



Femicide and Impunity in Mexico: A context of structural and generalized violence

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As part of the Observatorio Ciudadano Nacional del Femicidio (OCNF)

The organizations who subscribe this document are part of the National Citizens' Observatory on Femicide, which is constituted by 43 human rights and women's organizations in 19 states of the country. It is an organization of citizenship participation based on human rights with a gender perspective, intended to contribute on access to justice to women victims of gender violence, femicide and discrimination.

The Observatory is an organization since which we monitor, gather and analyze information about the justice system and access to justice for victims of gender violence, either femicide or caused by gender discrimination. Our main goal is to articulate efforts towards a common mechanism for documenting cases of femicide and developing materials for advocacy while designing legislation and public policies about women's human rights.

The growing violence across the country, aggravated by the economic crisis, has had a direct impact on violence against women, which has alarmingly increased during recent years. Despite that, comprehensive measures to eradicate gender violence have not been implemented in the country, both at a Federal and local level. On the contrary, the widespread failure by the authorities at the different levels of government seems to prefer its invisibility and not to face its causes.

Some important actions aimed at addressing violence against women have been taken, both at the Federal level and at some local entities, but the lack of inter-institutional coordination and some policy gaps have prevented their successful implementation. On 2007 Congress adopted a new legal framework to ensure the right of women to live free from violence and discrimination enshrined in the General Law of Access for Women to a Life Free of Violence (GLAWLFV). Among other things, it sought to address the alarming situation of violence against women in Mexico, expressed in its extreme form of femicide.

However, more than five years after the GLAWLFV took effect, its implementation and the protective mechanisms enshrined on it are currently not guaranteeing the protection of the life and integrity of women in Mexico.

Mexico is ranked in the 16th place in the incidence of homicides against women globally. According to a report produced by UN-Women, cases of femicide in the country have seen a steady increase since the year 2007, which had recorded the lowest number of femicides since 1985, but by 2009 the number had already exceeded those recorded on 1985 by about 25%.

There is a systematic pattern of impunity in Mexico, a reflection of the lack of access to justice for women. Frequently, victims are battered and discriminated when trying to access the justice system. Mexico lacks a comprehensive institutionalized policy for granting access to justice for women and presents severe failures throughout all stages of criminal proceedings. A large majority of cases involving violence against women continue to go without a formal investigation, judgment and sanctions by the justice system, both at the Federal and local level.

Moreover, the lack of statistical data and reliable systems of information impede an adequate assessment on the severity of the problem, as the institutions do not generate sufficient data and statistical information. Also, the absence of reliable records of victims impedes to know the real magnitude of the situation.

The GLAWLFV establishes as well the State's duty to guarantee the security and integrity of victims through two main mechanisms for their protection. In the first place, protection orders to grant immediate police and judicial intervention in cases of family violence and/or rape. The other mechanism is known as Declaration of Gender Violence, which is a set of government emergency actions aimed at addressing and eradicating femicides in a given territory, whether exercised by individuals or by the community.

Protection orders are defined as acts of protection and urgent application for a better protection of the victim, which are mainly precautionary and protective measures. However, the progress made by states to make these orders effective has been rather slow. To date, only 26 states have included to their local legislation the three types of protection orders established by the GLAWLFV; in 25 states, regulatory frameworks indicate that the protection orders must be requested before a "competent authority", but does not clarify the coordination among them; in 20 states the application of measures have a maximum duration

of 72 hours for its implementation, a time frame so extended that puts the lives of women who seek protection orders at risk.

As for the Declaration of Gender Alert, it has not proven to be an effective and operative mechanism for attending structural causes of femicide. Civil society organizations have denounced the normative regulations approved by the Ministry of Interior demand greater requirements than the Law itself, expanding the faculties and participation of authorities that were not included in the Law. The procedures requested by the regulation make the mechanism inefficient since it difficult its operation in a way it is not possible to apply it in practice, protecting the authorities responsible for the violence and impunity.

To date, civil society has formally requested the implementation of this mechanism on four different times:

- On April 30, 2008, given the political conflict in the Triqui region of the state of Oaxaca.
- On May 2009, denouncing legal restrictions at the expense of women's rights in the state of Guanajuato.
- On December 8, 2010, due to the context of femicide and impunity in Estado de Mexico.
- On January 13, 2012, because of the increasing femicides and disappearances of women and girls in the state of Nuevo Leon

Human Rights Organizations have considered the mechanism is not properly working due to a lack of political will to ensure protection to all women victims of gender violence and the obstacles imposed by the normative regulations of the Law. This has led the Gender Alert to be seen by the authorities as a political attack or a punishment, preferring to hide the problems instead of taking effective and coordinated actions for its eradication.

Finally, Mexico has not concluded to include the crime of femicide in the Criminal Codes of each entity in accordance with the definition provided by the GLAWLFV and with the highest international standards in this matter. Currently, only 13 states have criminalized femicide in their criminal codes. Furthermore, some Criminal Codes consider certain mitigating circumstances to the sanction, such as having committed the murder as a result of a duel or a fight, or the state of violent emotion of the perpetrator, which is often equated with jealousy and infidelity

Moreover, various states have not yet equated the crime of femicide with other related offenses. The crime of femicide will not be effective without a comprehensive reform to other laws and regulatory frameworks that order the creation and implementation of investigation protocols with a gender and human rights perspective, as well as the development of databases and statistical records.

Therefore, we present the problems currently faced by Mexico to address the increasing rates of violence against women around the country, as well as the lack of institutional guarantees for its prevention, treatment, punishment and eradication. We also include a series of recommendations that we hope the Committee may take into account for its concluding observations in relation to the reports submitted by Mexico.

The growing violence across the country, aggravated by the economic crisis, has had a direct impact on violence against women, which has alarmingly increased during recent years. Despite that, comprehensive measures to eradicate gender violence have not been implemented in the country, both at a Federal and local level. On the contrary, the widespread failure by the authorities at the different levels of government seems to prefer its invisibility and not to face its causes.

Mexico is currently facing high levels of insecurity and widespread violence in the context of the so-called war against organized crime, a strategy that has been based on the use of force and militarization. The use of the military in tasks of public security has had a direct impact on the protection of human rights and the Rule of Law.

Violence against women in Mexico is originated in a context of impunity based on a patriarchal system of inequality and social exclusion, which is aggravated by the presence of the Armed Forces where the Rule of Law is extremely weak. Certainly, the State has taken some actions aimed at addressing violence against women, both at the Federal level and at some local entities, but the lack of inter-institutional coordination and some policy gaps have prevented their successful implementation.

The year 2005 marked a new era in legislation in the recognition of violence against women with a new generation of legislation that overcame a lack on the implementation of previous norms related to family violence. This new generation of laws expanded the horizon for the protection of women for the first time to the public space. Furthermore, these laws recognized other areas and forms of violence against women such as femicide, human trafficking, incest, domestic violence and crimes of honor, among others.

Mexico formally established a legal framework on the rights of women from 2007, in particular, to ensure the right to live free from violence and discrimination through the adoption of the General Law of Access for Women to a Life Free of Violence (GLAWLFV), which, among other things, sought to address the alarming situation of violence against women in Mexico, expressed in its extreme form of femicide.

This Law defines femicide as the murder of women resulting from violence against them because of their gender. That is, violent murders led by misogyny, discrimination and hatred of this genre, where relatives or strangers engage in acts of extreme brutality upon the bodies of the victims, framed in a context of permissiveness by the State who, by act or omission, fails to fulfill its responsibility to safeguard the lives and safety of women.

However, more than five years after the GLAWLFV took effect, its implementation and the protective mechanisms enshrined on it are currently not guaranteeing the protection of the life and integrity of women in Mexico. Thus, far from fighting the causes that create femicide violence, femicide rates in Mexico have alarmingly increased in the last years and little has been done by the State to, on the one hand, prevent the perpetration of such crimes and, on the other, bring to justice those responsible.

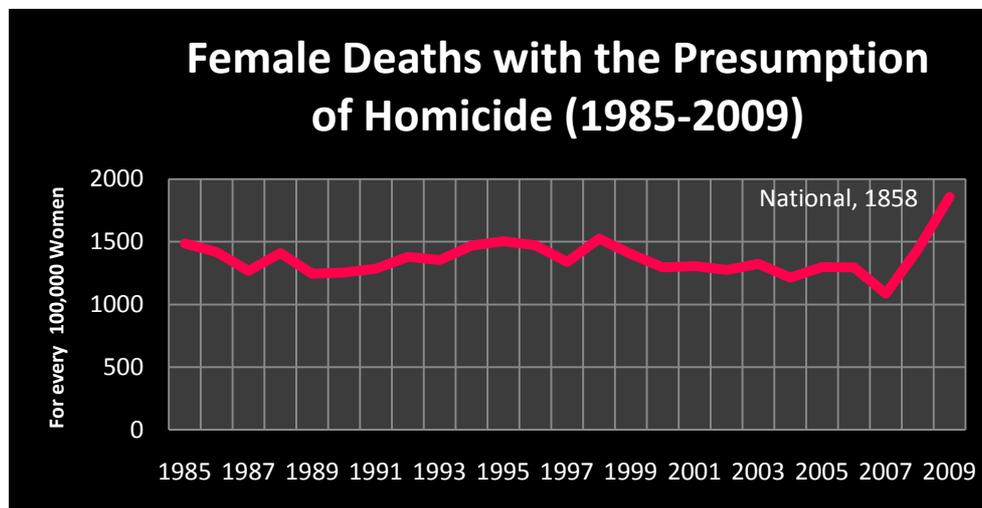
In this regard, it is important to note that the State has completely ignored this grave situation on its seventh and eight periodic reports to the Committee. Hence, on the issue of femicide and institutional violence referred on the 8th issue of the List of Issues, Mexico only informs about the incorporation of both concepts in the GLAWLFV as well as incorporating to some ministries an alleged gender perspective on their work. However, the State does not account

for the sustained increase of femicide rates across the country or its institutional failures to ensure the protection of women against violence committed due to their gender.

Therefore, we present the problems currently faced by Mexico to address the increasing rates of violence against women around the country, as well as the lack of institutional guarantees for its prevention, treatment, punishment and eradication. We also include a series of recommendations that we hope the Committee may take into account for its concluding observations in relation to the reports submitted by Mexico.

Femicide and impunity in Mexico: A context of structural and generalized violence

A recently published report found that Mexico is ranked in the 16th place in the incidence of homicides against women globally. According to the report on Femicide in Mexico produced by UNWomen, the National Women's Institute (Inmujeres) and the College of Mexico (Colmex), cases of femicide in the country have seen a steady increase since the year 2007, which had recorded the lowest number of femicides since 1985, but by 2009 the number had already exceeded those recorded on 1985 by about 25%.¹



Source: "Feminicidio en Mexico. Aproximacion, Tendencias y Cambios, 1985-2009"

In this regard, this Committee has expressed to Mexico its concern by the persistence of systematic and generalized violence against women, which, as noted in the concluding observations of the sixth report issued in 2006, the violence ends in homicides and disappearances of women.² However, six years after this report was issued, rates of femicide keep raising and, as demonstrated in the seventh and eight reports submitted by the State, little has been done in order to address this problem.

It must also be noted the Special Report issued by the Committee under Article 8 of the Optional Protocol to the Convention in relation to the abduction, rape and murder of women in Ciudad Juarez, state of Chihuahua, which includes a number of recommendations designed

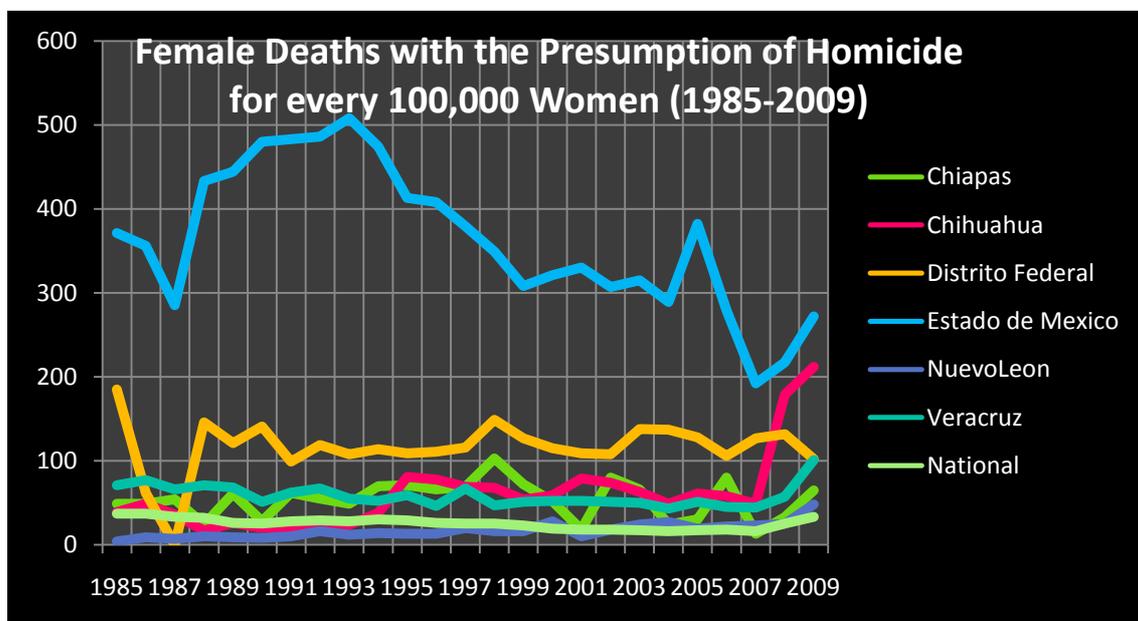
¹ UN-Women. "Feminicidio en México. Aproximación, tendencias y cambios, 1985-2009". ONU Mujeres, INMujeres, Cámara de Diputados y COLMEX. México DF. P 33

² CEDAW. "Report of the Committee for the Elimination of All Forms of Discrimination Against Women" Concluding Observations. August 2006. Párr. 14. Code A/57/38

to prevent, attend, punish and eradicate femicide and women disappearances in that state, which are largely applicable to the different entities of the country.

According to figures compiled by the National Centre Against Femicide, between 2007 and 2008 there were 1,221 murders of women in just 13 states (Chihuahua, Distrito Federal, Estado de Mexico, Guanajuato, Jalisco, Morelos, Nuevo Leon, Sonora, Tamaulipas, Tlaxcala, Tabasco and Yucatan). The analysis revealed that violence against women occurred most often against women between 21 to 40 years old (43% of all cases) and to a lesser extent against girls and young women under 20 years old (23%). In these years, 26% of all murders were committed with a firearm, while 43% of them died as a result of acts that involved the use of excessive force.³

From 2008, rates of violence against women registered a steady increase, as shown in the graph above. Data compiled by the National Citizens' Observatory on Femicide show that between January 2010 and June 2011, only eight states' (Distrito Federal, Estado de Mexico, Nuevo Leon, Oaxaca, Sinaloa, Sonora and Tamaulipas) local Attorneys reported 1,235 alleged female victims of femicide. Of these, 320 occurred in Estado de Mexico, 169 in Tamaulipas and 168 in Sinaloa.



Source: "Feminicidio en Mexico. Aproximacion, Tendencias y Cambios, 1985-2009"

It should be noted that, according to information compiled by the National Centre Against Femicide, the age of female victims turned down during these years, as 41% of victims were between 11 and 30 years old, while 35% were between 31 and 50. 44% of the victims were employees, students or merchants, while 24% were domestic workers. In addition, it is important to highlight that 51% of the victims died from beatings, burnings, trauma, suffocation or punctured wounds, while 46% of women were killed by fire guns.

There is a systematic pattern of impunity in Mexico, a reflection of the lack of access to justice. Frequently, victims are battered and discriminated when trying to access the justice system.

³ Observatorio Nacional Contra el Femicidio. "Una mirada al Femicidio 2009-2010", available at <http://observatorionacionalcontraelfemicidio.com/Informe%202009-2010.pdf>

Mexico lacks a comprehensive institutionalized policy for granting access to justice for women and presents severe failures throughout all stages of criminal proceedings. While investigating the crimes, women constantly face unjustified delays, lack of forensic testing essential for the investigation, unjustified interference in their private lives and many times are blamed or disqualified by the authorities.⁴

Various international human rights mechanisms have issued several recommendations to Mexico over this issue, in particular over the access to justice for victims of femicide. In this regard, the Concluding Observations made by this Committee over the sixth periodic report of Mexico, the State was urged to improve access to justice for victims and to grant that an effective punishment is systematically imposed to perpetrators.⁵

Nevertheless, a large majority of cases involving violence against women continue to go without a formal investigation, judgment and sanctions by the justice system, both at the Federal and local levels. Among other reasons, there are no specialized mechanisms to integrate and conduct investigations with efficiency and transparency as well as the absence and disregard for special protocols to investigate cases of femicide and the prevalence of a patriarchal culture in the justice system that stigmatizes victims through the frequent disqualification of their statements, even accusing the women of causing the violence against them.

While prosecuting and punishing those responsible, women face on many occasions a gender bias by the judges, reflected in the judicial decisions driven by social and cultural discriminatory patterns based on the inferiority of women, a focus on their reproductive role or the lack of credibility of the victim. In many cases, although there is a clear criminal offense, a discriminatory criterion is used to establish low or mitigated sanctions, especially when the victim's sexual conduct does not conform to gender roles and stereotypes.⁶

Of the cases registered by the National Centre Against Femicide between 2010 and 2011, authorities reported that 60% of cases are still pending to be processed and only 19% have been consigned, although in 34% of the cases the motives of the murder are known. Only 4% of the cases of femicide have been sentenced, yet it is unknown if these sentences are convictions or acquittals.

The current fight against drugs, the extreme violence around the country and the general context of insecurity has led to make invisible the murders of women for the State, even though it is evident that these types of cases have increased in recent years. Likewise, cases of disappeared girls and women in this context have been aggravated by the special characteristics of Mexico where the trafficking of women is an additional factor that facilitates violence against them, mainly among girls between the ages of 10 and 17 years.

⁴ Andión Ximena, "Entre dos fuegos: La impunidad sistémica de la violencia contra las mujeres en México", en *Superar la Impunidad: Hacia una estrategia para asegurar el acceso a la justicia*. Coord. Mariclaire Acosta. CIDE. Pp 34

⁵ CEDAW. "Report of the Committee for the Elimination of All Forms of Discrimination Against Women" Concluding Observations. August 2006. Párr. 15. Code A/57/38

⁶ Andión Ximena, "Entre dos fuegos: La impunidad sistémica de la violencia contra las mujeres en México", en *Superar la Impunidad: Hacia una estrategia para asegurar el acceso a la justicia*. Coord. Mariclaire Acosta. CIDE. Pp 34

The lack of statistical data and reliable systems of information impede an adequate assessment on the severity of the problem, as the institutions do not generate sufficient data and statistical information. In many cases, data is not disaggregated by sex or type of crime, and there is no existing information over the number of murders, cause of death or progress in the investigations. Moreover, in many cases the authorities are reluctant to provide their information, even when requested by the mechanisms of transparency and access to information.⁷

On the other side, the absence of reliable records of victims impedes to know the magnitude of the situation. The GLAWLFV established the creation of the National Data Bank on Cases of Violence against Women (BANAVIM), intended to develop a database with national information on the cases of violence against women. Two years later, on April 16th, 2009, was published on the Official Gazette an agreement by which the Ministry of Public Security established guidelines for the operation of the BANAVIM and in 2010 the House of Representatives allocated 15.3 million pesos for its execution. However, the systematization of data and statistics has not been possible because, as stated by the Ministry of Public Security most of the states are not providing information over cases of violence against women occurred in their territories.

Recently, the Congress also approved a Bill creating the National Register of Missing Children, Adolescents and Adults and establishes a database to facilitate the search for missing persons. However, to date, the State does not have a full reliable or objective diagnosis about the situation of the disappearance of women in Mexico.

The Lack of Implementation of the General Law of Access of Women to a Life Free of Violence: Gender Alerts and application of Protection Orders

Following the trend and the international regulatory framework to effectively combat domestic violence and discrimination against women, in 2007 it was approved in Mexico the General Law of Access for Women to a Life Free of Violence (GLAWLFV). The Law provides two protective mechanisms to address violence against women, particularly femicides.

The Law is intended to establish the coordination between the three levels of government to prevent, sanction and eradicate violence against women. The Law orders that the various levels of government adequately codify all forms of violence against women and act diligently for the prevention, sanction and prosecution of those responsible, as well as to provide adequate compensation to victims in accordance with international treaties ratified by Mexico. It establishes as well the State's duty to guarantee the security and integrity of victims through the issuance of protection orders and immediate police and judicial intervention in cases of family violence and/or rape.

Protection orders,⁸ contemplated under articles 27 to 32 of the Law are defined as acts of protection and urgent application for a better protection of the victim, which are mainly

⁷ Andión Ximena, "Entre dos fuegos: La impunidad sistémica de la violencia contra las mujeres en México", en *Superar la Impunidad: Hacia una estrategia para asegurar el acceso a la justicia*. Coord. Mariclaire Acosta. CIDE. Pp 16

⁸ Article 28 in the Law establishes three types of orders of protection, which will be personal and non-transferable. The first of these is orders of emergency; it implicates the removal of an aggressor or a restraining order. The second are preventative orders; intended to protect women confronted with the possibility that tangible violence may be used against them by an aggressor. Both types of orders shall have temporality of no more than 72 hours and must be dispatched within the following 24 hours of the known acts that occurred, according to the very own Law itself.

precautionary and protective measures. The protection orders are guided by measures based on the assumption that the woman complainant is in danger of suffering immediate harm, therefore she must be protected by the State, prioritizing at all times her safety.

According to an analysis made by the National Citizens' Observatory on Femicide, only 26 states have included the three types of protection orders established by the GLAWLFV, which establish that they may be granted to women for whatever type of violence that puts their life and security at risk. However, the interpretations of the juridical operators reduce the application of these mechanisms to only domestic violence.

In 25 states, regulatory frameworks indicate that the protection orders must be requested before a "competent authority", considering among them the Ministry of Public Security, the Attorney General or the Superior Courts of Justice since they are in charge of providing security for the victims. Nonetheless, this does not imply that the authorities responsible for the prevention, sanction and eradication of violence against women are informed and coordinated with the competent authorities to grant the protective measure for the women.

While various international human rights mechanisms have pointed out that the authorities should issue protection orders in an immediate, expedient and opportune manner, in 20 states the application of measures have a maximum duration of 72 hours for its implementation. By establishing a time frame that is so extended puts the lives of women who seek protection orders at risk. This mechanism, as stated by UN-Women,⁹ must remain in effect permanently and should guarantee that its term be solely determined by a court, based on clear evidence that assures that the woman is not longer at risk.

Although international standards establish that when a woman demands protection, her testimony should be enough so that the authorities can issue an urgent or preventative protection order, in 12 states the lack of clarity in the regulatory framework leaves the juridical operator to read the norms and impose requirements on the woman so that she may access this mechanism. For example, in Aguascalientes and Zacatecas, it is required from the victim to prove the length of time that the violence lasted, the violent background of the aggressor or the context of repeated violence, even though their normative framework establish that these issues should be considered to know the risk affecting the victim for adequately issuing the protection order.

It is a cause for concern that, after two years the local legislation was harmonized with the GLAWLFV, currently the states of Puebla, Morelos and Estado de Mexico did not provided any protection orders, although according to the National Survey on the Dynamics of Household Relationships (Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares) of 2006, these states are among the ten highest rates of violence against women, and even Estado de Mexico has one of the highest rates (over 53%) of domestic violence and rates of preventable femicides.

Finally, the order of civil nature provides temporary action of restraint when a woman find herself is at risk, similarly they must be processed before the family courts, and in the absence of these, civil courts.

⁹ UN-Women; Disposiciones relativas a advertencias, Plazos de las órdenes de protección, y Otras disposiciones clave; <http://www.endvawnow.org/es/articles/840-disposiciones-relativas-a-advertencias-plazos-de-las-ordenes-de-proteccion-y-otras-disposiciones-clave.html>

According to official data, until June 2011, only 744 protection orders have been issued in the states of Aguascalientes, Colima, Distrito Federal, Hidalgo and Zacatecas.¹⁰ However, these orders have not fulfilled the purpose for which they were granted, as, for example, the state of Colima reported to have granted 2 protection orders, but these were intended for children (one of them a boy), while in the state of Zacatecas was granted a protection order to an underage boy beaten by his mother.

The GLAWLFV also establishes the mechanism of a Warning Declaration of Gender Violence as an immediate and urgent mechanism intended to force the authorities at all levels of government to develop effective actions of investigation and prosecution leading to clarify the facts, to arrest offenders and ensure access to justice for victims of femicide, to contribute in confronting and eradicating violence against women in a given territory around the country.

The Gender Alert is a set of government emergency actions aimed at addressing and eradicating femicides in a given territory, whether exercised by individuals or by the community. Gender Alerts have the fundamental purpose of ensuring the safety of women that suffered violence, the cessation of violence against them and to eliminate inequalities produced by legislation that aggravate human rights.

The Declaration may be requested by civil society organizations, human rights institutions, either national or local, and international organizations as femicide rates have increased in the territory of certain entity.

The Declaration of Gender Alert seeks to ensure the coordination between Federal, local and municipal governments to address the problem of femicide and to establish concrete actions to prevent, investigate and sanction the perpetrators. Over the past 15 years, numerous recommendations have been issued to Mexico by international human rights mechanisms aimed at establishing a protocol to immediately and effectively respond to protect all women against gender violence.

In this regard, the Ministry of Interior issued the normative regulations of the GLAWLFV to establish the basis for coordination between the Federal government, local entities and municipalities, which became effective on March 12, 2008. These rules explain how the Warning Declaration of Gender Violence will operate and the model actions to prevent violence against women, including the functioning of Gender Alerts.

According to the regulations, the procedure for declaring a Gender Alert begins with the application on behalf of national or local human rights organizations, civil society organizations or international agencies, whose petition must contain the name of the applicant, the capacity in which it operates, their residence, the place where gender violence took place, a description of the acts that constituted human rights violations against women, the group of affected women and the approximate number of them and the period of repetition of the behavior.

The regulation also states that applications will only proceed when the allegation of violence against women is systematic, that translates into ordinary crimes in a context of impunity or social permissibility or when a compared grievance coming from a misogynistic behavior exists. If the request of investigation proceeds, the National System to Prevent, Address, Sanction and Eradicate Violence Against Women (SNPASEVM) will conform an inter-institutional and multidisciplinary group to study and analyze the potential release of the Alert of Gender Violence.

¹⁰ Aguascalientes 5, Colima 2, Distrito Federal 700, Hidalgo 34 y Zacatecas 3

The above clearly shows evidence that the procedures established in the regulations demand greater requirements than the Law itself, expanding the faculties and participation of authorities that were not included in the Law. The procedures requested by the regulation make the mechanism inefficient since it difficult its operation in a way it is not possible to apply it in practice, protecting the authorities responsible for the violence and impunity.

To date, civil society has formally requested the implementation of this mechanism on four different times, which give a clear account of the inefficiency and ineffectiveness of the procedure established:

1. On April 30, 2008, was requested a Warning Declaration of Gender Violence denouncing violence against women and femicides in the Triqui region of the state of Oaxaca, given the political conflicts between the indigenous communities of the region in which women were taken as war booty and faced killings and disappearances. Nevertheless, despite the systemic context of violence in the region, the authorities responsible to admit the request did not processed it on the grounds that it did not meet the requirements and not provided sufficient evidence.
2. On May 2009 an application was submitted in the state of Guanajuato on the concept of Compared Aggravation, figure provided by the GLAWLFV when distinctions or legal restrictions at the expense of women exist at local legislation. The application denounced an aggravation by certain laws that discriminated women victims of sexual violence. Despite the Criminal Code of Guanajuato allows abortion in cases of rape, the state does not provide health services for a legal interruption of pregnancy nor grants access to justice for victims. The authorities rejected this request without even analyzing it through the procedures established by the normative regulations.
3. On December 8, 2010, was submitted a request to declare a Gender Alert because of the context of femicide and impunity in Estado de Mexico, where between January 2005 and August 2010 there were 922 registered femicides, of which the identity of 526 murderers is still unknown. The request was intended to identify the irregularities in which the justice system incurred to detect the pattern of systematic impunity and violence that hampered and obstructed the progress of the investigations, impeding victims of gender violence and femicide to access justice.

This request met all legal requirements and was admitted by the Executive Secretariat of the SNPASEVM, integrated by nine agencies of the Federal Government (Ministry of Interior, National Women's Institute, Ministry of Social Development, Ministry of Public Security, the General Attorney, Ministry of Education, Ministry of Health, National Council to Prevent Discrimination and the National System for Integral Family Development) and by the 32 local mechanisms for women advancement, one for each state.

A month later, on January 11, 2011, the SNPASEVM during an extraordinary meeting denied the request under arguments that were irrelevant to the very sense of the Alert and without assessing the facts and evidence accompanying the request, which sought to safeguard the life and safety of women of Estado de Mexico.

Yet, on February 27, 2012, a Federal Judge granted an appeal to the human rights organizations that requested the Gender Alert in virtue of the rejection by the SNPASEVM. In the appeal, the Judge ordered members of the System to analyze if the request proceeded since it met the legal requirements to start the investigation. The

ruling noted that during the session of the SNPASEVM it was not demonstrated in any way that the authorities read the organizations' requests or that they analyzed the evidence, but rather they merely voted to declare the inadmissibility of the request and denied any investigation of the violence against women.

The Judge ordered to set aside the agreement taken by the System and determined that the authorities must hold a new session on which they analyze the evidence provided and resolve on the validity of the request of issuing a Gender Alert presented by the human rights organizations.

The corresponding authorities asked for reconsideration, appeal that is still pending at the Federal Judiciary. This has prevented the possibility of a new session of the SNPASEVM or that the request of Gender Alert could be reviewed.

4. On January 13, 2012, a Warning Declaration of Gender Violence was requested because of the increasing crimes against women registered during the last two years in the state of Nuevo Leon, added to other crimes such as sexual violence and disappearances of women and girls. According to a research conducted by Arthemisa for Equity, women's murders in Nuevo Leon increased by 689% between 2000 and 2011. Meanwhile, the National Center Against Femicide registered a total of 176 femicides between January 2009 and June 2011, based on information received from the Attorney General of the state of Nuevo Leon.

Similarly, the number of missing women and girls in that state has increased in recent years, according to information provided by the Attorney General of the state, where 415 disappearances of women and girls have been registered from January 2010 to June 2011.

Despite the alarming figures, local authorities have poorly responded, merely attributing the violent deaths of women to organized crime, without providing the necessary investigations to substantiate these claims. Also, regarding the disappearances of girls and women, authorities have just define them as "levantones", euphemistic term that refers to kidnappings committed by organized crime gangs, a concept that is not even codified by any criminal code and that also lacks any kind of investigations.

Even though the gravity of the situation in the state of Nuevo Leon, the SNPASEVM refused once again by unfounded means the acceptance of this request. After this decision was taken, the organizations that requested the Alert filed again an appeal before a Federal Judge (file 181/2012), which is still under process.

For this reason, the organizations subscribing this report consider the mechanism of Warning Declaration of Gender Violence established in the Law is not working properly due to a lack of political will to ensure protection to all women victims of gender violence and the obstacles imposed by the normative regulations of the Law. This has led the Gender Alert to be seen by the authorities as a political attack or a punishment, preferring to hide the problems instead of taking effective and coordinated actions for its eradication.

The codification of Femicide and the Extenuation Circumstances Facing Homicides of Women in Mexico

Mexico has been as well recently recommended by many different international and national human rights mechanisms to adequately codify the crime of femicide in the criminal codes, both locally and at the Federal level.¹¹ An adequate codification of the crime of femicide represents a breakthrough that allows the visualization of this problem and also facilitates the development of mechanisms to prevent and sanction it.

While the GLAWLFV defines femicide on Article 21 as “the extreme form of gender violence against women, resulting from the violation of their human rights, in both public and private spheres, formed by the set of misogynic behavior that can lead to social and State impunity and may culminate in murder or other forms of violent death of women”, it cannot be regarded as a codification of the crime of femicide as any offense, since to be considered as a crime it must be included in the criminal codes of each entity.

It is therefore of great importance to move towards a proper codification of the crime of femicide in all states, which should be in accordance with the definition provided by the GLAWLFV and with the highest international standards in this matter, mainly the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention Belem do Para).

However, the definitions currently prevailing in the various criminal codes do not allow to clearly identify the killing of women with the features contained in such international human rights instruments.¹² First, the definition should include misogyny – or hatred against women – as the motivation that led to the violent act. On the other hand, violence should result in homicide or other violent death of women.

Currently, only 13 states have criminalized femicide in their criminal codes (Chiapas, Colima, Distrito Federal, Durango, Estado de Mexico, Guanajuato, Guerrero, Morelos, San Luis Potosi, Sinaloa, Tamaulipas, Tabasco and Veracruz). However, an analysis of these has shown great deficiencies as well as different definitions among different states (see Appendix).

Some states, such as Tamaulipas or Estado de Mexico, incorporate subjective elements of difficult accreditation that hinders sanctioning those responsible for the crime. In Tamaulipas, for example, it is necessary to prove at least three circumstances provided for the offense – Article 337 of the Criminal Code – among which the victim is requested to submit “evidence of repeated physical violence” and that “there is a history of psychological violence or harassment by the perpetrator against the woman”. This has led to lawyers and legal practitioners can hardly prove such circumstances, which coupled with stereotypes that permeate the justice system, make femicide as non-existent.

In addition, some Criminal Codes consider certain mitigating circumstances to the sanction, such as having committed the murder as a result of a duel or a fight, or the state of violent

¹¹ Human Rights Committee, 2010 (párr. 8b); CEDAW Committee, 2006 (párr. 15); Special Rapporteur on violence against women, its causes and consequences, 2006 (párr. 65).

¹² UN-Women. “Feminicidio en México. Aproximación, tendencias y cambios, 1985-2009”. ONU Mujeres, INMujeres, Cámara de Diputados y COLMEX. México DF. Pp 22

emotion of the perpetrator, which is often equated with jealousy and infidelity.¹³ Furthermore, three states (Baja California Sur, Yucatan and Zacatecas) still as a mitigating circumstance to femicide the so-called “reasons of honor” reducing the sanction for the person responsible of taking the life of a woman. The penalties provided for killing a woman when she is caught “in a sexual act or near its consummation” can be as low as two years (Yucatan) and up to a maximum of six years (Zacatecas).

On the other hand, various states have not yet equated the crime of femicide with other related offenses. Different civil society organizations have stated that the definition of the crime of femicide is not effective without a comprehensive reform to other laws and regulatory frameworks that order the creation and implementation of investigation protocols with a gender and human rights perspective, as well as the development of databases and statistical records.

In the state of San Luis Potosi, for example, while codifying the crime of femicide the normative framework was not modified to ask for investigation protocols, the systematization of information and a sanction to public servants that may incur in actions or omissions while investigating this type of crimes. Similarly, the Distrito Federal did not include an express obligation to create a systemic registration of cases of femicide in the entity.

In the case of states like Chiapas, Colima, Morelos and Veracruz, although sought a comprehensive reform to contribute in the eradication of femicide, to date there has not been a proper implementation at the institutions responsible for law enforcement. To date, these states lack of investigation protocols to ensure an adequate investigation with a gender perspective, which is even established by the Law itself.

At the Federal level, the Congress codified the crime of femicide last April 2012, stating on Article 325 of the Federal Criminal Code intended to forbid and sanction the death of a woman under circumstances that show she was physically, psychologically or sexually abused by the perpetrator. The Code provides for penalties ranging from 40 to 60 years in prison for those responsible, but also includes penalties for those public servants who delay or impede the investigation or the application of justice.

The Federal Criminal Code establishes certain scenarios to consider there were “gender reasons” so it can be classified as femicide. The reform lists: 1. The victim shows signs of violence of any kind; 2. The victim was inflicted infamous or degrading injuries or mutilations; 3. There is a history of any type of violence in the family, school or work against the victim; 4. A sentimental, affective or trusting relationship between the perpetrator and the victim; 5. Prior threats related to the crime, harassment or injury; 6. The victim was isolated; 7. The body of the victim is exposed or displayed in a public space.

¹³ UN-Women. “Feminicidio en México. Aproximación, tendencias y cambios, 1985-2009”. ONU Mujeres, INMujeres, Cámara de Diputados y COLMEX. México DF. Pp 25

With regards to protection orders, it is requested to the Committee to recommend Mexico to:

1. Ensure that local systems to prevent, sanction and eradicate violence against women know about the importance of these orders with the purpose of facilitating their derivation and appropriate accompaniment for the immediate attention of women at risk.
2. Modify the local and Federal legislation in order for protection orders may remain active for a minimum of one year, or until the woman may leave the context of violence that she lives in and ceases to be in a situation that puts her life at risk.
3. Ensure that the sole declaration of the victim be considered as sufficient element for competent authorities grants the protection order, without the necessity of any other additional proof.
4. Create in all states databases and/or records of all requested, granted and denied protection orders, among other variables, that will allow to know the contexts of risk in which women find themselves in, in accordance with the regulatory framework.

With regards to the Warning Declaration of Gender Violence, it is requested from the Committee to recommend to Mexico to:

1. To reform as necessary the regulatory framework of the General Law of Access for Women to a Life Free of Violence with the purpose of eliminating all obstacles that limit the immediate application of this mechanism.
2. To grant the Gender alert in the states of Nuevo Leon and Estado de Mexico where civil society has so requested and the National System to Prevent, Address, Sanction and Eradicate Violence Against Women has irregularly denied them, taking into account violence against women is still increasing and has not been eradicated.

With regards to the codification of femicide the Committee it is requested to recommend Mexico to:

1. Codify the crime of femicide in the states where it still has not been included and standardize the offense to be considered as an autonomous crime, with objective elements of accessible accreditation, along with reforms to the legal frameworks corresponding to implement databases, investigation protocols for cases of femicide and continuous training, according to the recent reforms published on June 2012.
2. Include in all investigation of femicide the following elements:
 - a. Proper handling of the crime scene, since the collection of evidence during the first few hours of finding the body are crucial for the accreditation of the violence the woman was subjected.
 - b. Experts reports during the investigation intended to investigate the subjugation the woman was victim of before being killed, avoiding the use and reproduction of stereotypes that may lead to a double victimization of women and their relatives.
 - c. Establish in a clear manner the administrative and criminal responsibility in the investigation protocols of public servants that incur in irregularities.
 - d. Create statistical records and databases of DNA for cases of non-identified women to date and create a data bank of aggressors who have been previously reported by women.
 - e. Adopt and standardize measures of judicial and social protection for survivals and their relatives (daughters, sons, mothers, sisters or others).

APPENDIX. Definition of Femicide in the Criminal Codes

| State | Definition of Femicide in the Criminal Code | Observations |
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| Aguascalientes | --- | --- |
| Baja California | Art 129 | Incorporates subjective elements and of difficult accreditation. In addition, it lacks comprehensive modifications to investigate and prosecute the crime. |
| Baja California Sur | --- | The state has not discussed reforms for the criminalization of femicide. Along with this, it considers in its the criminal code (Art 274) homicide through reasons of honor or crimes of passion as mitigating factors |
| Campeche | --- | --- |
| Chiapas | Art 164 Bis | Incorporates the crime of femicide autonomously and raises sanctions ranging from 25 to 60 years of prison. The existence of a relationship between the perpetrator and the victim as a labor or, teacher or any other that may imply subordination or superiority, as well as signs of any type of violence. Creates a special unit within the Office of the Attorney General to investigate these types of offenses under specialized protocols. |
| Chihuahua | --- | --- |
| Coahuila | --- | To date, the state Congress has not approved the corresponding reform. There is a project to include femicide as a separate criminal offense with objective elements of accessible accreditation. However, it does not include any reforms to implement investigation protocols or create statistical information. |
| Colima | Art 191 bis 5 | Femicide is considered as an autonomous offense with objective elements and accessible accreditation. It also |

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| | | includes rights to victims and their relatives and forces the creation of investigation protocols with a gender perspective. |
| Durango | Art 137 | It is included as a serious offense with penalties ranging from 20 to 60 years of prison. It increases in 10 years in the event that the perpetrator had a romantic relationship, of trust or subordination with the victim. |
| Distrito Federal | Art 148 bis | The offense is created with objective elements of accessible accreditation and places romantic and trusting relationships as an aggravation. However, there are no reforms to the General Law of Access to Women and leaves out records of cases on femicide. |
| Guanajuato | Art 153 A | It is included as an aggravation to homicide under certain circumstances (some objective and others subjective). It is established as a serious offence. |
| Guerrero | Art 108 bis | Previously defined the offense within the General Law of Access of Women to a Life Free from Violence, but did not consider penalties, thus making it inefficient. However, in December 2010, became the first state to include the offence of femicide in its Criminal Code. |
| Hidalgo | --- | --- |
| Jalisco | --- | The past month of May commissions in the state Congress approved a project to reform the Criminal Code to consider femicide as an aggravation of homicide. To date, the Congress has not approved the initiative. |
| Estado de México | Art 242 bis | The legislation considers femicide as an aggravation of murder, not as a crime by itself. In addition, it incorporates |

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| | | circumstances of difficult accreditation. |
| Michoacán | --- | --- |
| Morelos | Art 213 quintus | The offense incorporates objective elements and of accessible accreditation. |
| Nayarit | --- | --- |
| Nuevo León | --- | --- |
| Oaxaca | --- | There is currently a project under discussion in the state Congress, but to date has not been approved. The project also provides reforms to the Code of Criminal Procedures for the purpose of investigation. |
| Puebla | --- | --- |
| Querétaro | --- | --- |
| Quintana Roo | --- | --- |
| San Luis Potosí | Art 114 bis | It is included as a serious offence with penalties ranging from 12 to 40 years in prison. Does not include investigation protocols or systematization of information. |
| Sinaloa | Art 134 bis | It is presented as an aggravation of homicide with objective elements for its accreditation. |
| Sonora | --- | The project for the codification of femicide was presented in September 2011, but to date has not been approved. The project includes subjective elements of difficult accreditation, matched with homicide. In addition, it does not include reforms of other regulations for the creation of investigation protocols or statistical information. |
| Tabasco | Art 115 bis | --- |
| Tamaulipas | Art 337 bis | It is included as an aggravation of murder, but requires elements of difficult accreditation. It requires proof |

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| | | of three special circumstances with complicate its accreditation. |
| Tlaxcala | --- | --- |
| Veracruz | Art 367 bis | The Code of Criminal Procedures includes the obligation of the authorities for the identification of dead bodies, as well as investigation protocols. |
| Yucatán | --- | The state has not discussed reforms for the criminalization of femicide. Along with this, it considers in its the criminal code (Art 386) homicide through reasons of honor or crimes of passion as mitigating factors |
| Zacatecas | --- | The state has not discussed reforms for the criminalization of femicide. Along with this, it considers in its the criminal code (Art 302) homicide through reasons of honor or crimes of passion as mitigating factors |
| FEDERAL | Art 325 | The Congress approved the reforms on the last day of sessions, which entered into force on June 2012. It contemplates sanctions ranging from 40 to 60 years of prison. |