

Juárez and Chihuahua War on Drugs and CEDAW Recommendations



Justice for our
Daughters



Center for Women's
Human Rights

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EXECUTIVE RESUME

The security policy of the State to combat violence and organized crime has not been effective and respectful to the human rights.

- **Security policy effectiveness and women's murders**

Gender violence and murders have been increasing dramatically in the last 5 years, despite the legislative advances and the international concern of women homicides because of gender reasons, documented since the beginning of 1990 in two of the main cities: Juarez y Chihuahua.

Women's murders have raised more the 1000%. From 53 in 2007 to 584 in 2010 women murdered.¹ Since 2008, Chihuahua state has the biggest number of murdered women per year in Mexico.² Several of this victims have been human rights defenders such as Marisela Escobedo and Josefina Reyes. This crimes, along the 95% of feminicides are still unpunished.

Possibly this region has the highest world feminicide rate, with 34.73 murders per 100,000 women,³ 15 times higher than the world feminicide rate which is 2.6 murders per 100,000 women.⁴

- **Traffic and disappearance of women**

Between January and February 2012, at least 12 girls' and womens' corpses were found in Valle de Juarez field. This demonstrates that gender based violence against girls and women still remains. Chihuahua's government decided not to take any research mechanisms in most of the reported missing women cases. Genetic tests are performed with an unjustified delay, and there have been cases such as Adriana Sarmiento's, in which Chihuahua's government hid the body without reasons for months.

The vulnerability of women has increased by a conflict dubbed by some academics and officials from the U.S. government as terrorist insurgency⁵, and failed security policy characterized by military and police occupation of the region, and increased violence, rape and murder. In implementing the policy, the State did not provide effective mechanisms for the prevention and investigation of violations of women's human rights by state and nonstate actors in a context of structural discrimination against women.

¹ INEGI. See in: www.inegi.gob.mx query deaths from homicide, by state and county of occurrence, by sex and year of registration.

² INEGI. Estadísticas de Mortalidad 2000-2010 –cifras preliminares para 2010-.

³ INEGI. Estadísticas de Mortalidad 2000-2010 – Preliminary figures for 2010 -. As a reference, South Africa, according to the World Health Organization, with a display of 8.8 is the country with the female homicide rate highest in the world <http://www.who.int/bulletin/volumes/85/9/06-037184/en/>.

⁴ Nations Office on Drugs and Crime. Global Study on Homicide. P. 12. http://www.unodc.org/documents/data-and-analysis/statistics/Homicide/Globa_study_on_homicide_2011_web.pdf (accesado el 27 de enero de 2012).

⁵ H.R. 3401. <http://www.govtrack.us/congress/bill.xpd?bill=h112-3401> y Sullivan y Elkus, 2009 *Cártel vs. Cártel: Mexico's Criminal Insurgency*, en Small Wars Journal, disponible en <http://smallwarsjournal.com/blog/journal/docs-temp/358-sullivan.pdf>

Juárez and Chihuahua -War on Drugs -and CEDAW Recommendations

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I. Background

On 18 December, 1979, the General Assembly of the United Nations adopted the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), which entered into force as an international treaty on 3 September, 1981 with the ratification of 20 countries.⁶ Mexico was among the first countries to ratify the CEDAW on 23 March of 1981.⁷

The Convention requires that States parties present before the Committee, at least once every four years, a report detailing the measures taken to implement the articles of the Convention.⁸

Mexico presented its 7th and 8th consolidated reports regarding its compliance with the CEDAW in September of 2010, which covered the period from August 2006 – September 2010.⁹

- **Organizations that present this shadow report and its objective**

The non-governmental organizations of Center for Women's Human Rights (*Centro de Derechos de las Mujeres CEDEHM*), Justice for our Daughters (*Justicia para Nuestras Hijas*) – both from Chihuahua – and **Mukira** aim to provide more complete information to the committee of experts regarding the current situation of women and girls in Mexico, particularly concerning:

- The progress and challenges of implementation of the recommendations issued by the Committee in 2005 regarding the disappearances and murders of women in Juárez, based on Article 8 of the facultative protocol.
- The effects of the “war on drugs” and insecurity in the lives of women and girls, in the light of the CEDAW.
- The measures implemented by the Mexican State, in the light of the recommendations of 2006 made by the Committee and the CEDAW, and challenges in access to justice (the legal framework and law enforcement).

⁶ United Nations. see: www.un.org/womenwatch/daw/cedaw/text/sconvention.htm retrieved on 03/01/12.

⁷ United Nations. http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-&chapter=4&lang=en#EndDec retrieved on 03/01/12.

⁸ United Nations. see: www.un.org/womenwatch/daw/cedaw/text/sconvention.htm

⁹ National Women's Institute (INMUJERES). http://cedoc.inmujeres.gob.mx/documentos_download/101179.pdf, retrieved on 02/15/12

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II. Progress and challenges of implementation of the recommendations issued by the CEDAW Committee in 2005 regarding the disappearances and murders of women in Juarez¹⁰

Since 2003, wide range of international organisms have published reports and recommendations in which they express their concern for the disappearances and hundreds of murders of women -known in Mexico as feminicides- in Ciudad Juarez and Chihuahua City, in the State of Chihuahua. The special report on Ciudad Juarez produced by the CEDAW Committee in 2005, about Juarez, based on article 8 of the Optional Protocol, is particularly worth noting.

In 2006, the Committee emphasized in the observation 17, the importance of complying with the recommendations issued in 2005. In December of 2009, the Inter American Court on Human Rights (hereinafter the Court) handed down a sentence relating three paradigmatic cases of disappeared and murdered women in Ciudad Juarez, in the case “Gonzalez and others”, also known as the “Cotton Fields”.¹¹ The Court found, *inter alia*, that the Mexican State was internationally responsible for failing to act with due diligence to investigate the disappearances and murders of these women and concluded that it had violated human rights.

- **Location and characteristics of the state of Chihuahua**

The state of Chihuahua is located in the north of Mexico on the border with the United States, and has a total population of 3,406,605 people¹². The region is characterized by high levels of violence and by “structural discrimination against women”.¹³

Its most populated cities are Juarez and Chihuahua. The state has been recognized internationally for the disappearances and killings of women and girls that human rights and women’s organizations have been documenting since 1993.

The Mexican Government has made important legislative progress with regards to women’s human rights and it has also increased the budget aimed at gender issues.

¹⁰ In connection with recommendation 17 of CEDAW Committee in their concluding observations Mexico, 2006.

¹¹ IDH Court. (Human Rights Inter-American Court) González et al. ("Cotton Field" or "Campo Algodonero") vs. Mexico. Preliminary Objection, Merits, Reparations and Costs. Sentence of November 16, 2009. Series C No. 205 Available at: www.corteidh.or.cr

¹² 2010 Census. National Institute of Statistics and Geography (INEGI):. See: www.inegi.gob.mx

¹³ IDH Court. (Human Rights Inter-American Court) González et al. ("Cotton Field") v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Sentence of November 16, 2009. Series C # 205, para. 450.

Nevertheless, it has not complied with most of the measures ordered by the Interamerican Court in its sentence regarding the case of Juarez. Nor it has adequately attended to the majority of recommendations of the CEDAW committee for Juarez city, issued in 2005, all of which will be outlined in this report, based on information and official figures, documentation, litigation and analysis of paradigmatic cases of women's human rights violations.

Table 1. Geographical location of the State of Chihuahua



- **Social context: Indicators and scale of violence in the state of Chihuahua**

The Mexican government has undertaken some actions to fight against drug trafficking through the militarization of some regions. However, discrimination against women has become more complex given the extreme violence throughout the region.

- More than 200,000 people have been displaced from Juarez as a consequence of the violence and in Juarez there are some 116,000 abandoned homes.¹⁴
- More than 13,000 people were murdered between 2007 and 2010 in the state of Chihuahua.¹⁵
- In 2010, the homicide rate for men reached 352.02 per 100,000 inhabitants,¹⁶ making the state possibly among the most dangerous in the world. The same year, the daily homicide rate reached 10 daily.

¹⁴ Report of the Internal Displacement Monitoring Centre of the Norwegian Refugee Council on forced displacement in Mexico as a result of drug cartel violence. December 2010. Available at: [www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/E65A0D75E1B5E8F8C125781F00318DF2/\\$file/Mexico_Dec2010_sp.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/E65A0D75E1B5E8F8C125781F00318DF2/$file/Mexico_Dec2010_sp.pdf) recuperado el 01/03/12.

¹⁵ INEGI. 13.233 people were killed between 2007 and 2010. See: homicide deaths, by entity of occurrence, by sex and by year of occurrence. Available at: www.inegi.gob.mx

In this context of conflict, aggravated violence and discrimination against women have risen. Women face additional barriers to exercising their human rights and have little or no access to justice. Furthermore, the State security policy to fight violence and crimes against women has not been effective or respectful of human rights, there is a lack of accountability mechanisms, and most investigations regarding violations of women's human rights have been ineffective: most criminals are not brought to justice.

Article 1. Discrimination against women: murders.

The most extreme expression of discrimination against women in Chihuahua comes in the form of gender-based homicides, also known as feminicides. This region possibly has the highest rate of homicides of women in the world, with 34.73 killings per 100,000 women,¹⁷ 15 times higher than the rate of homicides of women on a global level, which stands at 2.6 killings per 100,000 women.¹⁸

Chihuahua possibly has the highest rate of homicides of women in the world, with 34.73 killings per 100,000 women.

Since 2008, the state of Chihuahua has consistently had the highest number of killings of women of any state in Mexico.

According to official figures obtained by the organizations that have worked on this report, in the last three years a 1000% increase has been registered in killings of women in the state, increasing from 53 killings in 2007 to 584 in 2010.¹⁹

Despite the international concern over homicides of women for gender-based reasons, as documented by local NGO since the beginning of the 1990 in the two major cities of Chihuahua (Ciudad Juarez and Chihuahua), gender-based violence and killings have drastically increased in the last 5 years and women continue to be faced with serious obstacles to ensuring their access to justice.

16 INEGI. See: male homicide rate by state, broken down by sex and year of occurrence. Available at: www.inegi.gob.mx The highest homicide rate in the world is in Honduras with 82.1 murders per 100,000 inhabitants according to report "Global Study on Homicide" prepared by the United Nations Office on Drugs and Crime and available in: www.unodc.org/documents/data-and-analysis/statistics/Homicide/Globa_study_on_homicide_2011_web.pdf

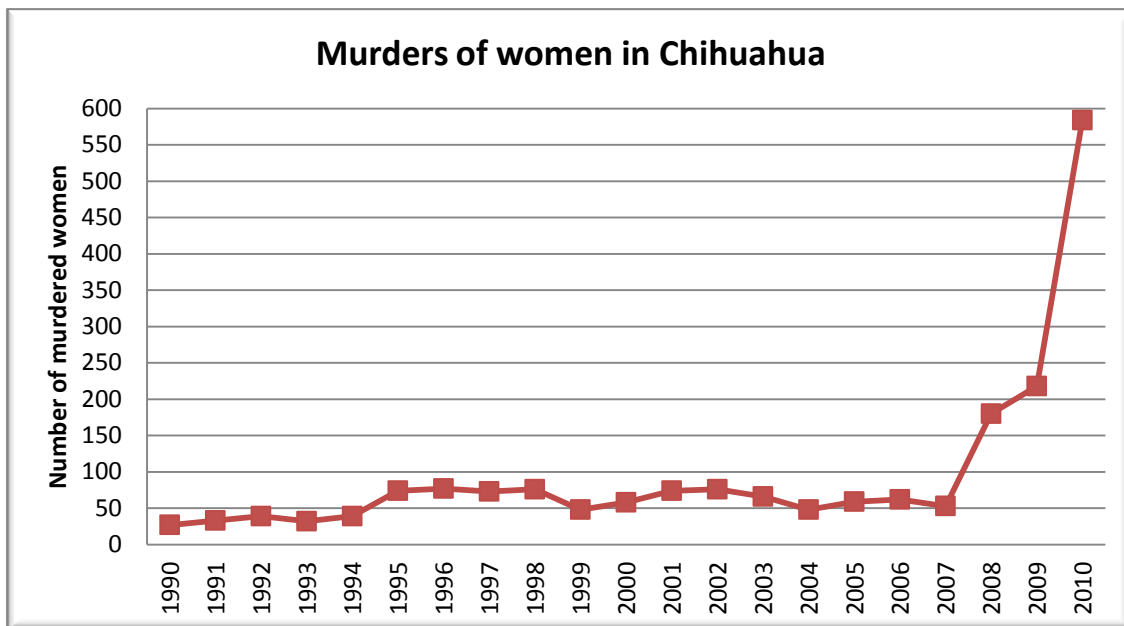
17 Annex 1. INEGI. Mortality Statistics 2000-2010, preliminary figures for 2010.

18 United Nations Office on Drugs and Crime. Global Study on Homicide. P. 12.

http://www.unodc.org/documents/data-and-analysis/statistics/Homicide/Globa_study_on_homicide_2011_web.pdf (accessed January 27, 2012).

19 INEGI. See www.inegi.gob.mx for a query on homicide deaths, by entity and county of occurrence, by sex and year of occurrence. See also Annex 1. (Homicide Rate per 100,000 women, 2007 = 3.07 2010 = 34.73, Number of Murders of Women in 2010 = 584).

Table 2. Murders of women in the State of Chihuahua (including Ciudad Juárez and other municipalities).



Self-made graphic with data from National Institute of Statistics and Geography (INEGI)

From 1990 to 2007, an annual average of 56 murders of women occurred in Chihuahua, between 2008 and 2010, the annual average was 327, one woman murdered nearly every day.²⁰

In the last years, a marked increase in murders of women is being registered and among some of these crimes there is a systematic pattern. Despite the multiple recommendations of international organisms calling on the Mexican State to guarantee access to justice, to implement measures to sanction those responsible and to prevent more deaths of women, the number of women that have been murdered between 2008 and 2011 has no precedent in the history of the state: the number of murders of women in just one year is the same as that registered during the previous decade and most of the crimes remain in impunity.

The Office of the Attorney General of the State of Chihuahua only reported that 445 killings of women occurred in the State in 2010, of which 380 are still under investigation, 40 were declined to another jurisdiction, only 20 cases were able to be

²⁰ INEGI. Mortality Statistics 2000-2010, preliminary figures for 2010 - (Homicide Rate per 100,000 women, 2007 = 3.07 2010 = 34.73, Murders of Women in 2010 = 584).

brought before a court and 5 were reserved.²¹ In other words, the majority of the cases, more than 95% of the murders, have not been resolved.

- **Statistics²² and contradictory data**

The numbers of killings of women reported by the state of Chihuahua are significantly lower than those recorded by the National Institute of Statistics and Geography (INEGI), who noted that the number of killings was 584, in 2010. The different levels of the Mexican State presented conflicting data and the systematization of statistics remains a challenge.

The General Law on Women's Access to a Life Free of Violence, adopted in 2007, provides for the establishment of a National Data Bank and Information on Cases of Violence Against Women (BANAVID). However, the functioning of the bank has been unjustifiably delayed and currently there is no evidence that BANAVID is populated consistently or that it has updated information provided by all states.

Different institutions of the federal and state government continue to frequently present contradictory data and the Mexican State still lacks a unique, trusted and reliable database that contains the number of women killed and victims of violence.

- **Gender-based killings of women and girls (Femicides)**

Despite the actions that the State reported it has implemented, the murders of women have increased dramatically in the region in recent 5 years, as shown in Table 2. Moreover, many of these crimes continue to have similar characteristics, and several of them are probably serial crimes.

In November of 2001, the bodies of eight women and girls were found in an area known as “Cotton Field” in Ciudad Juarez, a case which merited a sentence from the Inter American Court on Human Rights. A new case reveals that serial gender-based killings of women and girls are not something from the past.

Between January and February of 2012, at least 12 bodies of women and girls were found in Valle de Juarez in the area of Praxedis Guerrero, in the state of Chihuahua. Some of the bodies might correspond to the following women and girls:

- Andrea Guerrero Venzor, 15 years old, reported disappeared on 19 August, 2010
- Jessica Leticia Peña García, 17 years old, reported disappeared on 16 June, 2010
- Lizbeth Aviles García, 17 years old, reported disappeared on 22 April, 2009
- Deysy Ramírez Muñoz, 16 years old, reported disappeared on 28 July, 2010
- María Guadalupe Perez Montes, 17 years old, reported disappeared on January 31, 2009

²¹ Official information obtained by Justice for Our Daughters (Justicia Para Nuestras Hijas) through the request for access to information, folio number 5172011, available on:

<http://infomex.transparenciachihuahua.org.mx/infomex/>

²² In connection with general recommendation 9 of the CEDAW committee on statistics relating to the Status of Women

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- Yasmin Taylen Celis Murillo, 17 years old, reported disappeared on 4 April, 2010
- Perla Ivonne Aguirre González, 15 years old, reported disappeared on October 11, 2009
- Idali Juache Laguna, 19 years old, reported disappeared on February 24, 2010.²³

These young women had disappeared from Ciudad Juarez on different dates. Their mothers presented their corresponding police reports but the authorities failed to comply with their obligation to activate the “Alba Protocol” or any other immediate search mechanisms for women and girls, contravening the orders of the Inter American Court; the case files do not demonstrate that the authorities had carried out their investigation in a prompt and exhaustive manner, rather on the contrary, they underestimated the events in question and limited themselves to producing missing persons reports. The mothers themselves carried out the investigations. Various bodily remains were found in the area but the authorities have been unwilling or unable to identify them or make this information known. The 12 crimes remain unpunished.

The Mexican state informed the CEDAW Committee about the Alba protocol concerning the immediate search for missing women and girls, but in practice it only activated in limited cases and there is no clear criteria used to determine when to activate it. In the vast majority of cases of women who were reported missing Chihuahua's government decided not to activate this search mechanism.

On the other hand, the state of Chihuahua has made significant progress in the use of laboratories for genetic identification of skeletal remains through DNA testing. However, tests are performed with an unreasonable delay and it is not a standardized process. Moreover, not all states in Mexico have a genetic database that allows taking DNA samples of people with missing relatives to be compared to the skeletons found on an ongoing basis.

- **Disappearances of women and girls**

Unfortunately, various cases of women and girls that have been disappeared between 2009 and 2011 and continue to be missing, show similar characteristics to those of the young women found killed in the area of Praxedis: a low socioeconomic status, aged between 13 and 19 years old and seen for the last time in the northern part of the state, principally in Ciudad Juarez.

The negligent attitude that was present ten years ago is once again evident: the lack of investigation of the disappearance of women and girls, despite the fact that they are in grave danger; added to the incomplete investigation and the inadequate compilation of evidence in these cases. María García, mother of Jéssica Peña, “only received two parts of her long bones, and part of the skull with the teeth structure incomplete, which is

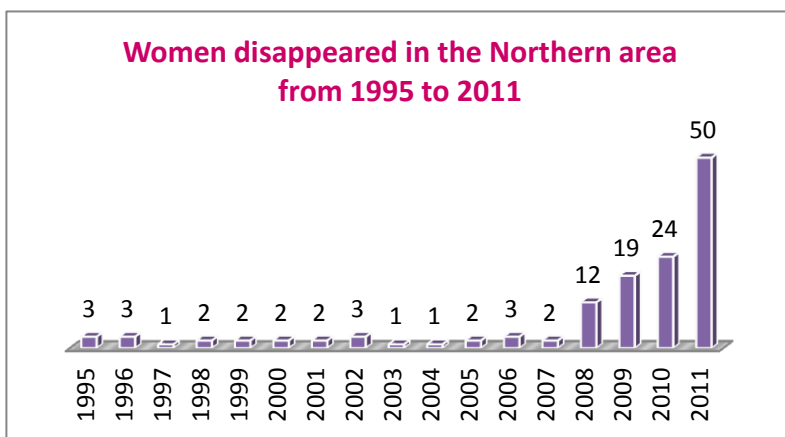
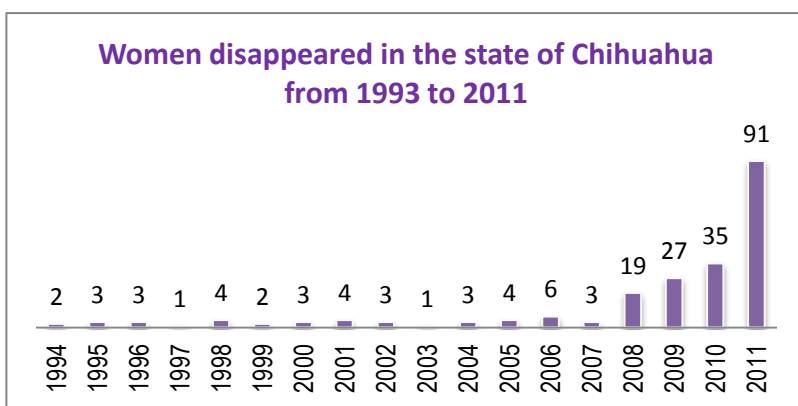
²³ List drawn up by Justice for Our Daughters based on a comparison of the reported disappearances obtained from the Attorney General for the State of Chihuahua, requests for access to information and local newspapers.

what she identified through photographs. There are no bodily remains that are complete or even relatively complete”.

- **Article 6. Trafficking of women**²⁴

The amount of women and girls disappeared in the state of Chihuahua has increased considerably and many of them could still be ongoing victims .

The following graphs show a dramatic increase in the number of women reported missing and haven't been localized in the state of Chihuahua, particularly in Ciudad Juarez. Of these missing women, 60% are minors and are between the ages of 13 and 17.²⁵



These young women and girls may be victims of trafficking in the context of arms and drugs dealing that the border cities endure, in addition to impunity and structural

²⁴ In connection with paragraph 25 of the concluding observations of CEDAW presented to the Mexican State in 2006.

²⁵ Los Angeles Press. Mothers of Juarez call international forensic support to identify their daughter's remains. February 27, 2012. Available at: www.losangelespress.org/madres-de-juarez-piden-apoyo-a-forenses-internacionales-para-identificar-restos-de-sus-hijas

discrimination against women. Indeed, it is not uncommon for the sale of weapons and drugs to converge with the sale and exploitation of women. It is likely that the 12 young individuals that were found, had been kept in captivity for long periods and sexually abused.

However, the investigation into the disappearances of women and girls does not seem to be the priority of the Mexican State. At the time of the complaint, the officers asked about the private life of the victim to determine in an arbitrary and discriminatory manner if the case is of "high risk" or not. In most cases, do not activate any search mechanism, despite the ruling of the Inter American Court mandating officials to activate a search mechanism in all cases regarding the disappearance of women and girls in the state of Chihuahua.

- **Identification of women and girls' skeletons**

The Mexican state referenced in the 7th and 8th report on the establishment of the Laboratory of Criminalistics and Forensic Science in Ciudad Juarez, as a tool that facilitated the identification of skeletal remains that the Argentine Forensic Anthropology Team (EAAF) performed, which is a misstatement, since all DNA analysis of the remains and family samples were done in a foreign laboratory.

The arrival of EAAF to Mexico was proposed by NGOs, in response to the accumulation of unidentified remains and families with missing women and also by the low credibility of the authorities in identifying remains. Its work from 2005 to 2010 helped in the identification of 33 women. Not yet identified are about 50 human remains and 42 families had no genetic match with those remains. The EAAF promoted before the state and federal authorities an expansion of the universe of families with missing daughters for genetic comparison, there was no official answer.

Some of the major problems detected by the EAAF²⁶ for identification of remains in Mexico are: visual identification of the remains in an advanced state of decomposition, identification from documents; overvaluation of particular techniques used for identification, improper handling of remains; misplacement of bodies, anatomical parts in the custody of government ministries, as well as samples, autopsies and records; non compliance and / or methodological issues during surveys, failure to include or absence of population statistics in genetic rulings; problems in consolidating evidence and chain of custody; no unified multidisciplinary identification reporting or comprehensive expert reports; dissemination of expert documentation, improper burial conditions, lack of control in grants to the medical faculty; in opened cases of identification, including

²⁶ See: GONZÁLEZ CASE et al. ("COTTON FIELD") VS. MEXICO, Sentence of court in 2009, "Fernandez Ortega and Others v. Mexico," Sentence of court in 2010, Tlachinolla, Guerrero, Application No. 1594-10 Miguel Moreno Montejo, Juan Peñate Montejo and others, before the Commission since 2010

cases of missing women and unidentified female bodies, unable to collate large quantities of DNA data.

There is an unjustified delay in: the taking of DNA samples, the genetic matching and identification of female skeletons,²⁷ are practices that have not been eradicated despite the decision of the Court.²⁸ In addition, organizations that made this report documented the concealment of at least one body of a young woman in an official installation.

Case 1. The hiding of the body of a girl

On 18 January 2008, 15 year-old Adriana Sarmiento disappeared in Ciudad Juarez, Chihuahua, on her way home from the high school where she studied. The remains of Adriana were found on 5 November, 2009 by a person that was casually passing by the place, in the Valle de Juarez.

The Attorney's Office did not inform the family about the discovery and was also negligent in carrying out the corresponding DNA checks in a prompt manner. It was not until April 2011, more than three years after the report was filed for the disappearance of Adriana, that the State Attorney's Office took DNA samples from the family, in violation of the sentence of the Inter American Court on Human Rights in the case of "Cotton Field" concerning the need to produce and permanently use a genetic information database to obtain genetic information of disappeared women and check this against the bodily remains found.

In July 2011, the State Attorney's office produced official internal documentation which confirmed positive results from the genetic check that established that the remains found almost two years earlier corresponded to the young girl Adriana. However, the Mexican State decided to hide this information from the family, unnecessarily prolonging the suffering and the futile search efforts by Adriana's mother and family.

On 29 November, 2011, an incident allowed for the NGO Justice for our daughters to obtain information on the results of the DNA test and pressure the authorities who had no choice but to admit that for months they knew the results and handed the girl's body to the family. No functionary has been disciplined by the undue delay in performing genetic tests (2 years), for dragging the delivery of genetic test results without justification and hiding the girl's body (4 months).

²⁷ Los Angeles Press. Op Cit.

²⁸ IDH Court. (Human Rights Inter-American Court) González et al. ("Cotton Field") v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Sentence of November 16, 2009. Series C # 205.

RECOMMENDATION

The State of Mexico must consider as a high priority the cases of disappearances of women and girls and exercise due diligence to locate them. It must also create a genetic database and guidelines for officials so they can obtain without delay genetic samples from mothers who report missing children anywhere in the country. This national genetic database should also include genetic information of all the skeletal remains found but unidentified.

- **The right to access to information, disaggregated by sex.**

Transparency laws are useful tools to know and monitor the progress and challenges of governmental programs. However, the government of the State of Chihuahua has systematically refused to inform NGOs²⁹ about the actions that it planned to implement to comply with the ruling of the Inter-American Court in the “Campo Algodero” case related with the 3 murders of women in Juarez.

Until June 2012, the Citizen Watch organization still did not obtain complete information on the measures that the State would implement to comply with said judgment, despite the various resources obtained by legal protection.³⁰

The Federal Law on Transparency and Access to Information in Mexico is one of the most advanced laws in the world in this matter. This law forces all federal to respond to the requests of the citizens to make public information used by the agencies available.

This Law has been replicated at the state level. The Transparency Law in the State of Chihuahua states that the statistics and indicators regarding law enforcement, as well as the information of all state agencies should be disaggregated by sex and should be gender sensitive.

The CEDAW Committee in its general recommendation 9, on the statistics relating to the situation of women, has reinforced that it is important to gather and disaggregate the information by sex, however most government agencies at the federal, state and local level don't follow the recommendation.

The Supreme Court of the State of Chihuahua refused to issue statistics disaggregated by gender to the Center for Women's Human Rights.

²⁹ Watch citizen, an organization of Chihuahua that defends the right of access to information had to apply for federal court protection through the filing of appeals, to get the Chihuahua Institute for Transparency and Access to Public Information (ICHITAIP) fulfill its objective of ensuring the Right of Access to Public Information.

³⁰ Indirect legal protection (Amparo Indirecto) 892/2011, First District Court of the Seventeenth Judicial Circuit of the Federation and ICHITAIP/RR-13/2012 appeal for review brought before ICHITAIP

RECOMMENDATION

The Mexican State should instruct clearly and formally all agencies to systematically collect, analyze and disseminate sex-disaggregated data and make public action taken to comply with the judgments of the Inter-American Court of Human Rights, particularly in the case of violations of women's human rights.

III. The effects of the war on drugs and insecurity in the lives of women.

- **The vulnerability of women in the context of military occupation³¹**

The vulnerability of women has increased by a conflict that while it might not be framed within the traditional definition of an armed conflict- the situation has been labeled by some scholars and officials from the U.S. government as a terrorist insurgency.³² This conflict includes severe levels of violence, criminality, human rights abuses and homicides. Despite this, authorities have not taken effective measures to reduce the vulnerability, and the risks faced by women in this setting.

In its 2006 report addressed to the Mexican State, the CEDAW Committee expressed its “concern for the general climate of discrimination and insecurity that reigns in those communities (...) and territories where there is a military presence, as well as the zones along the North and South border, that may put women at risk of constant violence, sexual harassment and abuse....”³³

Nevertheless, in the last 4 years the military presence in the Northern border region has increased, without any measures to reduce risks, abuses and human rights violations against women.

In April 2008, in response to the violence linked to organized crime, the Mexican government launched the Joint Chihuahua Operative (*Operativo Conjunto Chihuahua*) (joint security actions carried out in large numbers by the military, federal police and state police).

The masculine armed presence without controls of accountability raised the vulnerability of women and harassment. The public security tasks carried out by the Mexican army did not improve citizen security. On the contrary, statistics show a

³¹ In connection with paragraphs 14 and 15 of the concluding observations of CEDAW to the Mexican State in 2006.

³² H.R. 3401. <http://www.govtrack.us/congress/bill.xpd?bill=h112-3401> and Sullivan and Elkus, 2009 *Cartel vs. Cartel: Mexico's Criminal Insurgency in Small Wars Journal*, available at <http://smallwarsjournal.com/blog/journal/docs-temp/358-sullivan.pdf>

³³ In connection with paragraph 15 of the concluding observations of CEDAW to the Mexican State in 2006.

correlation between the implementation of “joint operatives” in some regions of the country and the increase in homicides.³⁴

In the context of these actions, the government deployed at least 9,000 federal police and soldiers in the state of Chihuahua. However, the violence did not decrease and the state did not predict the consequences of the police and military occupation for the life of women; nor did it provide for independent investigation mechanisms and sanctions for possible abuses that agents committed in the state. The human rights violations increased considerably – including rape, torture, enforced disappearances and extrajudicial executions – and a large number of these cases involved women as either direct or indirect victims.

Between 2007 and 2011, there were 92 complaints of disappearances before the State Commission of Human Rights in Chihuahua.³⁵ The President noted that in several of the complaints the Mexican army and federal police were accused of being responsible.

- **Forced disappearances and grave violations of human rights**

Case 2. Forced disappearances of women.

Nitza Paola Alvarado Espinoza, 31 years old, and her cousin Rocío Irene Alvarado Reyes, 18 years old, were arbitrarily detained without a court order by armed and uniformed soldiers of the Mexican Army on 29 December of 2009 in Buenaventura, Chihuahua state.

The automobile in which Nitza was driving was confiscated at the time of her detention and taken to a State agency. Public officials later handed it over to their family members. Nevertheless, more than two years later, Nitza and Rocío, as well as their cousin José, have not been brought before a judge and their whereabouts are unknown.

The National Commission on Human Rights (CNDH) issued recommendation number 43/2011 and found that elements of the army and federal police are responsible for the disappearance of the Alvarado women and their cousin. The Inter American Court on Human Rights issued provisional measures in favour of both women and of their cousin José Ángel. However, the Mexican State has not carried out any effective investigation to locate them or to punish those responsible. Since December 2009, Nitza and Rocío are victims of enforced disappearance at the hands of the Army. The family members and legal representatives (all women) have been harrassed and threatened by members

³⁴ Source: Escalante, Fernando. Homicides 2008-2009. "Death has permission". Nexos magazine, January 2011. (Joint operations began to be implemented in 2007).

³⁵ Remarks by the President of the Human Rights Commission of the State of Chihuahua, dated May 7, 2012, as part of the presentation of the UN's Working Group Report on the Forced and Involuntary Disappearances, on its mission to Mexico.

of the Mexican Army. They also have provisional measures ordered by the InterAmerican Court, that the Mexican state still hasn't implemented.

According to official data, of the Alvarado's cousin is only one of the 1,017 complaints filed for abuses committed by military and police - members of the Joint Chihuahua Operative- that were registered within 14 months,³⁶ (between March 2009 and April of 2010 in Ciudad Juárez).

In other words, 3 complaints were filed each day relating to police and military abuses in Ciudad Juárez alone. Almost half of these complaints, 445, were filed by women. Not one official has been charged or convicted for these abuses. It is likely that many cases of abuses by the police and military exist that have not been accompanied by a formal complaint, given the distrust and fear on the part of victims and family members.

Women are direct victims, or at times are witnesses to their partners or children being taken away without a court order. Women are often the ones that go and present themselves in military barracks looking for their family members, or they are the ones that file complaints in this context of violence and impunity.

Case 3. Forced disappearances. Women: indirect victims.

On 19 June 2011 Mrs. Emma Veleta was in a family gathering in the district of Anáhuac, in the municipality of Cuauhtémoc in the state of Chihuahua, when minutes after an argument occurred with local police, six uniformed and armed men forcibly entered the house where they were having their family reception. They pushed the people, threatened the women and minors, forcing them to throw themselves on the floor and keep their faces on the floor. Mrs. Veleta witnessed how they took her four sons away in handcuffs, as well as her husband, her grandson, her nephew and her son-in-law. To this day their whereabouts are unknown.

Of the Muñoz-Veleta, family only the women remained with their sons and daughters. They are all mothers, wives and sisters of the disappeared men, and all, despite having been threatened, persist in their search for their family members by reporting the incidents before the authorities and denouncing the incidents before various institutions.

³⁶ Official information obtained by CEDEHM, based on the State Law of Transparency and Access to Information. Request for Information Folio No. 15722010, available on:

<http://infomex.transparenciachihuahua.org.mx/infomex/>

Responsible for the information. Secretariat of the City Council of Ciudad Juarez.

- **Sexual violence**³⁷

Women suffer the consequences of the armed conflict in Chihuahua in a particular way and they are especially vulnerable to suffering sexual violence. They have been detained in military and police checkpoints and are subjected to physical revisions and being touched on their breasts and intimate parts.

One woman reported before the Women's Human Rights Centre that in Ciudad Juárez on 4 November of 2009, while she was on her way to work, a unit of soldiers asked her to descend from her vehicle to perform a search.

Case 4. Sexual violence against women by state actors.

Testimony of G. about what she experienced on a military checkpoint. *“They touched my body while they said ‘you smell so nice Blondie’ – they teased me and they leaned me against the van while they continued to inspect me as if I were a criminal, touching my intimate parts.” A colleague from work passed by the place where I was and she stopped to ask me what was happening and if I was okay; the soldiers laughed and then one of them finally gave the order for the others to let me go. “It’s something that has really affected me. I mean, I have never had such a feeling of rage, anger, impotence and so much fear”.*

In addition, girls and women have been kidnapped, sexually abused and murdered with complete impunity.

Case 5. Sexual abuse and killing.

Ana Karen Santillanes, 15 years old, was playing in front of her house in August of 2010 when an armed group of men kidnapped her in front of her mother and later on killed her. The autopsy shows that the girl was gang raped during the time she was held kidnapped, which last for fifteen hours.

“I heard the gunshots and the cries of my daughter. She screamed ‘Mama!’. My sister was in the house and she didn’t let me go out to help her, and when I managed to get out I saw how they were taking away my girl”: Isabel Santillanes, mother of Ana Karen³⁸

The case of Ana Karen remains in impunity, as with the majority of killings of women and girls. Just like the homicide rate, the number of rapes has increased considerably. In

³⁷ In connection with paragraphs 14 and 15 of the concluding observations of CEDAW to the Mexican State in 2006.

³⁸ Women continue to die violently in Juarez. <http://mexico.cnn.com/nacional/2010/08/04/las-mujeres-siguen-muriendo-por-violencia-en-ciudad-juarez>

2011 alone, 698 people reported having been victims of sexual attacks and 598 of these were women, the majority of these (399), under the age of 17 years old.³⁹

Chihuahua is among the states of Mexico with the highest rate of rapes, 21 complaints per 100,000 inhabitants. Between 2007 and 2011 in Chihuahua there was an average of 727 reports of rape per year, an average of two per day.⁴⁰

The organizations involved in this report warn that the rate could be higher in many cases because the victims do not come forward to denounce their case due to their distrust, fear of re-victimization and also because of the high rates of impunity.

RECOMMENDATION

Mexico's government should continue the training in human rights and gender awareness for officials of the Ministries responsible for dealing with and investigating violent sexual crimes. It is also recommended that officials are evaluated on possible gender bias that can cause revictimization. Finally, it is recommended that the government implement a readily accessible mechanism of accountability and complaint submission, so that officials who did not exercise due diligence in cases of sexual violence can be investigated, prosecuted and sanctioned accordingly.

IV. Implemented measures and challenges, in the light of the CEDAW, with emphasis in access to justice (legal framework and law enforcement)

• Articles 2 & 3. Legislative measures and judicial protection

The Mexican State took the obligation to condemn and eliminate discrimination against women in all spheres of life, by adopting and implementing legislative measures, including amending and repealing laws, customs and practices that could constitute discrimination against women.

• Legislación civil del estado de Chihuahua

Civil legislation of Chihuahua does not meet human rights international standards, because despite that it incorporates a chapter on family violence, it's lacking clear and simple mechanisms for women to have immediate access to court proceedings that protects them and offers adequate compensation.

Women have the right to divorce on the grounds of family violence, but the Chihuahua Civil Code provides that you may not exercise a contentious divorce when forgiveness has been mediated. In practice, this limits women who have suffered violence for years,

³⁹ Information provided by the Attorney General of the State of Chihuahua in response to the request for Public Information folio 005352012 of 02/08/2012 prepared by Justice for Our Daughters.

⁴⁰ Executive Secretariat of the National Public Safety System..

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because it is assumed that since violence was not immediately denounced forgiveness is automatically granted and therefore forfeited the right to invoke, as grounds for divorce, all acts of violence that they lived through, limiting the grounds of a contentious divorce⁴¹ to just a few acts of violence.

During the probationary period of contentious divorce proceedings, an analysis is made of the evidence to prove the grounds for domestic violence. Violence against women occurs mainly at home and in the absence of witnesses, therefore it is necessary to regulate specific rules of evidence for this procedure. It is also necessary that the State conduct socioeconomic studies to establish a fair alimony and psychological tests to demonstrate family violence and possible damage caused, and to determine just compensation.⁴²

The problem is that in most cases these studies are not performed, and when they are performed, the staff of the Judiciary demonstrates serious prejudices that reinforce stereotypical roles, in violation of Article 5 of CEDAW.

For example, in one study conducted by the Social Work Department of the Judicial Power in Chihuahua, it was concluded that a man cannot provide child support because "he is in a state of poverty after separation, since he has to disburse certain amounts for domestic work like washing (clothing), ironing and victuals."⁴³

With respect to property acquired during marriage, the law does not provide value to housework and care undertaken by many women so that when a divorce ensues -in a regime of separate property- all properties are held by men and women become dispossessed. Is necessary to have financial compensation to the women who even if capable of performing paid work, they dedicate themselves exclusively to housework and family care.

On the other hand, the law states that if several concubines live with a man, none of them has the right to food.⁴⁴ The law protects the man, absolved from the responsibility to a woman with whom he has lived for several years and with whom he fathered children. However, women should not be punished for the conduct of man having "several concubines".

In general we could say that the operators of the judiciary ignore the human rights of women and lack gender perspective, which is reflected in the various hearings and legal decisions made in proceedings under its consideration, constituting acts of discrimination.

⁴¹ Civil Code of the State of Chihuahua, Article 258

⁴² Response to request for information made by CEDEHM in letter 1035/2012

⁴³ Social work study, where through discriminatory statements, concluded that man is in poverty after separation, since he has to disburse amounts for domestic work, e.g.: washing, ironing and victuals.

⁴⁴ Article 279, third paragraph, *ibid*

RECOMMENDATION

It is suggested that the Committee reiterates to the State the importance of amending the civil code of the state of Chihuahua, according to international treaties, and also taking into consideration women's human rights organizations in the discussion and analysis of new laws. It would also be desirable to incorporate in law school a mandatory class on gender perspective and women's human rights, and strengthen training in these topics addressed to Staff Members of the judiciary.

• **New Criminal Justice System (accusatory system)**

The Mexican State revised its constitution in 2008 to adopt a new criminal justice system over the next years. This amendment is a definite step in the right direction to improve access to justice. It is also an opportunity to repeal discriminatory laws and incorporate women's human rights to the new legal framework, in accordance with international human rights standards. The criminal codes and several laws in every state must be modified in the coming years. Several states have already reformed their legal frameworks, but most will do so shortly.

Chihuahua pioneered the adoption of the new justice system in 2007, prior to the constitutional reform. CEDEHM and other local and international women's NGOs participated in the legislative process and reform for the introduction of the new justice system in the State. Thanks to this collaborative work with the local Congress, a new legal framework was created through consensus that is gender sensitive and incorporates the rights of women, in line with international standards. We believe that other States can replicate the experience of the state of Chihuahua.

Thanks to this collaborative work done with local Congress, a consensus was reached in achieving a new criminal legislation that incorporates gender-sensitivity, women's rights in the criminal code and criminal procedure in accordance with international standards. We believe that other states can replicate the positive experience of the state of Chihuahua, in regard to collaboration between women's organizations, the congresses of states and the players responsible for implementing the new criminal justice system and the incorporation a gender sensitive legal framework.

RECOMMENDATION

The Mexican State and particularly State Congresses should consult NGOs to discuss and incorporate international standards on women's human rights in the new laws, including the new criminal and procedural codes. In the new legislative framework, derived from the reform of the criminal justice system, discriminatory laws should be repealed and new rules and procedures that mandate substantive equality and are gender-sensitive should be incorporated.

- **Protective measures**

The General Law on Women's Access to a Life Free of Violence provides for the issuance of protective measures for women in situations of violence. However, there are two significant challenges. First, the law limits the duration of these protective measures to just 72 hours, these measures should be extended significantly to ensure the physical integrity of women. Secondly, knowledge of the said law is very limited among operators in the justice system.

Organizations like ours draw on other local laws and procedures that contemplate the granting of protective measures and whose implementation can prove more effective if executed with due diligence. The challenge is to establish effective mechanisms for holding public officials accountable when they do not provide protective measures for women and violate the principle of due diligence.

The CEDEHM has known about cases of women who reported, within the new criminal justice system, domestic violence and threats, and on several occasions were ignored by the authorities of the state of Chihuahua. It is exceptional that the authorities are willing to provide protective measures, thus failing to exercise due diligence in cases of extreme gravity and urgency.

Case 6. Murder of a woman in the absence of protective measures

Lucero Rubí Pérez Cisneros (Case file H-5543/2011) filed a complaint against her former partner Carlos Peña for violence and death threats, in July of 2011, in Chihuahua City. The authorities did not issue any protective measure nor investigated the case.

Days later, the man burned Lucero's house. She filed a second complaint on August 3, 2011 for this assault and she even called the local media to witness the damage he did to her house and she said on TV that she was afraid that he would murder her. She was again ignored by authorities. Days later, on August 19, 2011, the man killed her with a gun in front of her workplace. The case remains in impunity.

In addition to the General Law on Access , the civil legislation of Chihuahua provides some measures of protection for women victims of violence, among which the most efficient and immediate, "the deposit of an individual; that is the separation of the aggressor from the family household or marital home."⁴⁵

This measure however is little known and rarely requested by women. In fact, CEDEHM found that the amount of relief granted varies significantly from one judicial

⁴⁵ Article 190 of the Code of Civil Procedure of the State of Chihuahua.

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district to another, which shows that the protection that women access depends on the victim's legal knowledge⁴⁶ and the assistance that authorities provide.

Also, despite the fact that family violence is a crime prosecuted "ex officio" that any persons and / or authorities having knowledge of it, are obliged to inform the Public Prosecutor to initiate investigations into the possible crime. From the information obtained by CEDEHM it was found that at times the authority fails to inform the public prosecutor and in other occasions merely states that Prosecutor's Office was notified of this legal action, without exercising jurisdictional control to ensure that they launch an effective investigation aimed to clarify the alleged crime; therefore the majority of cases of domestic violence go unpunished.

The protective measures, especially those which consist in restricting the offender to approach the victim (restraining orders) prove ineffective because the authorities rarely grant them, these measures are often infringed and no sanctions are issued to officials who fail to implement or oversee their execution. This happens, despite the fact that failure to fulfill a court order is a crime.

Police authorities endorse the breach of protective orders issued by judges. Julian Leyzaola, Secretary of Public Safety of Ciudad Juarez, sent a formal letter to several judges of Ciudad Juarez where he said that he would not present himself before the police to comply with the court order, since he had limited staff and that he considered the police force should address priority issues concerning the heightened violence. The lives of women in the context of the war on drugs seem not to be a priority.

To protect the lives of women, it is also necessary that Attorneys instruct their public ministries to issue orders of protection. The Attorney of the state of Campeche instructed all public ministries to immediately issue these orders for any woman who reports before the Attorneys office incidents of domestic violence. This good practice can and should permeate to all states.

RECOMMENDATION

The state Attorneys should instruct their public ministries to issue protective measures immediately and without delay when a woman reports that she is at risk or when she claims to be a victim of domestic violence. The Mexican State should train prosecutors, public ministries, state and municipal police personnel concerning orders of protection and should implement mechanisms of accountability to punish those who fail to comply with the issuance or implementation of these orders.

⁴⁶ In January 2010 to February 2012, a restraining order was requested.⁴⁶ Distrito Judicial Morelos, located in the city of Chihuahua, was requested 2.000 restraining orders; In Bravo Judicial District based in Ciudad Juarez, 216 were processed, and in the Judicial District of Hidalgo, only 132 restraining orders were requested. Official letter no. 1035/2012

- **Article 4. Temporary special measures.**

The electoral law in Mexico sets a gender quota (60/40) and requires political parties to allocate 2% of their public funding to enhance the political leadership of women. However, the rule is far from being reality.

The President of the Federal Electoral Institute in an appearance before the Federal Congress expressed concern about "the inadequacy of the current legal framework and the need to contribute to a qualitative change that provides certainty and transparency to the use of resources"⁴⁷ in reference to the breach of political parties concerning the use of public funding to increase women's political participation.

The report of the Mexican State to the CEDAW refers that several state laws recognize gender quotas and parity. However, Local Congresses and political parties have also approved some procedures that make these affirmative actions less effective.

RECOMMENDATION

The Mexican State should increase transparency in the use of resources allocated to boost the participation of women in national politics. Also, it should implement mechanisms to evaluate the effectiveness of laws and electoral quotas, and where appropriate, strengthen sanctions for those who do not apply them. The State should also monitor progress on substantive equality and not just in terms of formal equality.

- **Article 5. Changing cultural patterns and gender stereotypes**

The Mexican State makes reference to specific courses and campaigns carried out, but it fails to mention their specific and quantified objectives, and indicators used to measure the impact of these actions. In other words, greater efforts are needed to understand whether these programs are contributing or not to reducing gender stereotypes and violence against women.

Otherwise, with regards to stereotypes in child care and family relationships, the state does not mention whether it has implemented policies that adopted concrete legislation or policies that recognize that parenting and child care is a shared responsibility between men and women.

Finally, the Mexican television duopoly consisting of Televisa and TvAzteca, broadcast programs and soap operas that frequently promote stereotypes and normalize violence against women.⁴⁸ This is particularly serious considering the high ratings these

⁴⁷ Parties fail to meet budget for gender equity. El Informador, September 2011: www.informador.com.mx/mexico/2011/320397/6/partidos-incumplen-con-presupuesto-para-equidad-de-genero-ife.htm

⁴⁸ See video: <http://www.youtube.com/watch?v=fUwQ93wvzuo>

companies enjoy, because of the use of public media to promote gender stereotypes that foster or condone violence against women.

Despite the ban on news media that denigrate women, encourage, condone or promote violence towards women; there are no monitoring mechanisms and sanctions where applicable. Also, the Mexican state does not monitor advertisements which perpetuate gender roles

RECOMMENDATION

The State should define its goals, establish clear indicators and measure the impact of the programs related to gender and women's issues.

On the other hand, it should implement legislation allowing for paternity leave for a period of at least two weeks, encouraging responsible fatherhood and changing gender stereotypes. This measure should not be implemented if there is a history of domestic violence or women oppose it due to have well-founded fears for their physical safety and that of their children.

- **Article 7. Participation in political and public life**

Underlying impressive statistics of murder, abuse and violence there are people, particularly women's human rights defenders, who suffer harassment for engaging in civil society organizations and political life, they complain about violations of human rights in the public ambit.

On January 3, 2010, Josefina Reyes, a human rights defender who denounced military abuses, was murdered in Juarez, Chihuahua. Estela Angeles Mondragon, a lawyer and advocate for land rights and defender of indigenous people's rights (i.e. *rarámuris* of Chihuahua) has been constantly threatened. A bomb was placed in her office, her daughter was shot and on March 1 of 2010, and her husband Ernesto Rabago was murdered in his office in Chihuahua City. The Inter American Commission on Human Rights asked the Mexican State to implement precautionary measures in her favor.

CEDEHM's building –an organization that authors this report and representative of Nitza, Rocio and Jose Alvarado – was robbed this year. Norma Ledezma, Executive Director of Justicia –an organization that authors this report- faces death threats. These cases have not been investigated and remain unpunished.

Emilia Gonzalez, petitioner before the Inter American System, and member of COSYDDHAC, a local human rights NGO, was harassed in her own home on July 27 of 2010 by more than 10 army personnel over the case of Nitza and Rocio Alvarado, young victims of forced disappearance. Soldiers deployed a convoy, took pictures of her house and were heavily armed when they required her presence at the military

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barracks in Ciudad Juarez. Emilia now has provisional measures issued by The Inter American Human Rights Court.

On December 16, 2010, Marisela Escobedo murdered outside the Chihuahua State government palace, while participating in a protest to demand the arrest of her daughter Rubí Frayre's murderer.⁴⁹ The man responsible for the crime had been acquitted but in a second instance, a court of appeal issued a replacement judgment condemning the murderer. However, the authorities did not take concrete action; the perpetrator is still free and is a fugitive from justice.

"I won't move from here until they arrest my daughter's murderer" were among the last words Marisela uttered when she began her protest. Security cameras filmed the murder.⁵⁰ Recently, Chihuahua's government announced that the murderer of Marisela was killed without proving his responsibility or mentioning the motivation of the Marisela's killing. The murder of Ruby, Sergio Rafael Barraza Bocanegra is still free.

⁴⁹ http://m.youtube.com/#/watch?desktop_uri=/watch?v=QNvgrEKedsw&v=QNvgrEKedsw&gl=MX

⁵⁰ See Video:

http://m.youtube.com/#/watch?desktop_uri=/watch?v=QNvgrEKedsw&v=QNvgrEKedsw&gl=MX