

**Submission to the United Nations Committee
on the Elimination of Discrimination against
Women with regard to the consideration of the
combined 7th and 8th Periodic Report of
Mexico**

June 2012

Signing Parties:

National Citizens' Observatory on Femicide (*Observatorio Ciudadano Nacional de Femicidio*, OCNF), formed by the following Mexican non-governmental organizations:

Baja California: *Mujeres Unidas*; Olympia de Gouges; Yauani; **Chiapas:** *Red de Mujeres por la Igualdad, Desarrollo, Género, Ciudadanía*; *Red Nacional de Asesoras y Promotoras Rurales*; *Grupo de Mujeres de San Cristóbal de las Casas AC-COLEM*; **Chihuahua:** *Centro de Derechos Humanos de las Mujeres*; *Mujeres por México en Chihuahua*; “*Casa Amiga*” *Centro de Crisis*; *Nuestras Hijas de Regreso a Casa*; *Justicia para Nuestras Hijas*; *Red Mesa de Mujeres de Juárez*; **Coahuila:** *Centro Diocesano para los Derechos Humanos “Fray Juan de Larios”*; **Colima:** *Comité de Derechos Humanos de Colima No Gubernamental*; **Guanajuato:** *Centro de Derechos Humanos “Victoria Diez”*; *Programa Universitario de Derechos Humanos de la Universidad Iberoamericana León*; **Guerrero:** *Centro de Derechos Humanos de la Montaña Tlachinollan, A.C.*; *Red Guerrerense de Organismos de Derechos Humanos*; *Centro Regional de Defensa de Derechos Humanos “José María Morelos y Pavón”*; **Jalisco:** *Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM-Mexico)*; **Mexico City:** *Academia Mexicana de Derechos Humanos*; *Arte contra el Femicidio*; *Católicas por el Derecho a Decidir*; *Comisión Mexicana de Defensa y Promoción de los Derechos Humanos*; *Red Mujer Siglo XXI*; *la Red Contra la Violencia hacia las Mujeres y los Hombres Jóvenes*; *Red de Investigadoras “Por la Vida y la Libertad de las Mujeres”*; ASILEGAL; **Morelos:** *Academia, Litigio Estratégico e Incidencia en Derechos Humanos, A.C.*; **Nuevo León:** *Centro de Derechos Humanos “Solidaridad Popular, A.C.*; *ARTHEMISAS por la Equidad, A.C.*; **Oaxaca:** *Centro Integral Jurídico Pro-Derechos*; *Liga Mexicana por la Defensa de los Derechos Humanos filial Oaxaca*; *Consortio para el Diálogo Parlamentario y la Equidad Oaxaca*; *Mujeres Organizadas Yaubani*; *Comisión de Derechos Humanos Mahatma Gandhi*; *Colectivo Bolivariano*; **Sinaloa:** *Asociación Sinaloense de Universitarias, A.C.*; *Frente Cívico Sinaloense, A.C.*; **Sonora:** OCNF Sonora; **State of Mexico:** *Red de Promotoras en Derechos Humanos de Ecatepec*; *Visión Mundial de México*; **Tabasco:** *Servicio, Paz y Justicia-México*; *Asociación Ecológica Santo Tomás*; **Tamaulipas:** *Centro de Estudios Fronterizos y Promoción de los Derechos Humanos*; **Tlaxcala:** *Centro Fray Julián Garcés de Derechos Humanos y Desarrollo Local*; *Mujer y Utopía, A.C.*; **Veracruz:** *Red Nacional de Periodistas*; **Yucatán:** *Ciencia Social Alternativa, Red Por sus Derechos Mujeres en Red*

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EXECUTIVE SUMMARY

This report explores *de jure* and *de facto* conditions as they relate to the obligation of the Mexican State to respect and comply with CEDAW and its provisions. The aim of the present document is to offer the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee) a critical examination of some topics of the official information provided by the Mexican government on its 7th and 8th periodic report (Periodic Report) to the CEDAW Committee.¹

Specifically, this report intends to be useful in addressing the issues and questions on violence against women (VAW) raised by the Committee² upon review of the Periodic Report of Mexico, in regards to the climate of impunity and insecurity and its impact on women in Mexico; femicide and impunity throughout Mexico; the lack of implementation of the *Gender Violence Alert*; the crime of femicide in criminal codes and the extenuating circumstances regarding homicides of women, and the disappearances of women and girls.

The main findings of this report are:

- The current public security strategy to combat organized crime and drug trafficking, combined with widespread corruption, impunity, poverty, and inequality, has exacerbated the endemic and structural pattern of discrimination and violence, impacting women disproportionately.
- The on-going public security crisis in Mexico has hidden these endemic and structural patterns of discrimination and VAW as well as “new” kinds or manifestations of violence that have emerged as a result of the crisis that Mexico is facing
- The on-going public security crisis in Mexico has increasing the vulnerability of women for several reasons, as the widespread violence and the militarization of some parts of the territory, the diversification of the activities of organized crime groups and drug trafficking cartels, the fight to control some strategic parts of the territory between cartels, the displacement of people that the combat against organized crime has caused, the strengthening of a culture that is tolerant to VAW, between others.
- The high increase on the incidence of criminality has worsened the previously bad-working and overcharged justice system. This has resulted in a general worsening on the impunity

¹ CEDAW, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women Combined seventh and eighth periodic report of States parties. Mexico*, (2012) CEDAW/C/MEX/7-8, and Addendum CEDAW/C/MEX/Q/7-8/Add.1. For contrasting information with the official Mexican reports this document gathered information from different sources: media coverage, local and international NGOs’ reports, lawyers, human rights defenders and other relevant stakeholders and international human rights instruments and mechanisms on VAW. The report also aims to include those who are not represented in the official Mexican reports as indirect victims, relatives of murdered women who in several cases had become, regardless of the injustice and pain, defenders of other women’s rights. All the narratives from the diverse actors quoted in this report appear in public interviews or declarations to public media, hence no special form of consent was asked personally to use this information.

² CEDAW, *List of issues and questions with regard to the consideration of periodic reports* (List of Issues) 52nd Session (2011), CEDAW/C/MEX/Q/7-8, para. 6-9.

level, what added to elements that intensify impunity in cases of human rights violations and crimes committed against women, has reinforced the message that will they will not be punished, favouring and perpetuating its commission.

- Murders of women have increased by an average of 68% between 2007 and 2009 across the country.
- There is a lack of adequate investigation, data systematization and access to information by public prosecutors in cases of feminicides.
- Alteration of evidence, further discrimination of victims' families and deliberate delay in the identification of victims are common practices by investigators.
- Exoneration of perpetrators and incrimination by torture of innocent people exacerbates impunity in cases of feminicides.
- Relatives and activists working to eradicate VAW and seeking justice in cases of femicide confront extremely risky situations and their rights are continuously violated.
- The *Gender Violence Alert* has not been adequately implemented to halt feminicides. As such this mechanism remains useless since its creation in 2007.
- As of May 2012, just one third of the states had amended their criminal codes to incorporate the crime of femicide. Most of the amendments lack adequate protocols for criminal investigation as well as real sanctions for public servants who commit discrimination during the investigations.
- In approximately half of the local states in the Mexican Republic the legal system still permits reduced sentences in cases in which women were killed to protect one's "honour", in response to "infidelity" or in the context of "violent emotions". Existing criminal codes facilitate discriminatory decisions by judges, which negatively affect women victims of violence.
- There has been an increase in the disappearances of women and girls in the context of the current public security strategy.
- Many cases of disappeared women and girls are linked to groups of organized crime, as well as drug trafficking and human trafficking networks, involving sexual exploitation.
- Many cases of disappeared women and girls are linked to feminicides and other human rights violations. The lack of a rapid response when families report the disappearance of a woman—usually linked to gender-based discriminatory practices and attitudes on the part of the authorities—and the lack of coordination between the prosecutorial and law enforcement authorities, places the disappeared woman or girl at high risk of becoming a victim of femicide and/or suffering other crimes and human rights violations.
- As in the case of femicide, there are no public, official and coordinated records that determine the places, circumstances and *modus operandi* of disappearance cases, which would allow for the establishment of effective strategies to tackle this problem.

ABBREVIATIONS AND ACRONIMS

ACHR	American Convention on Human Rights
ALDF	Legislative Assembly of the Federal District (Mexico City) (<i>Asamblea Legislativa del Distrito Federal</i>)
ANAD	National Association of Democratic Lawyers (<i>Asociación Nacional de Abogados Democráticos</i>)
AVG	Gender Violence Alert
BANAVIM	National Data and Information Bank on Cases of Violence Against Women (<i>Banco Nacional de Datos e Información sobre Casos de Violencia contra las Mujeres</i>)
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CEDAW Committee	United Nations Committee on the Elimination of Discrimination against Women
CEDEHM	The Centre for Women's Human Rights (<i>Centro de Derechos Humanos de las Mujeres</i>)
CDD	Catholics for the Right to Decide (<i>Católicas por el Derecho a Decidir</i>)
CMPDDH	Mexican Commission for the Promotion and Defence of Human Rights (<i>Comisión Mexicana de Defensa y Promoción de los Derechos Humanos</i>)
CNDH	National Commission on Human Rights (<i>Comisión Nacional de Derechos Humanos</i>)
COLMEX	The College of Mexico (<i>El Colegio de México</i>)
CONAVIM	National Commission to Prevent and Eradicate Violence against Women (<i>Comisión Nacional para Prevenir y Erradicar la Violencia contra las Mujeres</i>)
DOF	Official Federal Gazette (<i>Diario Oficial de la Federación</i>)
ECHR	European Convention on Human Rights
Federal District	Mexico City
FEVIMTRA	Special Prosecutor for Crimes of Violence against Women and Human Trafficking (<i>Fiscalía Especial para los Delitos de Violencia contra las Mujeres y</i>

Trata de Personas)

FIDH	International Federation for Human Rights (<i>Federación Internacional de Derechos Humanos</i>)
HRC	Human Rights Committee
HRW	Human Rights Watch
IACtHR	Inter-American Court on Human Rights
ICCPR	International Covenant on Civil and Political Rights
IHRL	International Human Rights Law
INEGI	National Institute of Geography, Statistics and Information (<i>Instituto Nacional de Estadística y Geografía</i>)
INMUJERES	National Institute of Women (<i>Instituto Nacional de las Mujeres</i>)
INMUJERES-DF	Institute of Women of Mexico City (<i>Instituto de las Mujeres del Distrito Federal</i>)
LGAMVLV	General Law on Women's Access to a Life Free from Violence (<i>Ley General de Acceso de las Mujeres a una Vida Libre de Violencia</i>)
List of Issues	List of issues and questions with regard to the consideration of periodic reports-Mexico
MP	Public Prosecutor's Offices
OHCHR-Mexico	United Nations Office of the High Commissioner for Human Rights in Mexico
OCNF	National Citizens' Observatory on Femicide (<i>Observatorio Ciudadano Nacional de Femicidio</i>)
Periodic Report	Seventh and Eighth periodic report of Mexico to the CEDAW Committee.
SCF	Special Commission to follow-up on actions to address femicide in Mexico of the Federal Chamber of Deputies (<i>Comisión Especial para conocer y dar Seguimiento Puntual y Exhaustivo a las Acciones que han emprendido las Autoridades Competentes en relación a los Femicidios registrados en México-Cámara de Diputados</i>)
SEGOB	Ministry of the Interior
SCJN	Mexican Supreme Court (<i>Suprema Corte de Justicia de la Nación</i>)
SNPASEVM	National Commission to Prevent and Eradicate Violence against Women (<i>Sistema Nacional para Prevenir, Atender, Sancionar y Erradicar la Violencia</i>)

contra las Mujeres)

SSP	Ministry of Public Security (<i>Secretaría de Seguridad Pública</i>)
UDHR	Universal Declaration of Human Rights
UNWOMEN	United Nations Entity for Gender Equality and the Empowerment of Women
VAW	Violence Against Women
UNWGEID	United Nations Working Group on Enforced or Involuntary Disappearances

I. INTRODUCTION

This report explores *de jure* and *de facto* conditions as they relate to the obligation of the Mexican State to respect and comply with CEDAW and its provisions. The aim is to offer a critical examination to the CEDAW Committee of the official information provided by the Mexican State for the 52nd CEDAW session. In this regard, it is worthy to remind that as a State party of CEDAW, Mexico is obligated “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women”³. As the Committee has stated, in its *General Recommendation 19*, discrimination against women under the Convention constitutes “violence that is directed against a woman because she is a woman or that affects women disproportionately [including] acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”⁴.

As designed to address the issues and questions on VAW raised by the Committee on the review of the Periodic Report of Mexico, this report is based on two premises. Firstly it considers that three factors can be identified as major causes of the *systematic*⁵ discrimination and violence against women on the part of State authorities: impunity, institutional violence and the stigmatization of victims. Secondly, it assumes that *femicides*—unlike the term femicide which refers solely to the “misogynous killing of women”—includes an additional element “which allows this kind of crime to amplify over time: this is the *non-existence or weakness of rule of law*, in which the unlimited violence and unpunished killings are reproduced. [...] This is a breach of the rule of law that provokes impunity. That is why [...] femicide is [considered] a crime of the State [which] occurs when *historical conditions generate social practices which allow for violation of the integrity, development, health, freedom and life of women.*”⁶

As the Committee has stated, in Mexico the context of gender-based violence is complex since “we are faced not with an isolated although very serious situation, nor with instances of sporadic violence against women, but rather with systematic violations of women’s rights, founded in a culture of violence and discrimination that is based on women’s alleged inferiority, a situation that has resulted in impunity”⁷. Therefore, beyond private perpetrators, in Mexico VAW is characterized by well-established patterns of discrimination from State actors as reported by non-

³ *Convention on the Elimination of All Forms of Discrimination against Women*, A/RES/34/180, adopted 18 December 1979, entry into force 3 September 1981, Art. 2

⁴ CEDAW Committee, *General Recommendation 19*, 11th Session (1992), A/47/38, para. 6.

⁵ CEDAW Committee, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico* (Report on Mexico under CEDAW article 8), 32nd Session (2005), CEDAW/C/2005/OP.8/MEXICO, para. 261

⁶ Statement made before notary public (affidavit) by *expert witness* Marcela Lagarde y de los Ríos to the Inter-American Court of Human Right in the *Cotton Field v Mexico* case, on 20th April 2009 (Merits case file, volume XI, folio 3386), p.10. Available at: <http://www.corteidh.or.cr/docs/casos/expedientes/Lagarde.pdf> [Author’s translation.]

⁷ Report on Mexico under CEDAW article 8 (n 5) para. 261.

governmental organizations, activists, independent media, and families of victims, and moreover, as ruled by the IACtHR in the *Cotton Field* case.⁸

Framed within the context of the National Security Strategy as well as the pervasive discrimination and VAW, this report addresses the following topics:

- The climate of impunity and insecurity and its impact on women in Mexico;
- Femicide and impunity throughout the country;
- The lack of implementation of the GVA;
- The crime of femicide in criminal codes and the extenuating circumstances regarding homicides of women, and
- The disappearances of women and girls.

The final section of this report makes recommendations to the Mexican State and provides elements of policy guidelines in order to comply with the obligations under CEDAW. Prescriptions

II. THE CLIMATE OF IMPUNITY AND INSECURITY AND ITS IMPACT ON WOMEN IN MEXICO

The present section addresses specific aspects of the 6th issue on the *List of issues*.⁹ The persistent climate of impunity and the extreme worsening of the public security situation in Mexico, experienced as a result of President Felipe Calderón’s implementation of an aggressive strategy to combat organized crime groups and drug-trafficking cartels since the end of 2006,¹⁰ constitute breaches of Articles 1, 2(e), (f), 5, 6, 10(c) and 14 of CEDAW, given the negative impact that both elements have had on women’s rights in Mexico.

One of the main features of President Calderon’s public security strategy is the militarization of some regions of the Mexican territory, through increasing deployment of federal

⁸ IACtHR, *González et al. (Cotton Field) v Mexico* (2009), para. 15. According to Andrea Medina “The Court found that the State’s intentions, methods and response to these crimes evidence that *the victims were discriminated against on the basis of their sex.*” Andrea Medina Rosas, *Cotton Field Proposals for analysis and monitoring of the “Cotton Field” case sentence, regarding human rights violations committed by the Mexican State, Red Mesa de Mujeres de Ciudad Juárez A.C. and Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM)* (2009), p. 23. [Emphasis added].

⁹ CEDAW Committee, *List of issues and questions with regard to the consideration of periodic reports*, 52nd Session (2011), CEDAW/C/MEX/Q/7-8, para. 6.

¹⁰ On 11 December 2006, President Calderón launched the Joint Operation Michoacán, to eliminate drug plantations, combat drug trafficking, and put an end to the drug-related violence in the local state of Michoacán. As a result, 6,500 federal army forces were deployed to Michoacán state *starting the biggest operation against organized crime until that time*. After that, during “December 2006, President Calderón launched operations against the cartels in 9 of Mexico’s 32 states.” Colleen W. Cook, *CRS Report for Congress, Mexico’s Drug Cartel*, Congressional Research Service (2008), Preface.

forces which now include “[m]ore than 50,000 troops and federal police [...] actively involved”¹¹ in many public security tasks across the country, tasks which according to the Mexican Constitution should be reserved for civilian law enforcement agencies. The delegation of policing duties to military personnel has had the consequence [, of] “an explosion of violence, [and] concerns about the military's lack of accountability.”¹²

The national security strategy promoted by President Calderón and the confrontations between cartels as a consequence of the restructuration that many cartels have experienced after the death or incarceration of its members and as a result of struggles to control a specific territory deemed important for the operation of the cartels, have added to the existing context of “underlying societal problems—poverty, inequality, unemployment[,] lack of opportunities for youth,”¹³ and a prevalent problem of systemic VAW. This dangerous combination has provoked an explosion of unprecedented violence,¹⁴ characterized by the involvement of “powerful drug cartels [...] engaged in violent turf battles, an influx of sophisticated weapons, a large number of kidnappings and executions in several Mexican states, and shocking forms of violence including beheadings[,]”¹⁵ never seen before as such a widespread phenomenon.¹⁶

Under this strategy, the historic Mexican “endemic violence [was] exacerbated by the widespread corruption among state and local government officials and [...] human rights violations [committed] by members of the Mexican military”.¹⁷ In fact, “[w]hile drug violence may not necessarily be extreme enough to constitute a war in some situations, there is a violent drug war going on in Mexico among drug trafficking organizations and the Mexican government with no end in sight.”¹⁸ This is demonstrated by a 575% increase in drug-related homicides during President Calderon’s tenure.¹⁹ During this time, between “50,000 [to 60,000]”²⁰ people have died²¹ in drug-

¹¹ “Q&A: Mexico's drug-related violence”, BBC Mobile. Available at: <http://www.bbc.co.uk/news/world-latin-america-10681249>

¹² *Idem.*

¹³ Ribando & Finklea, “U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond Analyst in Domestic Security, Congressional Research Service (2011), p. 29.

¹⁴ Although violence between drug cartels had been occurring long before the war began, the government held a generally passive stance regarding cartel violence in the 1990s and early 2000s.

¹⁵ HRW, *Uniform Impunity Mexico's Misuse of Military Justice to Prosecute Abuses in Counternarcotics and Public Security Operations* (Uniform Impunity) (2009), p. 2.

¹⁶ Even though the shocking forms of violence and its overwhelming levels have never been seen before, crimes related with organized crime, militarization and a generalized impunity are not new in Mexico.

¹⁷ Holly Buchanan, “Fleeing the Drug War Next Door” (2010) 27(72) *Merkourios*, at 28.

¹⁸ Ribando (n 13) p. 29.

¹⁹ See: Mendoza & Navarro, “*Ya son 50 mil los muertos en la guerra antinarco: Zeta*”, *Proceso* (2011). Available at: <http://www.proceso.com.mx/?p=276308>

²⁰ As result of this policy, it is calculated that during the period of its implementation “[a]bout 50,000 people have died in drug-related violence, mostly in fighting between rival gangs, although the death toll remains a point of contention. Mexico's federal government reports a death toll of more than 47,500 as of September, but peace [and human rights] activists cite a figure of 60,000, including thousands of people who are missing and remain unaccounted for.” “Mexico's defense secretary acknowledges errors in drug war”, (Defence Errors) *Los Angeles Times*. Available at: http://latimesblogs.latimes.com/world_now/2012/02/mexico-military-chief-drug-war-territory.html

related violence, mostly in fighting between rival gangs.”²² After more than five years, this strategy has proven unsuccessful in reducing levels of violence and insecurity and has resulted in a substantial increase in human rights violations.²³ As documented by the CNDH, the most persistent human rights violations committed by the armed forces while engaging in law enforcement activities, include:

illegal killings, rape, enforced disappearances, illegal detentions, attempted murder, torture and cruel, inhuman and degrading treatment; violations to personal integrity and security, violations of legal security through arbitrary use of power, as well as the unlawful use of force and firearms, among others, committed against civilians by members of the armed forces.²⁴

Impunity remains the norm in human rights violations and crimes in general: “in nearly half of Mexico’s states, less than 1[%] of crimes resulted in sentencing [and] 80-96[%] of killings go unpunished.”²⁵ The lack of rule of law makes corruption and abuse of authority commonplace.

One of the elements that contribute to pervasive impunity in cases in which soldiers have allegedly perpetrated a crime or a human rights violation is the application of the military jurisdiction, which has been criticised for its “opaque nature”.²⁶ This jurisdiction, which according to the Mexican Constitution is limited to breaches of military discipline, remains extremely secretive and isolated from outside observers, especially when judging human rights violations against civilians. The IACtHR stated that “the military criminal jurisdiction shall have a restrictive and exceptional scope [...] directed toward the protection of special juridical interests, related to the tasks characteristic of the military forces.”²⁷

In that regard, in July 2012 the SCJN ruled on the *Rosendo Radilla case*²⁸ that “in future cases, judges of the Mexican State must replicate the criteria of restriction of military jurisdiction,

²¹ It is important to mention that the available official records are not disaggregated by sex, there are no clear numbers on how many women have been killed as result of this conflict and the conditions surrounding their killings. This is especially grave given that this prevent to develop policies of prevention, attention and reparation with gender perspective which take into account the specific impact of this conflict on women.

²² Defence Errors (n 20).

²³ See: HRW, Mexico: *Widespread Rights Abuses in ‘War on Drugs’, Impunity for Torture, ‘Disappearances,’ Killings Undermines Security* (2011). Available at: <http://www.hrw.org/news/2011/11/09/mexico-widespread-rights-abuses-war-drugs>

²⁴ Emir Olivares, “En 20 meses, 31 denuncias de CNDH contra militares”, *La Jornada* (14 July 2011). Available at: <http://www.jornada.unam.mx/2011/07/14/politica/002n1pol> [Author’s translation].

²⁵ Mark Karlin, “The US War on Drug Cartels in Mexico Is a Deadly Failure”, *Truthout* (8 April 2012). Available at: <http://truth-out.org/news/item/8371-the-us-war-on-drug-cartels-in-mexico-is-a-deadly-failure>

²⁶ Uniform Impunity (n 15).

²⁷ IACtHR, *Rosendo Radilla v Mexico* (2009), para. 272. See also: Marcos Muedano, “Sentenciados, más de 3 mil militares”, *El Universal* (13 May 2012). Available at: <http://www.eluniversal.com.mx/primera/39450.html>

²⁸ See: SCJN, EXPEDIENTE VARIOS 912/2010. RELATIVO A LA INSTRUCCIÓN ORDENADA POR EL TRIBUNAL PLENO DE LA SUPREMA CORTE DE JUSTICIA DE LA NACIÓN, EN LA RESOLUCIÓN DEL SIETE DE SEPTIEMBRE DE DOS MIL DIEZ, DICTADA EN EL EXPEDIENTE VARIOS 489/2010. RELACIONADO CON LA SENTENCIA EMITIDA EL VEINTITRÉS DE NOVIEMBRE DE DOS MIL NUEVE, POR LA CORTE INTERAMERICANA DE DERECHOS

in compliance with the ruling in the *Radilla case* as well as Article 1 of the Mexican Constitution.”²⁹ However, the extent to which this ruling—which has mandatory application by all Mexican courts and tribunals—has been effectively replicated in judicial practice is highly debatable.

Despite the Government’s insistence that the deployment of the military is temporary, measures to end it have not been taken. The delegation of law enforcement to military personnel has been traditionally viewed as an exceptional situation, which would require the declaration of a suspension of guarantees under Article 29 of the Constitution. The Mexican Government has argued that

the suspension of rights provided for in article 29 [...] is not needed in order for intervention by the armed forces to be lawful, since there may be situations which, while not considered a state of emergency, may require such intervention in order to prevent the situation from worsening.³⁰

The lack of fulfilment of those requirements allows for the prolongation of an unregulated “*de facto*” state of emergency, resulting from the participation of the army in law enforcement, which has facilitated the inevitable use of force under a “logic of war”.³¹ This means that war “once started, follows a logical, almost inevitable, progression which renders it unsuitable as a tool for achieving”³² public security ends, as “the nature of war is to escalate”.³³

The last affirmation is proven by the dramatic increase in the Mexican army’s “fatality index” with an increase of 465% between 2008 and 2011.³⁴ The danger of militarization of law enforcement tasks, without the due declaration of suspension of rights, is the *normalization of a logic of war in daily life*, with an important impact on women, given that it “establishes an ideology of violence, of defeat, of war[. The result is] a very macho culture, very misogynist [culture in which] women are left defenceless.”³⁵

HUMANOS. Available at: http://www.equidad.scjn.gob.mx/IMG/pdf/SCJN_Radilla_14-jul-11.pdf [Author’s translation.]

²⁹ María de la Luz González, “*Militares irán a juicio civil: Se vigilará compatibilidad de leyes y tratados internacionales*”, *El Universal* (13 July 2011). Available at: <http://www.eluniversal.com.mx/nacion/187075.html> [Author’s translation.] See also: <http://www.sinembargo.mx/13-12-2011/95054> and <http://militarismomexico.blogspot.mx/2012/03/suprema-corte-atrae-el-caso-de-una.html>

³⁰ SCJN, ARMY, NAVY AND AIR FORCE. THEIR PARTICIPATION IN SUPPORT OF CIVIL AUTHORITIES IS CONSTITUTIONAL. (INTERPRETATION OF ARTICLE 29 OF THE CONSTITUTION), *Judicial Weekly of the Federation*, ninth period, volume XI, April 2000, opinion P./J. 38/2000, pp. 549.

³¹ Cf., Martínez, “*Letalidad del Ejército aumentó 465% en tres años y medio*”, *Animal Político*. Available at: <http://www.animalpolitico.com/2011/11/letalidad-del-ejercito-aumento-465-en-tres-anos-y-medio/> [Author’s translation.]

³² Robinson, “Humanitarian Intervention and the Logic of War”, in Moseley & Norman (eds.), *Human Rights and Military Intervention* Ashgate (2004), p. 96.

³³ *Idem*.

³⁴ Martínez (n 31).

³⁵ *Idem*.

Nonetheless, the problem goes beyond this “logic of war”, which could explain the excesses of the use of force. In addition to this pattern under which the security forces are operating there is significant pressure on personnel to show “results” in the implementation of this strategy, the urgent need to be efficient no matter what the cost, and a concerning lack of due training for the armed forces, which favours “mistakes” and abuses. The patriarchal society creates a system, which promotes the accumulation of power and the use and abuse of force, not just to defend oneself against direct attacks but also to send messages and to reaffirm one’s power. In this context, the military and police forces have been strengthened through the use of weapons and material resources as well as a virtual guarantee of impunity.

In Mexico, these factors have exacerbated a prevalent “*context of systematic [VAW]*”³⁶ based “*on the erroneous idea that women are inferior,*”³⁷ perpetuating a culture that is highly tolerant to VAW and its most extreme manifestation, femicide.³⁸ *This tolerant attitude, is cause and result of a*

*context of gender discrimination and inequality [which] allowed the [the IACtHR] to shape the international responsibility of Mexico [in the Cotton Field case], relying not on State action [...] but rather on the lack of [due diligence in the] prevention of the disappearances and murders in the context of a gender-related pattern of violence.*³⁹

This is a *structural* form of discrimination against women which is prohibited in Articles 1 and 2(e) of CEDAW, given that, as the CEDAW Committee has determined “all forms of [VAW] fall within the definition of discrimination against women as set out in the Convention.”⁴⁰ In that regard, in 2006 in its concluding observations on the review of the periodic report of Mexico the CEDAW Committee expressed its

concern [...] about the pervasiveness of patriarchal attitudes which impede the enjoyment by women of their human rights and constitute a root cause of violence against women. The Committee expresses concern about the general environment of discrimination and insecurity that prevails in communities; workplaces, including *maquila* factories; and territories with a military presence, such as the northern and southern border areas, which

³⁶ *Cotton Field* (n 8) para. 133 [Emphasis added].

³⁷ *Ibid*, para. 132 [Emphasis added].

³⁸ The term *femicide* is used to describe the “misogynous killing of women” with the inclusion of an additional element: the impunity. Consequently, “[f]emicide is a political term. It encompasses more than femicide because it holds responsible not only the [...] perpetrators but also the state and judicial structures that normalize misogyny,” by showing a tolerant attitude to VAW. Cf., Guatemala Human Rights Commission/USA, Fact Sheet Femicide & Femicide. Available at: http://www.ghrc-usa.org/Programs/ForWomensRighttoLive/factsheet_femicide.pdf; Radford, “Introduction”, in Russell & Radford (eds), *Femicide: The Politics of Woman Killing*, Twayne Publishers (1992), p. 3.

³⁹ Acosta-López, *The Cotton Field case: gender perspective and feminist theories in the Inter-American Court of Human Rights jurisprudence*, pp. 14-15. Available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCkQFjAA&url=http%3A%2F%2Fworks.bepress.com%2Fcontext%2Fjuana_acosta%2Farticle%2F1000%2Ftype%2Fnative%2Fviewcontent&ei=87STT7rQMaeL4gS4oL3QDw&usq=AFQjCNGJLX7_ZKZ8185zRHkCwuRaKgBd-Q&sig2=z6H0pJx3LKC1hxqUPcyD3Q

⁴⁰ Report of the Secretary General, *Ending Violence against Women: From Words to Action (Ending VAW)* (2006), p. 10.

might put women at constant risk of becoming victims of violence, abuse and sexual harassment. While welcoming the efforts undertaken by the State party, the Committee is concerned about the persistence of the widespread and systematic violence against women, including homicides and disappearances[.]⁴¹

Sadly, those structural factors remain unresolved. The combination of those factors has resulted in an increased vulnerability of women through many different mechanisms of discrimination and impunity, which perpetuates and reproduces VAW. Although the Mexican State has never clearly expressed a real commitment to eradicating VAW, the situation is further complicated by the fact that the on-going context of widespread violence in Mexico has overtaken the political agenda and absorbed media attention. As such, the current context of violence is portrayed as the overarching problem, thus ignoring the underlying factors that have historically led to discrimination and VAW, thereby obstructing the creation and implementation of effective policies⁴² to prevent and address discrimination and VAW.

Moreover, the particular effect that this strategy to combat organized crime has had on women in Mexico has been made invisible, given that the causes and consequences of this “new” kind of violence differ from factors related to the VAW that women have historically suffered in Mexico. In the same way, the on-going security crisis has exacerbated the prevalent lack of due diligence in State actions to prevent, investigate, punish and redress VAW, as the massive amount of murders, kidnappings, disappearances, torture, rapes, and other human rights violations related to this wave of violence are overwhelming the previously dysfunctional and collapsed Mexican justice system. In addition, the prioritized allocation of resources to the national security strategy constitutes an important budgetary limitation to financing social policies to address these problems.

In addition to the historical and structural factors in Mexico that cause and allow VAW to continue, President’s Calderon national security strategy “*objectively created a risk that later allowed the human rights violations*”⁴³ of thousands of people including women. This was possible because Mexico has not adopted effective measures to protect people in Mexico—including not only Mexican citizens but also thousands of migrants in transit through Mexico—against the risk created upon the launch of this strategy. Moreover, President Calderon has frequently insisted on the argument that this strategy is the only way to protect the Mexican population from the drug cartels.⁴⁴

⁴¹ CEDAW Committee, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Mexico*, 36th Session (2006), CEDAW/C/MEX/CO/6, para. 14.

⁴² It is important to mention that usually, the public policies focus on women are not effective, have serious problems on its design as been palliative actions that does not address the structural causes of the problems they are supposed to address. In addition, usually there are no enough resources for the implementation of these policies.

⁴³ See: Victor Abramovich, *Responsabilidad estatal por violencia de género: comentarios sobre el caso “Campo Algodonero” en la Corte Interamericana de Derechos Humanos*, 6 Anuario de derechos Humanos, 167 (2010). Available at: <http://www.revistas.uchile.cl/index.php/ADH/article/viewFile/11491/11852>

⁴⁴ See: Silvia Arellano, “*No hay alternativas viables a mi estrategia sobre seguridad: Calderón*”, (30 April 2012). Available at: <http://www.milenio.com/cdb/doc/noticias2011/1e23963bb6a02e607cb45bf9265933d9>

In its General Recommendation 12,⁴⁵ the Committee “noted States' obligation to protect women from violence under [...] the Convention, [in any] area of social life.”⁴⁶ This obligation was clearly re-asserted by the Committee in its *General Recommendation 19*, which, as mentioned previously, conceptualises VAW as a form of gender-based discrimination. In that regard, it is clear that the negative effects of this strategy on women implies several breaches of CEDAW, as they affect women in a *disproportionate* way⁴⁷—as result of the disadvantaged position that women had have historically in Mexico given the deep-rooted discrimination and use of stereotypes, among other factors, which have constructed unequal power relations, in which women hold the weaker position.

Several cases of direct violations of women’s human rights have been documented in the context of the militarization⁴⁸ under the current security strategy, as revealed in the state of Chihuahua, where the CEDEHM has carried out an analysis of women’s access to justice. Findings show that the consequences of the militarization in the north of the country on the general population have not been taken into account, causing for example an increase in the rate of sexual violence against women perpetrated by members of the military, which in most cases remain in impunity.⁴⁹ This is exemplified by the information gathered by CEDEHM regarding 18 cases of gang rape perpetrated by “armed men” in Chihuahua between 2008 and 2010. However, given the overall context of violence and insecurity that Chihuahua is facing, it is hard to determine if in most

⁴⁵ CEDAW Committee, *General Recommendation 12*, 8th Session (1989).

⁴⁶ Ending VAW (n 40) p. 10.

⁴⁷ This affects women disproportionately given that they suffer specific forms of violence based on their sex as for example and increasing wave of disappearances of women to being exploited by human trafficking networks, or simply to use them in their activities and as sexual services for the capos.

⁴⁸ For example, “In several cases, Human Rights Watch found evidence that justice officials conspired with security forces in fabricating false confessions from suspects. For example, Nallely Thamara Lara Sosa told Human Rights Watch that she was arbitrarily detained in June 2010 and taken to an illegal detention facility. Upon arriving, she said she was tortured and sexually assaulted by security officers to force her to falsely confess to collaborating in the murder of three women. She said her confession was written by justice officials who worked with her torturers, and that she was forced to sign it without reading it.” After that, “[a]ccording to Thamara, she was then taken to a room where a man in a mask and civilian clothes began to show her gruesome photographs of the three women who had been killed—Thamara’s supposed victims. When the officer arrived at a gruesome photograph showing one of the victims with a stick inserted into her rectum, the man said, “This is what we’re going to do to you.” Thamara was returned to the interrogation room, where she was blindfolded, bound, and placed on a table. Then, she said officers removed her pants and underwear and threatened to gang rape her. The man who was interrogating me walked over and stood face-to-face with me, and he said, “Little Tamara, here’s when everything starts to change. Now we’re going to give you love and affection...because here you’re going to have many friends—they’re lining up for you”...and they began to grope me all over. They lifted off my bra and I felt their hands all over my body. They touched my buttocks and insulted me saying, “Now you’re going to feel what’s good. You’re good, you damn whore.” And then he said [to the other officers], “Turn her around and put her on the desk,” and that’s when I screamed, “No sir, I committed [the crime], but please don’t do anything to me, I beg you.” And then the man who was interrogating me said in a whisper, “So you’re going to cooperate—you’re going to talk.” And I said, “Yes, sir. Whatever you say. Ask me whatever you want but don’t rape me.” HRW, *Neither Rights Nor Security Killings, Torture, and Disappearances in Mexico’s “War on Drugs”*, pp. 37 and 74

⁴⁹ See: CEDEHM, *El acceso a la justicia para las mujeres víctimas de violencia de género en el Sistema Penal Acusatorio* (2010).

of the cases the perpetrators were members of the military, police officers or members of organized crime groups.⁵⁰

As such, the problem of VAW acquires a *structural nature* when it is viewed as an effect of Calderon's strategy—as a public policy that has caused widespread violence disproportionately affecting women. It is necessary to clarify that this structural nature “[i]n contrast to direct violence, such as murder or rape, indirect, or *structural* violence has no particular subject as its target. Rather, it is the structures of the system that deprives peoples of their human needs, thus limiting each person's ability to realize his or her potential.”⁵¹

It is clear that this structural violence, which has prevented the Mexican State from acting with due diligence to effectively prevent, investigate and punish VAW violates Article 2(e) in relation to Article 1 of CEDAW, as have been determined by the Committee,

article 2(e) [...] calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. [...] States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.⁵²

In the same way, this strategy implies violations to Articles 2(f), 5 and 10(c) of CEDAW as it has perpetuated the “[t]raditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles[, which] perpetuate widespread practices involving violence or coercion, such as family violence,”⁵³ stranger violence, feminicides, kidnappings of women by drugs cartels and armed forces—to use them and then kill them—, human trafficking of women, and rape. In addition, “[t]he effect of such violence[, which is perpetuated by Calderon's strategy,] on the physical and mental integrity of women is to deprive them the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms[, and to] maintain women in subordinate roles and contribute to the low level of political participation and to their lower level of education, skills and work opportunities.”⁵⁴

Calderon's strategy also violates Article 6 of CEDAW, given that it contributes to unemployment and a lack of educational opportunities while also exhausting significant resources that could be better used to create employment and educational programs, and in that way tackle the underlying causes that have created the current crisis that Mexico is facing.

This strategy also violates Article 6 of CEDAW, as “[w]ars [and] armed conflicts [...] lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures”⁵⁵. Such measures have not been implemented by the Mexican State, and as a result, the heightened lack of public security caused by this strategy has prevented

⁵⁰ *Ibid.*

⁵¹ Leatherman, *Sexual Violence and Armed Conflict*, Polity, (2001), p. 64.

⁵² *General Recommendation 19* (n 4) para. 9.

⁵³ *Ibid.*, para. 10.

⁵⁴ *Ibid.*, para. 11.

⁵⁵ *Ibid.*, para. 16.

Mexico from taking “measures to suppress all forms of traffic in women and exploitation of the prostitution of women.”⁵⁶ In fact, in this context prostitution, human trafficking and sexual violence have increased. Moreover, with the adoption of this strategy and the historical lack of effective prevention and response to discrimination and VAW, the Mexican State has not just contributed to an increase in VAW in the context of the “fight against drug trafficking”, but also has failed to take effective measures to mitigate the risk it created. However, even though this strategy has created an additional risk, it is important to recognize that the problem of discrimination and VAW is a structural problem, which requires comprehensive measures to be adequately addressed.

The public security strategy—added to the lack of effective programs to prevent and address VAW, widespread impunity and weak public institutions—violates Article 6 of CEDAW as it has helped to “establish forms of trafficking th[at] are new forms of sexual exploitation,”⁵⁷ such as the use of women as the sexual slaves of members of the cartels, or as a “sexual tool” to serve as spies, to earn favours from corrupted authorities or even to kill, as in the case of “*las sicarias*” (hit women). In fact, an increase in prostitution has been detected in the zones close to military camps, control posts and check points in states such as Chihuahua and Chiapas, especially in very poor areas where women cannot usually find other options to earn a living. Likewise, prevalent poverty and unemployment, which has allowed drug cartels to flourish by feeding them with young people who do not have better opportunities to earn a living, “increase opportunities for trafficking in women,”⁵⁸ making those women especially vulnerable to become victims of human trafficking networks. In the case of Mexico, the rise in trafficking of women is also linked to the diversification of the activities of organized crime groups.

Also regarding Article 6 of CEDAW, the killing of thousands of men in the current context has had a significant impact on women’s economic situation. Many women, who previously depended on their partners, fathers, or sons for economic stability, have suddenly been forced to provide their own income. Many of these women, who were already poor, very often do not have access to the most basic means that secure a life with dignity for them and their families. Therefore, the poverty and harsh living conditions faced by many women and girls have “forced them into prostitution.”⁵⁹ Furthermore, because of their status, sex workers are marginalized and left in vulnerable conditions that could lead to more violence against them⁶⁰. As ruled in the *Cotton Field* case, the underlying stereotypes around sexually active women or women who do not fit the traditional roles that have been imposed upon them, are an important factor that perpetuates impunity when they are victims of any crime.⁶¹ This point is demonstrated by the fact that “in cases of female homicides that involved elements of sexual violence, levels of impunity were the highest of all.”⁶² In the past the Committee has stated that these kinds of “practices are incompatible with

⁵⁶ *Ibíd*, para. 13.

⁵⁷ *Idem*.

⁵⁸ *Ibíd*, para. 14.

⁵⁹ *Ibíd*, para 15.

⁶⁰ *Idem*.

⁶¹ See: *Cotton Field* (n 36) para. 147.

⁶² Medina (n 8) p 24 [Emphasis added].

the equal enjoyment of rights by women and with respect for their rights and dignity. They put women at special risk of violence and abuse.”⁶³

In addition, the public security strategy also violates Article 14 of CEDAW, as it has forced rural women to flee to urban areas given the worsening of the security conditions in their own communities. The Committee has stated that rural women are at “special risk of violence and sexual exploitation when they leave the rural community”⁶⁴.

In conclusion, the minimization and invisibilization of VAW that the ongoing conflict has caused violates the direct obligation of the Mexican State to eliminate discrimination against women. In first place, because the effect of cultivating this highly “*macho*” culture, which tolerates and rewards VAW, has the exactly opposite effect; in other words, the context of violence not only obstructs the elimination of discrimination against women, but also generates more discrimination, with more extreme manifestations. In addition, this public security strategy has also caused the Mexican State to be responsible for increased private acts of violence, because the strategy has exacerbated the prevalent and systematic impunity as the generalized increase in serious crimes is collapsing the previously poorly functioning and overloaded Mexican justice and law enforcement systems. Consequently, the generalized intensification of the lack of security and pervasive impunity contributes to Mexico’s failure to act with *due diligence* to prevent, investigate and punish VAW, and for providing compensation and redress for victims.

III. FEMINICIDE AND IMPUNITY THROUGHOUT MEXICO

The present section addresses some aspects of the 8th issue of the *List of issues*. In that regard, in Mexico, the figures on femicide included below demonstrate a violation of Article 2 (e) of CEDAW, as they show not only the prevalence of widespread discrimination in the form of extreme VAW, but also a worrying deterioration of women’s rights. According to a joint report by UN Women, The National Women’s Institute and the National Congress, estimates of violent deaths of women fluctuated from 1,000 to 1,800 per year from 1985 to 2009, reaching a total of 34,176 deaths during that period.⁶⁵ Far from declining, between 2007 and 2009 incidence of femicide has increased on average by 68% and in certain states such as *Durango, Baja California, Chiapas* and *Chihuahua* the rate of increase is above 300%.⁶⁶ In addition, recently femicide has been accompanied by more vicious means than in the past, and strangulation, burning and stabbing/cutting are three times more probable in women’s homicide than in men’s.⁶⁷ These rampant figures and the prevalent argument in contemporary public discourse, both from politicians

⁶³ *General Recommendation 19* (n 4) para. 14.

⁶⁴ *Ibid*, para. 21.

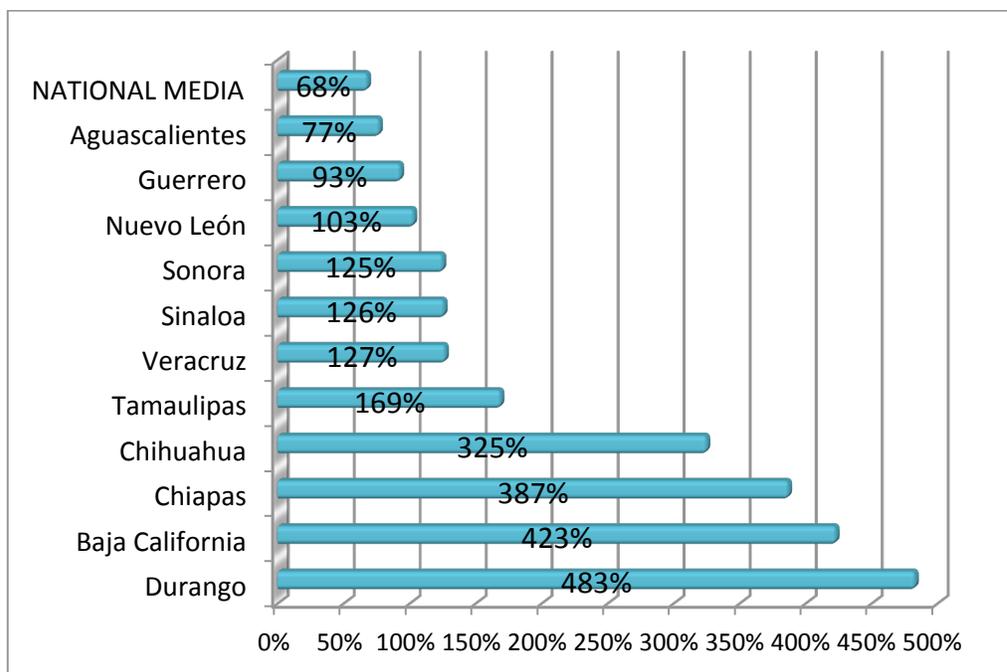
⁶⁵ Cf., UNWOMEN-INMUJERES-SCF, *Femicidio en México. Aproximación, tendencias y cambios, 1985-2009* (2011), p. 33. For an estimated calculation of 9062 feminicides from December 2000-June 2010 Cf., Francesca Tronco García, “Femicidio y Derecho a la información en México: dialéctica de la impunidad”, *American University International Law Review*, 26 (1) 2011, pp. 91-92.

⁶⁶ UNWOMEN-INMUJERES-SCF (n 65) p. 39.

⁶⁷ *Ibid*, p. 71.

and the media that the number of murdered women is minor when compared to that of men,⁶⁸ constitute evidence of patterns of generalized discrimination against women.

Figure 4.1 Rate of increase in murders of women 2007-2009⁶⁹



In addition, state-level Public Prosecutor's Offices⁷⁰ often fail to provide reliable and accurate information on cases of femicide. The murkiness of Mexican judicial officials is a common strategy to avoid public exposure, not only in relation to the number of femicides but also with regard to the progress of the investigations, resulting in high levels of impunity.⁷¹ As the OCNF reports, a suspect is detained for approximately one out of five femicide cases and just 4 out of 100 cases reach the last stage of a trial. Even for that 4%, the outcome of the judges'

⁶⁸ *Ciudadánas del miedo 8: Impunidad y Femicidio: la especificidad del asesinato impune de mujeres*. Available at:

http://nuestraaparenterendicion.com/index.php?option=com_k2&view=item&id=770:impunidad-y-femicidio&Itemid=106 The discourse of diminishing of femicides happens as well in the context of militarization and the crusade of federal government against the organized crime, Cf. Francesca Tronco García, "Obscurity and Impunity: An Overview of the Gendered Effects of the Militarization Under the Mexican War on Drugs" Conference presented at the panel *Sex, Drugs and a Rocky War: A Panel Discussion on Gender and Drugs* (17 November 2011), King's College London.

⁶⁹ Homicide presumption of women recorded by medical death certificates (mandatory procedure of documentation of all deaths by medical personnel). Table made with raw data from UNWOMEN-INMUJERES-SCF (n 65).

⁷⁰ The public prosecutor is the authority in charge on the investigations and on presenting proofs and evidence to judges in the Mexican justice system.

⁷¹ Fabiola Martínez, "Ocultan cifras de femicidios", *La Jornada* (8 June 2011). Available at: <http://www.jornada.unam.mx/2011/06/08/politica/017n3pol> See also: Tronco García (n 65).

decisions remains unclear, since the judiciary branch at the state level is not reporting if the final verdict found the suspect guilty or innocent in official, aggregated data.⁷²

In states such as *Tlaxcala, Puebla, Chihuahua, Baja California Sur* and *Chiapas*, non-governmental organizations have denounced the fact that authorities not only deny access to information but also deliberately modify the numbers of women who have been murdered to make them appear lower.⁷³ Even the Special Commission on Femicides formed by representatives of several political parties has admitted that the prosecutor’s offices at the state level provide contradictory numbers on femicides.⁷⁴ Furthermore, the BANAVIM with an allocated budget of 15.3 million Mexican pesos since 2010 has not yet been implemented. According to the SSP, which is in charge of its operation, they cannot produce statistics due to the absence of information from the states on VAW. The factors mentioned previously have resulted in a lack of access to information and truth, thereby perpetuating impunity in cases of femicide.⁷⁵

*Table 4.2 Number of violent deaths of women (number of state-level Prosecutor’s Offices providing information)*⁷⁶

Period	Number of violent deaths of women	State-level Prosecutor’s Offices providing information (out of a total of 32) ⁷⁷
January 2007- July 2008	1014	13 (Chihuahua, Nuevo León, Sinaloa, Sonora, Tamaulipas, Guanajuato, Jalisco, Mexico City, Morelos, the State of Mexico, Tlaxcala, Tabasco and Yucatán)
January 2009 - June 2010	1728	18 (Chihuahua, Coahuila, Sinaloa, Sonora, Nuevo León, Tamaulipas, Zacatecas, San Luis Potosí, Aguascalientes, Mexico City, the State of Mexico, Hidalgo, Jalisco, Morelos, Querétaro, Tabasco, Veracruz and Quintana Roo)

⁷² This means that the vast majority of the 96% is not even investigated properly or that the legal processes are stagnated in bureaucracy and under indefinite “investigation” without elements for proof. Cf. OCNF, *Una Mirada al femicidio en México 2010-2011*, p. 9.

⁷³ Cf. OCNF, *Una Mirada al femicidio en México, 2007-2008; 2008-2009; 2009-2010* (Three separate reports with the same name but different periods of analysis).

⁷⁴ Federación Internacional de Derechos Humanos, *Misión Internacional de Investigación. El femicidio en México y Guatemala, 2006*, p. 12. Available at: http://www.fidh.org/IMG/pdf/mx_gt446e.pdf

⁷⁵ See: Tronco García (n 65).

⁷⁶ Table conformed with primary information from the prosecutors’ offices gathered by the OCNF (2007-2008; 2008-2009; 2009-2010). See: *supra* (n 73)

⁷⁷ Mexico is a federal Republic composed by 31 states and a Federal District. Hence there are 32 Local Public Prosecutor’s offices.

January 2010- June 2011	1235	8 (State of Mexico, Tamaulipas, Sinaloa, Jalisco, Nuevo León, Mexico City, Oaxaca, Sonora)
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In General Recommendation 19, the CEDAW Committee has clearly stated that “States parties should report on all forms of gender-based violence, and such reports should include all available data on the incidence of each form of violence”.⁷⁸ In spite of that obligation, the *Report of Mexico* to the CEDAW Committee, which will be reviewed during the 52nd Session of the Committee, does not contain any specific information on the number of feminicides and is missing key information disaggregated, for instance, by the socio-economic class and age of victims and perpetrators. This lack of information in the report reflects the lack of access to this kind of information in other relevant official sources, which has been an obstacle to the creation of public policies to tackle gender-based violence as a structural problem with reliable information for decision makers. In the case of VAW, the provision of official data is important in that it reflects “not [the] levels of violence, but levels of reporting and standards of recording.”⁷⁹

In addition to complications related to the collection of statistics and other basic data by officials at a macro level, a major problem that leads to impunity in cases of homicide of women is the failure of the Mexican State to punish public servants and institutions that engage in acts of discrimination, in violation of Article 2 (d) of CEDAW. Feminicides are aggravated by the systematic commission of irregularities in the investigations and judicial processes, including “delays in starting investigations, slowness of the investigations or absence of activity in the case files, negligence and irregularities in gathering evidence and conducting examinations, and in the identification of victims, loss of information, misplacement of body parts in the custody of the Public Prosecutor’s Office.”⁸⁰

These kinds of irregularities are common practice in cases of feminicide, resulting in the exoneration of perpetrators or the incrimination of innocent people. A prominent example is the death of Nadia Muciño,⁸¹ which was declared a “suicide by hanging” by a judge in the State of Mexico, despite the fact that Nadia’s body showed signs of violence and several knots had been tied around her neck, hands and hair using different ropes. Key evidence such as the ropes were “lost” by the investigation office and Nadia’s bloody clothes, which clearly did not corroborate the suicide hypothesis, were not reviewed “for hygienic reasons”, as stated in the official file. In addition, the scene of the crime was not guarded, and as result the house was “accidentally burned”. Regardless of the testimonies of Nadia’s four- and five-year-old sons stating that her husband and his brother killed her in front of them, the feminicide is still considered a suicide. Nadia’s case illustrates the

⁷⁸ *General Recommendation 19* (n 4) para. 24.

⁷⁹ Ertürk Yakin, *Indicators on violence against women and State response* (Report of the Special Rapporteur on violence against women its causes and consequences) (2008), A/HRC/7/6, para. 84.

⁸⁰ *Cotton Field* (n 8) para. 150.

⁸¹ CDD, “*De víctimas a defensoras, madres que claman justicia ante el feminicidio*”, *La Jornada* (7 July 2011). Available at: <http://www.jornada.unam.mx/2011/07/07/ls-catolicas.html>

common practice of alteration of scenes and evidence by police and investigators to benefit the perpetrators. Other corrupt practices are also common; for example, due to the lack of proper investigation the torture of innocent people is undertaken by police officers to “solve” the case. Such is the case of David Meza, who was jailed after being accused of committing the femicide of his cousin, Neyra Azucena Cervantes, regardless of evidence proving that by the time of the crime he was in a different region of Mexico located 1,500 miles away.⁸²

Discrimination against women is blatant in the unjustifiable delays in the identification of victims of femicide. In the state of *Chihuahua* the bodies of women found or recovered by the police usually remain for long periods of time until the officers confirm their identity. For example, Monica Delgado disappeared in October 2010 when she was 17 years old. According to activists, her body was found by the authorities in January 2011,⁸³ nonetheless, the tests to identify the body were undertaken nine months after she was found. Consequently, her family was forced to wait for an excessive period of time before her body was finally delivered to them. Similarly, Hilda Gabriela disappeared when she was 16 years old and her body was found in 2009. However, it took more than two years for the authorities to inform her family that they had recovered her corpse. The case of Adriana Sarmiento, a 15-year-old girl, was similar: after she was reported disappeared in 2008, her body was kept for more than two years by the authorities of *Ciudad Juárez*, labelled as “unknown”.⁸⁴

This pattern suggests politically motivated intentions on the part of official agencies in order to not disclose the information to the families and to avoid legal responsibilities for these women’s deaths in the current context. This practice causes insurmountable pain to the families of disappeared women, who generally report women’s disappearances within the very first hours or days, which is not met with a prompt response from police officers. Frequently, police officers ask families to come back after a few more days, claiming that the girls or women are likely with their boyfriends. In other cases officers affirm that they will look for their missing relatives without actually undertaking any investigation to find the disappeared women and identify the perpetrator, thus fostering and perpetuating impunity. The mother of Adriana Sarmiento simply expressed; “We, the families of disappeared women, are like puppets for the authorities”.⁸⁵ This pattern constitutes autonomous human rights violations perpetrated against the family members and next of kin of the victims in this kind of cases.⁸⁶

In an effort to overcome impunity, relatives of murdered and disappeared women have become human rights defenders, looking for justice not just for their cases but also for other feminicides in their communities. In Mexico, women who engage in human rights defence, particularly those seeking justice in cases of femicide, have been targeted in order to repress and

⁸² CMDPDH-Witness International, “Dual Injustice: Torture and Femicide in Ciudad Juárez and Chihuahua.” Available at: <http://hub.witness.org/DualInjustice>

⁸³ Juan Antonio Rodriguez, “Somos “como títeres” del gobierno, dice madre de desaparecida”, *Somos Frontera*, (12 January 2011). Available at: http://www.somosfrontera.com/cdjuarez/ci_19450153#.Tj_pfqKY2o.facebook

⁸⁴ *Idem.*

⁸⁵ *Idem.*

⁸⁶ See: *Cotton Field* (n 8) para. 150.

silence them. The situation of these activists is especially vulnerable because their position “defies the inequality structure and the existing discrimination”⁸⁷ occurring in Mexico. Guaranteeing their safety and the continuity of their valuable work is fundamental, given their role to advance women’s rights and eradicate impunity in cases of femicide and other forms of VAW.⁸⁸ Despite the President’s announcement of an “official mechanism to protect human rights defenders” in July 2011 and the recent approval of a law on this issue by the Chamber of Deputies,⁸⁹ its operation to adequately protect women human rights defenders at risk is non-existent.

In recent years, women human rights defenders have been harassed or have suffered threats of death or bodily injury to them or a member of their family. These attacks have also resulted in the murders of prominent activists and members of their families. In states such as *Chihuahua*, *Nuevo León*, *Oaxaca* and *Guerrero* the risk of facing attacks for pursuing justice in cases of VAW is extremely high.⁹⁰ Susana Chávez, poet and activist against femicide, was murdered and mutilated in early 2011.⁹¹ Norma Andrade, an activist who founded the NGO *Our Daughters Back Home* and mother of a young femicide victim, has been attacked twice and has received several death threats. In the first attack in December 2011 she was shot five times and after surviving, two months later she was stabbed on several occasions. She is currently seeking asylum abroad, incapable of continuing her activism against femicide in Mexico.⁹² Marisela Escobedo, who fought for justice in the femicide case of her teenage daughter, was shot while holding a public protest after the release of her daughter’s ex-boyfriend and sentenced killer.⁹³ Just days before being murdered she stated: “I am not moving from here until my daughter’s killer is detained”.⁹⁴

⁸⁷ Miguel Concha, “*Mujeres y defensa de los derechos humanos*”, *La Jornada On-Line*, 11 February 2012. Available at:

<http://www.jornada.unam.mx/2012/02/11/index.php?section=opinion&article=020a1pol&partner=rss>

⁸⁸ Cf. IACHR, *Second report on the situation of human rights defenders in the Americas*, 2011, OEA/Ser.L/V/II., Doc.66, para. 281-284.

⁸⁹ SEGOB, “*Acuerdo por el que se establecen las bases del mecanismo de protección de defensoras y defensores de los derechos humanos*”, DOF, 7 July 2011. Maria Aranzu, “*Senado Aprueba ley de defensores y periodistas*”, *Quórum Informativo*. Available at: <http://quoruminformativo.blogspot.co.uk/2012/04/senado-aprueba-ley-de-defensores-y.html>

⁹⁰ Asociadas por lo Justo, JASS, Consorcio para el Diálogo Parlamentario y la Equidad Oaxaca A.C., Red Mesa de Mujeres de Ciudad Juárez A.C., *Defensoras de derechos humanos en México. Diagnóstico 2010-2011 sobre las condiciones y riesgos que enfrentan en el ejercicio de su trabajo* (2012), p. 5

⁹¹ Hugh Collins, “*Mexican Activist Susana Chavez Killed, Mutilated*” (12 January 2012). Available at: <http://www.aolnews.com/2011/01/12/mexican-activist-susana-chavez-killed-mutilated/>

⁹² Larry Kaplow, “*In Mexico, An Activist Says Her Farewells*”, *Foreign Policy On-line*, February 24, 2012. Available at:

http://www.foreignpolicy.com/articles/2012/02/24/in_mexico_an_activist_says_her_farewells

⁹³ Cf., “*Una cámara de seguridad grabó el asesinato a sangre fría de Marisela Escobedo*”, *El Mundo* (19 December 2010). Available at: <http://www.elmundo.es/america/2010/12/19/mexico/1292762803.html> [Author’s translation]; Swaine, “*Mexico in shock at murder of anti-crime campaigner*”, *The Telegraph* (19 December 2010). Available at:

<http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/mexico/8212747/Mexico-in-shock-at-murder-of-anti-crime-campaigner.html>

⁹⁴ OCNF, “*No es el miedo lo que nos calla: es la impunidad la que nos paraliza.*” Available at: <http://observatoriofemicidiomexico.com/Desplegado%20mariselaescobedo2.pdf>

IV. THE LACK OF IMPLEMENTATION OF THE GENDER VIOLENCE ALERT

The present section provides information regarding the 8th issue on the *List of issues*. In that regard, the lack of activation of the AVG by the Mexican State constitutes a violation to Article 2(d), (e) and (f) of CEDAW, as it obligated Mexico to ensure that public agencies and institutions do not incur in discrimination against women, have adequate legislation and measures for the administration of justice to tackle discrimination in practice, and take all the appropriate actions to eliminate discrimination. These breaches have been incurred as a result of the following:

The LGAMVLV was published in 2008 after strong pressure from civil society in response to the atrocious cases of VAW in *Ciudad Juárez*. The LGAMVLV was designed to generate synergies and effective coordination between all three levels of government to tackle VAW. To do so the LGAMVLV sets standards to implement effective security and judicial actions at the regional level (Art. 23 II), to produce special reports on gender-based violence (23 III), to allocate budgets to address VAW (Art. 23 IV), and to publish and disseminate information about the measures to be implemented. Furthermore, the law established a SNPASEVM comprised of nine federal agencies⁹⁵ and the 32 *Mechanisms for the Advancement of Women* in the states and Mexico City, formally referred to as the Federal District (Art. 36).

The LGAMVLV established the mechanism of a *Gender Violence Alert* to confront and eradicate femicide (Art. 22) while guaranteeing women's safety and eliminating inequalities produced by discriminatory legislation (Art. 23). The AVG is an emergency mechanism to improve women's immediate safety and foster investigation and administration of justice in VAW cases. The alert can be solicited by civil society organizations, local Human Rights Commissions and the legislative branch of any state.

The existence of the AVG constitutes a positive *de jure* advancement. However, since the policy went into effect four years ago, hardly any progress has been observed in the implementation of its measures. The activation of the AVG has been petitioned in four different states by civil society organizations, but in each case the SNPASEVM refused to declare the alert:

- In 2008, after the extensive femicide violence and kidnappings of girls and women in the indigenous *Triqui* zone in *Oaxaca*⁹⁶
- In 2009 in *Guanajuato*, denouncing the extreme vulnerability of women victims of sexual violence and the lack of adequate health services to terminate pregnancy resulting from rape.
- In 2010 in the State of Mexico, given the fact that from January 2005 to August 2010, 922 femicides were perpetrated with a systematic pattern of impunity.⁹⁷

⁹⁵ SEGOB, INMUJERES, Ministry of Social Development, Ministry of Public Security, General Attorney Office, Ministry of Public Education, Ministry of Health, National Council for the Prevention of Discrimination, and the National System for the Integral Development of Family.

⁹⁶ Available at: <http://www.cimacnoticias.com.mx/site/08042305-Demandan-OSC-de-Oax.32902.0.html>

- In 2012 in *Nuevo León*, where 1,095 feminicides occurred in 2009-2010 according to official data.⁹⁸ In this state there is documented evidence that military, Special Forces and other police officers have participated in several feminicides.⁹⁹

Civil society members claim that the creation of the LGAMVLV and its blatant lack of implementation, reveal the lack of political will by the Mexican State to take effective action to address VAW. In fact, there is evidence that VAW is “not perceived [...] as a significant problem requiring immediate and forceful action on the part of the relevant authorities”,¹⁰⁰ and consequently, according to the activist María de la Luz Estrada, the situation is perceived as “not serious enough”¹⁰¹ to activate the AVG.

In public dialogues with civil society, SEGOB recognized the necessity to reform the triggering mechanisms of the AVG, to facilitate its implementation; however, this promise has yet to be fulfilled. In its addendum to the 52nd CEDAW session the Mexican government tries to justify the lack of implementation of the alert, stating that the two official requests for activating the alert have been inadmissible,¹⁰² without explaining the criteria for the rejection of the petitions. In February 2012, the 9th Federal District Court on Administrative Issues ruled to invalidate the decision in the State of Mexico, demonstrating that the petition of the non-governmental organizations, the OCNF and the CMPDDH, was not even adequately reviewed by the inter-governmental committee in charge of declaring the AVG, before voting for its rejection. Moreover, the Court ruled that the requirements for declaring the alert were adequately fulfilled by the organizations. To date the process has not been restarted, and the AVG has yet to be declared in any state of Mexico.

V. THE CRIME OF FEMINICIDE IN CRIMINAL CODES AND THE EXTENUATING CIRCUMSTANCES REGARDING THE HOMICIDE OF WOMEN

The present section addresses certain aspects of the 8th issue on the *List of issues*. In that regard, the Mexican State has violated its obligation under CEDAW Article 2 (d), (e), (f) and (g) which call for

⁹⁷ Gladis Torres Ruiz, “Organizaciones de la sociedad civil preparan informe”, *Milenio* (13 April 2012). Available at: <http://www.milenio.com/cdb/doc/impreso/9120219>

⁹⁸ Cf. *Alternativas Pacíficas A.C., Artemisas por la Equidad A.C., Centro de Estudios de Género Simone de Beauvoir A.C., Ciudadanos en Apoyo a los Derechos Humanos A.C., Colectivo Plural de Mujeres-Comunicación e Información de la Mujer en Nuevo León A.C., Pro Salud Sexual y Reproductiva A.C. Zihuame Mochilla A.C., Situación de las mujeres en Nuevo León México informe de la sociedad civil ante la CEDAW*, 2011, p. 3. Available at:

http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/SociedadCivil_Mexico52.pdf

⁹⁹ *Idem*.

¹⁰⁰ *Cotton Field* (n 8) para. 147.

¹⁰¹ Socorro Chablé, “Indiferencia gubernamental. Incrementan las cifras de mujeres asesinadas”, ¡Por Esto!. Available at: http://www.poresto.net/ver_nota.php?zona=yucatan&idSeccion=1&idTitulo=150535

¹⁰² See: *List of Issues* (n 2) para. 67.

elimination of discriminatory legal provisions and practices of public servants and institutions, given that:

After the *Cotton Field* ruling and in accordance with the recommendation of the Committee in its 36th session “to accelerate the adoption of the amendment of the Penal Code to define the specific crime of femicide”,¹⁰³ some changes in state-level criminal codes have been made to recognize femicide as a crime. These efforts represent a positive *de jure* advancement, which has been widely supported by civil society advocacy campaigns. However, these reforms have been insufficient to tackle impunity. To date less than the half of Mexican states have amended their criminal codes, and since the federal amendment was stagnated in the congress for several years and was just approved in April 2012, its enforcement and budget allocation remain uncertain. Furthermore, the effective implementation of these reforms depends on the incorporation of protocols for criminal investigation designed with a gender perspective, in order to provide police, detectives, prosecutors and judges with guidelines for acting with due diligence on these cases.

The lack of investigation protocols with a gender perspective and the subjective criteria used by the prosecutors in order to determine that the brutal homicide of a women is in fact a case of femicide, represent key barriers to the adequate application of the new legislation. As such, the effectiveness of the state-level criminal reforms that have been passed so far has been very limited. Karla Michel Salas, member of the ANAD and legal representative of the families of femicide victims in the *Cotton Field* case, has claimed: “even if there is legislation on the crime it is almost impossible to officially prove [a femicide] since that legislation can only apply to some cases”.¹⁰⁴ This is reflected in the criminal reforms passed in several states:

- In the State of Mexico and *Tamaulipas* subjective elements make it difficult for prosecutors to identify femicides. For example, besides the murder, prosecutors need to demonstrate previous experiences of moral violence and harassment (Tamaulipas Criminal Code, Art. 337 bis) which are difficult to prove without witnesses or previous records.
- In *San Luis Potosí* there is a lack of harmonization of protocols for investigation and the capturing of key information on femicides. Furthermore, there are no sanctions for investigators who commit serious omissions or negative actions that affect the investigations.
- In *Morelos*, *Colima*, *Veracruz* and *Chiapas* investigation protocols that would contribute to the guarantee of criminal investigations with a gender perspective have not been developed.

Another important failure of the Mexican justice system is the lack of effective elimination of several criminal provisions that allow and reinforce discriminatory practices by the judicial and prosecutorial authorities. A point of concern is the permanence of concepts such as “honour”, “infidelity”, and “justifiable violent emotions” in several local criminal codes, and the application

¹⁰³ *Concluding comments* (n 41) para. 15.

¹⁰⁴ Gladis Torres Ruiz, “*El movimiento organizado de mujeres logra la tipificación del femicidio como delito*”, AMECO Press, (4 July 2011). Available at: <http://www.amecopress.net/spip.php?article7303> Some cases such as Mexico City are differentiated as less failed examples of Criminal amendment since the process was accompanied by investigation protocols with gender perspective generated through public consultations with civil society. However this is an exception, compared to the amendments in the majority of states.

of discriminatory jurisprudence reinforcing those concepts in contemporary cases as extenuating circumstances in cases of homicides, which are most commonly used against women. In some cases, this jurisprudence provides lax margins of appreciation for judges, legalizing gender-based discrimination in the justice system. Such is the case of rulings that reduce the sentence for male perpetrators in cases of murdered women, under extenuating circumstances such as when the woman was “discovered of being adulterous”, or had negatively affected the “honour” of the perpetrator. Other rulings justify the “natural” character of “violent emotions” experienced by the perpetrators, downplaying homicides of women as crimes of passion. In states such as *Baja California Sur*, *Chiapas*, *Jalisco*, *Michoacán*, *Yucatán* and *Zacatecas* criminal penalties for femicide cases under these circumstances vary between 3 months to 5 years of imprisonment. Paradoxically, in some of these states stealing a cow can merit longer imprisonment than killing a woman.¹⁰⁵

Despite the derogation of some discriminatory legislation, the persistence of discriminatory criminal codes and jurisprudence remains a key challenge.

Table 6.1. Amendments and discriminatory laws in cases of femicide

State	Amendments incorporating the crime of femicide in local laws	Extenuating circumstances in homicide cases included in local criminal codes	
		“honour”/”infidelity”	“violent emotion”
Baja California Sur	No	Yes	-
Campeche	No	-	Yes
Coahuila	No	-	Yes
Colima	Yes	-	-
Chiapas	Yes	Yes	-
Federal District (Mexico City)	Yes	-	Yes
Guanajuato	Yes	-	-
Guerrero	Yes	-	-
Jalisco	No	Yes	-
Mexico (State of)	Yes	-	-

¹⁰⁵ Paula Chouza, “Feminicidio por honor”, *El País* (6 March 2012). Available at: http://sociedad.elpais.com/sociedad/2012/03/05/actualidad/1330981386_402961.html

Michoacán	No	Yes	-
Morelos	Yes	-	Yes
Nayarit	No	-	-
Nuevo León	No	-	Yes
Puebla	No	-	Yes
Querétaro	No	-	Yes
San Luis Potosí	Yes	-	
Sinaloa	Yes	-	Yes
Tabasco	Yes	-	Yes
Tamaulipas	✓	-	-
Yucatán	No	Yes	-
Veracruz	Yes	-	-
Zacatecas	No	Yes	-
<i>Federal Criminal code</i>	Yes	-	-

VII. DISAPPEARANCES OF WOMEN AND GIRLS

This section addresses certain aspects of the 9th issue on the *List of issues*. In that regard, the Mexican State has failed to comply with its obligation under CEDAW Article 2 (b), (c), (d), (e), (f) and Article 6, as one of the problems that has been identified by the OCNF in the context of the current public security strategy launched to combat drug-trafficking and organized crime is a heightened incidence of disappearances¹⁰⁶ of women and girls, particularly due to the fact that Mexico is source, transit, and destination country for human trafficking. This constitutes an additional factor, which has a significant impact on the incidence of disappearances. The highest rate of disappearances of women and girls in Mexico is found among victims between 10 and 17 years of age.

Currently, there is no official assessment of the disappearances of women and girls in Mexico. As such, even when the Senate passed the Law on the National Registry of Disappeared Children, Teenagers and Adults in March 2012, thereby establishing a database to facilitate the

search for disappeared people, at the time of writing this report the government had not yet created a comprehensive, reliable and objective registry that includes data on disappearances in the whole country. In addition, it is noteworthy that in many states the disappearance of women and girls does not constitute a crime in its own right, even when

[e]nforced disappearance has been an autonomous offence in the Federal Criminal Code since 2001 and in the criminal legislation of the following eight states: Aguascalientes, Chiapas, Chihuahua, Durango, Federal District, Guerrero, Nayarit and Oaxaca. The Federal Criminal Code and the legislation of the states, which have classified enforced disappearance as an offence, do not use the same definition[.] The majority refer merely to acts committed by public officials and exclude the possibility that enforced disappearances may be perpetrated by organized groups or individuals acting on behalf of the Government or with its direct or indirect support, authorization or acquiescence. Penalties vary according to the jurisdiction, and are not necessarily proportionate to the seriousness of the offence when compared with that of other offences such as abduction. The legislation of the majority of states (Federal District, Chiapas, Durango and Chihuahua) does not include a statute of limitations. In 2004, the Supreme Court decreed that the statute of limitations in an enforced disappearance case would begin to run from when the victim appeared, alive or dead, or when his or her fate was determined.

14. The inconsistencies between the definition of the offence of enforced disappearance [...], as well as the fact that the majority of the states have not classified it as an autonomous offence, contribute to impunity. The fact that 24 states have not criminalized the offence is worrying. In these states, enforced disappearances are treated like abuse of authority, unlawful aggravated deprivation of liberty, abuse of public authority, offence against justice, unlawful detention, abduction or a combination of these offences. However, either such offences do not have the necessary scope to encompass enforced disappearances or the severity of the penalty is inappropriate. The Executive's proposal in 2010 to amend the offence of enforced disappearance on a federal level in order to bring it into line with international standards is awaiting approval in the Congress of the Union.¹⁰⁷

The prevailing and common practice of the MPs denying attention to the families of disappeared women and girls who attempt to report the disappearance as a probable crime, and expect a consequent criminal investigation has been previously highlighted by the CEDAW Committee and by the Inter-American Court and Commission¹⁰⁸. Family members are instead frequently sent to the Support Centre for Missing and Absent People, where they just have the option of filing an administrative report which does not lead to criminal investigation. This generalized practice is especially pernicious in this kind of cases in which it has been demonstrated—for example, in the Cotton Field case¹⁰⁹—that the first 72 hours after the disappearance of a woman or girl are critical to the search.

¹⁰⁷ WGEID, Report of the Working Group on Enforced or Involuntary Disappearances, Mission to Mexico, 20 December 2011, A/HRC/19/58/Add.2, para. 14 and 15.

¹⁰⁸ Report on Mexico under CEDAW article 8 (n 5); and *Cotton Field* (n 8).

¹⁰⁹ *Cotton Field* (n 8).

In that regard, Mexico has violated Article 6 of CEDAW, as the worsening of the security situation and the refusal by the authorities to link the disappearances of women to the drug cartels and organized crime, which in many cases are linked to human trafficking networks, is preventing Mexico from “tak[ing] measures to suppress all forms of traffic in women and exploitation of the prostitution of women.”¹¹⁰

To document the situation of disappeared women and girls, the OCNF has obtained information on 9 out of 32 states, where between January 2010 and June 2011, 3,149 women have disappeared. It is worth mentioning that in *Chihuahua* alone 249 disappearances were registered between January and March 2011.

In the state of *Nuevo León*, the Prosecutor’s Office¹¹¹ reported a total of 415 cases of disappeared women and girls between January 2010 and June 2011. A number of testimonies by family members of the victims reveal that many of the disappeared women have similar physical features. In addition, the way in which they were disappeared suggests that they could be exploited by prostitution networks and/or in the drug processing and trafficking market in other states. Another example is the state of *Veracruz* where 5,231 disappeared women and girls have been reported between 2000 and 2010, of which only 808 had been found as of August 2011. Unfortunately, the official records do not contain information on whether they were found dead or alive.

Consequently, there is deep concern among the families of the victims and organised civil society regarding disappearances of women and girls, especially considering that most of the cases of disappearances are also linked to the crime of femicide, as many femicide victims were previously deprived of their liberty. Another hypothesis links kidnappings to human trafficking with the aim of sexual exploitation. On this point, two specific characteristics of Mexico must be highlighted: 1) Mexico is a country with important migration routes to the United States from the rest of Latin America, where women are consequently captured by organized crime groups for the purposed of sexual exploitation, and 2) Mexico also has important tourist destinations associated with sexual exploitation.

The CNDH has identified the following states as human trafficking hubs: Baja California, Chiapas, Chihuahua, Guadalajara, Guanajuato, Guerrero, Mexico City, Puebla, Querétaro, Quintana Roo, Sonora, the State of México, Tamaulipas, Tlaxcala and Veracruz.

To date, the lack of a specialized protocol for the search and investigation of cases of disappeared women remains a key obstacle. Moreover, the application of very harmful practices still prevail, such as:

- Failure to immediately initiate the search for disappeared women, even in light of evidence that an efficient response by the authorities during the first 72 hours of the disappearance are fundamental to prevent other closely linked crimes perpetrated against the victims such as femicide and sexual exploitation.

¹¹⁰ *General Recommendation 19* (n 4) para. 13.

¹¹¹ Answers to the requests of information submitted by the OCNF. Requests number 00015311, 001138811, 00121411. Available at: <http://sg.nl.gob.mx/infomex/>

- The lack of coordination between the prosecutorial and public security authorities.
- The inexistence of public, official and coordinated records, that determine the places, circumstances and modus operandi of disappearance cases.

Finally, SEGOB has yet to publish the Comprehensive Program to Prevent, Address, Punish and Eradicate Violence against Women and the results of the first-ever national assessment of the kinds and modalities of violence against women and girls in the country, even when both are established by law as a on-going tasks of this institution.

VIII. RECOMMENDATIONS

In order to address the issue of violence against women, including structural violence and femicide, under the obligations of the CEDAW Convention, the Mexican government should implement the following recommendations:

The executive branch should:

- Review and modify its current strategy of combat against organized crime groups and drug-trafficking cartels, substituting it for a comprehensive strategy that addresses the endemic causes that have allowed organized crime to flourish, namely poverty, unemployment and lack of educational opportunities. This strategy must be designed and implemented from a gender perspective, thereby allowing for the establishment of necessary actions to reverse the negative impact on women. In addition, it is necessary to establish strategies to effectively combat money laundering and arms trafficking
- Guarantee respect for the federal Constitution in the context of the fight against organized crime, and if necessary, standardize the status of the suspension of constitutional guarantees under Article 29 of the Constitution, determining the objective and justified limitations, so as to avoid the continuation of a *de facto* state of emergency
- Establish a strategy to stop the participation of the military in law enforcement tasks and take measures to guarantee respect for the Constitution as well as international human rights standards while the military continues to be engaged in these activities
- Abolish the practice of applying military jurisdiction in cases of violations of women's human rights perpetrated by military personnel
- Ensure that all members of the military and police forces receive adequate training on human rights and gender issues
- Ensure that all members of the military and police forces will be adequately and effectively investigated, prosecuted and punished when they commit any human rights violations or other crimes, including engaging in corrupt practices
- Strengthen and purge the prosecutorial system to ensure its effective functioning

The National Commission to Prevent and Eradicate Violence against Women should:

- Reform the LGAMVLV to facilitate the implementation of the AVG. This reform shall include the participation of NGOs which have solicited the activation of the *Gender Violence Alert*.
- Emit the *Gender Violence Alert* along with its established provisions, based on sound assessments on VAW prevalence in the states.
- Fully implement the BANAVIM database, publishing reliable statistics in order to monitor the patterns of femicide across the territory and promote effective policies to address the problem

The legislative branch should:

- At federal level, fully implement the recent reform to legally recognize femicide as a crime and mandate the creation of investigation protocols in accordance with international standards of investigation and reparation for the victims and their families
- Local legislatures that have not yet legally defined femicide as a crime should amend their criminal laws and investigation protocols with gender and intercultural perspectives, according to the international standards on these issues.
- Local legislatures that have already defined femicide as a crime should revise their investigation protocols to incorporate a gender perspective, including sanctions for public servants who commit discrimination against women either by action or omission.
- Fully enact the law protecting human rights defenders in order to create protocols for rapid response action to protect lawyers, activists, relatives and other stakeholders seeking justice in cases of femicides
- Undertake a comprehensive review of criminal codes at the federal and local levels, and eliminate provisions that direct or indirectly discriminate against women.

The judicial branch should:

- Develop progressive jurisprudence, which halts the application of archaic discriminatory judicial precedents, which include criteria such as the extenuating circumstances in cases of femicide for “honour/infidelity killings” or “violent emotions”
- Strengthen the practice of trying military personnel in civil courts in cases of violations of women’s human rights, in accordance with the Mexican Constitution and the ruling by the Mexican Supreme Court of Justice on the *Rosendo Radilla case*
- Apply the respective sanctions to all public servants incurring in the direct commission of femicides or in acts of discrimination, and promote the administration of justice for the victims and their families
- Construct a database to provide information on the degree of impunity in cases of femicide (cases/sentences for the perpetrator)
- Expand the existing programs for training judicial officials on the gender perspective and international standards of non-discrimination, CEDAW and other relevant instruments on women’s rights

- Strengthen and purge the administration of justice system to ensure its effective functioning

The Public Prosecutor's Offices should:

- Provide transparent information to citizens on the statistics and information on the violent deaths of women
- Give full access to relatives of victims of femicide to information regarding progress in the investigation and, with their consent, provide them with the most updated systems of identification to avoid delays in the identification of victims
- Harmonize protocols for investigation and documentation with a gender perspective and adopt measures to guarantee that Public Prosecutor's officers use them as a framework for all activities
- Ensure that Public Prosecutor's officers have developed a gender and a human rights perspective and have received the proper training for the adequate investigation of crimes perpetrated against women
- Report the homicides of women using the primary variables (sex, age, relation to the perpetrator, place of finding, types of violence perpetrated, occupation of the victim, etc.)

The Army, Navy and Police forces should:

- Guarantee standards to avoid the perpetration of violations of women's human rights in the exercise of their functions
- Provide training on masculinity and violence with special emphasis on VAW and possible alternatives for addressing the problem at the personal-institutional level
- Establish strict guidelines of conduct as well as transparent and adequate measures to report members of its forces to the civil legal system in cases of participation in femicides, and duly punish breaches of those standards

ANNEX 1 MAP OF MEXICO

STATES AND CAPITALS

