 2008, Report No. 226 (2009), p. 3.

<sup>94</sup> In 2002, the Parliament of Bangladesh enacted two laws against acid violence: Under the Acid Control Act of 2002, the unlicensed production, import, transport, storage, sale, and use of acid can result in a prison term of 3-10 years. Those who possess chemicals and equipment for the unlicensed production of acid can get the same prison term.

<sup>95</sup> <http://www.irinnews.org/report.aspx?reportid=86100>

<sup>96</sup> *Supra* note 90.

<sup>97</sup> *Ibid.*

<sup>98</sup> *Ibid.*

<sup>99</sup> See CERD/C/IND/CO/19, CEDAW/C/IND/CO/3, CEDAW/C/TUN/CO/6, CRC/C/BGD/CO/4, E/C.12/IND/CO/5.

<sup>100</sup> Kishwar, Madhu, (2005). 'Destined to Fail - Inherent Flaws in the Anti Dowry Legislation'. *Manushi*, (148), May-June, pp. 3-12.

62. The intersection of different layers of discrimination based on race, ethnic identity, sex, class, education and political views further disenfranchises indigenous and aboriginal women, reproducing a multi-level oppression that culminates in violence. In cases of killings of aboriginal and indigenous women, the main failings by the authorities are the failure of police to protect aboriginal women and girls from violence and to investigate promptly and thoroughly when they are missing or murdered, and the disadvantaged social and economic conditions in which aboriginal women and girls live, which make them vulnerable to such violence.<sup>101</sup>

63. In Guatemala, the current experience of massive and violent killings of indigenous women has a legacy stemming back to colonial times, further increasing during the 36-year armed conflict. Indigenous Maya women constituted 88 per cent of victims of sexual and systematic attacks, with such attacks being publicly and intentionally perpetrated, mainly by military and paramilitary personnel.<sup>102</sup> After the 1996 Peace Accord, no efforts were made to seek justice for and provide reparations to the victims and their families. In fact, article 200 of the Penal Code (repealed in 2006) afforded immunity to perpetrators of sexual violence and kidnapping of women and girls over 12 years old, where the perpetrator subsequently married the victim. Thus a State-endorsed impunity was established, condoning all forms of violence, particularly against indigenous women.

64. In Australia, violence against aboriginal women is egregious due to the use of weapons and the licensing of firearms. Incidents of weapon-inflicted violence, involving hammers, knives, sticks, stones, guns and pickets, have resulted in a number of homicides of aboriginal women.<sup>103</sup> Recent reports indicate that aboriginal women are at far greater risk of being the victims of homicide, rape and other assaults than non-aboriginal women.<sup>104</sup> However, aboriginal women have been reluctant to expose these acts of violence, due to the risk of further denigration of their communities from the dominant white society. As noted by the Committee on the Elimination of Discrimination against Women, “indigenous women and girls face the highest levels of violence, especially at home where indigenous women are 35 times as likely to be hospitalized as a result of family violence-related assaults as non-indigenous females”.<sup>105</sup>

65. Until 1985 Canada had many discriminatory laws against aboriginal women and children; this has had an intergenerational impact, and has contributed to a legacy of violence, abuse and impunity.<sup>106</sup> Today, a young aboriginal woman is five times more likely than other Canadian women of the same age to die of violence.<sup>107</sup> According to a 2010 report, of 582 cases of violence against aboriginal women, 20 per cent involved missing women and girls, 67 per cent involved women or girls who died as a result of homicide or negligence, and 4 per cent fell under the category of suspicious death (usually

<sup>101</sup> Sharon McIvor and Shelagh Day, “Gender-Motivated Killings of Aboriginal Women and Girls Canada”, Prepared for UN Expert Group Meeting on Gender-motivated killings of women, 12 October 2011.

<sup>102</sup> The Commission for Historical Clarification “*La Violencia Sexual contra la Mujer*”, Volume 3, #41.

<sup>103</sup> Penelope Andrews, “Violence against Aboriginal Women in Australia: Possibilities for Redress within the international human rights framework”, 60 *Albany Law Review* 917.

<sup>104</sup> *Ibid.*

<sup>105</sup> CEDAW Committee, Concluding Observations to Australia, U.N. Doc. CEDAW/C/AUL/CO/7, 2010, para. 40.

<sup>106</sup> Complaint to the UN Human Rights Committee: Sandra Lovelace v. Canada, Communication No R.6/24, U.N. Doc. Supp. No. 40 (A/36/40), at 166.

<sup>107</sup> Amnesty International, *No More Stolen Sisters: The Need for a Comprehensive Response to Discrimination and Violence Against Aboriginal Women*, September 2009, at 1, available at: <http://www.amnesty.org/en/library/info/AMR20/012/2009/en>

declared natural or accidental by the police).<sup>108</sup> Between 2000 and 2008, 153 cases of murders of women and girls were reported, and in 115 of these cases, the bodies are still missing.<sup>109</sup> Aboriginal women and girls are more likely to be killed by a stranger than are non-aboriginal women. Approximately 50 per cent of such murders remain unsolved.<sup>110</sup> The Committee on the Elimination of Discrimination against Women has expressed its concern that “hundreds of cases involving aboriginal women who have gone missing or been murdered in the past two decades have neither been fully investigated nor attracted priority attention, with the perpetrators remaining unpunished”.<sup>111</sup>

## 7. Extreme forms of violent killings of women

66. The growing sociopolitical phenomena of gangs, organized crime, drug dealers, human and drug trafficking chains, massive migration and the proliferation of small arms have had a devastating impact on women’s lives, particularly in Mexico and Central America. The northern triangle of Central America has the highest rates of homicide in a non-conflict context.<sup>112</sup> The rate of killings of men has been stable during the last decade, but there has been an increase in the rates of killings of women.<sup>113</sup> In 2004 in Guatemala, murders of women increased 141 per cent, as opposed to 68 per cent for men; in El Salvador in 2006 murders of women increased 111 per cent, compared to 40 per cent for men; and in Honduras in 2007 murders of women increased 166 per cent, compared to 40 per cent for men.

67. As regards Mexico, in 1993 reports began to appear in the international media of the discovery of the mutilated bodies of raped and murdered women on wastelands outside the city of Ciudad Juárez.<sup>114</sup> Data collection on femicides has indicated an escalation in the numbers of killings, with one author estimating that approximately 740 femicides occurred between 1993 and 2009 in Ciudad Juárez.<sup>115</sup> The patterns of killings include abduction and disappearances for a few days; torture and sexual assault by groups of men; murder and mutilation, particularly of the sexual organs and breasts; decapitation in some cases; and the naked bodies/body parts being left on public display or dumped in empty wastelands of the city. In the worst cases, parts of the bodies are scattered through different areas of the city with messages written on the bodies or on paper found on the bodies. It is argued that the

<sup>108</sup> Native Women’s Association of Canada, *What Their Stories Tell Us: Research findings from the Sisters in Spirit initiative*, 2010, at 18, available at: [http://www.nwac.ca/sites/default/files/imce/2010\\_NWAC\\_SIS\\_Report\\_EN.pdf](http://www.nwac.ca/sites/default/files/imce/2010_NWAC_SIS_Report_EN.pdf). Since the publication of the 2010 report, more missing and murdered aboriginal women and girls have been added to the SIS database and the number is now over 600.

<sup>109</sup> Native Women’s Association of Canada, *Voices of Our Sisters In Spirit: A Report to Families and Communities*, 2nd Edition, March 2009 at 96, available at: [www.nwac.ca/sites/default/files/download/admin/NWAC\\_VoicesofOurSistersInSpiritII\\_March2009FINAL.pdf](http://www.nwac.ca/sites/default/files/download/admin/NWAC_VoicesofOurSistersInSpiritII_March2009FINAL.pdf)

<sup>110</sup> Ibid.

<sup>111</sup> CEDAW Committee, Concluding observations of the Committee on the Elimination of Discrimination against Women: Canada, U.N. Doc. CEDAW/C/CAN/CO/7, (2008) at para. 31.

<sup>112</sup> UNDP (2009) “*Abrir espacios para la seguridad ciudadana y el desarrollo humano*” Informe sobre Desarrollo Humano para América Central. IDHAC, 2009-2010. Colombia. UNDP.

<sup>113</sup> Supra Note 16.

<sup>114</sup> Prieto-Carron, M., Thomson, M. and M. Macdonald (2007) “*No more killings! Women respond to femicides in Central America*”, Gender and Development, volume 15:1, Routledge Publishing.

<sup>115</sup> Monárrez, J. (2009) “*Trama de una injusticia. Femicidio sexual sistémico en Ciudad Juárez*”, El Colegio de la Frontera Norte, Mexico.

murders are conducted with symbolic effect—destroying the victim’s humanity, integrity and identity.<sup>116</sup>

68. Victims come from a range of social and economic backgrounds, which vary from country to country, as do the circumstances in which they are killed. Many of the murdered women come from the most marginalized sectors of society: they are poor, from rural areas, of ethnic origin, sex workers or maquila workers. Young women between 16 and 24 years old are the most vulnerable group. Overall, 25 per cent of murders reveal evidence of sexual assault; 66 per cent of murders in Honduras and 44 per cent in El Salvador exhibit signs of brutality.<sup>117</sup> Small firearms were used in 90 per cent of femicides in Guatemala<sup>118</sup> and in 79 per cent of femicides in Honduras in 2010.<sup>119</sup> Femicide is considered the second-highest cause of death of women of reproductive age in Honduras.<sup>120</sup>

69. Central America is a post-conflict region with fragile States and institutions, and it is also the poorest region in the Americas.<sup>121</sup> The effect of certain economic policies encouraged and facilitated the introduction of maquilas. The low-paid jobs created by the maquila industry are mainly occupied by women, in particular poor and illiterate women from rural areas. Contracts are generally on a temporary basis, with long working hours and no benefits. Also, women walk through dark public spaces as they return home late in the day, with no protection against criminal activities in the public sphere.

70. Furthermore, organized crime groups and gangs (known as *maras*) have multiplied and have created an internal system of control of local territory and of communities. They have established an open market for a profitable arms trade, which allows them to position themselves as the main providers of private security for drug cartels, entrepreneurs and the elite.

#### 8. Killings as a result of sexual orientation and gender identity

71. Gender-based killing due to sexual orientation and gender identity is a phenomenon that has been recently, albeit insufficiently, documented. Although limited statistics are available, civil society reports suggest that violence, motivated by hatred and prejudice based on sexual orientation and gender identity, is a daily reality for many. It is “characterized by levels of serious physical violence that in some cases exceed those present in other types of hate crimes”.<sup>122</sup> Lesbian, gay, bisexual, transsexual, transgender, intersex and queer persons (LGBTIQ), and also activists working in this sector, are targeted because they do not conform to stereotypes of gender sexuality and/or identity, thus becoming victims of homophobic crimes.

72. Manifestations of violence, such as abuse of police power, sexual violence in prisons and murders fuelled by hate, as well as several kinds of discrimination, persist. As academics have noted,<sup>123</sup> there is a paradox in the advancement in the protection of individuals’ sexual rights on the one hand, and the increasing escalation of homophobic

<sup>116</sup> The women are viewed as inferior and are hence turned into waste material. See Segato, R. (2004) “Territorio, soberanía y crímenes de segundo Estado: la escritura en el cuerpo de las mujeres asesinadas en Ciudad Juárez”, Serie Antropológica, 362, Brasil.

<sup>117</sup> Supra Note 16.

<sup>118</sup> Ibid.

<sup>119</sup> Sánchez, J. (2011) “Impunidad: Un grito sin respuesta. Informe final femicidios en Honduras”, Tribuna de Mujeres Contra los Femicidios. Honduras.

<sup>120</sup> Ibid.

<sup>121</sup> UNDP Human Development Index (2010).

<sup>122</sup> See Human Rights First, *Violence Based on Sexual Orientation and Gender Identity Bias*, 2008 Hate Crime Survey (2008) at p. 1.

<sup>123</sup> Julieta Lemaitre, “Love in the Time of Cholera”, *Sur*, International Journal of Human Rights, Argentina, 2010.

crimes on the other. In this sense, LGBTIQ persons, including women, are especially vulnerable to many kinds of violent crime, from killings in private homes to killings in public spaces known as “social cleansing”, extortion by blackmailers who threaten to reveal their identity to the public, and abuse from officials, especially the police, who sometimes arrest them.<sup>124</sup>

73. In the case of South Africa, the recent murders of Black lesbian women demonstrates the multiple and intersecting factors that have led to an escalation in homophobic attacks, despite progressive constitutional provisions preventing discrimination on the basis of, among others, race, gender and sexual orientation.<sup>125</sup>

74. The Human Rights Council has expressed its concern about the increasing violence and killings of lesbian, gay, bisexual and transgender persons and the impunity surrounding these crimes.<sup>126</sup> More recently, the Council passed a groundbreaking resolution on human rights violations based on sexual orientation and gender identity.<sup>127</sup>

75. The Inter-American Commission on Human Rights has held several hearings in the last three years regarding the situation of violence and discrimination against sexual minorities in some countries of the Caribbean and Central and South America. In these countries, civil society organizations have expressed their concern regarding increasing incidents of homophobic crimes.<sup>128</sup>

76. Reports of homicides of “trans” people reflect that 93 murders were recorded in the first half of 2010.<sup>129</sup> Another project has revealed that between January 2008 and September 2011 there were 681 reports of murdered “trans” people in 50 countries.<sup>130</sup>

#### 9. Other forms of gender-related killings of women and girls

77. As noted above, certain cultural norms and beliefs are the causal factors for harmful practices resulting in violence against women.<sup>131</sup> For example, in India the practice of sati, that is, the burning alive of a widow on her husband’s pyre, has emerged since the country’s independence.<sup>132</sup> To date there have been at least 40 reported cases.<sup>133</sup>

<sup>124</sup> Ibid., at p. 80.

<sup>125</sup> Kim Vance, ARC International “gender-motivated killings of women on the basis of sexual orientation and gender identity”. Paper presented at EGM Oct 2011.

<sup>126</sup> Report of the Working Group on the Universal Periodic Review. Honduras. Human Rights Council. A/HRC/16/10, 4 January 2011, at para 35.

<sup>127</sup> Human Rights Council resolution 17/19.

<sup>128</sup> IACHR, hearings on sexual orientation and gender identity available at: <http://www.cidh.oas.org/prensa/publichearings/Advanced.aspx?Lang=ES>

<sup>129</sup> The TMM project started in April 2009 as a cooperation between Transgender Europe (TGEU) and the academic online magazine Liminalis – A Journal for Sex/Gender Emancipation and Resistance. With the involvement of the editorial team of Liminalis, the TMM became a pilot project of Transgender Europe’s “Transrespect versus Transphobia Worldwide” research project in September 2009.

<sup>130</sup> [http://www.transrespect-transphobia.org/en\\_US/tvt-project/tmm-results/all-tmm-reports-since-2008.htm](http://www.transrespect-transphobia.org/en_US/tvt-project/tmm-results/all-tmm-reports-since-2008.htm)

<sup>131</sup> See the In-depth study on all forms of violence against women, report of the Secretary-General.

<sup>132</sup> Banerji, R. (2009) “*Female Genocide in India and the 50 Million Missing Campaign*” Intersections: Gender and Sexuality in Asia and the Pacific. Issue 22

<sup>133</sup> Mani, L. (2003) “*Multiple meditations: feminist scholarship in the age of multinational reception*”, Feminist Theory Reader, McCann, C., and Kim, S. (eds), New York: Routledge, 2003, pp. 365–77, p. 372.

78. Female infanticide has been practiced throughout history, on all continents, and by persons from all backgrounds.<sup>134</sup> It remains a critical concern in a number of countries today. It is closely linked to the phenomenon of sex-selective abortion, which targets female foetuses. Female infanticide has been known to take such forms as the induced death of infants by suffocation, drowning, neglect and exposure to danger or other means.<sup>135</sup>

79. In recent decades, sex-ratio imbalances in favour of boy children have grown in a number of Asian countries, and there is broad agreement concerning the problem of gender-biased sex selection.<sup>136</sup> In a context of son preference, the recent availability of technologies that can be used for sex selection has compounded the problem. The rise in sex-ratio imbalances and the normalization of the use of sex selection is caused by deeply embedded discrimination against women within marriage systems, family formation and inheritance laws.<sup>137</sup>

80. In the case of India, international attention has been drawn to the vast divergence in the country's natural gender ratio, with estimates that in 2003 100 million women were "missing" from its population.<sup>138</sup> It is estimated that one million selective female foetal abortions occur annually in India.<sup>139</sup> There is no official statistical data available on female infanticide, but in the state of Kerala, it is estimated that about 25,000 female newborns are killed every year.<sup>140</sup> The preadolescent mortality rate of girls under 5 years old was 21 per cent higher than for boys of the same age in India. Violence, as well as nutritional and deliberate medical neglect by girls' parents, was cited as the main causes of death.<sup>141</sup>

81. Female infanticide in China goes back as far 2000 B.C. Girls were the main victims of infanticide, especially so in times of poverty and famine.<sup>142</sup> A study suggested that the estimated number of missing girls in the twentieth century in China between 1900 and 2000 is 35.59 million, representing 4.65 per cent of its population. An analysis of the most recent data from China shows that while the sex ratio at birth is more skewed in rural areas, the ratios in large cities increased in 2005 compared to 2000.<sup>143</sup> These findings suggest that son preference is still a strong influence, and is increasingly being acted upon by those living in cities.

## IV. International and national developments

### A. International human rights law and jurisprudence

82. Violence against women has been affirmed, in many human rights instruments and by human rights bodies, as a violation of the rights and fundamental freedoms of women.

<sup>134</sup> Williamson, L. (1978) "An anthropological analysis". In Marvin Kohl (ed.), *Infanticide and the value of life*, pp. 61-75. Buffalo, NY: Prometheus Books.

<sup>135</sup> Hom, S. (1992) "Female infanticide in China: the spectrum of human rights and reflections towards another vision". In Harnes, R. and D. Russell (eds.) (2001) "Femicide in Global Perspective", New York: Teachers College Press.

<sup>136</sup> Preventing gender-biased sex selection. An interagency statement by OHCHR, UNFPA, UNICEF, UN-Women and WHO. 2011.

<sup>137</sup> Ibid.

<sup>138</sup> Sen, A. (2003) "Missing Women Revisited", *British Medical Journal* 327:1297-8. UK

<sup>139</sup> Allahbadia, G. (2002) "The 50 million missing women" *Journal of Assisted Reproduction and Genetics*, vol. 19, no. 9: 411-16.

<sup>140</sup> Aravamudan, G. (2007) "Disappearing Daughters: The Tragedy of Female Foeticide", New Delhi: Penguin Books, pp. 157-59.

<sup>141</sup> Moccia, P., Anthony, D., and A. Orlandi (eds) (2007) "The State of the World's Children", South Asia Edition. Women and Children. The Double Dividend for Gender Equality. UNICEF.

<sup>142</sup> Croll, E. (1980) "Feminism and socialism in China". New York, Schocken Books, pp. 24.

<sup>143</sup> Ibid.

The killing of women constitutes a violation of, among others, the rights to life, to equality, dignity and non-discrimination, and not to be subjected to torture and other cruel, inhuman, or degrading treatment or punishment. The obligation of States to ensure these rights arises pursuant to the duty of States to prevent and protect individuals from human rights violations within their jurisdictions, to punish perpetrators and to compensate individuals for such violations. The failure of States to guarantee the right of women to a life free from violence allows for a continuum of violence that can end in the deaths of women.

83. Gender-based violence has been recognized as one of the most extreme and pervasive forms of discrimination, severely impairing and nullifying the enforcement of women's rights.<sup>144</sup> The Convention on the Elimination of All Forms of Discrimination against Women and the Declaration on the Elimination of Violence against Women address all forms of violence, which include the killing of women, as acts of violence that are prohibited under international law.<sup>145</sup>

84. Treaty bodies and special procedure mandate holders have also condemned specific forms of violence, including femicide, honour-related killings, systematic killings, disappearances and witchcraft-related killings of women.<sup>146</sup> They have also raised concerns in relation to the significant obstacles for women in accessing justice, the climate of impunity surrounding such cases, and also the systematic failure of States to investigate or provide redress.<sup>147</sup>

85. A significant component of the international human rights framework is the duty placed on States to prevent, investigate, punish and provide compensation for all acts of violence. The Declaration on the Elimination of Violence against Women spells out the obligation of States to exercise due diligence when gender-based violence occurs, whether perpetrated by the State or by private persons.<sup>148</sup> In numerous resolutions relating to the intensification of efforts to eliminate all forms of violence against women, the Human Rights Council and the General Assembly have also urged States to act with due diligence

<sup>144</sup> See, for example, Human Rights Council resolution 14/12 of 18 June 2010 on accelerating efforts to eliminate all forms of violence against women: ensuring due diligence in prevention; Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104 of 20 December 1993; United Nations, *Beijing Declaration and Platform for Action*, Fourth World Conference on Women, September 15, 1995, A/CONF.177/20/Rev.1 (1995) and A/CONF.177/20/Add.1 (1995); CEDAW Committee, *General Recommendation 19: Violence against Women*, (11<sup>th</sup> Session 1992), U.N. Doc. A/47/38 at 1 (1993).

<sup>145</sup> See Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104 of 20 December 1993, article 1.

<sup>146</sup> The Commission on the Status of Women, the Commission on Human Rights (replaced by the Human Rights Council) and the Commission on Crime Prevention and Criminal Justice have also regularly adopted resolutions on violence against women. See, for example, General Assembly resolutions 63/155, 61/143, 59/166, 58/147 and 56/128. See Felice Gaer, "Approaches of the human rights treaty bodies to gender-based killings of women", Presentation at Expert Group Meeting, New York, 12 October, 2011.

<sup>147</sup> See Report of the Secretary-General, *In-depth study on all forms of violence against women*, U.N. Doc. A/61/122/Add.1 (2006); *Access to Justice for Women's Victims of Violence in the Americas*, Inter-Am. Com. H.R., supra note 4; *Hemispheric Report of the Commission of Experts of the Mechanism to Follow-up on the Implementation of the Convention Belem do Pará* (hereinafter "Hemispheric Report"), Inter-American Commission of Women, OEA/Ser.L/II.7.10 MESECVI-II/doc.16/08 rev.1 (2008); and Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo supra. Committee on the Elimination of Discrimination against Women, "General Recommendation No. 28 on the Core Obligations of States Parties Under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women", (2010) at 34.

<sup>148</sup> See Article 4(c) of the Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104 of 20 December 1993.

to prevent, investigate, prosecute and punish the perpetrators of violence against women and girls and to provide protection to the victims.<sup>149</sup>

86. The rights of women and girls to be informed about and provided with access to the mechanisms of justice and effective remedies are also contained within international human rights law.<sup>150</sup> As noted by the Special Rapporteur: “the obligation to provide adequate reparations involves ensuring the rights of women to access both criminal and civil remedies and the establishment of effective protection, support and rehabilitation services for survivors of violence”.<sup>151</sup> The General Assembly has repeatedly urged Member States to take action towards this end by means of a more systematic, comprehensive, multisectoral and sustained approach, adequately supported and facilitated by strong institutional mechanisms and financing, through national action plans; and to ensure that all human rights and fundamental freedoms are respected and protected.<sup>152</sup>

87. Relevant resolutions also provide that States must condemn violence against women and not invoke custom, tradition or religion to avoid their obligations to eliminate such violence; develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to victims; provide access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies; and ensure that the secondary victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions.<sup>153</sup>

88. In other resolutions, the General Assembly has also urged States to review or abolish all laws and regulations that discriminate against women or have a discriminatory impact on women and ensure that provisions of multiple legal systems comply with international human rights obligations, and to use best practices to end impunity and a culture of tolerance towards violence against women, including by evaluating and assessing the impact of legislation, rules and procedures regarding violence against women and reinforcing criminal law and procedure relating to all forms of violence against women, as well as by incorporating into law measures aimed at preventing violence against women.<sup>154</sup>

89. In 2000, the Human Rights Committee adopted general comment 28 on the equality of rights between men and women, in which it stated that honour crimes which remained unpunished constituted a serious violation of the International Covenant on Civil and Political Rights. Moreover, laws which imposed more severe penalties on women than on men for adultery or other offences also violated the requirement of equal treatment.<sup>155</sup> In

<sup>149</sup> General Assembly resolutions 61/143 of 19 December 2006; 62/133 of 18 December 2007 and 63/155 of 18 December 2008 on the intensification of efforts to eliminate all forms of violence against women.

<sup>150</sup> See Article 4 of the Declaration on the Elimination of Violence against Women and Article 7 of Convention Belem do Para, supra note 1. Also relevant are the rights to judicial protection and effective remedies established in general human rights instruments. See the American Convention on Human Rights (arts. 8 and 15); the American Declaration of the Rights and Duties of Man (art. XVIII); the Universal Declaration of Human Rights (art. 8), the International Covenant on Civil and Political Rights (art. 2, para. 3), the International Convention on the Elimination of All Forms of Racial Discrimination (art. 6), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (art. 14).

<sup>151</sup> Human Rights Council, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, U.N. Doc. A/HRC/14/22, (2010) at p.1.

<sup>152</sup> General Assembly, Resolution 61/143 of 19 December 2006 and Resolution 63/155 of 18 December 2008 on the intensification of efforts to eliminate all forms of violence against women.

<sup>153</sup> United Nations, Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104.

<sup>154</sup> See Resolution 61/143 of 19 December 2006 and Resolution 63/155 of 18 December 2008 on the intensification of efforts to eliminate all forms of violence against women, supra.

<sup>155</sup> CCPR/C/21/Rev.1/Add.10.



2004, the General Assembly passed a resolution on the elimination of crimes against women and girls committed in the name of honour. It stressed the need to treat such crimes as criminal offences punishable by law. It emphasized that such crimes are incompatible with all religious and cultural values, and called upon all States to continue to intensify efforts to prevent and eliminate crimes against women and girls committed in the name of honour, by using legislative, administrative and programmatic measures.<sup>156</sup>

90. The Committee on the Elimination of Discrimination against Women has held State parties accountable for their failure to act with due diligence in addressing violence against women.<sup>157</sup> For example, in the cases of *Goekce (deceased) v. Austria* and *Yildirim (deceased) v. Austria*,<sup>158</sup> both concerning women victims of domestic violence, the Committee found that the State had discriminated against the women for failing to act with due diligence to protect their rights to life and to physical and mental integrity. The Committee has also addressed structural discrimination against women in relation to gender-based murders. In its inquiry under article 8 of the Optional Protocol into the abduction, rape and murder of women in and around Ciudad Juárez, the Committee has recommended that Mexico sensitize all state and municipal authorities to the need for violence against women to be regarded as a violation of fundamental rights.<sup>159</sup>

91. Furthermore, the Committee on the Elimination of Discrimination against Women has characterized the persecution of women accused of witchcraft as an extreme form of violence against women.<sup>160</sup> It has expressed its concern about the persistence of the belief in witchcraft and the subjection of women in witch camps to violence.<sup>161</sup>

92. The Committee on the Elimination of Discrimination against Women has urged Canada to examine the reasons for the failure to investigate the cases of missing or murdered aboriginal women, to take the necessary steps to remedy the deficiencies in the system, to carry out thorough investigations of the cases of aboriginal women who have gone missing or been murdered in recent decades, to conduct an analysis of such cases in order to determine whether there is a racialized pattern to the disappearances, and to take measures to address the problem if that is the case.<sup>162</sup>

93. The Committee against Torture has stated that the definition of torture includes the principle of non-discrimination on any grounds, including gender, sexual orientation and transgender identity.<sup>163</sup> Thus, States are obliged to protect certain minority or marginalized individuals or populations especially at risk of torture, and should ensure such protection by fully prosecuting and punishing all acts of violence and abuse and ensuring implementation of other positive measures of prevention and protection.<sup>164</sup> The Human Rights Council, in

<sup>156</sup> General Assembly resolution 59/165 of 20 December 2004.

<sup>157</sup> The Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women allows the Committee to review individual petitions against State parties that have ratified the CEDAW Convention. See Article 7, para. 3.

<sup>158</sup> CEDAW Committee, *Sahide Goekce (deceased) v. Austria*, communication No. 5/2005, views adopted 6 August 2000; *Fatma Yildirim (deceased) v. Austria*, communication No. 6/2005, views adopted 6 August 2007.

<sup>159</sup> Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO, para. 286.

<sup>160</sup> With regard to India, in 2007, the Committee noted its concern about the practice of witch-hunting. See CEDAW Concluding Observations to the country, U.N. Doc. CEDAW/C/IND/CO/3.

<sup>161</sup> In examining the report on Ghana, the Committee received information alleging that some 2,000 witches and their dependants were confined in five different camps.

<sup>162</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women: Canada, U.N. Doc. CEDAW/C/CAN/CO/7, (2008) at para. 32.

<sup>163</sup> See, Committee against Torture (hereafter CAT), General Comment No. 2, at para. 20.

<sup>164</sup> *Ibid.*, at para. 21.

its resolution 17/19, requested the United Nations High Commissioner for Human Rights to present a study documenting discriminatory laws and practices and acts of violence against individuals based on sexual orientation and gender identity.

## B. Some national practices

94. States have sought to comply with their due diligence obligation to prevent violence against women through the adoption of specific legislation, the development of awareness-raising campaigns, and the provision of training for professional groups, including the police, prosecutors and members of the judiciary.<sup>165</sup> Many States have adopted national plans of action on violence against women in an effort to coordinate activities between and within government agencies and to take a multisectoral approach to prevent violence.

95. In Afghanistan, the Law on Elimination of Violence against Women broadly criminalizes violence against women broadly. Despite this, cases of gender-based killings and other serious crimes against women are still being prosecuted under the Penal Code instead of under the new law.<sup>166</sup> This is resulting in acquittals of perpetrators, the reduction of charges to less serious crimes, convictions with lighter sentences and women victims themselves being accused of “moral crimes”.<sup>167</sup> Also, article 398 of the Penal Code mitigates penalties for murder if the victim is a close relative caught in the act of committing adultery, and the killing was not premeditated.<sup>168</sup>

96. Legislative advances have been made by Lebanon regarding honour crimes. In August 2011, Lebanon repealed article 562 of its Criminal Code. That article had mitigated the sentences of people who claimed they killed or injured their wife, daughter or other relative to protect the family honour.<sup>169</sup> The Lebanese courts almost invariably refused to accept the alleged notion of honour to justify these crimes, and article 562 was rarely used by the judges.<sup>170</sup> Nevertheless, women’s organizations in Lebanon argued that enacting a comprehensive law for the protection of women from family violence was an effective strategy to prevent killings of women in the first place.<sup>171</sup>

97. In 2010, the government of British Columbia established the Missing Women Commission of Inquiry, to conduct fact-finding missions and police investigations with regard to reports of missing and murdered women in the city of Vancouver (the Pickton case).<sup>172</sup> This initiative does not address the phenomena in other parts of the country.<sup>173</sup>

<sup>165</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, *The due diligence standard as a tool for the elimination of violence against women* (hereinafter *The Due Diligence Report*), E/CN.4/2006/61, 2006, para. 38.

<sup>166</sup> United Nations Assistance Mission to Afghanistan (UNAMA) and the Office of the High Commissioner for Human Rights in Afghanistan, “*A Long Way to Go: Implementation of the Elimination of Violence against Women Law in Afghanistan*”, November 2011.

<sup>167</sup> *Ibid.*

<sup>168</sup> *Supra* note 83.

<sup>169</sup> See Human Rights Watch, “Lebanon: Law Reform Targets ‘Honor’ Crimes”, August 2011.

<sup>170</sup> Baydoun, A. (2011) “*Killing of women in the name of honour: An evolving phenomenon in Lebanon*”. Paper presented at the Expert Group Meeting on gender-motivated killings of women. Convened by the Special Rapporteur on violence against women, its causes and consequences, Ms. Rashida Manjoo, New York, 12 October 2011.

<sup>171</sup> *Ibid.*

<sup>172</sup> Sharon McIvor and Shelagh Day, “Gender-Motivated Killings of Aboriginal Women and Girls Canada”, Prepared for UN Expert Group Meeting on Gender-motivated killings of women, 12 October 2011.

<sup>173</sup> *Ibid.*

98. India passed the 1961 Dowry Prohibition Act, and dowry death was also criminalized in the Indian Penal Code,<sup>174</sup> where a provision was introduced proscribing dowry-related violence and establishing domestic violence (cruelty in the marital home) as an offence with a maximum punishment of three years.<sup>175</sup> This amendment was also necessary to respond to the difficulties of proving the murder of women committed within the home. The normal evidentiary rules were amended to shift the burden of proof to the accused in the hope that it would enable the prosecution to secure convictions. Similarly, evidentiary rules relating to the offence of abetment (instigation, conspiracy or intentional aiding) to suicide were amended to more justly deal with cases of suicides committed by women due to dowry harassment.<sup>176</sup> Despite such reforms, the incidence of dowry-related killings continues.<sup>177</sup>

99. Although some States have enacted legislation providing for the punishment of witches, penalties for the persecution or killing of witches have not been explicitly established. In some countries, laws consider witchcraft as an aggravating circumstance which warrants a lesser punishment for the aggressor.<sup>178</sup> For example, in Papua New Guinea, attacks against persons accused of sorcery can be prosecuted as a crime under ordinary criminal legislation. Although the Sorcery Act of Papua New Guinea provides for the prosecution of those responsible for the deaths of accused witches, there is almost no enforcement of the law, as witnesses often fail to cooperate out of fear or complacency.<sup>179</sup> According to reports, of 67 sorcery-related incidents in Simbu recorded by the police between 2000 and 2005 (including 92 persons dead or injured), only six affidavits were produced regarding killers of suspected witches and only two people were eventually sentenced.<sup>180</sup>

100. In 2008 Guatemala passed the Law against Femicide and Other Forms of Violence against Women. It includes a comprehensive framework and incorporates a wide definition that acknowledges that femicide is committed by a person who, in the context of unequal power relations between men and women, puts to death a woman because she is a woman.

101. At the federal level, Mexico passed the General Law on Women's Access to a Life Free of Violence in 2007. Although this law does not recognize femicide as a crime, it has included "femicidal violence" (*violencia feminicida*) as a type of violence. To date, only the federal authorities of the capital and three county/state governments have issued executive regulations to implement this new legislation.

102. In 2010, El Salvador passed the Integral Law for a Life Free of Violence for Women, which defines and classifies two types of femicide: when the perpetrator of the death of a woman is motivated by hatred or contempt based on gender; and aggravated femicide, when the perpetrator is a civil servant, government official or member of the police or army, when two or more persons are involved, when the killing is committed in the presence of any of the victim's members of the family, when the victim is a minor or

<sup>174</sup> See Section 304-B, Indian Penal Code. A minimum of seven years and a maximum of life imprisonment was the prescribed punishment.

<sup>175</sup> See S.498-A of the Indian Penal Code.

<sup>176</sup> See Section 306 of the Indian Penal Code.

<sup>177</sup> The National Crime Record Bureau of India (NCRB) reports for 2008, there were 1,948 convictions as against 3,876 acquittals. In 2009, 8,383 dowry violence cases have been reported. See *Crime in India*, National Crime Record Bureau (NCRB), Ministry of Home Affairs, Government of India, cited in Flavia Agnes, *supra*, p. 7.

<sup>178</sup> *Supra* note 45 at p.51.

<sup>179</sup> Jill Schnoebelen, "Witchcraft allegations, refugee protection and human rights: a review of the evidence", *New Issues in Refugee Research*, Research Paper No. 169, Policy Development and Evaluation Service, 2009.

<sup>180</sup> Oxfam, *Sorcery Beliefs and Practices in Guinea: A Source of Conflict and Insecurity*, 15 Oct 2010.

with a disability, or when the aggressor has abused any authoritarian power held in the family, work or educational environment.

## V. Conclusions and recommendations

103. While States have initiated various preventive programmes, there are numerous gaps in their efforts. Challenges include: a lack of overall societal transformation; inadequate provision of access to justice; the absence and/or insufficiency of the rights-based discourse when addressing the killings of women; and the blindness to structural inequalities and the complex intersecting relations of power in the public and private spheres, which remain the root causes of sex and gender discrimination. A holistic approach in preventing gender-related killings must be emphasized in all the measures taken by States to investigate and sanction violence, especially in crafting, implementing and evaluating legislation, policies and national plans of action.

104. Feminists have also identified what they believe are other challenges: the difficulty of translating social realities into claims based on rights; the narrow interpretation of rights within an international legal order; and the prevalence of discriminatory cultural stereotypes in the administration of justice. The formulation of rights-based claims by women remains an important strategic and political tool for women's empowerment and for addressing human rights violations.

105. The weaknesses in information systems and the poor quality of data are major barriers in investigating femicides, developing meaningful prevention strategies and advocating for improved policies. The different frameworks, definitions and classifications used in the conceptualization of femicide often complicate the collection of data from different sources and could lead to documentation that may not be comparable across communities or regions.<sup>181</sup> Studies on the subject have been conducted primarily using data from homicide databases. Information collected by official or State sources is frequently not harmonized or coordinated. Often there are incongruities between the data collated by the different facilities, including inconsistencies in the categories used to document the circumstances surrounding the crime, the victim-perpetrator relationship and the fact of pre-existing violence. The development of an effective evidence base requires improving the quality and comparability of data.<sup>182</sup>

106. The use of inexact categories for the classification of murders, such as the category "others", results in misidentification, concealment and underreporting of femicides—in particular those that do not occur in a family situation. Another common practice is the use of stereotypical and potentially prejudicial categories, including "crime of passion" or "mistress".<sup>183</sup>

107. In February 2009 the Statistical Commission, in response to a request from the General Assembly,<sup>184</sup> adopted a set of indicators that can document the prevalence of violence against women. The indicators proposed include: degree, frequency, relationship with the perpetrator, victim's age, and records of murder cases.

<sup>181</sup> Supra note 19.

<sup>182</sup> Ibid., p. 4.

<sup>183</sup> Carcedo, A. "Femicide in Central America 2000–2006". Presentation of a study co-authored by Lemus, G., Kennedy, M., Herrera, M., D'Angelo, A., Hidalgo, Ana., Ungo, U., and S. Pola – in Conference Report supra note 20.

<sup>184</sup> See General Assembly resolution 61/143.

According to the information gathered to date, no country has all the information necessary to calculate and create the proposed indicators.

108. Although media coverage of killings of women has generally perpetuated stereotypes and prejudicial biases, it has provided contextual information, including, inter alia, the victim-perpetrator relationship and any history of violence. This has helped women's organizations to distinguish cases of femicide from those of homicides of women.

109. The lack of adequate assessment of risk, the lack of enforcement by police and the judiciary of civil remedies and criminal sanctions, and the absence or inadequate provision of services, such as shelters, also exacerbate the risk of women of being abused and murdered, as often women have no choice but to continue living with their abusers.<sup>185</sup>

110. In the context of murders relating to witchcraft, a number of factors that hinder or prevent adequate police response were identified. These include shortages of personnel, vehicles and fuel and a limited presence of the police, as well as the taboo surrounding sorcery, which in and of itself prevents intervention. In many cases communities do not cooperate and are reluctant to give information to the police due to fear of mob rule and of being accused as co-sorcerers if they assist victims.<sup>186</sup>

111. International humanitarian law proscribes gender-based violence and extrajudicial executions of women during armed conflict. It also forbids attacks on their personal dignity, in particular humiliating and degrading treatment. Significant obstacles to investigating and prosecuting killings of women have been identified. These include the failure of police intervention, a lack of implementation of security measures for women, repeated attacks on law-enforcement officials and women's rights advocates, and inaccessible detention locations in areas under the control of insurgents and other illegally armed groups. Institutional weakness results in impunity in cases of gender-related killings of women, as a lack of respect for the rule of law, corruption and poor administration of justice are the norm.

112. Despite progressive jurisprudence from the regional human rights systems, often there is no mechanism to coordinate the implementation of the judgements at the national level, with some authorities stating that the absence of a special implementing law precludes fulfilment. It is argued that in order to facilitate compliance with such rulings, the creation of an international standard for the investigation of femicide, which ensures compliance with the guarantee of non-repetition, is necessary. An Action Protocol, aimed at the judiciary, prosecutors and political bodies, can outline guidelines for the prevention of and investigation into incidents of femicide.<sup>187</sup>

113. As noted by this mandate, developing indicators for State responses "is somewhat less complex than measuring violence, because there are clear responsibilities set out in international law: to prevent, protect, prosecute and provide compensation".<sup>188</sup> While adequate regulatory frameworks have generally been adopted to deal with violence against women, weaknesses include: a lack of adequate

<sup>185</sup> Lidia Casas and Macarena Vargas, *The response of the State to Domestic Violence*, Chile, 2011.

<sup>186</sup> *Supra* Note 46 pp. 9-10.

<sup>187</sup> Project: Protocol of Madrid. *Creation of a Protocol for the Effective Investigation and Documentation of Extreme Violence against Women for Gender-Based Reasons: Femicide*. Derechos Humanos: Federación de Asociaciones de Defensa y Protección, and University Carlos III, Madrid.

<sup>188</sup> A/HRC/7/6, at para 69.

operative, technical, financial and human resources and, in some cases, a lack of political will to effectively and practically address the problem.

114. In 2007, the Economic Commission for Latin America and the Caribbean concluded that to end violence against women, it is imperative that it become a focus of public agendas: firstly, as a human rights violation, secondly, because violence is an obstacle for development and, finally, because it is a key issue for democracy and governance.<sup>189</sup> In this sense, the elimination of violence against women is based on three pillars: legal protection, public policies and a culture of respect without discrimination.<sup>190</sup>

115. A holistic approach for the elimination of all forms of violence against all women would require that systemic discrimination, oppression and marginalization of women be addressed at the political, operative, judicial and administrative levels.<sup>191</sup>

116. In cases involving gender-related killings, the international and regional human rights systems have included some of the following standards regarding the due diligence obligations of States:

(a) Conduct effective investigations of the crime, and prosecute and sanction acts of violence perpetrated by State or private actors, especially when these acts demonstrate a pattern of systemic violence towards women;

(b) Guarantee de jure and de facto access to adequate and effective judicial remedies;

(c) Include in the obligation of access to justice a requirement to treat women victims and their relatives with respect and dignity throughout the legal process;

(d) Ensure comprehensive reparations for women victims of violence and their relatives, including measures that are designed to address institutional and social factors;

(e) Identify certain groups of women as being at particular risk for acts of violence due to having been subjected to discrimination based on more than one factor, including women belonging to ethnic, racial and minority groups. Such factors must be considered by States in the adoption of measures to prevent all forms of violence;

(f) Modify the social and cultural patterns of conduct of men and women and eliminate prejudices, customary practices and other practices based on the idea of the inferiority or superiority of either of the sexes, and on stereotyped roles for men and women.

<sup>189</sup> Economic Commission for Latin America and the Caribbean (ECLAC), (2007), “*¡Ni una más! El derecho a vivir una vida libre de violencia en América Latina y el Caribe*”, (LC/L.2808), Santiago de Chile.

<sup>190</sup> ECLAC (2009) “*¡Ni una más! Del dicho al hecho: Cuánto falta por recorrer? Únete para poner fin a la violencia contra las mujeres*”. Chile.

<sup>191</sup> A/HRC/17/26 Special Rapporteur on violence against women “Multiple and intersecting forms of discrimination and violence against women” (2011).



A neighbor observes as the police investigate at the scene of a murder of an unidentified woman in Guatemala City, Guatemala, Friday, November 25, 2005. According to the police, 580 women were murdered in Guatemala that year.

## Hidden in Plain Sight

### *Violence Against Women in Mexico and Guatemala*

By Adriana Beltrán and Laurie Freeman

#### Introduction

Every woman has the right to live free of violence in both the public and private spheres, and to have access to effective justice to protect this right. This seemingly simple concept, affirmed in the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (the “Convention of Belém do Pará”) and subsequently adopted in international law, has transformed the hemisphere’s perception of violence against women. Not only does it transform the problem from a private matter into a public one, but it makes “a life free from violence” a fundamental human right, one that states are obliged to promote and protect.

Belém do Pará aims to tear down the wall separating private from public violence, a wall that made it acceptable for a man to beat his wife but not to hit a colleague in the workplace or assault a stranger on the street. Without such a wall, violence within intimate relationships or in the home must be treated as a crime, just like other forms of violence. Furthermore, although the state is not the direct perpetrator of the violence – as is the case with torture, forced disappearance, or extrajudicial execution, violations more traditionally addressed by the human rights community – Belém do Pará considers violence against women a human rights abuse because a state’s failure to prevent or punish it is tantamount to encouraging it.

Though important strides have been made to criminalize and raise awareness about violence against women, the wall shielding it from greater public scrutiny or outrage still exists. This is most immediately apparent in the lack of adequate studies on the prevalence or nature of the problem in Latin America. Still, the data that do exist are staggering. Violence against



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According to recent studies in ten countries, between 10 and 44 percent of women in Latin America and the Caribbean have been physically abused by their partner.<sup>1</sup>

women affects huge swathes of the population like no other form of crime or human rights abuse. According to recent studies in ten countries, between 10 and 44 percent of women in Latin America and the Caribbean have been physically abused by their partner.<sup>1</sup> Young women and girls continue to be victims of rape, incest, sexual abuse, and sexual exploitation.

In Mexico and Guatemala, violence against women is widespread, cutting across boundaries of class, age, and ethnicity. Although both countries have ratified international women's rights instruments, the reality is that violence against women continues to occur at alarming rates. In Mexico, 44 percent of women over 15 years old have been victims of some form of intrafamily violence, and 60 percent of women between the ages of 15 and 34 reported such abuse.<sup>2</sup> According to conservative estimates, in Guatemala, 36 percent of women who live with a male partner suffer domestic abuse, including physical, sexual, or psychological abuse.<sup>3</sup>

The starkest expression of violence against women in Mexico and Guatemala is the continued and increasing killings of women and girls. The precise number of women killed in Guatemala is uncertain due to the lack of reliable statistics and differences among the criteria used by various agencies to compile data. This makes it difficult to lay out a precise picture of the extent of the problem of violence against women in the country. Police statistics reveal, however, that more than 2,500 women have been violently killed in Guatemala since 2001.<sup>4</sup> In Mexico, in the border town of Ciudad Juárez, more than 400 murders have been reported since 1993; many of the victims were raped, sexually assaulted, tortured, and in some cases mutilated.

Because violence against women is both a crime and a human rights violation, the public security and criminal justice systems – specifically police, prosecutors, forensic experts, and judges – have a crucial role to play in responding to the problem. While a criminal justice approach alone cannot eradicate the problem, the institutions involved have an obligation to protect the

rights of women and apply due diligence to prevent, investigate and punish those who harm women. Failure to act would mean that the state is failing to meet its international responsibility and, more importantly, that it is perpetuating a culture of impunity by sending the message that it is acceptable to hit, rape, torture, and murder women.

Yet in both Guatemala and Mexico, authorities have continuously failed to carry out effective investigations into violence against women and bring those responsible to justice. Police and justice institutions are weak, ineffective, and often corrupt, inspiring distrust and even fear. Their general flaws are compounded by gender biases within the institutions, which act to systematically silence and discriminate against women. Their shortcomings cannot excuse them from their obligation; if they cannot do their jobs properly now, they must be reformed and brought up to the task. The safety, wellbeing, and human rights of women are at stake, and, by extension, the health, security, and wellbeing of society as a whole.

This brief report analyzes various programs and policies implemented by public security and criminal justice institutions in Mexico and Guatemala with respect to violence against women, especially the murders of women, in order to highlight weaknesses, point to promising initiatives, and provide recommendations for reform. It also explores the role that the international community, particularly the U.S. government, can play by providing technical assistance, fostering political will for reform in these countries, and bringing a gender perspective into their training programs and broader policies to promote police and judicial reform and the rule of law.

## What is Gender-based Violence?

The United Nations has defined violence against women as any act:

*that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of*



*such acts, coercion, arbitrary deprivation of liberty, whether occurring in public or private life.*<sup>5</sup>

It includes but is not limited to rape, sexual assault and abuse, battery, systematic humiliation, forced sexual servitude, and murder, whether it takes place in an interpersonal relationship (by a family member or intimate partner) or in the larger community. It is known as “gender-based” because it “evolves in part from women’s subordinate status in society.”<sup>6</sup> Cultural beliefs that women are inferior to men – and therefore subject to their demands, decisions, and control – perpetuate violence against women by accepting it as normal and tolerable. And women are often unable to leave abusive relationships because they are financially dependent on the men who commit violence against them.

Although both men and women can be victims as well as perpetrators of violence, the violence commonly committed against women greatly differs from that committed against men. While men are generally more likely to experience physical violence on the street by a stranger, women and girls are more likely to be assaulted or killed by someone they know, usually a family member or intimate partner.<sup>7</sup> That does not rule out that women and girls are also attacked by strangers, a phenomenon that is common in settings such as armed conflict and displacement.<sup>8</sup> Generally, women are also at a higher risk of being sexually assaulted or exploited at different stages of their lives.

Much has been written on the costs and impacts of gender-based violence. According to a World Bank study, violence against women has serious negative impacts on women’s health and well-being, ranging from fatal outcomes, such as homicide and suicide, to non-fatal outcomes such as physical injuries, increased instances of depression, complications during pregnancy, and lower birth weights.<sup>9</sup> Gender-based violence also results in economic consequences such as increased absenteeism and decreased productivity at places of employment, lower earnings, and increased healthcare costs. Lost remuneration as a

consequence of gender-based violence has been estimated at between 1.6 and 2.0 percent of GNP in Latin America.<sup>10</sup>

The impact of gender-based violence extends to society as a whole. Behavioral research has demonstrated that domestic and social violence are closely intertwined and mutually reinforcing.<sup>11</sup> Children who experience or observe violent behavior in the home are far more likely to engage in violence themselves. Research shows that domestic violence significantly increases the likelihood that a child will be the perpetrator of violent behavior later in life, whether in domestic or social acts of violence.<sup>12</sup> According to a recent study, children exposed to violence between parents are almost three times more likely to engage in violence with their partners.<sup>13</sup> Some experts also argue that an increase in social violence generates more domestic violence by lowering inhibitions against the use of violence.<sup>14</sup>

Despite its prevalence, its devastating impact on women’s lives, and its multiplier effect on social violence and public insecurity, gender-based violence remains largely invisible and unpunished.

## **Challenges of the Criminal Justice Approach**

Criminal justice reform is a critical component of efforts to reduce gender-based violence. While a criminal justice approach alone will not be able to eradicate the problem, the justice sector can prevent and combat gender-based violence by sanctioning aggressors, raising awareness that violence against a woman is a crime, by increasing women’s access to the legal system, and by improving the range of interventions to protect victims.<sup>16</sup> Police and judicial institutions have an obligation to ensure respect for and protection under the law. Failing to do so sends the message that gender-based violence is not a serious crime or a violation of women’s human rights.

Unfortunately, in both Mexico and Guatemala, law enforcement and judicial institutions continue to confront profound

Research shows that domestic violence significantly increases the likelihood that a child will be the perpetrator of violent behavior later in life, whether in domestic or social acts of violence.<sup>12</sup>

institutional weaknesses that have made them unfit to combat rising crime. Despite key reforms, the justice systems in both countries continue to deny the vast majority of the population equal access to justice and the effective protection of their rights. This problem is even greater when victims or their relatives lack sufficient resources to seek legal assistance, understanding of their rights or the system, and information for tracking cases. As a result, most crimes are not reported. Those crimes that are reported are not adequately investigated and generally remain unpunished, confirming citizens' lack of faith in the system.

In Mexico, "impunity was pervasive to an extent that victims often refused to file complaints."<sup>17</sup> Of every 100 crimes, it is estimated that roughly 20 are reported.<sup>18</sup> According to a police official in the Mexican state of Oaxaca, only four or five of those 20 crimes are actually investigated, and of the investigations that are opened, more than half are never resolved. That official also noted that these figures are broadly representative of the country as a whole.<sup>19</sup>

Moreover, widespread corruption and the infiltration of organized crime into state institutions have further compromised the justice sector's will or ability to sanction crime, thereby contributing to greater impunity and to society's even deeper distrust of the criminal justice system. Justice is a rarity when police, prosecutors, and judges are on the take or are fearful of incurring organized crime's wrath.

In Guatemala, organized crime has successfully infiltrated key public institutions, including the police and justice system. As noted by the Office of the UN High Commissioner for Human Rights, "various criminal groups are attempting to infiltrate and make use of state institutions in order to prevent progress in criminal proceedings, especially in cases involving corruption, serious human rights violations, organized crime or drug trafficking."<sup>20</sup>

Consequently, judges, prosecutors, and justice workers are also constantly the target of death threats and attacks aimed at intimidating them or hindering their work.

From 2001 to mid 2005, for example, 469 cases of threats or attacks against justice workers were reported.<sup>21</sup> In 2005, alone, eight judicial sector workers, including two judges, were murdered.<sup>22</sup>

These institutional challenges pose a special challenge to investigating and prosecuting violence against women. According to the World Bank:

*In many settings, law enforcement institutions are under-funded, inaccessible, incompetent or even corrupt, making it impossible for them to enforce criminal law more generally. Governments often fail to budget resources for implementing changes in law and policies. Police and judges are often unwilling or unable to enforce laws related to gender-based violence. And, in many settings, girls and women remain unaware of the law or face social and economic barriers that make it impossible for them to exercise their rights.*<sup>23</sup>

In the case of gender-based violence, the effectiveness of the criminal justice system is further compromised by discriminatory attitudes and prejudices of state authorities. Victims of gender-based violence are often re-victimized by police and judicial personnel who harass them, treat them dismissively, or blame them for their fates based on their clothing or their lifestyles. Such gender biases frequently impede these cases from being investigated and prosecuted seriously, and can consequently put a woman's life in even more danger. Throughout the judicial process, officials' judgmental attitudes about the victims can encourage or cause a woman to return to an abusive relationship.

It is no wonder that crime victims and their families so profoundly distrust the police, prosecutors, and courts. Policymakers and advocates encouraging these institutions to address gender-based violence must take the system's institutional weaknesses into account. The region's criminal justice institutions cannot, in their current state, effectively prevent or punish gender-based violence. Reforms within police and judicial agencies are needed in order to eradicate their gender biases and facilitate

## International and Regional Milestones in Addressing Violence Against Women<sup>15</sup>

### **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), UN General Assembly, 1979**

In 1979, the UN General Assembly adopted the CEDAW. Since it entered into force in September 1981, the CEDAW has served as an international Bill of Rights for women. The Convention guarantees women equal rights with men in all spheres of life, including education, employment, healthcare, enfranchisement, nationality, and marriage. In 1992, the Expert Committee monitoring its implementation recognized that violence against a woman because she is a woman is a form of discrimination against women.

<http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

### **World Conference on Human Rights (Vienna Declaration and Program of Action), 1993**

The Vienna Declaration and Program of Action affirmed that women's rights are a fundamental part of all human rights. The Declaration also asserted the importance of eliminating violence against women in both public and private life.

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### **Declaration on the Elimination of Violence Against Women, UN General Assembly, 1993**

In 1993, the United Nations General Assembly resolved that violence against women "...constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms." The Declaration further states that "opportunities for women to achieve legal, social, political and economic equality in society are limited, *inter alia*, by continuing and endemic violence." It also establishes that violence against women encompasses, but is not limited to, physical, sexual and psychological violence occurring in the family or community and perpetrated or condoned by the state.

[http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.48.104.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.48.104.En?Opendocument)

### **Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará), 1994**

The Convention recognizes that women have the right to a life free of violence in both public and private spheres, and denounces all forms of violence against women. The Convention also obligates states to adopt policies and programs to prevent, punish, and eradicate violence against women.

<http://www.oas.org/cim/English/Convention%20Violence%20Against%20Women.htm>

### **Fourth World Conference on Women (Beijing Declaration and Platform for Action), 1995**

The Beijing Platform for Action recognized violence against women as an obstacle to the achievement of equality, development and peace, and as an act that violates the enjoyment of women's rights and freedoms. The document also specifically declared that violence against women is one of the twelve critical areas of concern towards which governments, the international community, and civil society should focus their efforts in order to achieve gender equality and the advancement of women.

<http://www.un.org/womenwatch/daw/beijing/beijingdeclaration.html>

### **Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, 1999**

The Protocol enables individual women or groups to file complaints with the United Nations when violations of their rights are not adequately redressed in local courts. It also empowers the UN Committee on the Elimination of Discrimination Against Women to investigate situations of systemic or serious violations of women's human rights.

<http://www.un.org/womenwatch/daw/cedaw/protocol/text.htm>



PHOTO BY LAURIE FREEMAN, WOLA

Just across from El Paso in Ciudad Juárez, this monument uses large nails surrounding a cross on a pink background to symbolize the murdered women of Ciudad Juárez.

Law enforcement institutions are underfunded, inaccessible, incompetent or even corrupt.  
—World Bank

the investigation and prosecution of gender-based violence without losing sight of the victims' needs or interests. Yet in order to improve the criminal justice system's ability to address violence against women in the long run, it is imperative that focus be given to overcoming broader institutional and technical weaknesses, eliminating opportunities for corruption and breaking ties to organized crime. These reforms will benefit women victims of violence as well as society overall, in terms of lower rates of youth crime and violence, increased contributions of women to the economy, and more professional, effective, and responsive police

and judicial institutions in the service of all.

## Gender-based Violence in Mexico and Guatemala

Although significant progress has been made in understanding and addressing the problem of violence against women, it remains widespread—inside and outside the home—in Mexico and Guatemala. According to a 2003 national survey, one in four women in Mexico has been the victim of physical violence at least once in her lifetime, and one in six women has experienced sexual violence.<sup>24</sup> The same survey revealed that domestic violence is the most prevalent form of violence in the country, with one in every five women living in a relationship that is characterized by physical, sexual and/or psychological abuse.<sup>25</sup> Today, Mexico has one of the highest rates of rape for women in the world.<sup>26</sup>

In Guatemala, domestic and sexual violence continue to occur at alarming rates. From January to September 2005, alone, the Public Prosecutor's Office reported having received more than 13,703 complaints of family violence.<sup>27</sup> According to the Network for Non-Violence Against Women, it is estimated that 90 percent of incidents of domestic violence go unreported.<sup>28</sup> Prosecutors from the Special Unit of Crimes Against Women noted that reports

of rape had increased by 30 percent over the past four years.<sup>29</sup> Yet, it was not until 2006 that the law which permitted a rapist to escape charges by marrying the victim was finally abolished.

Indigenous people constitute approximately 43 percent of the Guatemalan population. The law provides for equal rights for indigenous people, yet indigenous women continue to face multiple forms of discrimination, which deny them the full enjoyment of their rights and increases their vulnerability to violence. Discrimination is reflected in the rejection of their traditional dress, their limited access to education and basic public services, and the lack of opportunities in the workplace and access to land.<sup>30</sup> According to the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, "indigenous women experience the lowest levels of economic and social well-being."<sup>31</sup> While efforts have been made to improve the social and legal services provided to indigenous women, there is an absence of statistical information regarding the situation of indigenous women.<sup>32</sup> State agencies responsible for citizen security and policies for preventing violence against women fail to take into account the ethnicity of women in their statistics, reports or other documentation.<sup>33</sup> Indigenous women continue to face numerous barriers, particularly with regards to language, when trying to access the justice system.

The prevalence of violence against women today in Guatemala has its roots in the history of discrimination, exclusion and violence suffered by women, which was most evident during the 36-year internal armed conflict that ended with the signing of the 1996 Peace Accords. According to the United Nations Historical Clarification Commission (CEH), approximately 50,000 women were "disappeared" or extrajudicially executed during the armed conflict.<sup>34</sup> The CEH's investigation revealed that the rape of women, during torture or before being murdered, was a common practice.<sup>35</sup> Thousands of women were left widowed and the sole breadwinners for their children, often with no resources after the

scorched-earth policies resulted in the destruction of their homes and crops.<sup>35</sup> The state's failure to bring to justice those responsible for the atrocities perpetrated during the war or to fully implement the commitments regarding women's rights contained in the Peace Accords has left a terrible legacy that continues to foster much of the discrimination and violence that threaten the lives of Guatemalan women today.

### **Investigative and Prosecutorial Shortcomings**

Both Mexico and Guatemala are parties to a range of international treaties and standards for the promotion and protection of women's rights, including the United Nations Convention on the Elimination of all Forms of Discrimination Against Women, the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and the Convention of Belém do Pará, among others. They have taken significant steps toward fulfilling international obligations. Yet the gap between the law and its implementation is still disturbingly wide, creating numerous barriers to justice for women victims of violence. Authorities fail to adequately and promptly investigate cases and punish and prosecute those responsible. They tend to blame the victims and fail to see gender-based violence as a serious crime. In some cases anachronistic laws remain on the books, in outright contradiction of international norms. The issue's low priority is reflected in the lack of resources, equipment and training within police and judicial institutions.

### **Police Practice**

Police are often the first to be called to respond to, and intervene in, instances of gender-based violence. It is imperative, therefore, that police be trained to respond effectively and sensitively to the needs of the victim. Timely and responsive law enforcement intervention can deter further violence, improve investigations, and facilitate successful prosecution.

Although laws and police policies for responding to violence against women exist, the persistence of discriminatory attitudes, lack of understanding of the dynamics of violence against women, and lack of sensitivity has meant that police fail to respond promptly to reports of domestic violence, intervene in violent situations, open investigations when a woman is reported missing, or adequately follow-up on complaints.

Following her latest official visit to Mexico, the UN Special Rapporteur on Violence Against Women noted with concern that in Ciudad Juárez, for example, the municipal police often fail to dispatch patrols when a case of violence against women is reported.<sup>36</sup> This is not surprising given the municipal police chief's dismissive attitude. When asked by WOLA about the role of the police in responding to violence against women he said: "It's not a police problem; it's a social problem."<sup>37</sup> In cases in which the police respond, a prosecutor in Mexico City explained that they cannot enter the house without a protection order. Worse, they often try to convince the woman she should not try to leave her husband.<sup>38</sup> In Guatemala, the law requires police protection for victims as well as for the police to intervene in violent situations in the home. In practice, however, police officers often fail to respond to requests for assistance in cases of violence in the family.<sup>39</sup>

Changing attitudes towards violence against women is a long-term process that demands significant attention and resources dedicated to appropriate and strategic police training. Yet law enforcement officials receive very little training in how to attend to victims of gender-based violence. According to Mexico City authorities, the judicial police receive about two hours of training in how to handle victims out of a full year of training, enough to "give them a varnish" but not ensure that they will treat victims with respect and sensitivity.<sup>40</sup>

In the case of Guatemala, efforts have been undertaken to improve the training given to police officers. Of the 1,315 training sessions taught at the Police Academy,

Timely and responsive law enforcement intervention can deter further violence, improve investigations, and facilitate successful prosecution.

[In Guatemala] perpetrators can only be charged with an offense if signs of physical injury remain visible for at least ten days.<sup>50</sup>

twenty-four are dedicated to topics related to gender-based violence, including types of domestic violence and people at risk of domestic violence.<sup>41</sup> According to the Director of the Police Academy, officers are taught about violence prevention and police procedures for how to intervene in cases of violence against women.<sup>42</sup> Officers are also given specialized trainings, including courses related to the murders of women. Observers have noted, however, that the training officers receive on gender-related topics is minimal and lacks a focus on practical tools to adequately prepare them for how to effectively investigate or assist victims. In the cases of Guatemala and Mexico, these first steps towards institutionalizing some sort of training lack vital components such as participation by all levels of personnel, including high-level officials, and the necessary accompanying changes to institutional policies, procedures, resources and monitoring.<sup>43</sup>

In both Mexico and Guatemala, police officers rarely receive follow-up or refresher courses on gender-related topics. Efforts to provide additional courses have been more the product of concerned organizations or high-level individuals within the police than an attempt to institutionalize new practices.

### Prosecutorial Practice

Important strides have been made in enacting legislative reforms related to women's rights in both countries. Guatemala, for example, enacted the Law to Prevent, Punish and Eradicate Intrafamilial Violence, and the Law for the Integral Advancement and Dignity of Women.<sup>44</sup> Since Mexico has a federalized structure of government, legal standards to prevent and address gender-based violence differ significantly throughout the country. Twenty-three of 31 Mexican states and the Federal District have adopted legislation to prevent and punish domestic violence.<sup>45</sup> Amendments to the penal code to include domestic violence as a specific offense have also been made in 19 states and the Federal District.<sup>46</sup> In February, Mexico passed a law that requires federal and local authorities

to prevent, punish and eradicate violence against women<sup>47</sup>. The law calls on states and municipalities to issue legal norms, allocate resources and put in place the mechanisms to guarantee women a life free from violence. While it is the first federal measure to combat domestic violence and other forms of violence against women, concerns have been raised about the lack of infrastructure and sensitivity on the part of the authorities necessary for its full implementation.

Despite these steps, there are still large barriers that deny women meaningful access to legal redress and protection from further violence. A number of discriminatory provisions remain on the books, and worse, there are still certain acts of violence that have yet to be typified as crimes. In Mexico, for example, the penal code of twenty states does not criminalize marital rape,<sup>48</sup> and eleven states do not recognize domestic violence as a specific ground for divorce.<sup>49</sup> Similarly, in Guatemala, violence against women in the family, including marital rape, is not defined as a criminal offense. As a result, perpetrators can only be charged with an offense if signs of physical injury remain visible for at least ten days.<sup>50</sup> Prosecutors never take into account the frequency of the attacks or the use of psychological or other forms of gender-based violence recognized by international law.<sup>51</sup>

In other cases, crimes are still defined based on the victim's "reputation." According to Guatemala's Penal Code, sexual relations with a minor is only a crime as long as the victim is considered "honest" or chaste.<sup>52</sup>

The lack of reliable physical and scientific evidence results in cases having to rely solely on witness testimony, further jeopardizing a woman's chances of prosecuting her aggressor. The careful documentation of physical and psychological harm and the collection of scientific evidence can be decisive in building an effective criminal case against a perpetrator. Yet, in both Mexico and Guatemala, authorities fail to ask the appropriate questions or properly handle the evidence. According to a recent report, for example, investigators in Guatemala

believe that physical evidence is hard, if not impossible, to find at the scene of the crime in cases of rape or sexual violence.<sup>53</sup> In other instances, the lack of coordination among prosecutors, forensic doctors, and psychologists forces the victim to undergo several times the necessary forensic exams and procedures, thereby increasing the victim's trauma.

These obstacles are further compounded by the dismissive attitudes and discriminatory behavior of some prosecutors, and by the lack of free and effective legal counsel to help victims navigate their way through the legal system. Victims and relatives have often complained of encountering abusive treatment and rejection of their complaints. Moreover, while both Mexican and Guatemalan law allow victims to participate in the investigation through a process known as "*coadyudancia*" in Mexico and "*querellante adhesivo*" in Guatemala, the process is complicated, and without legal assistance, poor victims are unable to take advantage of it.

As a result of these obstacles, cases of gender-based violence are not investigated or prosecuted seriously. In Guatemala, "half of the victims of domestic violence who filed complaints failed to pursue their cases after their initial visit to the Public Prosecutor's Office."<sup>54</sup> In fact, the Public Prosecutor's Office achieved convictions in only 105 of the 3,906 cases it opened in 2005, less than three percent of the total.<sup>55</sup> The abusers are free to continue abusing, and women are vulnerable to further violence.

Prosecutors are not provided with adequate training to reduce gender stereotypes or improve their technical capacity to handle valuable evidence. Some concrete steps, however, have been taken to improve the treatment afforded to victims of gender-based violence, particularly with regard to enhancing the training provided to prosecutors. In Guatemala, for example, the Training Department and the Office of Attention to Victims<sup>56</sup> of the Public Prosecutor's Office have both given greater attention to developing new training modules on violence against women.

Rights advocates have welcomed these steps, while noting that more time needs to be devoted to specific training on gender-based violence and on ensuring that trainers have the appropriate background, commitment, and expertise in gender-related issues.

### Court Practice

Women who are finally able to file a case of sexual or domestic violence face additional hurdles in the courts. As in other steps of the legal process, the discriminatory attitudes of judges and their lack of understanding of gender-based violence and international law often influence trial procedures. Perpetrators of sexual crimes are often pardoned and sentencing depends more on the personal criteria used by the judge.

In one case from Mexico, a woman who had been battered by her husband sought a divorce on grounds of domestic violence. The first-instance court granted her the divorce and custody of her children, but ordered her to go to family therapy with her former spouse. The appeals court overruled the divorce, saying that psychological evidence was not sufficient proof of domestic abuse. The appeals court then contradicted itself, blaming the woman for the violence against her and holding her responsible for exposing her children to violence. According to the court, "domestic violence is a shared life-style" and "the partner who allows the other to commit acts of domestic violence is equally guilty and responsible."<sup>57</sup>

The judiciary's disregard for violence against women as a serious crime is also clearly reflected in the frequent use of mediation or reconciliation to resolve cases. Mexican and Guatemalan judges often encourage the victim to choose mediation over prosecution, and in some cases simply advise the victim to return to her partner. This is counter-productive and dangerous, since it assumes that both parties enter



PHOTO BY JOSÉ LUIS MAGAÑA

Candlelight vigil for the murdered women in Ciudad Juárez.

According to a [Mexican] court, "domestic violence is a shared life style" and "the partner who allows the other to commit acts of domestic violence is equally guilty and responsible."

In the state of Morelos, women's groups have denounced a similar pattern where bodies of women, showing extreme violence and sexual assault, were found discarded in empty lots, drainage ditches, and along roadsides.

the negotiation on equal terms, which is clearly not the case when a woman has been beaten or raped by her partner.

In other instances, justice officials avoid full prosecution of first-time offenders in order to overcome the huge backlog of cases before the tribunals. The decision to use this mechanism, known in Guatemala as the opportunity criteria ("*criterio de oportunidad*"), is left to the complete discretion of the justice official overseeing the case. In practice, judges have commonly invoked the "*criterio de oportunidad*" in cases of sexual crimes, deeming the accused to be a low-risk, non-violent offender. This "solution" submits the victim and the accused to a process of mediation and fails to take into account any possible reprisals against the victim for having filed charges. It also downplays the severity of the crime. In a recent incest case involving a minor, the offender was ordered to pay less than US\$39 in reparations.<sup>58</sup>

Complicated and confusing procedures for obtaining restraining orders obstruct women's ability to get protection. Victims receive little information about how to file a complaint and end up having to visit multiple offices in search of a protective measure. As one Guatemalan judicial official told WOLA, "victims often find themselves in an unnecessary pendulum" that not only re-victimizes them but also fails to protect them from further violence.<sup>59</sup>

The problem is further compounded by the inability of the judiciary to enforce laws. Authorities rarely ensure compliance with the protection orders. Once the order has been issued, the police visit the house once at most. According to a Guatemalan judicial employee, in some cases, the aggressors are notified before the victim that the restraining or protection orders have been issued, placing the victim at greater risk.<sup>60</sup>

## Murders of Women in Mexico and Guatemala

Ciudad Juárez, Mexico has become synonymous with the murders of women. Since 1993 more than 400 women and girls have been killed or disappeared in Ciudad Juárez

and Chihuahua City (both in the state of Chihuahua). Amnesty International estimates that more than 100 of the victims were sexually assaulted prior to their deaths.<sup>61</sup> Most of the killings have not been satisfactorily resolved. The problem, however, is not limited to Chihuahua. International attention on the Juárez murders has helped shed light on the brutal killings of women throughout Mexico. Between August 2005 and June 2006, the bodies of eight women, showing signs of rape and extreme violence, were found in Chimalhuacán and Nezahualcóyotl, in the state of Mexico outside of Mexico City.<sup>62</sup> All of the victims had their feet and hands bound; six had been strangled and two had been butchered.<sup>63</sup> In the state of Morelos, women's groups have denounced a similar pattern where bodies of women, showing extreme violence and sexual assault, were found discarded in empty lots, drainage ditches, and along roadsides.

In Guatemala, police statistics reveal that since 2001, more than 2,500 women have been murdered. According to police records, while violent deaths in general have increased dramatically in Guatemala, the percentage of women killed within the overall total has steadily grown in the last four years. In 2003, women accounted for 9 percent of all murders, in 2004 11.7 percent and in 2005 12.46 percent.

As in Ciudad Juárez, many of the victims in Guatemala were raped, tortured or mutilated before being killed. The Guatemala Human Rights Ombudsman noted that:

*In the case of women, the brutality used in cases of mutilation is definitely unique in comparison to male victims. Although sexual violence has been used in the case of many murdered women, it is also true that there have been cases of women who have been mutilated without being subjected to sexual violence which also demonstrates a particular type of cruelty that manifests itself in cuts to the face and inherent notion of the disfigurement of women's beauty, the severing of organs... In other cases, the murders are similar to those of men in that the bodies are found with the hands tied*



*and with a single shot to the head, as happened in the past.*<sup>64</sup>

The disappearances and killings of women must not be viewed as isolated incidents, but as a manifestation of a continuum of gender-based violence that takes many forms. The killings are the result of governmental and societal apathy towards and tolerance of gender-based violence, the product of a criminal justice system that has been unable and unwilling to guarantee women equal access to justice and protection under the law. As the UN Special Rapporteur for Violence Against Women explained, “the absence of a rule of law fosters a range of violent acts against women, including rape, domestic violence, sexual harassment, and eventually, murder.”<sup>65</sup>

### **Flaws in Murder Investigations and Prosecutions**

Similar to other forms of gender-based violence, the cases of murdered women are marred with numerous investigative shortcomings. Reports and field visits conducted by WOLA point to the following weaknesses and irregularities in the investigations into the killings of women in Guatemala, Ciudad Juárez and Chihuahua City, Mexico:

**Delays in opening investigations.** Police fail to adequately respond to emergency calls or promptly respond to reports of a disappearance. Often times, police are quick to wrongfully assume that the victim is missing of her own accord and fail to carry out a proper investigation to determine whether a crime has been committed. Police often wait 48 to 72 hours to begin a search for a missing person, a practice that has no basis in law. Delaying the opening of an investigation reduces the chances of finding the woman alive or identifying the perpetrators.

**Failure to preserve the crime scene.** Police frequently fail to cordon off the scene. In Guatemala, for example, voluntary fire fighters are usually the first to arrive on the scene and often inadvertently destroy valuable pieces of evidence.

**Failure to collect and preserve evidence.** Material evidence is often not gathered appropriately. Forensics personnel have failed to identify victims, determine cause and manner of death (including whether or not the victim was sexually assaulted prior to her murder), and collect, preserve, and examine evidence that might contain information about the killers. In Guatemala, the lack of coordination among the different forensic services attached to the Public Prosecutor’s Office, police and judiciary has contributed to the frequent failure in collecting evidence and maintaining the chain of custody.<sup>66</sup> In Mexico, contradictory forensic results – such as a DNA test concluding the victim was a young woman, while the anthropological study concluded the victim was an old man – are not reconciled to establish the truth, but instead all form part of the same investigative file.

**Failure to properly coordinate among institutions involved in criminal investigations.** In Guatemala, the Public Prosecutor’s Office is in charge of initiating and overseeing all criminal investigations. Prosecutors are responsible for interviewing witnesses and closely directing the activities of the police. The lack of clarity about responsibilities and information-sharing continues to generate weak cases, organizational rivalries and the duplication of efforts.

**Constant rotation of investigators.** The constant transfer of prosecutors and investigators results in unnecessary delays in the progress of investigations.

**Failure to interview witnesses.** In many cases, the authorities fail to seek information from family members, friends, co-workers and others who might have last seen the victim or have other insights.

**Harassment of and indifference towards victims’ families and advocates.** Police and prosecutors too often express disdain for victims’ families and advocates, brushing aside their suggestions on possible

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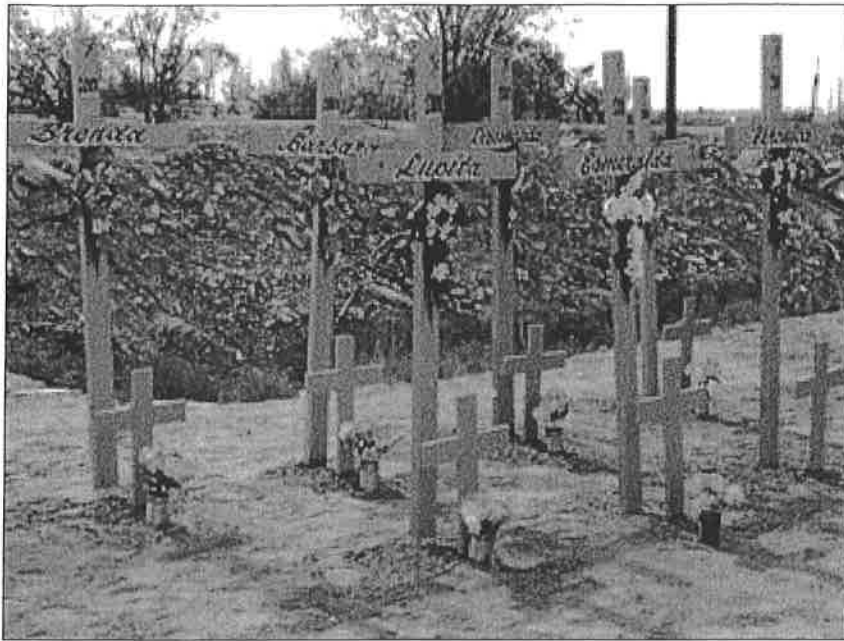


PHOTO BY LAURIE FREEMAN, WOLA

Families of the victims in Ciudad Juárez have set up pink crosses adorned with flowers and in some cases photos of their daughters.

leads. They also often treat their families with hostility and contempt.

**Failure to sanction personnel who have committed acts of criminal negligence, malfeasance, or abuse.** Criminal justice personnel are rarely held accountable for failing to conduct proper and prompt investigations. In Mexico, a federal review of the Ciudad Juárez murder investigations determined that 177 law enforcement authorities had been negligent or malfeasant in their duties. None have been held accountable. Although the state attorney general fired, suspended, or re-assigned a few personnel because of concerns about corruption and negligence, the five officials charged with abuse of authority had their cases dismissed for lack of evidence or expiration of the statute of limitations.

### **Blaming the Victim: Beyond Technical Shortcomings**

While many of the flaws in the investigation of the killings of women can be attributed to a lack of resources and technical capacity, it is also a question of political will. Experience shows that technical resources and police training will not automatically result in effective investigations.

In addition to the numerous technical and structural failures, the Mexican and

Guatemalan authorities' approach to the investigation of murder is marred by the same discriminatory attitudes that characterize the treatment of other types of gender-based violence. The result is that officials tend to blame the victims for their fates, often alleging involvement in criminal activity or claiming that it is the result of spurning their intimate partners.

For example, in Ciudad Juárez and Chihuahua City, local officials originally claimed the murder victims were prostitutes – implying that they were willingly putting themselves at great risk. Federal officials have since recycled that argument in a recent report that falsely concludes that most of the Juárez victims were sex workers, drug pushers or users, or other criminals.<sup>67</sup> In the case of Guatemala, police officials attribute the recent rise in violent murders of women to the fact that more young women are joining gangs – they're becoming increasingly involved in criminal activity and getting killed for it. High level officials from the Guatemalan National Civilian Police all expressed the belief that "women's liberation" was the cause of the increased number of murders and concurred that there were few "innocent" victims.<sup>68</sup>

In other cases, criminal justice officials have described women's murders as "personal problems" or "crimes of passion." In Mexico City, for example, with about 100 women's murders per year, homicide investigators characterized 70 to 80 percent of murders of women as "crimes of passion."<sup>69</sup> Prosecutors explained that in many cases the murders occurred as a result of the woman leaving the relationship. In Guatemala, the police use the term to classify cases in which "the victims are women who have been married more than once" and when "the suspects and even those arrested turn out to be former partners who do not seem to have entered into another relationship."<sup>70</sup>

Classifying the killings of women in such a way not only implies that violence is an unfortunate but natural by-product of some intimate relationships gone wrong, but also implicitly legitimizes gender-based violence on the basis of what is culturally considered inappropriate female behavior.

## Political Will and Impunity

National and international attention on the murders of women has helped encourage Mexican and Guatemalan authorities to recognize the problem and take a number of steps to improve the investigation and prevention of violence against women.

In Mexico, the Fox administration appointed two senior officials to handle prevention and investigative efforts regarding the murders of women in Ciudad Juárez. In 2004, a federal special prosecutor was appointed to review the investigations into the Juárez women's murders. Two years later, the special prosecutor's responsibilities were expanded to all of Mexico. A Commission to Prevent and Eradicate Violence Against Women in Ciudad Juárez, which coordinates efforts of federal, state and local agencies, was also created in 2004. Under the new Calderón administration, the future of the Commission is still uncertain. There is speculation that it will either be eliminated or turned into a federal agency. Proposals have also been presented before Congress to discontinue the Commission and use the funds for the implementation of the recently approved violence against women law. Additionally, the Chihuahua State Attorney General began an ambitious program to reform the administration of justice, with assistance from the U.S. Agency for International Development that includes efforts to enhance the capability of Chihuahua police and prosecutors and make the criminal justice system more transparent.<sup>71</sup>

In Guatemala, the government has established various special institutions for addressing the killings of women. In 2004, following the official visit of the Inter-American Commission on Human Rights Rapporteur on Women's Rights, a special unit was established within the Criminal Investigations Division to investigate the murders of women. Within the Special Prosecutor's Office for Crimes Against Life, four offices dedicated solely to investigating the killings of women have also been created<sup>72</sup> are dedicated solely to investigating the killings of women. In addition, the Public Prosecutor's Office now has a unit dedicated to developing case theories and

evidence analysis, which is available at the request of prosecutors in need of assistance with case analysis. Further, in March 2006, the Guatemalan government established the National Commission to Address Femicide,<sup>73</sup> which seeks to develop a diagnostic study of the situation and improve coordination among the state institutions responsible for resolving and preventing the killings.

While these initiatives need to be viewed positively, they have had little impact on the numbers of women killed or the ability of the criminal justice system to effectively investigate and prosecute those responsible. The numerous investigatory flaws, discriminatory attitudes and lack of political will still result in the overwhelming majority of cases remaining unresolved and the perpetrators unpunished.

In Guatemala, due to the lack of evidence, a large number of cases never leave the investigation phase, and those that do are hampered at trial. In early 2006, police and prosecutors reported that 40 percent of the killings were never investigated and thus were archived.<sup>74</sup> To WOLA's knowledge, only 20 sentences have been handed down for the more than 2,500 murders over the last six years.

In Mexico, there are serious concerns about the legitimacy of some of the convictions achieved by prosecutors because of concerns about the possible use of torture to obtain confessions. According to the

A march in downtown Guatemala City shows friends of Claudina Velásquez, killed in August 2005, holding signs proclaiming, "CLAUDINA VELÁSQUEZ LIVES IN OUR HEARTS"

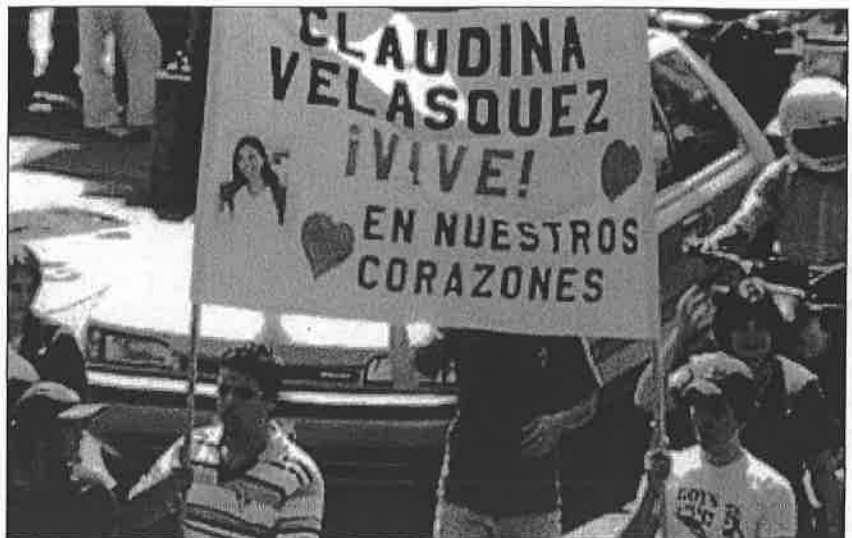


PHOTO BY KILLERS PARADISE, BBC

UN Committee on the Elimination of Discrimination against Women (CEDAW), “[I]n the cases involving sex crimes, the murderers have acted with full impunity. Nearly all sources, including statements and comments made to the experts by Federal Government officials ... have made it clear that the local authorities, both state

and municipal, are assumed to have a years-long history of complicity and fabrication of cases against the alleged perpetrators.”<sup>75</sup>

The message sent by the widespread impunity that has come to characterize the murders of women in Guatemala and Mexico is that women’s lives are of little worth.

## Conclusions and Recommendations

Important strides have been made in criminalizing violence against women and raising awareness about the problem in both Mexico and Guatemala. Gender-based violence, however, remains prevalent and largely unpunished, in part because police and justice officials fail to investigate cases and prosecute those responsible. The absence of a functioning criminal justice system has contributed profoundly to a continuum of violent acts against women. It has also led to a pervasive sense of insecurity among women. Much more must be done to ensure that

women are guaranteed their basic human right to a life free from violence.

Developing effective prevention and response strategies to gender-based violence requires a multi-faceted and multi-sectoral approach. Attention must be given on many levels – prevention, education, prosecution and economic development – and by multiple sectors – governments, international donors, civil society, educators, healthcare providers, churches, the media, and the business community – to promote and protect this basic human right.

The failure of the Mexican and Guatemalan authorities to investigate, prosecute and punish those responsible for violence against women has contributed to the continued atmosphere of impunity and profound lack of faith in the system. Turning the situation around will require a serious and concerted effort to reform and strengthen the Mexican and Guatemalan public security and judicial institutions. Nevertheless, it is an effort that must be made. Reform processes, however, must be multi-faceted and address all the related institutions in a coordinated fashion.

A criminal justice system is only as strong as its weakest link. Changes in one institution, therefore, may be undermined by a lack of change in another. Improving states’ responses to violence against women requires

addressing every step of the process. Following are recommendations for local and international policymakers, donors, and corporate stakeholders/businesses concerned about violence against women:

### Recommendations for the Governments of Mexico and Guatemala:

**Publicly Condemn Violence Against Women:** States must send an unequivocal message that violence against women is a serious human rights violation that will be investigated, prosecuted, and punished regardless of the perpetrator.

**Increase Women’s Awareness of their Right to a Life Free of Violence:** There must be education and media campaigns to raise awareness about laws for the defense and promotion of women’s rights.



PHOTO BY ADRIANA BELTRAN, WOLA

Jorge Velásquez, father of Claudina, speaks to members of the House of Representatives and their staff during an October 2006 congressional briefing in Washington, DC.

**Bring National Legislation Into Line with International Standards and Ensure that Laws are Adequately Implemented and Enforced:** Existing anachronistic legal provisions must be reformed in accordance with Guatemala and Mexico's international obligations and in order to provide women with sufficient protection against violence.

**Invest in Training on Gender Violence for Law Enforcement and Judicial Personnel:** Existing training efforts must be intensified to provide continuously updated trainings on the protection of women's rights, gender-specific investigative techniques, and sensitivity to the needs of victims and their relatives.

**Implement Evaluation and Oversight Mechanisms to hold Authorities Accountable for Failing to Uphold and Enforce Gender-Based Violence Legislation:** Both the Guatemalan and Mexican governments should undertake serious efforts to set in place evaluation and oversight mechanisms to hold accountable law enforcement officials and justice sector personnel whose failure to adequately investigate violence against women, whether through negligence, omission, ignorance or abuse, has led to impunity for gender-based violence.

**Bolster the States' Capacity to Conduct Forensic Investigations:** In Guatemala, the establishment of the recently approved National Institute of Forensic Sciences<sup>76</sup> is vital to overcoming many of the current flaws in how evidence is gathered and handled. This will require that it be granted sufficient funds and training.

In Mexico, the Argentine Forensic Anthropology Team (EAAF), which has been conducting forensic investigations in order to identify the remains of all unidentified female murder victims in Ciudad Juárez and Chihuahua,<sup>77</sup> will issue a final report with recommendations for improving forensic capacity upon completion of their investigation. These recommendations should be studied and implemented.

**Develop and Institutionalize Procedures and Protocols to Investigate Gender-Based Violence:** Police, prosecutors and judicial institutions should develop and institutionalize protocols, guidelines and procedures for responding to cases of violence against women, including all stages of criminal investigations and for working with victims, relatives and witnesses.

**Dedicate Sufficient and Appropriate Resources to Police, Prosecutors, Judges and other Criminal Justice Sector Institutions:** Effective prevention and response to gender-based violence requires political will and investment in the criminal justice sector institutions.

**Improve Services Afforded to Victims, Family Members and Witnesses:** Fear of reprisals and lack of effective protection measures results in many victims, families and witnesses being too afraid to provide testimony. Breaking this cycle will entail the adoption of measures and policies to provide victims and witnesses with protective and support services, while implementing long-term measures to restore trust in the criminal justice system.

**Modernize and Synchronize Data Collection Systems Between and Among Criminal Justice Institutions:** A synchronized, computerized system of statistics, coordinating the efforts and information of the involved agencies, could both reduce the duplication of efforts on the part of the individual institutions and also lead to much more complete, credible data.

**Improve Inter-agency Coordination:** Efforts should be made to improve the quality of criminal investigations and to place emphasis on strengthening inter-agency coordination, particularly between police investigators and public prosecutors, and on ensuring that these initiatives receive full political and financial backing.

**Address the Structural and Systemic Problems within the Public Security and Criminal Justice Systems:** In order to improve the criminal justice system's ability to respond to violence against women in the long run, it is imperative that focus be given to addressing the widespread institutional weaknesses that plague the system – corruption, lack of transparency, ineffectiveness, and ties to organized crime.

#### **Recommendations for U.S. Policymakers:**

**Raise Concerns with Mexican and Guatemalan Officials:** U.S. officials should regularly raise concerns about violence against women in Mexico and Guatemala with officials at all levels and in all encounters.

**Include Gender-Based Violence Concerns in Trainings and Institutional Reform Programs with Mexico and Guatemala:** U.S. programs aimed at strengthening law enforcement and judicial sector institutions in Mexico and Guatemala should incorporate issues related to violence against women and efforts to promote and protect women's rights.

**Provide Assistance to Initiatives to Strengthen the Mexican and Guatemalan Governments' Capacity to Respond to Violence Against Women:** The United States should provide assistance to initiatives that directly aim to contribute to the protection and promotion of women's rights, and to enhancing the states' capacity to investigate and resolve the murders of women.

**Promote Transparency and Accountability of Criminal Justice Agencies:** Justice reform programs should include special emphasis on enhancing transparency and oversight within state agencies, establishing open channels of communication with civil society groups, especially with victims and their families.

#### **Recommendations for the Private Sector:**

**Make Public Statements Expressing Concern about Violence Against Women:** As a key sector in Guatemala and Mexico, the business community can help encourage greater attention in responding to violence against women, by expressing concern and urging the authorities to take effective action.

**Provide In-house Education and Training on Violence Against Women:** With the guidance of independent experts on gender-based violence and local women's rights organizations, the private sector can develop and institute workplace training and education on gender-based violence for employees and management, as well as establish mechanisms for detecting and reporting incidents of violence against women and harassment in and out of the workplace.

**Sponsor Public Information Campaigns About Gender Violence and Women's Rights:** The private sector can contribute to creating a culture of zero tolerance for violence by sponsoring public awareness campaigns. For maximum effectiveness, these should be designed in conjunction with experts from local women's organizations.

## Build Partnerships with Local Groups Addressing the Issue of Violence Against Women:

The business sector can collaborate and assist groups working to protect women's rights by providing contributions and/or encouraging employees to volunteer their time and services to support and treatment services available to victims.

This report was written by Associate on Violence Against Women Adriana Beltrán and Fellow Laurie Freeman, both from the Washington Office on Latin America (WOLA). They would like to thank Executive Director Joy Olson and Vicki Gass, Senior Associate for Rights and Development, for their invaluable comments and suggestions, as well as Program Officer Joel Fyke for editing and publication assistance. This report was made possible by the generous support of Sally Yudelman, the Moriah Fund, the Tula Foundation, and the Public Welfare Foundation.

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## Endnotes

- <sup>1</sup> United Nations Development Fund for Women, *Violence Against Women: 16 Days of Activism Against Violence Against Women November 25<sup>th</sup> to December 10<sup>th</sup>* (United Nations Development Fund for Women, 2005), 3.
- <sup>2</sup> See <http://www.inmujeres.gob.mx/dgede/violencia/violencia.htm>.
- <sup>3</sup> United Nations, Economic and Social Council, *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Yakin Ertürk, Mission to Guatemala* (New York: Commission on Human Rights, Sixty-first Session, E/CN.4/2005/72/Add.3, 2005), 11.
- <sup>4</sup> Data on the number of women killed to date differ among the Public Prosecutor's Office, National Civilian Police, the Judiciary and non-governmental organizations. The Criminal Investigations Division (DINC) of the National Civilian Police (PNC) reports that 2,686 women were murdered from 2001 to 2006. However, statistics given to WOLA by other police units place the number of women killed at over 2,800 for the same period. Notwithstanding, while the statistics differ, they all indicate a continued violent killing of women. The figures for Guatemala used in this report are based on data provided by the police criminal investigations division.
- <sup>5</sup> United Nations, *Declaration on the Elimination of Violence Against Women* (New York: General Assembly, A/RES/48/104, 1993), Article 1.
- <sup>6</sup> Lori Heise, Mary Ellsberg, and Megan Gottemoeller, "Ending Violence Against Women," *Population Reports*, Volume XXVII, Number 4 (1999), 1.
- <sup>7</sup> Andrew Morrison, Mary Ellsberg, and Sarah Bott, *Addressing Gender-Based Violence in Latin America and Caribbean Region: A Critical Review of Interventions* (Washington, DC: The World Bank, World Bank Policy Research Working Paper 3438, 2004), 3.
- <sup>8</sup> *Ibid.*, 4.
- <sup>9</sup> *Ibid.*, 11.
- <sup>10</sup> United Nations Development Fund for Women, *Violence Against Women*, op.cit., 3.
- <sup>11</sup> Mayra Buvinic, Andrew Morrison, and Michael Shifter, *Violence in Latin America and the Caribbean: A Framework for Action* (Washington, DC: Inter-American Development Bank, 1999), 11.
- <sup>12</sup> *Ibid.*, 11-12.
- <sup>13</sup> Andrew Morrison, "The Development Impacts of Gender-Based Violence: Exploring the Bank's Role," *World Bank*, 24 October 2005.
- <sup>14</sup> *Ibid.*, 12.
- <sup>15</sup> United Nations Development Fund for Women, *International and Regional Instruments to Eliminate Violence Against Women: 16 Days of Activism Against Violence Against Women November 25 – December 10, 2006, 2006* (United Nations Development Fund for Women, 2006), 1-2. Mexico ratified CEDAW in 1981 and the Optional Protocol in 2002. Guatemala ratified CEDAW in 1982 and the Optional Protocol in 2002. The Belém do Pará convention was ratified by Guatemala in 1995 and three-years later, in 1998, by Mexico. Both countries signed the Vienna Declaration, the Declaration on the Elimination of Violence Against Women and the Beijing Declaration.
- <sup>16</sup> Morrison, *Addressing Gender-Based Violence*, op.cit., 17.
- <sup>17</sup> U.S. Department of State, Mexico, *Country Reports on Human Rights Practices – 2005* (Washington, DC: Bureau of Democracy, Human Rights and Labor, 2006), 4.
- <sup>18</sup> "Righting the Scales," *The Economist*, 6 October 2005.
- <sup>19</sup> *Ibid.*
- <sup>20</sup> United Nations, Economic and Social Council, *Report of the United Nations High Commissioner for Human Rights and Follow-up to the World Conference on Human Rights: Report of the High Commissioner for Human Rights on the Situation*

- of *Human Rights in Guatemala* (New York: Commission on Human Rights, Sixty-second Session, E/CN.4/2006/10/Add.1, 2006), 9.
- <sup>21</sup> "Informe de situación sobre la Fiscalía Especial de Delitos Contra Operadores de Justicia: La persecución penal frente al fenómeno de la violencia en el Sistema de Justicia," *Fundación Myrna Mack*, September 2005: 5.
- <sup>22</sup> U.S. Department of State, *Guatemala, Country Reports on Human Rights Practices – 2005* (Washington, DC: Bureau of Democracy, Human Rights and Labor, 2006), 5.
- <sup>23</sup> Sarah Bott, Andrew Morrison, and Mary Ellsberg, *Preventing and Responding to Gender-Based Violence in Middle and Low Income Countries: A Multi-sectoral Literature Review and Analysis* (Washington, DC: World Bank, 2004), 4.
- <sup>24</sup> United Nations, Economic and Social Council, *Integration of the Human Rights of Women and a Gender Perspective: Violence Against Women, Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Yakin Ertürk, Mission to Mexico* (New York: Commission on Human Rights, Sixty-second Session, E/CN.4/2006/61/Add.4, 2006), 7.
- <sup>25</sup> *Ibid.*, 8.
- <sup>26</sup> *Ibid.*, 8.
- <sup>27</sup> U.S. Department of State, *Guatemala*, *op.cit.*, 9-10.
- <sup>28</sup> *Ibid.*, 10.
- <sup>29</sup> *Ibid.*, 10.
- <sup>30</sup> United Nations, *Situation of Human Rights in Guatemala*, *op.cit.*, 12.
- <sup>31</sup> United Nations, Economic and Social Council, *Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, Rodolfo Stavenhagen, Mission to Guatemala* (New York: Commission on Human Rights, Fifty-ninth Session, E/CN.4/2003/90/Add.2, 2003) 7-8.
- <sup>32</sup> Inter-American Commission on Human Rights, *The IACHR Special Rapporteur Evaluates the Effectiveness of the Right of Women in Guatemala to Live Free From Violence and Discrimination* (Washington, DC: Inter-American Commission on Human Rights, 2004), 4.
- <sup>33</sup> *Ibid.*, 4.
- <sup>34</sup> Historical Clarification Commission, *Guatemala Memory of Silence: Report of the Commission for Historical Clarification Conclusions and Recommendations* (Guatemala City: Historical Clarification Commission, 1999), 23. This figure represents one quarter of the estimated 200,000 persons "disappeared" or murdered during the conflict.
- <sup>35</sup> *Ibid.*, 23.
- <sup>36</sup> United Nations, *Mission to Mexico*, *op.cit.*, 17.
- <sup>37</sup> WOLA interview with the Chief of Police of Ciudad Juárez, 17 November 2005.
- <sup>38</sup> WOLA interview with Mexico City Prosecutor, 18 November 2005.
- <sup>39</sup> U.S. Department of State, *Guatemala*, *op.cit.*, 9.
- <sup>40</sup> WOLA interview with Mexico City Prosecutor, 18 November 2005.
- <sup>41</sup> Centro para la Acción Legal en Derechos Humanos, *Informe de Seguimiento al Cumplimiento por parte del Estado de Guatemala a las Recomendaciones de la Relatora Especial de las Naciones Unidas sobre la Violencia en Contra de las Mujeres* (Guatemala City: Servinsa, 2006), 47.
- <sup>42</sup> WOLA interview with Director of the Guatemalan Police Academy.
- <sup>43</sup> Sarah Bott, *Preventing and Responding to Gender-Based Violence*, *op.cit.*, 8.
- <sup>44</sup> Known in Guatemala as the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar* and the *Ley por la Dignidad y la Promoción Integral de la Mujer*.
- <sup>45</sup> United Nations, *Mission to Mexico*, *op.cit.*, 6.
- <sup>46</sup> *Ibid.*, 6.
- <sup>47</sup> Known in Mexico as the *Ley General de Acceso a las Mujeres a Una Vida Libre de Violencia*.
- <sup>48</sup> Marital rape is defined as non-consensual sexual activity in which the perpetrator is the victim's intimate partner. It is also known as spousal rape, partner rape or intimate partner sexual assault.
- <sup>49</sup> United Nations, *Mission to Mexico*, *op.cit.*, 7.
- <sup>50</sup> U.S. Department of State, *Guatemala*, *op.cit.*, 9.
- <sup>51</sup> Centro para la Acción Legal en Derechos Humanos, *op.cit.*, 28.
- <sup>52</sup> Article 180 of the Penal Code applies to articles 176 and 177, which condition the existence of the crime on the honesty of the woman ("*mujer honesta*"). Congreso de la República de Guatemala, *Código Penal* (Guatemala City: Congreso de la República de Guatemala), articles 176-177, 180, and Amnesty International, *Guatemala: No Protection, No Justice: Killings of Women in Guatemala* (London: Amnesty International, 2005), 21.
- <sup>53</sup> Centro para la Acción Legal en Derechos Humanos, *op.cit.*, 26.
- <sup>54</sup> U.S. Department of State, *Guatemala*, *op.cit.*, 10.
- <sup>55</sup> *Ibid.*, 10.
- <sup>56</sup> Known in Guatemala as the *Oficina de Atención a la Víctima*.
- <sup>57</sup> Case documented by lawyers at the Centro de Apoyo a la Mujer "Margarita Magon" in Mexico.
- <sup>58</sup> WOLA interview with Dr. Hilda Morales, 22 November 2005, and 6 January 2007.
- <sup>59</sup> WOLA interview with chief psychologist for Judicial Branch and Dr. Hilda Morales, 22 November 2005.



- <sup>60</sup> Ibid.
- <sup>61</sup> Amnesty International, *Intolerable Killings: 10 Years of Abductions and Murders of Women in Ciudad Juárez and Chihuahua* (London: Amnesty International, 2003), 1.
- <sup>62</sup> "Hallan a octava mujer asesinada en el oriente," *El Universal*, 23 June 2006.
- <sup>63</sup> Ibid.
- <sup>64</sup> Amnesty International, *Guatemala: No Protection, No Justice*, op.cit., 6.
- <sup>65</sup> United Nations, *Mission to Guatemala*, op.cit., 2.
- <sup>66</sup> Forensic investigators from the prosecutor's office and police are in charge of crime-scene investigations. Testing and examination in the morgues falls under the forensic services of the Judicial branch.
- <sup>67</sup> Procuraduría General de la República, *Informe final de la Fiscalía Especial para la Atención de Delitos Relacionados con los Homicidios de Mujeres en el Municipio de Juárez, Chihuahua* (Mexico, D.F.: Procuraduría General de la República, 2006). The conclusions of the PGR's report were based on a review of the original evidence contained in the case files; investigations that local and international experts have noted are marred with inconsistencies and shortcomings. The PGR's review did not involve new investigations, including the re-interviewing of witnesses or collection of new evidence.
- <sup>68</sup> WOLA interview with PNC Deputy Director, Criminal Investigations Division (DINC) Director, and the head of the special police unit investigating the murders of women, 30 November 2005.
- <sup>69</sup> In 2004 there were 113 female murder victims (corresponding to 111 investigations) in Mexico City. From January to October 2005, there were 98 victims (corresponding to 96 investigations).
- <sup>70</sup> Amnesty International, *Guatemala: No Protection, No Justice*, op.cit., 15.
- <sup>71</sup> Laurie Freeman, "Still Waiting for Justice: Shortcomings in Mexico's Efforts to End Impunity for Murders of Girls and Women in Ciudad Juárez and Chihuahua," Washington Office on Latin America, May 2006, 1.
- <sup>72</sup> The Special Prosecutor's Office for Crimes Against Life only investigates cases in the Department of Guatemala. Murders of women that occur in other departments or municipalities are investigated by the local public prosecutor, who oversees the investigations into all types of crimes.
- <sup>73</sup> Known in Guatemala as the *Comisión para el Abordaje de Femicidio*.
- <sup>74</sup> Indira A. R. Lakshmanan, "Unsolved Killings Terrorize Women in Guatemala: Culture of Impunity Seen," *The Boston Globe*, 30 March 2006.
- <sup>75</sup> United Nations, Convention on the Elimination of All Forms of Discrimination Against Women, *Report on Mexico Produced by the Committee on the Elimination and Discrimination Against Women Under Article 8 of the Optional Protocol to the Convention, and Reply from the Government of Mexico* (New York: Committee on the Elimination and Discrimination Against Women, Thirty-second Session, CEDAW/C/2005/OP.8/Mexico, 2005), 17.
- <sup>76</sup> To help resolve the numerous problems resulting from the existence of different forensic services, in September 2006, the Guatemalan Congress finally approved the law for the creation of a new National Institute of Forensic Sciences (*Instituto Nacional de Ciencias Forenses- INACIF*). The INACIF will replace and bring together under one modern, scientific laboratory the three existing forensic services. The INACIF was to begin operations in January 2007; however, at the time of writing, funds for its establishment had yet to be allocated and a director had still not been appointed.
- <sup>77</sup> In 2005, the Chihuahua state attorney general allowed an independent team of forensic experts to undertake forensic investigations (including DNA testing) in order to identify the remains of all unidentified female murder victims in Ciudad Juárez and Chihuahua, as well as those victims whose families had doubts about the results of prior forensic testing. The Argentine Forensic Anthropology Team (EAAF), a non-governmental group that applies forensic sciences to the investigation of human rights violations worldwide, began working in Mexico in June 2005. The work of the EAAF is an important step towards alleviating the families' anguish and uncertainty, enhancing transparency of local institutions, and improving local forensic capacity.

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## DECLARATION OF MEXICO EXPERT ALICIA ELENA PÉREZ DUARTE Y NOROÑA

I, Alicia Elena Pérez Duarte y Noroña, declare:

### Introduction

1. I am an expert on women's rights and human rights recognized in Mexico and in other countries of Latin America and Europe. In my profession over the past thirty years, I have served as a professor of law at the *Universidad Nacional Autónoma de México* (National Autonomous University of Mexico or *UNAM*), one of Mexico's most prestigious universities; carried out research; published books and articles; and served in numerous governmental and non-governmental positions related to women's rights and violence against women in Mexico. As a result of these professional experiences, I have developed extensive knowledge related to the status of women in Mexico, violence against women in Mexico, and laws and practices relevant to these topics. In recognition of my expertise in this area, in February 2006 I was appointed to become Mexico's first Special Prosecutor for Attention to Crimes of Violence Against Women (*Fiscal Especial para la Atención de Delitos Relacionados con Actos de Violencia Contra las Mujeres*) in the Office of the Attorney General, but – for reasons I will describe more fully below – I later resigned from that position in December 2007, out of complete disagreement with the justice system in my country and frustrated by its failure to change archaic and disrespectful laws related to women's rights.

2. It is my opinion that in Mexico, deep and persistent insensitivity to gender issues, as well as generalized discrimination against women in social and governmental structures, are the cause of widespread gender-based violence throughout society, as well as in domestic relationships. They also result in sexist attitudes, and in an unresponsive and ineffective legal system and justice officials who are unwilling or unable to protect women from gender-related harms in their homes and elsewhere, despite recent efforts to change this in recent years. As I will describe in detail below, I believe that – despite the passage of recent legislation aimed at addressing issues related to violence against women – Mexico remains a country in which women have limited, if non-existent, means to escape violence in our relationships, particularly within family relationships. Women who are the victims of this violence confront major obstacles when – in trying to put an end to abuse that they are suffering – they seek the protection of judicial authorities: if they attempt to move to other locations within the country, they are unprotected and there is no way to hide their whereabouts; there are no guarantees for their safety, and they can be tracked down relatively easily through a variety of means.

### **Education and Professional Background**

3. I am a practicing attorney in Mexico with expertise in Family Law, Gender-related Legal Studies, and Human Rights. I obtained my law degrees from the National Autonomous University of Mexico (*Universidad Nacional Autonoma de Mexico – UNAM*), receiving my university diploma and license in 1977, followed by a Master's

Degree (1981), and a Doctorate in Law (1988). I received all three of these degrees with honors, receiving special recognition as an outstanding student.

4. I have served as a professor of law in a variety of areas, teaching courses on women's rights and human rights at the *UNAM* (where I currently chair the post-doctoral legal studies program and teach in these two areas of expertise), as well as at other law schools throughout Mexico. At Veracruz University (*la Universidad Veracruzana*), I designed a program that resulted in the creation of a Doctorate in Public Law, which was recognized for academic excellence by Mexico's National Counsel of Science and Technology (*Consejo Nacional de Ciencia y Tecnología*). In recognition of these academic endeavors, I had the honor of being named to Mexico's National Research System (*Sistema Nacional de Investigadores*) from 1985 to 1996.
5. I have written a number of books and scholarly articles on women's rights, human rights, and other subjects related to my areas of expertise. I have also conducted studies on these issues, some of which were sponsored by the National Human Rights Commission (*la Comisión Nacional de Derechos Humanos*), the National Women's Institute (*el Instituto Nacional de las Mujeres*), and the United Nations Development Program (*el Programa de Naciones Unidas para el Desarrollo*), among others. These studies resulted in the following publications:
  - Family Law – Mexico (*Derecho de familia – Mexico*), 2007.
  - “An Analysis of Impunity in Femicide-Related Violence” (*Análisis de la Impunidad en la Violencia Femicida*). 2005.

- “An Evaluation of National Legislation Regarding the Human Rights of Women and Children” (*la Evaluación Legislativa Nacional en materia de derechos humanos de las mujeres y la niñez*). 2004.
  - “Proposal for a National Program for a Life Free of Violence in the Family” (*el Anteproyecto para el Programa Nacional por una vida sin violencia en la familia*). 2004.
  - “Legislating from a Gender Perspective: Evaluation of Legislation for the Human Rights of Women and Children” (*Evaluación legislativa en materia de derechos humanos de mujeres, niños y niñas*). 2003.
  - “Comparative Analysis of National and International Legislation Regarding Women and Children” (*Análisis comparativo de legislación nacional e internacional relativo a la mujer y a la niñez*). 1997.
6. As a result of my recognized expertise, I have been invited to numerous national and international meetings and conferences, where I have lectured, presented papers, and carried out trainings and workshops. I have also conducted meetings regarding Mexico’s implementation of the Inter-American Convention to Prevent, Punish and Eliminate Violence Against Women (*El taller para la aplicación en México de la Convención Interamericana para prevenir, sancionar y erradicar la violencia contra la mujer*), making presentations to judges and magistrates in 30 states throughout Mexico.
7. I have served in a number of governmental positions during my career, in Mexico City as well as in the federal government. In 1992, I was appointed as Director of the Office for Family and Civil Matters in the Attorney General’s Office, and later became a Magistrate for the Superior Court of Justice in the Federal District (Mexico City) from 1993-1996. Between 1996-2001, I served as a member of the Mexican Foreign Service, serving as a legal advisor on human rights to the Permanent Mission of Mexico before international bodies, based in Geneva, Switzerland. I have also worked as an independent consultant to

various governmental bodies in matters related to public policy and human rights, including Mexico's National Institute for Women (*el Instituto Nacional de Mujeres*), the State Institutes for Women (*los Institutos Estatales de las Mujeres*) in Colima, Guanajuato, Jalisco, and Tlaxcala, and the Commission for Equality and Gender of the State Legislature (*la Comisión de Equidad y Género de la LVIII Legislatura*) in Hidalgo. I served as a Technical Secretary for the Special Commission of the Mexican Senate (*Secretaría Técnica de la Comisión Especial del Senado de la República*), and was responsible for assessing the progress of investigations initiated by the federal authorities in relation to the violent killings of women in Ciudad Juarez, Chihuahua.

8. In February 2006, I was appointed Special Prosecutor for Crimes Related to Acts of Violence Against Women (*Fiscal Especial para la Atención de Delitos Relacionados con Actos de Violencia Contra las Mujeres en la Oficina de la Procuraduría General*) in Mexico City. I remained in this position until December 2007, when – as indicated above – I resigned, in order to remain respectful of and consistent with my principles and values. I could not tolerate being the titular head of an office claiming to bring attention to gender-based crimes against women in my country, where I had no power over the archaic judicial practices or the arbitrary decisions and injustices against women that I identified in the local and federal courts. In particular, I wanted to protest the unconscionable decision by the Mexican Supreme Court in the case brought by Lydia Cacho against the governor of the State of Puebla and other officials. She had been arbitrarily detained, threatened with death and tortured in an operation which was initiated by the governor

and executed through orders issued by the Attorney General; police officials had detained and threatened this women's rights activist and journalist after she exposed a child trafficking ring. Although it is hard to fathom, the Mexican Supreme Court found these human rights violations against Ms. Cacho to be "harmless."

9. Since resigning from the position of Special Prosecutor in December 2007, I have continued to work on behalf of women's rights through the *Universidad Nacional Autónoma de México*, as the chair of the post-graduate legal program and an investigator with the Institute for Legal Studies (*Instituto de Investigaciones Jurídicas*). During the last two years, I have coordinated a national study for the *Secretaría de Gobernación Federal* (Federal Department of the Interior) aimed at gathering information from each of the state governments in Mexico regarding violence against women in their jurisdictions, as well as a study for the National Institute for Science and Technology (*Consejo Nacional de Ciencia y Tecnología*) evaluating the laws in five countries (Mexico, Guatemala, Ecuador, Argentina and Spain) for the purpose of developing a model approach for preventing, punishing and eliminating violence against women.

**Discrimination and Violence against Women in México are Deeply Entrenched Norms**

10. During my legal career, I have repeatedly seen the struggles of courageous Mexican women who have attempted to overcome traditional societal assumptions that pressure them to stay in abusive intimate relationships in their homes. These women have sought help from government authorities, but have only encountered patriarchal systems which were unable or unwilling to provide them with protection. This failure of protection, and



its resulting impunity for abusers, is a result of discriminatory laws, as well as biased attitudes on the part of the police, prosecutors or judges.

11. Despite the guarantees provided under the Mexican Constitution (including the right to prompt and expeditious justice), as well as under international treaties which Mexico has ratified, our national legal framework continues to reflect the culture of patriarchy from which it emerged. This remains the case, notwithstanding recent changes in the law.
12. My research and professional experience have convinced me that the extreme dangers faced by women throughout Mexico are a result of this bias and discrimination. The most dangerous place for a woman or girl is in the home, where they may suffer from gender-based abuses at the hands of their male relatives – spouses, partners, lovers, fathers, stepfathers, brothers and uncles. There is enormous social and cultural tolerance of this abuse, resulting in the virtual complicity of authorities who should prevent and punish these violent acts. My conclusions on this issue are supported by a variety of studies, reports, and legal decisions, including those of the following entities:
  - the Commission to Prevent and Eliminate Violence Against Women in Ciudad Juárez, 2003-2005 (*la Comisión para Prevenir y Erradicar la Violencia contra Las Mujeres en Ciudad Juárez, 2003-2005*)
  - the Office of the Special Prosecutor for Crimes Related to Acts of Violence Against Women of the Mexican Attorney General's Office, 2006-2007 (*Fiscalía Especial para Atender Delitos Relacionados con Actos de Violencia contra las Mujeres de la Procuraduría General de la Republica*)
  - the recent decision of the Inter-American Court of Human Rights in the 2009 case *González et al v. Mexico*, which is often referred to as the *Campo Algodonero* (Cotton Field) case.

13. My opinion regarding the pervasiveness of abuse, and tolerance for it, is also corroborated by other sources. For instance, investigations into femicide cases (involving women killed in Ciudad Juarez, Chihuahua, as well as in other locations) revealed that 70% of female homicide victims in Mexico were killed by their intimate partners. Furthermore, these investigations found that the majority of these women had sought help from government authorities, but that nothing had been done because this type of violence was considered to be a private matter. Confirmation regarding the prevalence of domestic violence is also provided by the 2003 National Survey on the Dynamics of Relationships in Homes (*Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares de 2003*) conducted by Mexico's National Institute of Statistics, Geography and Information (*Instituto Nacional de Estadística, Geografía e Informática*). This survey, which was the first and most comprehensive study of domestic violence in Mexico revealed that three in five women have been the victims of violence committed by intimate partners.
14. The alarmingly high levels of gender-based violence in the country are "the result of a situation characterized by the repeated and systematic violation of human rights" influenced by a "culture of discrimination against women."<sup>1</sup> In its submission to the United Nations committee responsible for monitoring compliance with the Convention for the Elimination of Discrimination Against Women (CEDAW), the Mexican government commented upon the difficulty of changing these discriminatory attitudes, referring to its "culture deeply rooted in stereotypes, based on the underlying assumption that women are

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<sup>1</sup> *Caso Gonzalez y Otras ("Campo Algodonero") vs. México*. Sentencia de 16 de noviembre de 2009. Párr. 128-129.

inferior.”<sup>2</sup> For its part, the U.N. Committee emphasized that gender-based violence in Mexico – including killings, kidnappings, disappearances and domestic and intra-family violence – “does not involve isolated, sporadic or individual episodes of violence, but rather a structural situation and a social and cultural phenomenon rooted in customs and beliefs” and are a result of “a culture of gender-based violence and discrimination.”<sup>3</sup>

15. Violence against women and the impunity which accompanies it, has its origins in a culture of *machismo*, which both promotes the subjugation of women and celebrates male domination. Since colonial times – when conquistadors took Mexican women by force – women have had little power to choose when it came to relationships. They were forced to accept marriages or relationships forced upon them by a man, or arranged by their parents. Although since the late 20<sup>th</sup> century Mexican women have had a theoretical legal right to decide with whom, when and why to marry, this is not the current reality throughout the country.

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<sup>2</sup> United Nations, Report on México produced by the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention, and the Reply from the Mexican Government, CEDAW/C/2005/OP.8/MEXICO, 27 Jan. 2005.

<sup>3</sup> *Id.*

16. Once a woman is seen as having entered a legal marriage, common-law relationship,<sup>4</sup> or other intimate relationship, she is expected to conform to clear gender roles. She is to prepare all the meals, to wash the clothes and dishes, to provide and care for the children born into the relationship, and to submit to the man's sexual desires, even if it is against her will (it is important to emphasize that it was only in 2006 that the Mexican Supreme Court declared marital rape to be a crime, rather than the mere "abusive exercise of a right"). It continues to be widely believed that a man has a complete right to tell the woman what she can and cannot do, and if a woman challenges these traditional expectations, she is seen as deserving of punishment, not only by her partner, but also by the very members of the community to whom she may turn to for help. Women who are able to escape these roles and expectations are the exception, not the rule.
17. Attitudes regarding the subordinate role of women has resulted in a society and legal system which tolerates not only domestic violence, but many other forms of gender-based violence – including rape, forced prostitution, sexual assault and mutilation, and honor killings. At the extreme end of the continuum of violence are the growing number of

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<sup>4</sup> Common-law relationships, known as "*concubinatos*," have been recognized in Mexico since the time that the first civil codes were promulgated in the twentieth century. The committee that drafted Mexico's Civil Code in 1928, explicitly referred to common-law relationships, stating: "There is among us... a peculiar type of family: the common-law marriage (*el concubinato*). Until now those living in this situation have remained at the margins of the law; but the legislator should not close his eyes in order to avoid acknowledging a very common way of being that is widespread among some social classes, and because of that, in this effort it is recognized that common law relationships create some legal consequences, for the good of the children, for the good of the woman, who at the same time as being a mother, has lived for a long time with the male head of household." Pérez Duarte y Noroña, Alicia Elena, *Derecho de familia – Mexico*, Fondo de Cultura Económica, Colección Popular, México, 1995; 2nd ed. 2007, at 114, 117.

“femicides” or gender-motivated killings of women. Some officials have attempted to claim that these killings are not part of an endemic phenomenon, or that they are limited to certain areas of the country such as Ciudad Juarez. However, the Mexican Congress, as well as civil society organizations have documented femicides as occurring throughout the country. The killings are the product of a patriarchal and misogynistic culture which sends a message to those responsible for this violence that they will not be prosecuted for their acts; it has been estimated that fewer than 10% of the femicides are prosecuted under the law.

18. All of these abuses are inflicted on women simply because they are women. Violence against women, and the attitudes which perpetuate it, is like a social cancer which appears generation after generation. It is learned in the family, is reinforced by a culture of subjugation, and is reflected in the society and its structures. As a result of these societal norms and attitudes, an abused Mexican woman faces enormous challenges when she attempts to leave a man who abuses her, challenges which can leave her permanently incapacitated or dead. Because she is refusing to accept the patriarchal societal assigned to her, she will encounter resistance and be punished. This response will not only come from her husband or partner, but by others who will stigmatize her as being a “bad” or “rebellious” woman.

**Violence Against Women in Mexico is Tolerated by the Society and the Legal System, Resulting in Impunity**

19. In México, despite the recent passage of legislation aimed at responding to, preventing, punishing and eliminating gender-related violence against women, or promoting equality

between men and women,<sup>5</sup> the civil and criminal laws and procedures in place have not changed such that these problems are being effectively addressed by the justice system.

20. Among this recent legislation is the February 2007 General Law on a Women's Access to a Life Free of Violence (*Ley General de Acceso de las Mujeres a una Vida Libre de Violencia*). The passage of this law on the federal level, as well as the subsequent enactment of related laws at the state level were important political victories for those working for women's rights. However, for women who are victims of gender-based violence, the situation has not changed, and these laws are only a symbolic victory.<sup>6</sup>
21. Despite the passage of these laws, men can continue to terrorize their partners, and the authorities responsible for taking actions to help prevent such abuse and to protect the women act with indifference to their plight. If a woman courageously attempts to report her abuser to the police, for example, a common response is for them to not take her seriously; they think that they are there seeking revenge against their partners, and very rarely pay attention to their fear or their injuries they suffer, unless they are very seriously hurt. Instead, it is common for police and prosecutors to try to convince women not to file

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<sup>5</sup> The three main laws related to this subject are the 1996 *Ley de Atencion y Prevencion de la Violencia Intra-familiar* (Inter-family Violence Law), the 2006 *Ley General para la Igualdad entre Mujeres y Hombre* (General Law for Equality Between Men and Women), and the 2007 *Ley General de Acceso de las Mujeres a una Vida Libre de Violencia* (General Law on Women's Access to a Life Free of Violence).

<sup>6</sup> It should be noted that there has been resistance to the implementation of this law. For example, the Attorney General (*Procurador General de Justicia*) of the state of Quintana Roo recently responded to questions about its implementation by stating that they would not be implementing it because "they didn't like" it. This comment demonstrates the deeply entrenched societal attitudes, and the assumption that this opposition is societally acceptable, otherwise such public officials would not openly state such a thing about a law whose application is their responsibility.

complaints, and to forgive their abusers. Most police, prosecutors and judges in Mexico do not take seriously the risks that these women run, regardless of whether they have reported abuse in the past or when they have visible injuries; in fact, there are no reliable mechanisms through which judicial authorities evaluate the risks they face of suffering additional and more severe harm. The difficult and torturous road that these women face in seeking protection, justice and recovery is made worse by the discriminatory attitudes that they encounter. Beliefs that a woman is responsible for being abused because she failed to obey her partner are prevalent among both the general population and the authorities, even among the governmental and judicial authorities who are responsible for investigating and prosecuting the acts complained of, reinforcing the vicious cycle of violence against women. Unfortunately, breaking this cycle is not easy, and I have repeatedly encountered these attitudes while working to change these societal norms.

22. In the rare case where the authorities do respond, it is often an attempt to negotiate a “reconciliation” or arrangement by which the woman will return to the family home, for the sake of family stability. This negotiation will not be accompanied by any assessment of the risk that a particular woman faces when she returns to the abuser. Although the 2007 General Law provides for protective orders, the Mexican law enforcement authorities are not equipped to respond quickly or effectively to enforce them.
23. The emphasis on “reconciliation” is also reflected in their allowing a father to maintain his relationship with the children, regardless of how violent he has been towards them,

and regardless of the fact that this will provide him with access to the mother and the opportunity to inflict more violence upon her.

24. Even if a woman is successful in getting the court to order an aggressor to leave the family home and not to return or approach the woman who filed a complaint against him, the high level of risk is not eliminated, because these orders are simply not obeyed, and there are no mechanisms for immediate police responses to enforce them. And as described below, even if a woman is successful in leaving the family home and relocating to another location, she will not be safe because her partner can easily locate her.
25. Furthermore, it must be taken into consideration that the moment of the greatest risk for abused women is when they leave – or attempt to leave – the home they share with the abuser, and take legal action. It is very common for the abuser to retaliate, which, in many instances, results in the killing or maiming of the woman.
26. I have knowledge of this pattern of attempts to leave and retaliation. Recently in Zacatecas, a woman who attempted to leave her abusive common-law husband and return to her parents' home was tracked down by her abuser, who broke into the home and repeatedly stabbed both her and her father, who attempted to come to her defense. Although she was permanently disabled as a result of the attack, her abuser was later released from jail by the Superior Court in that state, as a result of arguments that the Public Prosecutor's Office had not indicated what sentence should be imposed – an illicit pretext which left this woman defenseless since in Mexico, the Public Prosecutor's Office cannot appeal such decisions. As a result, this perpetrator is free today; his victim is a



paraplegic who does not know with certainty that her ex-partner will not come back and kill her.

27. Cases such as these illustrate the way in which gender-based crimes against women are still not seen as crimes against society and instead continue to be viewed more as private acts. As long as individuals in position of authority -- police, investigators and judges -- fail to consider acts of violence against women to be acts against society worthy of protection, impunity will continue. And this is the case notwithstanding the recent passage of laws to protect women from violence.

#### **Lack of Safe Internal Relocation within Mexico**

28. In Mexico, there is no system in place that allows an abused woman to change her name/identity or those of her children. Since a father has a continuing right to obtain information about his children that is rarely interfered with, it is a relatively easy matter for an abuser to locate a woman who has fled his abuse through mechanisms that are available to him through which he can locate the children.
29. The ability of a violent partner to track down a woman who has attempted to flee is demonstrated by the 2008 case of a woman who was brutally killed in Morelia, Michoacán. This victim had moved ten times, to ten different states within Mexico, and each time, her abusive partner succeeded in tracking her and her daughter down through the school registry system. After the third time that they had moved due to discovery by the abuser, the woman had asked authorities for permission to change her name and that of her daughter. This request was denied, since, as mentioned above, this is simply not

permitted in Mexico. Thus, the husband was able to track her down one last time – and this time he killed her. This is just one example that became known in the country through coverage in the media, but there are many others like this.

30. In addition to obtaining information through the school registry system, an abusive partner could track down his victim through the database of the Federal Electoral Institute (*Instituto Federal Electoral*, or *IFE*). Every Mexican who reaches the age of eighteen must register with the Federal Electoral Institute and be issued a voter's credential (*Credencial para Votar con Fotografia*), which is the official identification document we use in Mexico, and which contains one's name, current residence, and other information such as date of birth; the card is then mailed to the address provided. This voter's credential is required for a variety of transactions: in banks to receive money or cash checks; to sign rental contracts or to purchase housing; to seek employment; to obtain credit. It is really not possible for anyone 18 years of age or older to function in Mexican society without having the *IFE* credential.
33. Information provided to obtain the voter's credential from the IFE (name, date of birth, address) is maintained in a database, and an individual seeking information about a person can file an information request with the Federal Electoral Institute. A father could ask for information about his children, and even if they are no longer minors and there is no legal basis for allowing access, he could probably obtain it anyway. This opinion is based upon the likelihood that the widespread corruption in Mexico would make it easy for an individual to obtain the information by paying a bribe to an employee of the Federal

Electoral Institute. I have heard about this happening, and when I was a government official myself, I was often offered money to provide access to confidential information, although I never accepted that money or provided that information and mention it here to illustrate what how common it is.

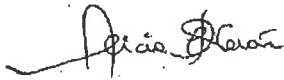
34. Lastly, it is important to emphasize that, as described above, an abuser could easily track down a woman even if she were to attempt to escape him by relocating to a location in Mexico that is far away from where they lived together. This ability is increased in cases where the couple has children together, such that the father has the legal right to obtain information regarding the children's location.

#### **Conclusion**

35. Gender-based violence in Mexico occurs on a variety of levels: in the home at the hands of an abuser, tolerated and perpetuated by traditional social attitudes, and by a judicial system that is ineffective, which neither responds to nor has the political will to protect abused women and children. Each one of these spheres reinforces the idea that violence by a man against a woman is normal and expected. From my perspective, which is based upon more than thirty years of working on these issues, Mexico continues to be a patriarchal and misogynistic society with tiny changes of consciousness which are nearly invisible compared to the tolerance and the negligence of officials responsible for enforcing the laws.

36. The recent passage of legislative reforms aimed at bringing Mexico's national and state laws into compliance with the international commitments does not change any of the conclusions or opinions that I have presented in this declaration regarding the conditions faced by victims of gender-based violence in Mexico. There has not yet been a reduction of violence against women, nor the impunity enjoyed by those responsible for violence – including the gender-motivated killings of women.

I swear under penalty of perjury that the foregoing is true and correct, this 10 day of March, 2010.



Signature:

Dr. Alicia Elena Pérez Duarte y Noroña

 equalvoiceforfamilies.org

<http://www.equalvoiceforfamilies.org/lawsuit-domestic-violence-survivor-killed-by-ex-boyfriend-after-u-s-immigration-agents-deport-her-to-mexico/>

# Lawsuit: Domestic Violence Survivor Killed by Ex-Boyfriend After U.S. Immigration Agents Deport Her to Mexico

Brad Wong | Equal Voice News

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Laura S. knew almost immediately on that Texas evening in June 2009 what would happen if authorities deported her from U.S. soil.

After a state law enforcement officer stopped her, a relative and friends around midnight for a reported driving infraction, he demanded to see their immigration papers. Tears flowed from her eyes. For the young mother of three kids, who lacked those papers, deportation meant more than just a trip across a border.

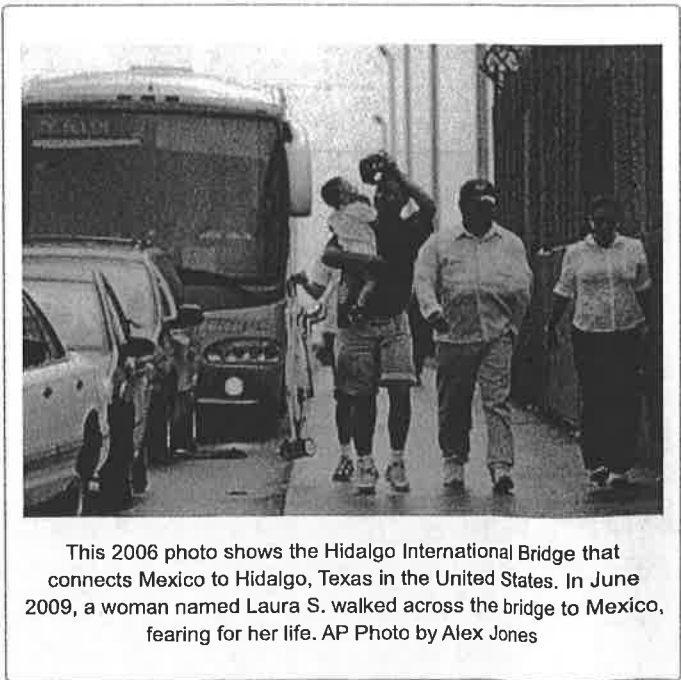
What swirled in her mind finally came out in words to the officer: Her former boyfriend had attacked her. He had threatened to kill her. He had been "extremely violent" with her. She had protective orders in Texas against him. Now, back in Mexico, he was believed to have ties to a notorious drug cartel and would likely harm her on the spot, according to court documents.

In a case about whether "voluntary departure" involving an undocumented immigrant actually occurred, representatives for Laura's family have filed a civil lawsuit in the U.S. District Court for south Texas, assigning blame to U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement for what one attorney called a "coerced" return.

"The Constitution applies to all persons within our territorial limits," said Jennifer Harbury, a Texas RioGrande Legal Aid attorney handling the case.

Laura's detention and deportation lacked the right of due process, according to the court filing. That night and the following morning, Laura never went before an immigration judge. She never had the opportunity to contact an attorney.

The U.S. immigration agents who handled her case for about five to six hours essentially took matters into their



This 2006 photo shows the Hidalgo International Bridge that connects Mexico to Hidalgo, Texas in the United States. In June 2009, a woman named Laura S. walked across the bridge to Mexico, fearing for her life. AP Photo by Alex Jones

own hands, court papers said. "The defendants intimidated and coerced Laura S. and insisted that she return to Mexico immediately," according to a copy of the lawsuit filed on June 5.

Harbury said she has seen government documents that say Laura "voluntarily returned" to Mexico. "'Voluntary departure' is not supposed to short cut rights or paperwork," she said.

The U.S. government has not yet publicly said what happened during those hours in June with Laura and the federal immigration agents who talked with her and handled her case.

"We are aware of the legal filing in regard to this matter. We are reviewing and will file the appropriate documents in due course with the court," Angela Dodge, a spokeswoman for the U.S. District Court in south Texas, said in an email.

Richard Pauza, a spokesman for U.S. Customs and Border Protection who handles cases in south Texas, echoed the same sentiment. "CBP is not at liberty to discuss matters that are under pending litigation," he wrote in an email.

The case comes with partial anonymity. Laura's children – ages 6, 7 and 12 – are only identified by initials. She and her mother do not have surnames listed in court papers, largely for safety reasons. The lawsuit does not state why Laura came to the United States.

The specific defendants, who at that time worked for U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement, are only identified as "John Doe," "Mark Moe," "Robert Moe" and "James Loe."

On that night in June 2009, the Texas law enforcement officer turned Laura and two of the passengers over to a federal agent, who drove them to a U.S. processing center in Harlingen. Since the 9/11 terrorist attacks, Harbury said, local law enforcement often cooperates more closely with their federal counterparts.

The weeping from Laura continued, according to the lawsuit. So did the pleas to be released. She trembled. She repeated her story to this U.S. immigration agent – that she feared for her life, given what her former boyfriend had done and told her.

She also was the mother of three children, she told the immigration agent, and one of them was scheduled for surgery. But the U.S. government vehicle continued making its way to an immigration office, where papers would be filled out and fingerprints taken.

The three other U.S. agents joined their colleague to process Laura and two other people. Laura shed more tears. She repeated her story. She trembled, as she spoke, according to the court filing, which says her former boyfriend used a knife to attack her in 2008.

"None of the defendants asked her any questions or attempted to verify or evaluate her risk of harm in any way," her family's attorneys wrote in the lawsuit. "None of the defendants explained any of her legal rights to her."

Harbury pointed out that, given Laura's circumstances, she could have been eligible for political asylum or a U-visa, which is often given to battered women and immigrant crime victims who work with authorities on investigations. The visa permits people to stay in the United States.

She also could have qualified to stay in the country, given the risk of serious and imminent harm.

Instead, she boarded a U.S. Customs and Border Protection van with two other people. A U.S. agent drove

them to the Hidalgo International Bridge so they could walk to Mexico.

More pleas from Laura to the agent went nowhere, as the van approached the bridge. So, in the early hours of June 9, 2009, court papers say, she was "forced" to cross the bridge and return to Mexico.

Days later, in Mexico, her former boyfriend learned of her return. He found her and beat her. She bled profusely. At least one relative was there, Harbury said, and helped Laura.

Five days after Laura had walked back to Mexico, her former boyfriend abducted her and took her to a hotel, according to court papers. Later, her body was found in a burning car. She was 22.

While her former boyfriend served time in prison for her death, he later escaped, court papers indicate.

As Harbury, the attorney helping the family, pointed out, there is something fundamental at stake for those standing on U.S. soil. "Follow the law that is already there," she said.

"Apparently, they just didn't take her seriously. Couldn't they have kept her until 9 a.m. and let her call an attorney?"

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*Brad Wong is assistant news editor for Equal Voice News.*

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