

FEMINICIDE: A GLOBAL PHENOMENON FROM MADRID TO SANTIAGO



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Rather than a new form of violence, gender-related killings are the extreme manifestation of existing forms of violence against women. Such killings are not isolated incidents that arise suddenly and unexpectedly, but represent the ultimate act of violence which is experienced in a continuum of violence. Women subjected to continuous violence and living under conditions of gender-based discrimination and threat are always on - death row, always in fear of execution.

Globally, the prevalence of different manifestations of gender-related killings is reaching alarming proportions. Culturally and socially embedded, these manifestations continue to be accepted, tolerated or justified - with impunity as the norm. States' responsibility to act with due diligence in the promotion and protection of women's rights is largely lacking as regards the killing of women.

Rashida Manjoo
United Nations Special Rapporteur on violence against women,
its causes and consequences

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Editorial

Patricia Jiménez / Heinrich-Böll-Stiftung, European Union, Brussels

The 6th Summit of the European Union-Latin American and Caribbean States Summit (May 2010) included a paragraph on gender-based violence in its Final Declaration whereby any type of gender-based violence is strongly condemned.* It is envisaged that the next Summit of the Community of Latin American and Caribbean States and the European Union (CELAC-EU) in Santiago de Chile (January 2013) will decide on the creation of a “Bi-Regional Dialogue on Gender Issues” which will include the fight against gender-based violence.

The purpose of this publication, the third in the series “Femicide: A Global Phenomenon”, is to identify the content to be included in this new space for bi-regional dialogue on gender issues with regard to violence against women and the importance of the participation of defenders of women’s rights in this area.

Taken from articles written by prominent defenders of women’s rights, academicians and representatives of civil society, this third publication focuses mainly on legal aspects and legislation. It aims to make headway in the debate on the need for effective legal frameworks, as well as in other related issues such as statistical records and action protocols, not forgetting the need for comprehensive government policies to eradicate violence against women. These are numerous challenges that require a firm commitment from the states, from the EU and CELAC, just as civil society demands.

The novelty of this third publication is that in addition to articles on Latin American countries such as Guatemala, Honduras, Mexico, Peru, El Salvador, Argentina, Bolivia and Chile, it also includes articles on European countries like Italy and Spain, highlighting the magnitude and global nature of this phenomenon. Organisations from both continents have therefore joined forces to request an effective, efficient response to this serious violation of human rights: violence against women and its most extreme manifestation, femicide or femicide.

Since the translation of the term “*femicide*” from English to Spanish, the terms femicide and femicide have been used interchangeably to refer to the same phenomenon, i.e. the death of women on account of their gender or simply because they were women. The articles in this publication reflect the interchangeable use of the terms “femicide” and “femicide” according to their use in the different countries.

* http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/es/er/114536.pdf

I. Violence against women and femicide/feminicide at global level and in Latin America. Recurring figures that challenge States

Patsilí Toledo Vázquez / PhD in Public Law / Autonomous University of Barcelona

In 2011, the United Nations Office on Drugs and Crime (UNODC) presented a *Global Study on Homicide*.¹ This study contains statistical information related to this crime at a global level. The findings demonstrate a decrease in homicides at global level in the last few decades, but they indicate an increase in the proportion of female victims of homicides. While they still represent a minority of total homicides, women are the main victims of domestic or intimate partner violence, crimes which are not decreasing over time. As indicated by the UNODC,

“(...) this implies that, in contexts of decreasing overall homicide levels, the share of men among all homicide victims gradually decreases over time, while the share of female victims goes up. (UNODC, 2011: 59-60).”

This increase has been recognised recently by Rashida Manjoo, UN Special Rapporteur on Violence against Women.² In Europe, countries like Spain, which have implemented significant reforms to respond to gender-based violence at state level, have failed to reduce the number of female homicides, and in countries like Italy, information from civil society organisations also shows an increase in these types of homicides in recent years.

In Latin America, gender-based female homicides have been reported by the women's movement as *femicides/feminicides* for nearly twenty years. These crimes, however, **are not only committed by women's intimate partners or former partners. They are also committed by persons unknown to them, frequently involving sexual assault or abuse. Furthermore, these crimes are increasing in the current context of armed violence** which affects several countries in the region.

Some countries in Central America have experienced an increase in the number of female homicides three times higher than the increase in the number of male homicides, a rise that is directly related to the current contexts and dynamics in part of the region, which are characterised by the **presence of mafias and criminal networks involved in drug and people trafficking, etc. as well as barely functioning legal systems.**³ The situation is similar in some regions of Mexico, where there are currently as many female homicides in one year as there used to be over a decade.⁴

In response to this situation and to global reporting on femicide/feminicide, various Latin American countries have **typified femicide/feminicide as a criminal offence since 2007 in order to apply specific sanctions to gender-based murders of women**, crimes similar to

1 United Nations Office on Drugs and Crime (UNODC) (2011), *Global Study on Homicide 2011. Trends, contexts, data*.

2 United Nations Human Rights Council (UNHRC) (2012). Report of the UN Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo. Addendum: *Summary report on the expert group meeting on gender-motivated killings of women*, 16 May 2012, A/HRC/20/16/Add.4.

3 Carcedo, Ana (coord.) (2010), *We will not forget nor will we accept: Femicide in Central America 2000-2006*, San José, Costa Rica. Feminist information and action centre (CEFEMINA).

4 Centre for Women's Human Rights in Chihuahua (2012), *Posicionamiento de las organizaciones de derechos humanos del país frente a las graves violaciones de derechos humanos en el Estado de Chihuahua*. [Positioning of the country's human rights organisations with regard to grave human rights violations committed in the state of Chihuahua]. 25 March 2012.

hate crimes, because they are caused by discrimination against women. Nine Latin American countries (Costa Rica, Guatemala, Colombia, Chile, El Salvador, Peru, Nicaragua, Mexico and Argentina⁵) have currently listed it as a crime, as have more than fifteen federal entities of Mexico. Other countries such as Honduras, Bolivia and Panama are also in the process of parliamentary discussion.

These laws constitute a step forward in recognising the seriousness and particular characteristics of violence against women, but **just adopting these laws does not guarantee that the government policies necessary to prevent and eradicate this phenomenon will be implemented**. Some laws – as in the case of Chile, Peru and various federal entities of Mexico – are only isolated penal provisions, which introduce a new crime without contemplating prevention measures or government policies to help to investigate, punish and eradicate this phenomenon. As they are criminal laws, they are far less costly for the State than the resources that some countries need to invest in order to address the structural problems of the judicial system which lead to impunity of femicide and other crimes, including changes in criminal procedures, and investigation and punishment of those responsible for corruption and negligence, etc.

Furthermore, even though the laws that classify femicide as a criminal offence are popular from a media and political point of view, they are often very controversial and meet strong opposition particularly from the legal sphere. This can be noted from the fact that the laws adopted vary from one country to another (so a femicide/feminicide case in one country may not be considered as such in another), as well as from the various problems and obstacles to implement them, so

that in some cases their application is practically non-existent. Similarly, while historically feminist movements have emphasised the responsibility of States for the impunity prevalent in many femicide cases, **the laws adopted have removed all references to the State's responsibility in investigating and sanctioning these crimes**.

While the new laws that classify femicide/feminicide as a criminal offence may help, if applied properly, to reduce impunity which is an additional problem in several countries in the region, to achieve this it is essential – as indicated in the “Cotton Field” judgment⁶ – **to address the structural problems of the justice system, such as the negligent actions of police and judicial bodies** involved in the investigation, and these aspects are not resolved solely by classifying femicide as a criminal offence.

Furthermore, the different femicide/feminicide criminal offence types in the region do not facilitate statistical recording and it is impossible to make comparisons in many cases. For example, according to the laws of Chile, Peru and Costa Rica, female homicides involving sexual assault committed by persons unknown to them do not constitute femicide. This obviously means that the records vary substantially from one country to another.

Therefore, despite the fact that femicide/feminicide is classified as a crime, it is now necessary to insist on **the need for these cases to be recorded properly**, for two main reasons.⁷ Firstly, because the recording of female homicides **is the only data that can be used for comparing with other countries, as it is based on an objective fact** (death) and on one of the crimes (homicide, in its various forms) with the lowest dark figure or underreporting rate at the comparative level. The measuring of these hom-

5 In Argentina and Columbia, the laws do not mention the words “femicide” or “feminicide”. However, they punish gender-based crimes against women separately, as aggravated murder.

6 Inter-American Court of Human Rights, *Case of González et al. v. Mexico*. (“Cotton Field”) Judgment of 16 November 2009.

7 As underlined by various Latin American Women's organisations in the Regional Hearing on “Feminicide in Latin America” before the Inter-American Commission on Human Rights, March 2006.



icides is a **clear indicator of the rate of violence against women in different countries**, because it is more objective than other measuring instruments such as surveys or allegations.

And secondly, because information on female homicides allows for **the development of suitable prevention policies**. Femicides/feminicides that have occurred are cases where this violence has not been prevented, and as a result, they show the weak points in both the social policies and judicial assistance of the cases. Statistical records also help to identify which types of femicide/feminicide are most prevalent in a country or region, and therefore help to **implement adequate prevention policies that correspond to the real situation of each place**.

In this regard, it is important to consider that real situations of violence vary from one country to the other, and this is also reflected in violence against women and femicide/feminicide. In countries like Chile and Argentina, for example, these crimes bear more similarity to those found in other countries around the world, as the majority of gender-based female homicides are committed by their intimate partners or former partners. The prevention policies for femicide in these cases are obviously very different to those prevention policies for crimes committed within contexts of high violence and organised crime rates, as occurs in certain parts of Central America and Mexico. In these countries, where armed violence has increased in recent years due to an increase in organised crime and the war on drugs, femicide/feminicide rates rise because of the increased availability of and access to arms. **As with other armed conflicts, cruelty against women has symbolic connotations within armed groups** who show no mercy for women's bodies, and violence to women is also used as a way for them to send warnings or to settle scores with their male partners. In these cases, the high violence and organised crime rates also contribute to an inad-

equate response from justice systems resulting in impunity in many cases.

In these regions, suitable policies to prevent and reduce femicides/feminicides have to consider these contexts, recognising that drug trafficking has generated an increasingly more generalised type of violence and that as a result, halting the increase in violence against women over much of the continent requires an urgent review of the policies for prohibiting the drug trade, as recently stated by more than one hundred women's organisations in Latin America.⁸

Consequently, a decrease in the number of gender-based female homicides requires the **implementation of public policies that address the diversity of the real situations in which these crimes are committed**, taking into consideration that diversity exists throughout Latin America but that there are also regions or groups of countries that face similar problems. In this way, international coordination can actually favour **common strategies for countries facing similar phenomena**, such as organised crime in

Central America or crimes related to violence carried out by intimate partners or former partners in both Latin America and Europe.

There is currently an **international legal framework** that promotes this coordination, considering that for over a decade Latin America has had the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), and the recent establishment of the European Convention on Combating Violence against Women and its Prevention in Europe.

It is essential that States take on the figures of femicide/feminicide as a political responsibility, as Latin American feminist organisations have shown them in recent years, and they should be as committed to reducing these figures as they are to decreasing infant mortality and malnutrition. However, the figures do not only indicate a serious public health problem. They are also a sign of the persistence and seriousness of discrimination against women in our societies.

8 As indicated in the document "Review of the current anti-drug policy: a priority to reduce violence against women in the Americas. Communication to the Sixth Summit of the Americas", April 2012, signed by dozens of organisations from various Latin American countries. Available at http://www.pazconmujeres.org/pagina.php?p_a=2&de_bus=s&id=5c156512426983cbc8c7139f8c843e69&az=prd#pl2

II. Femicide/feminicide in Latin America

1. CHILE

VIOLENCE AGAINST WOMEN, A CONTINUUM THAT CAN END IN DEATH

Soledad Rojas Bravo / National
Coordinator / Chilean Network against
Violence towards Women

Femicide situation in the country

Violence towards women is a scourge of great magnitude that violates human rights and results in poor quality of life for women, in some cases leading to death.

In Chile, the institutional response so far has been insufficient. One of the main shortcomings is a **lack of comprehensive understanding that considers this particular violence to be a form of extreme discrimination and abuse of power**, which in one form or another affects women everywhere as a continuum of violence **from childhood through to adulthood**. Women are victims in both the public sphere as well as in their private and intimate relationships.

This failure to understand the problem results in limited legislation and public policies which, with no links established between its various forms, **address violence towards women with a partial or piecemeal approach**. This instils a distorted notion of the problem in the social imaginary, which **prevents any significant influence on the power structures that make them possible, thereby slowing down the cultural changes required to eradicate it**. The Law against Intra-Family Violence (Law No. 20066), enacted in 2005, is a clear example of this. According to figures of the Ministry of Home Affairs, 102,309

Intra-Family Violence allegations were made in 2006 while 155,113 were made in 2011. About 80% of them were assaults on women, a proportion that has remained constant throughout recent years. Additionally, **the sexual harassment that young people in particular experience every day on the street, on public transport and/or in educational centres is not penalised**, with the exception of harassment in the workplace, considered to be a minor offence in the labour code without criminal sanction.

Other forms of violence against women continue to be invisible because they are named in "neutral" terms, especially those called "sex crimes against minors". 81% of sexually abused young children are girls while 96% of the sexual abusers are men. We have made this type of violence visible through the **"¡Cuidado! El machismo mata" (Beware! Sexism kills)** campaign of the Chilean Network against Violence towards Women.

Legislative and Institutional Framework: Advances and Challenges

The enactment of the Law on Femicide in December de 2010 constitutes an advance in the sense that it **demonstrates the orientation of these crimes: the victims are women**. Nevertheless, and in accordance with the restricted definition of violence against women which determines legislation and public policies, **the law reduces these murders to the family sphere - intimate partners or former partners - excluding frequent situations where women and girls are raped and killed by their boyfriends, ex-boyfriends, clients, relatives or persons unknown to them**.

While the number of cases recorded in the last two years has fallen, there have been no studies carried out to find out more about the causes and consequences of violence towards women and femicide as its most extreme manifesta-



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tion. Furthermore, **no significant information has been established when developing public policies of prevention or reparation** for women who commit suicide because they can no longer bear the constant violence from their partners, or in cases where women kill the abusers in self-defence when their own life is at risk.

The interim measures that the public prosecutor's office provides to women who are at risk, i.e. a restraining order against the abuser, **are not always complied with and the responsibility to protect the woman ends up falling on the woman herself.** The 24 shelters available for women whose lives are at serious risk have taken in 1,168 women for stays of up to three months since 2007. There are no associated programmes that guarantee material conditions for independent living after women leave the shelter, so some are obliged to go back and live with their abusers.

In Chile, there are 91 Women's Centres distributed all over the country which provide legal and psychosocial services. They are evaluated according to management goals, i.e. the number of services provided, without giving much priority to the qualitative results of the service and support process to the women.

Recommendations

Women's organisations and particularly the Chilean Network against Violence towards Women have reported the **lack of a national public policy to eradicate violence towards women**, which under a comprehensive understanding of the problem, **should effectively coordinate policies for its prevention, punishment and eradication** in the framework of the agreements signed by the State of Chile in the Inter-American Convention of Belem do Pará. **It cannot just be seen as a problem of crime in legal and criminal terms, but also as a cultural problem that requires promotional policies in the areas of education and the media** for it to be eradicated once and for all.

In a meeting in October 2012, the Committee of the United Nations on the Elimination of Discrimination against Women (CEDAW) **supported the critical aspects presented by women's civil society organisations** and recommended that the State of Chile, amongst other measures, should amend the Law against Intra-Family Violence **to define domestic violence as a criminal offence**, the same as sexual harassment, **to recognise non-domestic femicide** and to adopt **measures against sexual violence.**

The CEDAW Committee also recommended the **implementation of a data collection system for all forms of violence against women, including the number of court cases, the number of convictions, as well as sentences and disciplinary actions handed down in cases of violence by State agents.** All these are measures that if established would considerably reduce existing levels of impunity.

2. HONDURAS

WHERE ARE WOMEN ON THE SECURITY AGENDA?

Mirta Kennedy / Centre for Women's Studies

Femicide situation in the country

In the context of Central America, Honduras stands out as one of the countries with the highest risk of femicide, where insecurity, an increase in crime and political violence expose women to public violence, while at the same time there are still high rates of violence against women in the private sphere. Partner violence is the most reported crime against persons at national level.

On an upward climb compared with the previous year, the rate of femicide reached 11.1% in 2011,⁹ **exceeding the epidemic rate established by the World Health Organization** (10.0 x 100,000). According to data of the Special Public Prosecutor's Office for Women, 1791 cases of femicide were recorded between 2008 and 2011 (452 violent deaths of women in 2011). The most frequent victims were young women between 16 and 30 years of age and the primary instrument of assault was a firearm. In the first half of 2012, according to the media monitoring of the Centre for Women's Studies-Honduras, there were at least 200 cases of femicide,¹⁰ continuing the growing trend of the last decade. **The State continues to ensure impunity** in the face of the escalating number of femicides, **due to the lack of effective measures to stop the violent deaths of women and to punish the perpetrators.**

Legislative and Institutional Framework: Advances and Challenges

In 2008, as a response to the demand of the Inter-institutional Commission on Femicide and as a result of strong social pressure from the women's movement, **seven Investigation Units for Crimes against Women were set up** under the Public Prosecutor's Office, making it possible to open new investigations on the numerous unsolved cases that had accumulated. This was not, however, a sustainable achievement because **the specialised units have been reassigned to common crimes over time** as a result of an internal reorganisation of the Directorate of Public Prosecutors, leaving the investigation of femicides uncovered.

This measure is a regression for the application of justice and it favours impunity, as it directs more material and technical resources to economic crimes than to crimes against women's lives. **In San Pedro Sula**, the second largest urban centre in the country and **where 1 out of every 4 femicides occur, the Public Prosecutor's Office only has 2 assigned investigators.** In 2010, the judicial system admitted 228 cases of violent deaths of women and handed down 65 sentences (28.5% of the cases). In 2011, they admitted 126 cases and handed down 32 convictions (25.2%).¹¹

The Second Gender Equality and Equity Plan that came into force in 2009, under the Key Area of the Right to Peace and a Life Free of Violence, establishes a set of strategic goals and measures for the action of the State regarding the prevention, treatment and punishment of violence against women. However, these measures have still not been implemented. In fact, the actions that have been carried out in this field, coordinated by the National Women's Institute with the support of international cooperation, are limited to carrying out projects in specific areas, such as

⁹ Martínez, Suyapa, Report on the Femicide situation in Honduras: media monitoring data, CEM-H, Tegucigalpa, Honduras, July 2012.

¹⁰ Ibid.

¹¹ Data from the Women's Public Prosecutor's Office, Honduras.



the promotion of a national network of women's shelters, the creation of a diploma course for civil servants on violence against women, and the start of the design of the Second National Plan against Violence towards Women – the first Plan ended in 2008 – without the involvement of women's organisations.

In terms of public policy, **the National Security Plan lacks specific measures for the prevention and treatment of violence against women and femicide**. Despite the fact that women are in the majority, representing more than half the population, the matter of the protection and security of women is not a priority and the problem disappears from the security agenda in the country.

Main Challenges

A comprehensive policy to prevent violence against women is still lacking. Feminist and women's organisations demand more effective measures to prevent and stop the escalation of femicide cases and impunity regarding them. This includes improving the **existing records of**

murdered women, as well as the reports of **missing women**.

Recommendations

Our recommendations include to:

- a) Maintain and reinforce the Investigation Units of Crimes against Women, **incorporating investigation protocols and training** for staff;
- b) Create and reinforce measures for the **protection of victims and witnesses and for compensation to surviving victims and their families**;
- c) Draw up **"risk maps"** in the cities that have the highest rates of femicide, such as the Central District, San Pedro Sula and La Ceiba to guide urban improvement and preventative actions which help to lower risks for women, e.g. more street lighting, getting rid of wasteland, extending transport routes and stepping up security;
- d) Develop social rehabilitation programmes aimed at the "maras" (criminal gangs) and urban gangs; and
- e) Reinforce prevention on the activities and influence of organised crime in urban communities which register the highest rates of violent deaths of women.

We also await more convincing and effective responses related to the purging of the Police Force, an institution that the population, particularly female, has little trust in due to the high levels of reported corruption.

One of the greatest demands that we hope to achieve in the short term is **the criminalisation of femicide**, following on from the legal reform proposal made jointly by some of the women's organisations that have had most influence on the matter such as the Women's Rights Centre (CDM), the Centre for Women's Studies-Honduras (CEM-H) and the Women for Life Forum, together with the Human Rights Secretariat and the participation of the Special Public Prosecutor's Office for Women. In order to do so, it has been proposed to **reform the Criminal Code** through the addition of crimes against life and bodily integrity, **incorporating the classification of femicide as a criminal offence**. This crime will be applied to anybody who intentionally murders a woman for gender-based motives, with offence and contempt for the condition of being a woman; taking advantage of any risk factor or vulnerability, including age, disability and others; or with cruelty, such as violent deaths of women related to partner violence and violence within the family; to sexual violence, including trafficking and sexual exploitation; when the motive is revenge, to send warnings to third parties; or has been preceded by bullying, harassment or persecution of any nature, including other aggravating circumstances.



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3. MEXICO

LEGISLATIVE ADVANCES: AN END TO IMPUNITY?

**Dr. María Guadalupe Ramos Ponce /
CLADEM, Latin American and
Caribbean Committee for the Defence
of Women's Rights**

Femicide situation in the country

In Mexico, violence and extreme violence against women are daily occurrences, the severest example of this being murder, as demonstrated by the paradigmatic case of Ciudad Juárez. This violence, which takes place every day in different ways and in all spheres, **constitutes the most visible manifestation of gender-based inequality and discrimination**, and is therefore **a violation of the fundamental human rights** of women: the right to life, security, personal integrity, liberty and dignity itself. The violence carried out against women in Mexico **makes it impossible for them to enjoy these rights and liberties that would allow access to equality**.

During the 52nd Session of the CEDAW Committee of the United Nations in New York, women's organisations informed that femicide in Mexico had increased by 68% at national level between 2007 and 2009. According to information provided by the National Citizens' Observatory on Femicide (OCNF),¹² **1,235 women were victims of alleged femicide from January 2010 to June 2011 in eight states of the Republic**. It is important to highlight that according to the number of women murdered in the states included in this analysis (2010-2011), in some cases there has been a major increase, or the average number of femicide victims has been maintained when compared with the figures presented in the previous report of the OCNF (2009-2010).

12 A look at Femicide in Mexico. National Citizens' Observatory on Femicide, 2011.

A major aspect of the social and political situation in Mexico which affects the life of women is insecurity, which is manifested in two ways: the insecurity that the population experiences on a daily basis affected by the increase in crime, and the rise in drug trafficking. As stated by Professor Raúl Benítez from the National Autonomous University of Mexico, this manifests itself daily in increased violence, concentrated in the confrontations between criminal organisations and groups, and between these groups and the security forces.¹³

Legislative and Institutional Framework: Advances and Challenges

In the last two years, there have been legislative advances in Mexico to classify femicide as a criminal offence. 16 states¹⁴ have reformed various legal systems, including criminal codes to classify femicide as a criminal offence in different ways. Another advance was the classification of femicide as a criminal offence at federal level in April 2012.¹⁵

While the classification of femicide as a criminal offence can be considered to be a legislative advance, the reality is that attempts to reduce impunity have faced various obstacles. Some of the main **obstacles** are: a **lack of protocols** for action, investigation and punishment with a gender perspective, a **lack of judicial harmonisation at state level** in relation to the General Law for Women's Access to a Life Free of Violence, and a **lack of public policies for the prevention, treatment and punishment of violence against women**.

Activists have already spoken out about the **state classifications** that were not carried out correctly, as they **did not consider reforms to other regulations** that would allow for investigation pro-



ocols to be implemented or statistical information to be generated. Furthermore, they indicated in their *shadow reports* that protocols guaranteeing adequate investigation and with a gender perspective are lacking. They also observed that some **state criminal codes – where femicide is not classified as a criminal offence – continue to take circumstances such as “jealousy and infidelity” into account which tends to justify and minimise the punishment for female homicides**.

In accordance with the report of the 2011 National Citizens' Observatory on Femicide, 32 of the Republic's entities have a Law for Women's Access to a Life Free of Violence, and 6 regulations still need to be published.¹⁶

These regulatory mechanisms basically have two elements: on one hand, models to treat, prevent and punish violence against women and, on the other hand, protection orders. Unfortunately,

13 Benítez Manaut, R., La crisis de seguridad en México (Security Crisis in Mexico), Revista Nueva Sociedad magazine, No. 220, March-April 2009, www.nuso.org

14 Guerrero, State of Mexico, Sinaloa, Chiapas, Colima, Federal District, Durango, Guanajuato, San Luis Potosí, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Oaxaca and Jalisco.

15 The Congress stipulated in Article 325 of the Federal Criminal Code the crime of femicide with prison sentences of between 40 and 60 years for the perpetrators, as well as sanctions for public servants who delay or obstruct the investigation or the application of justice.

16 Campeche, Durango, Guanajuato, Querétaro, Tamaulipas and Zacatecas.

the implementation process has been practically non-existent so far and permeated by various situations which affect the life and security of women. One of the biggest challenges facing us is the **lack of precautionary and interim measures implemented**, such as protection orders,¹⁷ considered to be acts that require urgent implementation to serve the interest of abused women, which to date continue to reveal serious deficiencies. The majority of **the states have not established the authority responsible for issuing protection orders**, which means that between law enforcement and the administration of justice, no one takes responsibility for their application. The authorities do not disseminate this mechanism and there are no assessment criteria of imminent risk, which means that it is **left to the discretion of each civil servant to decide whether or not a woman's life is at risk**.

Recommendations

The latest recommendations of the CEDAW Committee to the Mexican State with regard to the **impact of the security crisis on women and gender-based violence, among which are femicide and forced disappearances**, include three fundamental concerns that were presented in the *shadow reports* of civic organisations. These are: the failure to implement the fundamental provisions of the General Law for Women's Access to a Life Free of Violence, the alarming increase

in feminicides in the country and the growing number of forced disappearances of women and girls in various states of the Republic.

The Committee recommended that priority attention be given to ensuring **the full application of this Law through the National System to Prevent, Treat, Punish and Eradicate Violence against Women, together with the National Data and Information Bank on Cases of Violence against Women** with the participation of the 32 federal states. It also the Mexican Government to urgently address the impediments restricting **the implementation of the Gender Alert Mechanism**.

The Committee also recommended taking the necessary measures to guarantee that the classification of femicide as a criminal offence is based on objective elements so that it can be properly introduced into the local criminal codes, it facilitates its classification as a criminal offence in pending local criminal codes, the protocols of police investigations into feminicides are standardised in the country, and any progress made in investigations is communicated to the victims' families immediately.

In some states, the advance in the process to **classify femicide as a criminal offence has become the culmination of a process itself, justifying the exemption of institutional responsibilities** to protect the human rights of women later on. This is because of **classification based on subjective elements that are difficult to accredit, control and standardise, preventing this type of murder from being investigated systematically**, thereby contributing to the deep-rooted invisibility of this problem.

The above-mentioned increase in femicide cases shows that despite the advances in the legislative framework for protecting women, the situation of violence against women has worsened.



17 Article 27, General Law for Women's Access to a Life Free of Violence (Mexico).

4. PERU

ADVANCES AND CHALLENGES

Liz Meléndez / FLORA TRISTÁN
Peruvian Women's Centre

Femicide situation in the country

Femicide, defined as a crime that affects women because they are women, is carried out by perpetrators who aim to dominate, control and deny the empowerment of women as people with rights through the use of violence. In Peru, studies on the matter were initiated by feminist

organisations.¹⁸ Their conclusions and data¹⁹ were presented on a regular basis to the authorities, which helped to put this issue on the public and political agenda. In 2009, the first public policies giving visibility and aiming to prevent femicide in Peru began to be adopted.²⁰

Nowadays, the country has official statistics that illustrate the size of the problem. According to the Public Prosecutor's Office, 283 feminicides were recorded between 2009 and 2010, and 48 were perpetrated between January and July 2011. About 70% of these crimes were carried out by the women's intimate partners. Likewise, the Ministry of Women and Vulnerable Populations (MIMP) regularly reports on the cases presented and the results can be seen in the following table:

Ministry of Women and Social Development – Femicide figures between January 2009 and August 2012				
Year	2009	2010	2011	October 2012
Total of femicide victims	139	121	93	63
Victims of intimate femicide	95	92	68	54
Victims of non-intimate femicide	44	29	25	9
Attempted femicide	64	47	66	76
Age of victims	54% of the victims were between 18 and 35 years of age	57% of the victims were between 18 and 35 years of age	59% of the victims were between 18 and 35 years of age	
Relationship with the alleged perpetrator	58.9% of femicide cases were allegedly committed by the partner or former partner	67.8% of femicide cases were allegedly committed by the partner or former partner	73% of victims were abused mainly by husbands, ex-husbands, cohabitants, ex-cohabitants or another intimate partner	87% of femicide cases were committed by the victim's partner or former partner

Source: Compiled by author

18 The Flora Tristán Peruvian Women's Centre and DEMUS were the organisations that initiated the study of this matter in the country.

19 The database of the Flora Tristán Peruvian Women's Centre reported the murder of 547 women for gender-based motives and 362 murder attacks between 2004 and 2008 which today have been classified as attempted feminicides.

20 The Public Prosecutor's Office and the Ministry of Women, respectively, published Resolution No. 216-2009-MP-FN, and the Ministerial Resolution No. 110-2009-MIMDES, through which it was approved that there should be separate records for female homicides when the alleged perpetrator is the intimate partner or former partner of the victim or any other person within the scope of the Law of Protection against Family Violence, Law 26260. That same year, the National Plan against Violence towards Women 2009-2015 incorporated guidelines to carry out actions regarding the recording and investigation of violence towards women.

This data demonstrates the prevalence of the crime, particularly in teenagers and young adult women. While the table shows a decrease in the number of cases between 2009 and 2012, there is a brief increase in the number of recorded attempted feminicides. **Femicide is regarded as a constant risk for women** as it is not an isolated event but rather a consequence of the continuum of violence that women live with every day.

Legislative and Institutional Framework: Advances and Challenges

The classification of femicide as a separate criminal offence generated a debate with widely differing points of view. From the reading of the main women's organisations, it was considered that the inclusion of this crime in criminal legislation has and has had several advantages. Firstly, **it enabled the matter to be clearly defined and positioned and thus highlights factors and contexts not traditionally taken**

into account when homicides are investigated and adjudicated. Secondly, it gave the opportunity to **place women as people with the right to protection**, and to make the punishment of gender-based violence an aim in itself. Thirdly, it provided **tools for advocacy** with authorities, which now enables actions to be taken to demand due diligence. Although legislative bills were presented during 2009 and 2010, it wasn't until 2011 that the agenda pending amendment of the Criminal Code opened up the possibility of establishing the debate for classifying femicide as a crime. Nevertheless, there continued to be resistance to create regulations that place women as individuals with rights, as well as the tendency to protect the family environment above the individual right of women to live a life free of violence.

The classification of femicide as a criminal offence is a major advance but it is still not enough, as femicide has not been defined as a separate criminal offence. Instead, it is defined as a variant of parricide. The current enactment



Law 29819 **does not contribute to understand the crime within the framework of gender-based violence**, as it fails to reveal the power relations, misogyny and patriarchal domination that persist in our society. In this respect, the current law **excludes the punishment of femicide perpetrated by people who are not part of the intimate and/or family environment of victims, which means that non-intimate and unrelated femicide cannot be adjudicated or punished under this regulation.**

However, the most recent legislative initiatives may help to close this gap. Under the Day of Non-Violence against Women, 21 November 2012, the Commission of Women of the Congress of the Republic approved a ruling by which **the classification of the crime was extended, putting it into context in different spaces and raising the severity of punishment**, including sentences of life imprisonment if the victim is a minor. This measure incorporates the punishment of other types of femicide that had not been contemplated before, such as crimes committed by persons unknown to the victims or as a consequence of harassment and sexual harassment.

While it is true that the regulations are important advances, matters of concern are constantly being presented by the women's movement, such as the **absence of sustainable policies to prevent violence and femicide, and to eradicate impunity** in these cases.

During a study of 45 prosecution files on crimes defined as intimate femicide, the Office of the Ombudsman found that in 15.6% of the cases, there had been previous reports filed for family violence, and in 82.2% there were statements regarding acts of violence, which were however not necessarily reported. Furthermore, **in 76.7% of the cases, the sentence given was**

below the legal minimum²¹ and the civil damages amounts were insignificant at under US \$400. This data shows a justice system with severe inadequacies and upon which work is needed so that **the classification of the crime is not just a labelling measure, but a real tool for punishment and an impetus to create and implement policies** that may prevent these incidents.

Recommendations

It is necessary to point out that **no one law is the solution in the fight against femicide**, although the fact that it is included in criminal law is a fundamental measure. Unfortunately, **the policies directed at guaranteeing cultural changes are limited**, proof of which is the fact that Strategic Objective No. 3 of the National Plan against Violence towards Women (PNCVHM) 2009-2015 concerning the change in socio-cultural patterns is the least developed in the country.²² The reason for this is that **the policies are constructed and implemented from a treatment perspective**, putting the emphasis on support – which is an important action – but **neglecting the concept of prevention.**

The National Plan against Violence towards Women (PNCVHM) 2009-2015 is the most important management tool for implementing national and regional policies in support of the right to a life without violence. Therefore, this is the framework that must be used for driving policies for the treatment and prevention of femicide. The campaigns contemplated in the Plan against violence must be adapted to women's real situations and prevent the risk posed by the presence of any form of violence against women, together with its prevalence in a male-dominated society.

Considering the importance of dialogue between the regions in Latin America, **a Regional**

21 In these cases, the crimes were adjudicated as aggravated homicide or parricide, crimes punishable with sentences of no less than 15 years according to the current Criminal Code.

22 Scopes of debate and paths to improve the implementation of the National Plan against Violence towards Women, 2009-2015. CLADEM Peru, July 2012.

Plan against Femicide could be an important tool that promotes and urges states to adopt the guidelines laid down in a Regional Plan to national management instruments, pushing for an increase in resources and placing the imminent risk of femicide as a primary concern related to gender violence. Furthermore, the generation of **regional support policies** may be an important measure which, adapted to the contexts, could give clear international guidelines for the treatment and investigation of cases in complete compliance with international human rights treaties.

In conclusion, it is the responsibility of the state to overcome the socio-cultural, economic and political disparities that limit women's access to justice and their right to live without violence. In order to do so, the ongoing recommendations of the women's movement chiefly indicate that:

- a) existing regulations must be improved, placing women as individuals with rights;
- b) it is necessary to transform the resistance and attitudes that give more importance to the family union than to the right to a life without violence;
- c) for which it is essential that a secular State is guaranteed;
- d) the judicial and support systems for victims need to be reformed; and
- e) effective measures must be established to prevent femicide, which means putting an end to all forms of violence against women and working on establishing equal power and democratic relationships.

5. EL SALVADOR

WHAT HAPPENS TO THE WOMEN THAT DISAPPEAR?

Vilma Vaquerano / Observatory on Gender-Based Violence against Women / ORMUSA

Femicide situation in the country

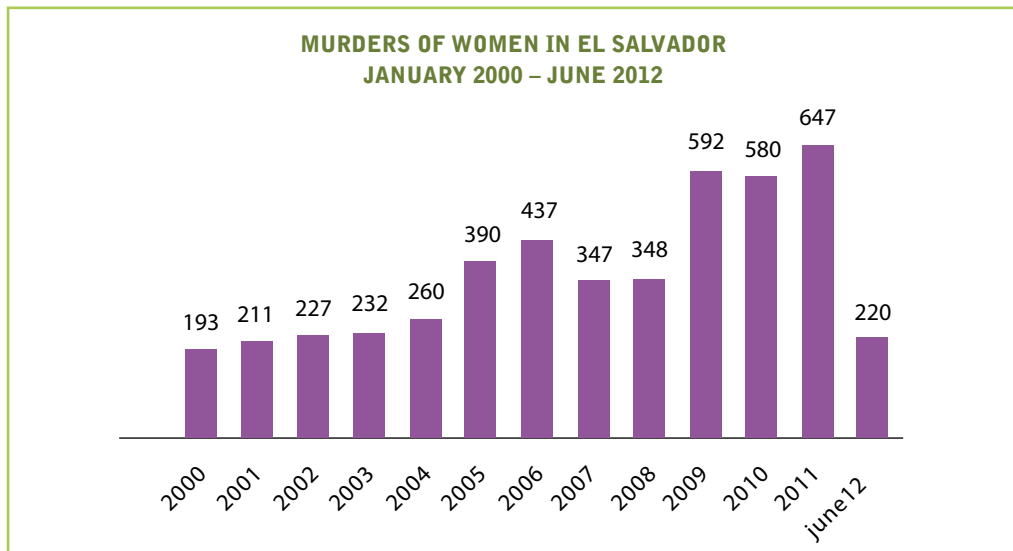
In a country with such high rates of violence against women as in El Salvador, femicide, the murdering of women, intra-family violence and sexual violence would not appear to be anything new in the media and for society itself. In the last decade, the number of the deaths of women has shown an upward trend as can be seen in the graph attached, particularly in 2011, when 647 women were murdered. From January to October 2012, 286 women were murdered according to the National Civil Police. The majority of victims were between 18 and 35 years of age.

While there appears to have been a decrease in the number of victims when the data of 2012 is compared with previous years, the context of gender-based violence against women is exacerbated due to the **high rates of intra-family violence and sexual violence**. From January to October 2012, there were 1,719 cases reported for the former offence plus 711 rapes of a minor or disabled person, followed by 545 sexual violations.²³

Also of concern are the **disappearances of women**, given that in 2011 the Institute of Legal Medicine reported that 412 women had disappeared in the Metropolitan Area of San Salvador alone.²⁴ In the first half of 2012, the same Institute registered 215 missing women in the whole country.

²³ Data from the National Civil Police gathered by the ORMUSA Observatory on Gender-Based Violence against Women.

²⁴ Made up of 14 municipal districts, among which 13 are from the San Salvador department and one is from the La Libertad department.



Compiled by the ORMUSA Observatory on Gender-Based Violence against Women using the IML and PNC database.

What happens to these women, mainly teenagers and young women? This is precisely the concern of their families and of women's organisations, as the state provides very few answers on the matter. The most frequent circumstance is the disappearance of women who are later found in clandestine graveyards and who are murdered by gangs, thereby increasing femicide statistics. Through working directly with the victims' families and media reports, it can be stated that many of these disappearances are part of the under-reporting of feminicides. Unfortunately, the investigating bodies of the crime are not providing an adequate institutional response.

Legislative and Institutional Framework: Advances and Challenges

In November 2010, the **Special Integrated Law for a Life Free of Violence for Women (LEIV)** was adopted (in force since January 2012), which seeks to prevent, punish and eradicate discrimination and violence against women. The Law recognises seven types of violence: economic, femicide, physical, psychological and

emotional, patrimonial, sexual and symbolic. This advance breaks with the family focus of previous legislations and **recognises the structural and cultural causes of violence against women, particularly in a society that is as male-dominated and patriarchal as the society of El Salvador.**

One of the main innovations of the LEIV is the inclusion of femicide as a crime, which includes the motive of hate and contempt for the condition of being a woman in its definition, upon compliance with a series of circumstances already defined in the Law.²⁵

Shortly afterwards, in March 2011, the **Law for Equality, Equity and Eradication of Discrimination against Women** was passed, and it has been in force since March 2012. It should also be noted that in January 2010, the General Law on Risk Prevention in the Workplace was adopted, coming into force in April 2012. This law is extremely important for improving the work conditions of women and primarily to prevent violence in the workplace, as it involves a cross-cutting gender approach.

25 Article 45, Special Integrated Law for a Life Free of Violence for Women (LEIV), 2010.

The impact that this legal framework will have on the life of women and especially in reducing femicide and other manifestations of gender-based violence **will depend on the political support the El Salvador State will provide to the implementation of the law** through its institutions in the legislative, executive and legal fields.

There are currently three known convictions for the crime of femicide and six more that are in progress. Nevertheless, to date neither the National Civil Police nor the Institute of Legal Medicine separate the crime of femicide from other violent female deaths, despite the fact that **the Law has established the creation of a National System of Data, Statistics and Information on Violence against Women**, as the first step to having a unified national register on this scourge.

In compliance with the LEIV, training of civil servants and schools in the justice sector has increased in coordination with women's organisations, mainly in the institutions responsible for tackling the problem of violence against women, to incorporate a gender perspective and demonstrate with real-life cases the operational gaps when supporting and protecting women. These institutions include the Supreme Court of Justice, the Prosecutor General's Office, the Ministry of Public Security and Justice, the Ministry of Health, the National Civil Police and the Institute of Legal Medicine. The aim is for trained staff to implement their knowledge and share it with the other public servants, and for victims of violence to be given comprehensive support, in compliance with the standards established in the LEIV.

Two positive actions in this regard are the approval of the Institutional Policy of Gender Equity and Equality of the National Academy of Public Security, aimed at intervening in both the

internal and external scope, and Specialised Care Units for Women by the National Civil Police, which now operate in the Regional Office of Suchitoto and Puerto de La Libertad. However, **due to a lack of finances**, the Office of the Public Prosecutor for the Republic still does not have Specialised Units to investigate and solve the crime of femicide, so these actions are carried out by the Crimes against Life Units.

The creation of the **Action Protocol for the Investigation of Femicide** is another important advance. Its purpose is **to serve as a guideline and to orient civil servants through the approach of specialised investigation of the femicide crime.**²⁶ A fundamental aspect of the Protocol is that among the possible obstacles to investigating the crime, it anticipates the likely presence of **prejudices regarding the problem of gender violence** against women during the prosecution of these crimes, held not only by the auxiliary staff investigating the crime but also by law enforcement officials. **The Protocol describes the appropriate procedures for demonstrating the true motives of femicide, such as misogyny²⁷ on the part of the perpetrator, or femicide.** This would allow a change from the current focus where the true motive is rarely identified in crimes against women.

Recommendations

The matter of investigating and punishing femicide involves enormous state challenges. On one hand, hard work is needed, both so **that citizens overcome their fear of reporting violence against women, and also to prevent them from dropping legal proceedings as a result of bureaucracy, further victimisation, insecurity or for fear of reprisal from the abusers.** Furthermore, the State must strengthen the institutions and improve femicide investigation procedures, **ensuring that women have access**

26 Action protocol for the investigation of femicide, Page 7. Office of the Public Prosecutor for the Republic /ACNUR/2012.

27 The Special Integrated Law for a Life Free of Violence for Women defines misogyny as implicit or explicit conducts of hate, directed at everything related to women, such as rejection, contempt and aversion against women.



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to justice and compensation is given to female victims or survivors, a constant demand from women's organisations in recent years..

The Salvadoran Institute for the Development of Women (ISDEMU) is developing the National Policy for Women's Access to a Life Free of Violence. As soon as the policy has been adopted, **training and an increase in the budget are required so that the institutions in question can adapt their services and the quality of their services to meet the standards required by the LEIV.** Also pending is the development of the Criminal Prosecution Policy that the Office of the Public Prosecutor for the Republic has to develop in compliance with the LEIV.

International cooperation for **training judges** is a positive action, but are these actions enough? The answer is no. At regional level, violence

against women is still not viewed as a problem of public security. Government campaigns aimed at society in general rejecting violence against women have been launched but the main challenge is how to generate widespread **awareness raising and training for civil servants in accordance with the laws passed in recent years.** How can the resources of key institutions in the justice sector be strengthened, e.g. the Prosecutor General's Office and the ISDEMU in particular? On 21 September 2012, Attorney-General Sonia Cortez de Madriz from the Office of the Public Prosecutor for the Republic affirmed that some prosecutors have up to 376 cases assigned because they are inadequately staffed to cope with the workload of this entity.²⁸

Lastly, feminist organisations should feel satisfied that the main advances made meet the specific demands, pressure and proposals of our

²⁸ <http://mediacenter.laprensagrafica.com/videos/v/sonia-cortez-de-madriz-procuradora-general>
Last Visit 16 October 2012.

movement, but the approval of the corresponding legal framework and actions in light of its implementation are but small steps in overcoming the serious problem affecting women in El Salvador. **That these steps meet the demands of public policy rather than a Government plan is precisely the challenge of the State of El Salvador to respect, protect and guarantee the human rights of women.**

6. ARGENTINA

ADVANCES IN LEGISLATION AND PUBLIC POLICY

Susana Chiarotti Boero / INSGENAR, Institute of Gender, Law and Development, Argentina

Femicide situation in the country

Up until now, non-governmental women's organisations have been in charge of recording femicides in Argentina. According to the Casa del Encuentro Observatory on Femicide, 119 femicides were reported during the first half of 2012. This figure means that in Argentina **two women were murdered every three days for being women.** Seven out of every ten cases were intimate femicides: the alleged perpetrator was the victim's husband, or former partner.

It is also known that **at least 16 of these victims had already filed complaints against their partners** for abuse, which indicates that we have to pay attention to the way that the reports are processed. These women requested help and it was not given, or at least the right help was not given.

Legislative and Institutional Framework: Advances and Challenges

On 11 March 2009, National Law No. 26485 for the Comprehensive Protection of Women to Prevent, Punish and Eradicate Violence against Women was passed. This law constitutes an advance in national legislation since it addresses new forms of violence, and its focus will allow femicide to be prevented once it has been fully implemented.

The change in focus of the Law and the fact that it introduces issues such as media, symbolic, obstetric and institutional violence, and violence against reproductive freedom, helps to broaden the outlook on how violence affects the life of women and also on the key players needed to prevent and eradicate it.

Law No. 26485 orders the implementation of a National Plan to Prevent Violence, which requires interaction between various ministries and also between the Federal and Provincial Governments. The National Women's Council is the Government body responsible for implementing this plan. It is, however, still to be published and no budget request has been made yet for its implementation.

An advance related to statistics was achieved in September 2012, when after years of complaints from the women's movement and the recommendations of the Committee of Experts on Violence (CEVI) of the Follow-Up Mechanism to the Convention of Belém Do Pará (MESECVI), the National Women's Council signed an **agreement** with the National Statistics and Census Institute (INDEC) **to create a system to unify the criteria for the registration of cases of violence against women** who had already filed complaints in public authority departments (at national or provincial level). This is the first step towards the State complying with its obligations with regard to statistics on violence.

Another advance was **the abrogation of the notion of a “compromise”** on 21 March 2012, a notion criticised by the women’s movement. The “compromise”, under Article 132 of the Criminal Code, **allowed victims of rape and sexual abuse who were over the age of 16 to reach an agreement with the accused, which means that criminal proceedings would be discontinued.** The text had been established in 1999 to replace another of 1921 through which “in cases of rape, statutory rape, abduction or sexual abuse of a single women”, the offender was exempt from punishment if he married the victim. The death of Carla Figueroa – a teenager who after being raped by her former partner accepted a compromise due to pressure by the Defence of the accused and was then murdered by him 8 days after his release – provoked public indignation and drove Parliament to unanimously adopt the reform.

In November 2012, the Lower House voted in favour of a bill **to amend the Criminal Code to incorporate femicide as an aggravated form of homicide**, which was signed unanimously into law. The rule defines femicide as the murder of a woman when the act is perpetrated by a man through gender violence and it includes the causative factors of “pleasure, greed, hatred, racial, religious, gender or sexual orientation, gender identity or its expression”. This involves a reform of the Criminal Code which establishes “life imprisonment or confinement for anyone who kills an ascendant, descendant, spouse, former spouse or a person with whom she/he maintains or has maintained a relationship”²⁹ with or without cohabitation.

The Office of Violence against Women of the Supreme Court of Justice has implemented a **risk indicator system**, which is applied in the interviews with women who use this service. Some provinces are doing the same but they are still in the minority (3) in a country with 24 federal districts.

Some of the obstacles to progress in the prevention of femicide are **the impunity of cases that are brought to court, and the fact that the National Plan has not been implemented and little importance is given to the problem by local governments.**

Furthermore, not all of the provinces complied with National Law No. 26485. Districts with a very high rural population do not provide services to peasant women. In the case of **indigenous women, there are no translators into their native language when they use the justice system, nor staff who are aware of issues of gender-based, racial or ethnic discrimination.**

The absence of penalties within the justice system due to the poor handling of the investigation and punishment of femicide cases is a contributing factor to future crimes being committed. It has been established that in paradigmatic cases, such as the death in Buenos Aires of Wandí Taddei after being set on fire, or the murder of Nora Dalmasso in 2006 in Rio Cuarto, Córdoba, the court spent more time investigating the victims than the possible perpetrators. **The lack of due diligence in the whole investigation process, including the gathering of evidence combined with discriminatory stereotypes and prejudices in the behaviour of the law enforcement officials are obstacles to adequately punishing these crimes.**

Recommendations

If the security of women is not incorporated into the paradigm of security managed by the state, public policies that meet the need of preventing, punishing and eradicating femicide cannot be designed. If we compare the budgetary resources set aside for preventing violence against women and guaranteeing their life and physical integrity to those set aside for national security, we can see a big distinction for public

29 The law dictates life imprisonment for femicide offenders, Argentina en noticias (aen), Public news portal, available online at <http://www.argentina.ar/temas/pais/1662-es-ley-la-reclusion-perpetua-para-quienes-cometan-femicide>



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prosecutors. **In the mindset of those who work in the field of security**, crimes like kidnapping and the trafficking of drugs, arms and human beings are much higher up in the hierarchical ladder than crimes related to gender-violence that are not worthy of comparison.

This undervaluation of the matter largely contributes to the assignation of confined budgetary resources to prevent and eradicate violence against women. One of the most serious effects of this is the **absence of or limited implementation of the interim measures aimed at preventing femicide in cases where women have already filed complaints**. This results in continuous discouragement, frustration and impotence of women who suffer violence: “what is the point in reporting the violence if they are not going to do anything to protect me?” On one hand, they are encouraged to file complaints in the campaigns on violence, yet on the other hand, nobody listens to them when they do report it, or if they do listen, they don’t protect them.

A **National Action Plan** needs to be created based on **the statistics of official bodies**. While

the victims are still with us, we must listen to them, to what they could whisper before they die, or to what their families or those that managed to stay alive can tell us.

The way that filed complaints are processed needs to be reviewed. Women should not be expected or obliged to repeat the same story over and over again to different civil servants that do not communicate with each other nor work towards building a single-story testimony. It is necessary **to implement comprehensive and interdisciplinary support services** that operate 24 hours a day, 7 days a week, with sensitised staff in all the districts in the country.

We also need to be more demanding with law enforcement officers and their training centres, including the faculties of law in the various universities. **Many courses have not yet incorporated a gender perspective and the subject of violence is not even studied in the majority of them**. We cannot expect to have defenders, prosecutors or judges who are aware of the gender perspective if they have not had proper professional training on the subject.

7. BOLIVIA

LEGISLATIVE AND PUBLIC POLICY ADVANCES

Mónica Bayá Camargo / Bolivian Chapter of Human Rights, Democracy and Development

Femicide situation in the country

Violence against women in Bolivia is one of the principal violations of human rights, due to the high level of tolerance and impunity, which has even been recognised as a public health problem. Data in this field indicates that 7 out of every 10 women suffer some type of violence in their homes; **9 out of every 10 recorded cases of violence correspond to complaints filed by women**, and only 3 out of every 10 violent incidents are officially reported.³⁰

Femicide as such is not recognised as a criminal offence in the Criminal Code, which means that records of female deaths appear under the legal umbrella of homicide, murder, injury followed by death or homicide due to “**violent emotion**”. The latter encompasses the cases of intimate feminicide as it is **an extenuating circumstance in cases of homicide perpetrated by the spouse or cohabitant with “honour”-based motives**.

However, through media monitoring, the “Manuela” Observatory on Violence, Femicide and Women at Risk of the Centre for Women’s Information and Development (CIDEM) recorded a total of 445 female murders from 2009-2011, of which 63.60% were feminicides and 36.40% were crimes against women due to public insecurity or other motives. While there is an increase in the number of crimes due to public insecurity and delinquency year after year, data shows that **women mainly die in their homes**

and at the hands of their spouses, cohabitants or intimate partners; these are the perpetrators of 50.88% of feminicides.

The report of the Office of the Ombudsman on feminicide in Bolivia (2012) reveals that in the last four years (2008-2012), 335 cases were reported, while only 27 were criminally prosecuted with sentences. This demonstrates the **high level of impunity due to a support and protection system whose regulations and institutions need to be restructured**.

Legislative and Institutional Framework: Advances and Challenges

One of the main advances in Bolivia has been the incorporation of an extensive human rights protection framework in the current Political Constitution of the State (2009), among which we can find the right to life, security and integrity, indicating that *all people, particularly women, have the right not to suffer physical, sexual or psychological violence, both in the family and in society*.³¹ This provision implies awareness of the prevalence and huge impact of violence on women. At the same time, it establishes the State’s responsibility to adopt the necessary measures to prevent, eliminate and punish gender-based violence.

In terms of public policies, we can find the National Equal Opportunities Plan (2009-2013) which concerns actions to combat gender-based violence. However, this policy has only been partially implemented so far due to several reasons, one of which is budgetary factors.

The **inclusion of the fight against gender-based violence under the Avelino Siñani-Elizardo Pérez Education law** (Law No. 70, 2010) should also be noted. It is important because it includes specific measures in the entire education system **as part of a prevention policy**.

³⁰ Report presented by the INE (National Statistics Institute) – Vice-Ministry for Equal Opportunities (2010).

³¹ Article 15, Paragraph 2, Political Constitution of the Plurinational State of Bolivia.



The Law of the Judicial Body **establishes the public courts related to intra-family and public violence, and includes the prohibition of conciliation** in this matter, thereby hoping to **eliminate the family focus** through which conciliation is applied in many of the institutions that handle official complaints.

While it has not advanced much, in 2011 **women's organisations and institutions presented the draft bill to classify femicide as a criminal offence** in the Plurinational Legislative Assembly, which proposes that this crime is punished with 30 years of imprisonment³² in the following circumstances: when a man murders a woman for misogyny; the victim is helpless and at a disadvantage to her abuser; there is a familial, intimate or dependent relationship between the

two parties; or it has been preceded by crimes against sexual freedom, human trafficking and smuggling (among other specific circumstances that are detailed in the proposal).

Recommendations

In compliance with the constitutional mandate and international human rights treaties ratified by the state, **it is fundamental to fortify and create new mechanisms, measures and comprehensive policies to prevent violence and to care for and protect women who are experiencing violence**,³³ taking into account the diverse forms of violence and the different areas in which it is manifested, such as family, work, judicial, institutional, etc.

32 Bolivian legislation establishes a maximum sentence in criminal matters of up to 30 years' imprisonment without parole.

33 Women's organisations demand the approval of the "Comprehensive Law to Guarantee Women a Life Free of Violence".

Under this framework, **it is necessary to adopt strategies and state policies that aim to change the attitude of the general population in order to denaturalise violence against women**, and in which education and communication are fundamental, but must be part of **holistic and long-term** strategies.

It is necessary to **eradicate the neutral and patriarchal nature of criminal law** which covers up, hides or downplays violence against women, and highlight and punish in line with its level of importance the most extreme manifestation of violence that takes place against women: femicide.

It is fundamental that law enforcement officers are trained and sensitised in order to combat gender biases, while procedures need to be reviewed to **prevent double or secondary victimisation**, and the whole support system needs to be strengthened, including the bodies responsible for the investigation of violent incidents (prosecutors, police and forensic surgeons).

Lastly, the fight against violence must be given priority when defining public investment, as there cannot be **true political** will if the measures defined in the regulations and plans do not have the **sufficient resources** to be implemented.



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9. GUATEMALA

IN SEARCH OF COMPREHENSIVE RESPONSES

Marta Olga Rodríguez / Independent Consultant and Advisor of the Women's Commission of the Congress of the Republic

Femicide situation in the country

Despite the efforts that the State of Guatemala has made to reduce the high level of violent deaths of women, including femicides, a result of the extreme violence against women in the country, they continue to occur. Femicide and violence against women in Guatemala do not discriminate: from baby girls only months old up to women of 90 years of age, females continue to be murdered. Retail workers, waitresses, housewives, domestic workers, saleswomen, single women and women with children have all been victims of femicide.

According to reports provided by the morgue of the Judicial Body, **the statistics demonstrate an increase in the rate of violent female deaths**: 537 violent female deaths were recorded in 2008, 829 in 2009, 842 in 2010 and 705 in 2011.

Furthermore, according to the new Presidential Commission to Address Femicide in Guatemala, which has more detailed, realistic figures, 570 cases were recorded on 21 November 2012. Of these, 401 women were murdered with a firearm, 74 were stabbed, 47 were strangled or suffocated under water, 30 were beaten to death, 11 bodies were dismembered, 4 decapitated, and in 3 cases the form of murder has still not been determined due to the bad state of the bodies. These statistics mostly show a high grade of cruelty and torture before the women were murdered: for example, bullets found in the face.

Thanks to the work carried out in coordination between the entities of the security and justice

system, 815 perpetrators of violence against women were captured between 26 January and 10 October 2012. Of these, 338 were because the man refused to give financial support, 247 for sexual violations, 179 for violence against women (physical, psychological and sexual), 39 for femicide, 9 for attempted femicide, 1 for attempted homicide, 1 for homicide and 1 for inducement to suicide.

Legislative and Institutional Framework: Advances and Challenges

Guatemala has appropriate regulations for addressing violent deaths of women and femicide, as well as violence against women.

During 2008-2009, the Women's Commission of the Congress of the Republic of Guatemala approved a panel discussion with civil society organisations and State institution representatives to propose an initiative on femicide or femicide in Guatemala. After several debates and discussions, the "Law against Femicide and other Forms of Violence against Women" was passed, as well as Decree 22-2008, and later published in the *Diario de Centro América* newspaper of public record on 7 May of the same year.

Since this Law has been passed, certain advances have been achieved, primarily **creating awareness of the social phenomenon of violence** inflicted upon women. The state is also working in a more coordinated way to provide a comprehensive response that includes preventive and punitive aspects and support to victims.

In 2012, the Government of Guatemala complied with the Recommendation of the CEDAW Committee by creating the **Presidential Commission to Address Femicide in Guatemala**. This entity is responsible for studying, analysing and determining its causes and recommending policies, strategies, programmes, plans and projects to prevent, treat, punish and reduce femicide.

Obligations for various institutions have resulted from the Law against Femicide and other

Forms of Violence against Women. The law dictates the required structure of the Judicial Body and its mandate is being observed through the creation of specialised jurisdictions for these crimes. To date, four entities have been established.

In accordance with the mandate of the Public Prosecutor's Office, this entity is responsible for **investigating the circumstances around the perpetration of violent crimes against women and femicide, and for setting up the Prosecutor's Offices for Crimes against the Life and Physical Integrity of Women**.

The National Civil Police and the National Institute of Forensic Science **have to assist the Public Prosecutor's Office in this investigation, for which it must become the accusing entity representing the State** of Guatemala. In order to do so, the Public Prosecutor's Office must have the specific structure and instruments indicated in the law.

The Ministry of the Interior has to **contribute to the investigation of criminal offences and issue the arrest warrants** dictated by the Judicial Body to arrest the individuals allegedly responsible for the crimes through the National Civil Police, as well as the corresponding imprisonment of those who are accused and those who are already convicted. In addition, it governs the public policies on public security and the prevention of crimes.

As a principle of law resulting from the Constitution of the Republic of Guatemala, the Law against Femicide requires that the Public Criminal Defence Institute gives **free legal assistance** in cases of femicide and female violence to guarantee that the rights of victims and their families are properly implemented.

The National Coordinator for the Prevention of Domestic Violence and Violence against Women (CONAPREVI) must promote processes in line with the institutions of the judicial system to facilitate **sensitisation and training processes** on this issue for civil servants and auxiliary staff.



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Another obligation that falls to the institutions of the Justice Sector consists of establishing adequate mechanisms for **gathering and passing on statistical information** on cases of female violence and femicide, that they are aware of, to the National Statistics Institute (INE) so that in turn, the INE can implement the **National Information System on Violence against Women**.

Main Challenges

Despite the fact that civic women's organisations give visibility to these crimes, there are still many abused women and families of femicide victims that don't find the courage to report the crime and/or do not know about the existence of instruments and institutions responsible for ensuring the defence and protection of their rights. Furthermore, the authorities continue to make the mistake of focusing their attention on the victims, looking for ways to blame them for the crime while the perpetrators are not properly investigated.

It is necessary to devise information mechanisms that reveal the names of law enforcement officials that do not work efficiently, as this is a reason for the ongoing high levels of impunity of the perpetrators, as well to provide information on those individuals who apply justice in positive ways with sentences in favour of women.

The importance of criminal convictions is that they send out a message to the general public and in particular to the violent individuals who now cannot murder, rape or beat a woman and go unpunished. Convictions also encourage Guatemalan women to report the violence to the corresponding institutions.

III. Violence against Women in Europe

Colette De Troy / European Women's Lobby Observatory on Violence against Women

In Europe, 7 women die every day from male domestic violence³⁴ and an average of 25 % of women experience violence from their partner/ex-partner. In Europe, women are raped every day, and only 4 to 10% try to find justice, while the majority is suffering the traumatic experience of sexual violence without any help.

In Europe, as in other parts of the world, it is thanks to grassroots women that violence against women has become an issue that is recognised by governments and policy makers. With very few resources, they run shelters, provide emergency medical support to survivors fleeing their abusers, advocate for essential policies and new legislation for better protection, and raise awareness about the understanding of male violence against women as the **structural expression of inequality between women and men**.

At first glance, it looks like politics in Europe have started to take those grassroots women's demands seriously. The Council of Europe has adopted in 2011 the first European binding instrument specifically devoted to male violence against women, which is still in the process of ratification.³⁵ This Convention sets minimum standards on policies, legislation and measures, based on a gendered definition of male violence against women as a social phenomenon and requires the country members to change their legal system if necessary and improve the prevention, protection and prosecution measures. It is a necessary step to introduce serious changes as VAW is still mostly invisible (lack of data); women are not equally protected and supported (lack of

resources; women diversity); the reporting and prosecution are too low (impunity); and finally, monitoring the commitments translated into action is to be done.

Male violence against women is still mostly invisible and underestimated. While there has been improvements in legislation on many forms of VAW (domestic violence, sexual violence including rape in marriage, prostitution, sexual harassment among others), there are still a general lack of data. Apart of some notable exception (Spain and Sweden, for instance), the official data reveal almost nothing about specific forms of male VAW. What they do show, and only in some cases, amounts the tip of the iceberg: the charges filed. But we know that victims of violence perpetrated by the nearest and dearest do not press charges, or do so rarely, and the "hidden numbers" can only be guessed at, or compared to large scale surveys. The good news is that the EU agency for fundamental rights (FRA) is presently carrying out a EU-wide survey on violence against women, based on 40,000 interviews. We are expecting the results to be available in 2013.

Prevention: only piecemeal actions. Most of the countries in Europe have only partial National Action Plans,³⁶ which address some forms of violence against women and generally lack of comprehensive strategies. In many countries, they are gender blind, not referring to the international definition of violence against women. In some countries, plans exist only on paper and are never implemented, or do not lead to concrete action, or do not have any budget. However,

34 Psytel, *Estimation de la mortalité liée aux violences conjugales en Europe*, Programme Daphne III.

35 The Council of Europe Convention on preventing and combating violence against women and domestic violence.

36 See the EWL Barometer on NAPs: <http://www.womenlobby.org/spip.php?article2480>

partial plans have allowed for improvement in legislation on domestic violence and contributed to awareness rising by public campaigns.

Women not equally protected in the EU: progress was made in most of the countries regarding the crisis intervention possibilities. Expulsion orders and quick removal of the perpetrator have been introduced in many countries' legislation and their implementations allowing for immediate protection. However, the effectiveness of the reaction to protect women depends on the level of awareness of professionals with whom women will be in contact once they have become a victim of male violence. Too often, the frontline actors underestimate the danger, and women seeking help and protection are killed. Some examples: in Italy, in September 2012, 90 women were killed for the greatest part by the hand of husbands, fathers, and violent fiancés and one month later, 100. In France, 122 women died in 2011, victims of their partner or ex-partner, which makes on average, one woman dies every 3 days, in the UK the figure is two per week. For other forms of VAW, such as rape, the data are even more lacking. Research shows that Bulgarian women victims of sexual assault are between 100,000 and 120,000, or between 10 and 18 % of women in ages over 18. Only 4% of them reported about the cases.³⁷ In France, 250 women are raped every day, only 2% of perpetrators are condemned, only 1 victim out of 10 will report to the police, 74% of rapes are committed by someone the victim knows.³⁸ Everywhere, women's NGOs have been pioneers and sometimes the only service providers, supporting women fleeing situations of male violence. However, places are always lacking, everywhere. The inadequate provision of services such as lack of places in shelters means that women often have no choice but to continue living with their abusers. At the moment, there exist long waiting lists for women to get a place in shelters in all the European countries,

a situation which is becoming worst in the time of economic recession. Migrant and undocumented women face additional obstacles to be protected, sometimes are denied access to shelters or facing deportation when reporting access to shelters. Women with disabilities are 4 times more likely to experience sexual violence, forced sterilisation or abortion and depend on the perpetrator or the institution for their daily care.

Lack of specialised services and trained professionals

The traumatic nature of male violence against women requires a particularly sensitive response by trained and specialised staff. Victims of this type of violence need immediate medical care and trauma support combined with immediate forensic examinations to collect the evidence needed for prosecution, and the recommendations of one-stop centres, free of charge 24h/24 helplines, are far from being implemented in most of the countries. Training of professionals are often lacking except in some countries. It means the stereotypes are prevalent among professionals, reflecting the general tolerance for VAW. This is a cause deterring women from seeking help or to report to police or authorities. A research made by the Scottish government found that in Scotland, 7 out of 10 women will be virtually guaranteed to be asked about their sexual history or character in the course of a rape or attempted rape trial.

Progress, gaps and new challenges

In Europe, regarding the state's obligation on equality between women and men, there has been progress in many countries as women have de jure equality. However, women activists and experts are concerned about the backlash on recent achievements, the criticisms and attacks from masculinists and anti-feminists. Even the recognition of violence against

37 See the study on sexual violence commissioned by the European Gender Institute for Equality and carried out by the EWL: <http://www.eige.europa.eu/content/study-to-identify-and-map-existing-data-and-resources-on-sexual-violence-against-women-in-the-EU>

38 www.contreviol.fr

women, adopted by the Beijing Platform for Action, is challenged.³⁹ To illustrate some of the issues, we can take 2 examples.

We can see in several countries a tendency of the law enforcement authorities to propose mediation or “social solutions” between the aggressor and the victim over application of the sanctions and as a quick and easy solution (Croatia, Finland, for example). Judicial rulings on the issue of custody and access of children are persistently problematic whereby many rulings by judges fail to take account of serious violence by a father towards the mother or the children as a significant factor which risks the safety of both women and in many cases the children also. The argumentation of a “parental alienation syndrome” is pushed by angry fathers’ movements and used in courts despite the numerous cases of women killed in these circumstances.

Another challenge relates to the recession time such as we are currently experiencing. The situation becomes even more difficult, as cases of violence against women increase and resources dedicated to prevention, protection and prosecution dwindle. Economic recession creates conditions that exacerbate inequalities and leave women more vulnerable to the effects of violence. Times of economic hardship

also lead to increased trafficking in women and a rise in prostitution and attacks on prostitutes. We already see the widespread negative impact of public spending cuts on women experiencing violence, and how previous advances can be reversed. Ending violence against women is not a luxury for times of growth, but a question of fundamental rights. The European countries have made a multitude of commitments on ending violence against women; it is time for stronger action, not the contrary.

The **European Women's Lobby** (EWL) is the largest umbrella organisation of women's associations in the European Union (EU), working to promote women's rights and equality between women and men. EWL membership extends to organisations in all 27 EU Member States and three of the candidate countries, as well as to 20 European-wide organisations, representing a total of more than 2000 associations. In 1997, the EWL formed an **Observatory on Violence against Women**, which is an expert group comprising one woman from each 33 countries of Europe, who has extensive expertise in the area of violence against women. The Observatory continues to be a central component of the EWL and has been instrumental in maintaining a global perspective on violence against women.

39 “Violence against women is a manifestation of the historically unequal power relations between women and men, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement.” BPPA, § 118.



1. ITALY

THE INCREASE IN FEMINICIDE AND ITS POLITICAL INVISIBILITY

Barbara Spinelli / Convenzione nazionale contro la violenza maschile sulle donne-femminicidio (National convention against male violence towards women-femicide)

Femicide situation in the country

In Europe, the study of the causes of femicide carried out by Institutions is still limited and States do not comply with their duty to collect statistics broken down according to gender. Even though there is a statistical database⁴⁰ for collecting homicide victim records according to gender and relationship with the perpetrator,

and subdivided by year and country, this service is still inactive.

In Italy today, we have **records of femicides thanks to the volunteers** of the *Casa delle donne per non subire violenza di Bologna* [Centre for women against violence in Bologna], which since 2005 have been taking **information from news reports** related to homicides of women on **account of their gender**.⁴¹ This data is approximate and is not very effective, as it does not include the missing victims not counted in the official statistics, particularly due to the smuggling and trafficking of women.⁴²

While female homicides made up 15.3% of total homicides between 1992 and 1994, the figure went up to 23.8% between 2007 and 2009. Homicides within families constitute more than a third of **all intentional homicides in Italy**.⁴³

⁴⁰ Database of the UN Economic Commission for Europe Statistical Division (UNECE), <http://w3.unece.org/pxweb/database/STAT/30-GE/07-CV/?lang=1>

⁴¹ C. Karadole and A. Pramstrahler (care of), *Femicide: dati e riflessioni intorno ai delitti per violenza di genere* [Femicide: data and reflections on crimes of gender-based violence], Regione Emilia-Romagna (Italy), *Assessorato alla promozione delle politiche sociali* [Department to promote social policies], 2011. http://www.casadonne.it/cms/index.php?option=com_frontpage&Itemid=1

⁴² <http://femminicidio.blogspot.it/2012/05/femminicidi-2012-5410.html>

⁴³ E.U.R.E.S. *L'omicidio volontario in Italia. Aggiornamento statistico 2009-2010 sull'omicidio in famiglia. Indagine istituzionale*. [Voluntary homicide in Italy. 2009-2010 statistics update on family homicide. Institutional investigation], March 2012, p. 6.

The main cause of female homicide in Italy is intimate femicide, which continues to rise. During the period 2006-2010, among all female homicide victims, 70.4% were murdered by a family member, partner or former partner.⁴⁴ Furthermore, an increase in the number of deaths of female sex workers and women who are victims of trafficking has been recorded, murdered by the traffickers and/or by clients, rising from 2% in 2006 to 4% in 2010.

In Europe, the majority of murdered women are between 35 and 44 years of age.⁴⁵ Conversely, **in Italy the majority of women attacked are over 46 years of age.** The most frequently used weapons for committing femicide are firearms, knives and blade weapons, followed by suffocation under water and strangulation. Most of these crimes were committed in the victim's home.

Criminal investigations confirm that the majority of these crimes constitute the final act in a **continuum of economic, psychological and physical violence that characterised the couple's relationship:** out of 10 femicides, in 7 or 8 cases the murder of the woman had been preceded by other forms of violence within the same intimate relationship.⁴⁶

Press and criminal investigations confirm the responsibility of the institutions for the high number of femicides: in more than 70% of the cases, the victims were already known by the institutions for having previously contacted

the law enforcement agencies or filing an official complaint, or because the case was brought before the Social Services.⁴⁷

In 2008, not long after the publication of the book "*Femicidio. Desde la denuncia social al reconocimiento jurídico internacional*" [Femicide. From social commentary to international legal recognition], which described the origins of this neologism for the first time in Italian as well as its respective application in criminology and public policy, shaped from the women's movement in Latin American countries, **the Women's Movement in Italy adopted the concept of femicide**, with the aim of distinguishing homicides on account of gender.⁴⁸ Through the use of this conceptual category, the structural dimension of gender violence has been highlighted. Italy is the first European country (and the only one so far) for which the UN has used this term.⁴⁹

Italian feminist activists presented a Shadow Report for the first time to the CEDAW Committee in 2011, documenting how the prevalence of the patriarchal culture and inadequate institutional action favour femicide.⁵⁰ The responsibility of the institutions has been recognised by the CEDAW Committee,⁵¹ affirming their concern for the high number of women who are murdered by their partner or former partner (femicide), which could indicate that **the State authorities are not duly protecting women.** In turn, after her official visit to Italy in 2011, the UN Special Rapporteur

44 Ibid.

45 CRS-VIU, ESPLUGUES, J.S., MARMOLEJO, I.I., ESTEVE, Y.G., and SÁNCHEZ, P.M., 3rd International Report on Partner Violence against women, 2010, pp. 65-99.

46 SPINELLI, B., Femicide and femicide in Europe. Gender-motivated killings of women as a result of intimate partner violence. Expert group meeting on gender-motivated killings of women, convened by the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, New York, 12 October 2011, p.19.

47 BALDRY, Progetto Daphne.

48 The term "Femicide" is also used according to the definition of Marcela Lagarde.

49 Final observations of the Committee of the United Nations on the Elimination of Discrimination against Women, CEDAW/C/ITA/CO/6, No. 26/2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/441/79/PDF/N1144179.pdf?OpenElement>

50 Spinelli, B, Italian platform "30 Years CEDAW: Work in Progress" Shadow Report presented to the Committee of the United Nations on the Elimination of Discrimination against Women, 2011, p. 26. http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/Lavori_in_Corsa_for_the_session_Italy_CEDAW49.pdf

51 Final observations of the Committee of the United Nations on the Elimination of Discrimination against Women, CEDAW/C/ITA/CO/6, No. 26/2011. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/441/79/PDF/N1144179.pdf?OpenElement>

on violence against women stated that "The continuum of violence in the home is reflected in the increasing number of victims of femicide".⁵²

The main problem in Italy is reflected in the reluctance of institutions to recognise that the high number of female homicides and domestic violence constitutes a form of gender-based violence, which is happening to women on account of their gender due to a power disparity between men and women.

Stereotypical roles of women in society are deeply rooted in many political discourses of Government programmes, in draft bills and in various court sentences. Based on a well-established Catholic and family-oriented culture where priority is given to family unity and not the individuals, the difference in gender is right at the centre of social discrimination and the victims are "subjects", considered to be "weak". As a result, **social policies in favour of citizens are resolved with support-oriented policies and a focus on the family.**

Legislative and Institutional Framework: Advances and Challenges

The Italian Government underestimates the international obligation to diligently comply with the prevention of gender-based homicides. **The National Action Plan** against violence towards women **does not meet international standards** and has not been properly implemented due to a **lack of funds** to accomplish each goal. After three years, the Plan is coming to an end and **there has been no monitoring** of the implementation of the planned actions. The main obstacle for achieving a comprehensive strategy is the persistent **lack of awareness and sensitisation of the institution representatives** on the structural dimension of femicide and violence among

couples, as well as an **absence of political will** to address the problems of discrimination related to male violence against women. The Government of 2012⁵³ abolished the autonomous figure of the Minister for Equality, and of even more concern is **the absence of a national institution with its own resources and exclusive powers on women's rights.**

Even so, despite the fact that the number of femicides has increased since January 2012, not one Minister has made a public statement to affirm that violence against women is socially unacceptable. No actions have been carried out either to counteract the phenomenon or to disseminate information to civil society on the measures that exist to prevent and punish male violence against women. The fact that professionals, law enforcement staff and public figures **do not comprehend the phenomenon of male violence against women** allows an exponential growth of the risk that women could be repeat victims or even murdered as a result of previous acts of domestic violence.

The lack of obligatory training of legal practitioners on how to identify risk factors for women and adequate investigations of intimate violence means that the laws are not applied properly. **Gender-segregated data has never been collected** on reported cases of associated crimes such as abuse, injury, homicides, sexual violence and harassment, nor on the results of legal proceedings.

The incapacity of the institutions to establish adequate policies to prevent and protect women that have survived domestic violence cannot only be seen in the lack of statistical data. It can also be noted in the negative impact on victims of gender-based violence. These victims are not compensated simply because **the Italian state**

52 Press conference of the UN Special Rapporteur on violence against women following her Mission to Italy, Rashida Manjoo, 26 January 2012.

53 Technocrat Government, which was not elected by the people. Consult <http://www.governo.it/Governo/index.html>



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does not comply with the implementation of the EU Directive relating to compensation to crime victims.⁵⁴ Factors such as the influence of **the media help to preserve prejudices and discriminatory stereotypes** against women, which leads to its incapacity to adequately present or broadcast information on the cases and high rates of femicide.

Recommendations

It is necessary to find **“holistic solutions which address both the individual empowerment of women, and also the social, economic and cultural barriers that are a reality in the lives of women. Social transformation is needed to address the systemic and structural causes of inequality and discrimination, which often lead to violence against women.”**⁵⁵ The alliance

created by feminist activism with regional and international bodies for protecting human rights proves that women can be agents of this change. The silence of institutions in response to the efforts of civil society and the pronouncements of the United Nations is a clear symptom of the lack of political will to work seriously on the issues of gender in every area of political and public life. In other words, **the close link between the collective image of the role of women and the control over their bodies, their rights and their liberty through law continues to be denied.** Until Italy decides to make it a priority to fight against and eliminate this social block, it will not be possible to return to an effective democracy. There cannot be a democracy when women are not considered to hold the rights to protection and the guarantee of a life free of violence.

⁵⁴ Directive 2004/80/EC of the European Council of 29 April 2004.

⁵⁵ Press conference of the UN Special Rapporteur on violence against women following her Mission to Italy, Rashida Manjoo, 26 January 2012.

The Special Rapporteur on violence mentioned that the establishment of entities, based on women's recognition of their own rights, continue to be an important strategic and political instrument for the empowerment of women to fight against human rights violations.⁵⁶ The participation of women's organisations in drawing up **international "Guidelines"** to prevent femicide and the development of a **European action plan** may be essential to overcome cultural obstacles and to find an approach to eliminate male violence against women, **using already existing International Conventions as a regulatory framework.**

2. SPAIN

A RESTRICTED ACCEPTANCE OF "GENDER VIOLENCE" AND FEMICIDES

Elena Laporta / Femicide.net

Femicide situation in the country

In Spain, femicide is not classified as a criminal offence. Unlike countries like Mexico, Chile and Guatemala, femicide has not been defined, nor has there ever been an open social, political or legal debate on the possibility of recognising this term and its social, political and legal implications.

Spanish authorities and institutions do not use the term "Femicide" to refer to female homicides or murders of women for being women, identified as gender-based or male violence that

results in death. However, in the last few years, a few reports have referred to this violence as **femicide**, always restricted to intimate relationships.⁵⁷ In this regard, we can confirm an **emerging use of the term.**

Legislative and Institutional Framework: Advances and Challenges

Even though the term is still not recognised in the regulatory framework, a law was passed in 2004 that seeks to prevent and punish gender-based violence and to protect victims. This is Organic Law 1/2004 on Comprehensive Protection Measures against Gender-based Violence.

This law gives a limited and limiting definition of the expression "gender-based violence", as it only refers to that caused by spouses or former spouses or those that have been in an intimate relationship with the women, with or without cohabitation. In addition, while the law issues harsher sentences for some forms of gender violence such as threats, coercion, injury and occasional abuse, the same does not occur with homicides and murders, even though they are more detrimental.

In any case, **the restricted definition of gender-based violence has direct consequences on the calculation of femicide cases.** While according to official sources⁵⁸ the number of women murdered up to November 2012 was 45, civil society and human rights organisations report figures twice as high.

According to Femicide.net, a news portal that records and investigates femicide in all its

56 Manjoo, R., Annual summary of the UN Special Rapporteur on violence against women, Mission to Italy, HRC, 20th session, A/HRC/20/16/, A/HRC/20/16/, paragraph 82, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-16-Add2_en.pdf

57 Reports of the General Council of the Judiciary on mortal victims of gender-based violence have referred to intimate femicide since 2009. In 2010, for the first time femicide was used to refer to the homicide or murder of a woman for being a woman, but it continues to be limiting in its description as the violent death of a woman caused by her intimate partner or former partner. It also refers to femicide as violence against a woman for being a woman while the State does not make use of all its mechanisms to prevent these crimes. Available at: http://www.observatorioviolencia.org/upload_images/File/DOC1306844610_victimas_2010.pdf

58 Information provided by the Government Delegation through the statistics portal (data updated on 10 December 2012).

forms (intimate, non-intimate, child, by relation, prostitution...) as well as homicides and female murders, the figure for the same period reaches at least 105.⁵⁹

The fact that neither other types of femicide nor other types of gender-based violence are legally recorded or recognised means that they remain **invisible, which prevents the design of efficient public policies to prevent, investigate and punish them.**

Even if we consider only the official figures, while they vary from year to year, it cannot be claimed that a reduction in the deaths of women in 2012 was achieved.

With regard to the forms of violence that are indeed included in the scope of the law, there are a series of obstacles to access and obtain justice and protection for victims. **Amnesty International** recently published a report indicating the **lack of protection for victims and non-compliance with the duty of due diligence** by the state.⁶⁰ This publication makes references to the following, among others: the high number of suspended cases, a decrease in granting protection orders and in the percentage of convictions, the partial compliance with the right of women to be informed about their rights, the budget cutbacks which affect the availability of court-appointed lawyers, the insufficient training and malpractice of some lawyers, the lack of diligence in court investigations and even the persistence of stereotypes and prejudice towards the victims.

Due to the economic crisis in Spain, there have been a series of cutbacks in the budget allocated to the comprehensive prevention of gen-

der-based violence, which **seriously jeopardises the achievements accomplished,** particularly in relation to the rights and resources that were being offered to victims.

Recommendations

Given this scenario, the recommendations and challenges that we face in the next few years can be broken down into two types. On one hand, we have **regulatory** recommendations and challenges. It would be advisable, in accordance with the international and European regional standard⁶¹ on violence against women, **to extend the objective of the law** to encompass all types of gender-based violence. At the same time, **it should include the obligation to design public policies** that distinguish between the different types of violence and which, in any event, guarantee a **comprehensive right of protection and compensation to the victims.**

Following the example of Latin America, we advise the recognition of a right to a life free from violence for women, which should serve as a theoretical base for the law and public policies designed.

Furthermore, it is necessary **to open the debate on the possibility of classifying femicide as a criminal offence.** In Spain, the conditions are optimal for classifying femicide as a criminal offence as specific forms of gender crimes have been recognised by the law, supported by the jurisprudence of the Spanish Constitutional Court.

On the other hand, the second type of recommendations and challenges are related to **the application of the law** and which parties

59 Statistics, graphs and reports on feminicides are available at: <http://www.femicide.net/> y <http://www.geofemicide.com/>

60 Sección Española de Amnistía Internacional, *¿Qué justicia especializada? A siete años de la Ley Integral contra la Violencia de Género: obstáculos al acceso y obtención de justicia y protección*, Noviembre, 2012. Disponible en: http://www.es.amnesty.org/uploads/media/Que_justicia_especializada.informe_2012.pdf

61 Spanish Section of Amnesty International, *¿Qué justicia especializada? A siete años de la Ley Integral contra la Violencia de Género: obstáculos al acceso y obtención de justicia y protección*. [What specialised justice? Seven years after the Comprehensive Law against Gender-Based violence: obstacles to accessing and obtaining justice and protection]. November 2012.

Available at: http://www.es.amnesty.org/uploads/media/Que_justicia_especializada.informe_2012.pdf



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are involved during the process. It is essential to act now to **evaluate and identify good practices** within all the juridical and non-juridical instruments and bodies that intervene, directly or indirectly, in cases of gender-based violence from when they are first detected. In order to do so, it is necessary to **include** in particular **the barriers and obstacles** that prevent the guarantee for women to live without violence, **taking into account the narrative of the victims and those who work to eradicate this scourge from civil society and human rights and women's associations and organisations.**⁶²

⁶² Amnesty International, for example, has indicated that no evaluation of this type has been made yet with regard to the Courts for Violence against Women.

IV. Conclusions

Patricia Jiménez / Heinrich-Böll-Stiftung, European Union, Brussels

The *Cotton Field* judgment of the Inter-American Court of Human Rights (November 2009),⁶³ the “Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence” (May 2011)⁶⁴ and the “Report of the UN Special Rapporteur on violence against women, its causes and consequences”(2012)⁶⁵ are paradigmatic milestones in global and regional institutional awareness with regard to what the women’s movement has been denouncing in Latin America and Europe for the past two decades.

Concurrent with these international advances, Latin American countries have made progress at national level. During the last few years, thanks to the proposals of the women’s movements, legal reforms have been made and femicide has been classified as a criminal offence in several Latin American countries such as Costa Rica, Guatemala, Colombia, Chile, El Salvador, Peru, Nicaragua, Mexico and very recently, Argentina. However, we need to put these advances into perspective due to the inherent difficulties in several of these legislative measures. In fact, some of these laws are very restrictive in terms of the definition of femicide, as they only include deaths caused by individuals that belong to the victim’s family or intimate circle, thereby excluding all other gender-based murders of women. Additionally, other laws do not give sufficient importance to the State’s responsibility to investigate and sentence, and are therefore unable to guarantee an adequate and effective implementation of the law, facilitating the possibility of impunity.

Even though one might expect that European countries have made more advances in recognising and treating gender-based violence, this is not the case in Italy. The Italian State is very resistant to recognising that female homicides and domestic violence are a form of gender-based violence, and as a result, femicide is still not classified as a criminal offence. In Spain, the law on gender-based violence also restricts its definition to the victim’s partner. The direct consequence of this limitation, which exists in both Europe and Latin America, is that all other gender-based female homicides remain invisible and are not included in official records. This creates problems when defining public policies to eradicate violence against women as these cases are not taken into consideration.

Several articles in this publication stress the importance of an adequate recording of femicide, as it is an objective indicator of the rates of violence against women which would enable us to identify the different variants that affect each country, establish comprehensive public policies and evaluate these policies in accordance with the progress of the cases. Records would also allow for comparisons to be made between countries of Europe and Latin America.

As with the Special Rapporteur on Violence against women, some of the authors of the articles confirm an alarming increase in the number of these crimes in their countries in recent years. This is the case in Honduras, Mexico and Italy. In other countries such as El Salvador, there

63 Inter-American Court of Human Rights, *Case of González et al. v. Mexico*. (“*Cotton Field*”) *Judgment of 16 November 2009*, http://www.corteidh.or.cr/docs/casos/articulos/seriec_205_esp.pdf

64 Council of Europe Convention on preventing and combating violence against women and domestic violence, <http://www.coe.int/t/dghl/standardsetting/convention-violence/texts/Convention%20Spanish%20formatted.pdf>
http://www.ohchr.org/Documents/Issues/Women/A.HRC.20.16_En.pdf

65 Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, http://www.ohchr.org/Documents/Issues/Women/A.HRC.20.16_En.pdf

has been a rise in the number of disappearances of women. Furthermore, in many countries, the citizens continue to be very unaware of the institutions responsible for acting against violence, as well as the discriminatory behaviour of the civil servants of the justice system who investigate the victims instead of investigating the perpetrators. In addition, in Argentina, Mexico and Chile, the implementation of interim measures in cases of filed reports of violence is non-existent, which is a violation of the guarantee and adequate protection that complainants should receive from the state.

Impunity of femicide/feminicide, which has been particularly condemned in Central American countries and Mexico, is not limited to these regions: in Bolivia for example, over the past four years, less than 10% of femicides/feminicides reported reached the sentencing stage of criminal prosecution. Even when the perpetrators were convicted, the sentences were reduced due to extenuating circumstances such as “jealousy”, “infidelity” or “violent emotion”, which tend to naturalise and justify the behaviour of the abusers. The situation is similar in Mexico, while in Peru, the majority of sentences handed down are below the legal minimum.

“The ever present violence against women in all of the EU Member States and the rise in femicide/feminicide in Latin America and the Caribbean, together with the State’s failure to eradicate this phenomenon, has to be treated as a priority issue, for both the EU and Latin America and the international community as a whole. The above thus with a view to adopting specific measures to address this grave violation of human rights. It is therefore crucial to open up a space within the recently created ‘bi-regional dialogue on gender’, a space dedicated to eradicating violence against women in general and femicide/feminicide in particular. The main objective of this space should be

the creation of a bi-regional Action Plan framed within the two existing regulatory instruments, that is to say the ‘Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women’ (Convention of Belem do Para) and the European Convention for the Fight against Violence against women and its Prevention so as to prevent, sanction and eradicate all forms of violence against women.”⁶⁶

The shared expectations expressed in the articles of this publication coincide with the need to establish adequate, comprehensive, long-term policies with the objective of preventing, treating and punishing violence against women. This means that femicide/feminicide would be treated not only as a problem of crime in legal and criminal terms, but also as a problem of structural discrimination for women, which requires cross-cutting policies over several areas for it to be eradicated once and for all.

The roles that **women’s organisations** play continue to be essential. They work with very little resources, doing part of the **work for which the States do not accept responsibility**. This includes work like creating and maintaining records taken from the media on the number of women murdered for gender-based reasons, support to the families who are searching for their missing daughters and to the victims or families who seek justice at national level, as well as taking some cases to regional courts. They also complete many other tasks, such as developing and proposing draft bills to parliaments to classify femicide as a crime. Consequently, **women’s organisations know the reality of this phenomenon better than anybody else** and should therefore be consulted and involved in the definition, application and evaluation of public policies to eradicate violence against women.

66 Declaration of civil society organisations before the First Summit of Heads of State and Government of the Community of Latin American and Caribbean States (CELAC) and the European Union (EU) “No More Killing of Women!”. <http://www.boell.eu/web/116-948.html>

Links

International and European Union instruments to eradicate violence against women

— Conventions of the UN, the OAS and the ECHR

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979.
<http://www.un.org/womenwatch/daw/cedaw/>

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Pará), 1994.
<http://www.cidh.org/Basicos/Basicos8.htm>

Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, 2011 (Convention of Istanbul).
<http://www.coe.int/t/dghl/standardsetting/convention-violence/texts/Convention%20Spanish%20formatted.pdf>

— Council of the European Union

Declaration by the High Representative Catherine Ashton, on behalf of the European Union, on the International Day for the Elimination of Violence Against Women, 25 November 2012.
http://eeas.europa.eu/delegations/syria/press_corner/all_news/news/2012/20121125_1_en.htm

Declaration by the High Representative on behalf of the European Union on femicide in Latin America (2010).
http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/115578.pdf

EU guidelines on violence against women and girls and combating all forms of discrimination against them (2008).
<http://www.consilium.europa.eu/uedocs/cmsUpload/16173.es08.pdf>

Council conclusions on the Eradication of Violence against Women in the European Union (2010).
<http://register.consilium.europa.eu/pdf/es/10/st06/st06585.es10.pdf>

Council conclusions on improving prevention to tackle violence against women and care to its victims within the scope of law enforcement (2010).
http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/jha/114015.pdf

— European Commission

Statement by Vice-President Reding ahead of the International Day for Eliminating Violence Against Women (2012).

http://europa.eu/rapid/press-release_MEMO-12-895_en.htm

A strengthened commitment to equality between women and men: A Women's Charter (2010).

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0078:FIN:ES:PDF>

EU plan of action on Gender Equality and Women's Empowerment in Development (2010-2015).

http://www.europa-eu-un.org/articles/es/article_9533_es.htm

Daphne III Funding Programme (2007-2013): Contributes to the prevention of and the fight against violence towards children, young people and women, and protection for victims and groups at risk.

http://ec.europa.eu/justice/grants/programmes/daphne/index_en.htm

— European Parliament

European Parliament Subcommittee on Human Rights.

<http://www.europarl.europa.eu/committees/es/droi/home.html>

European Parliament Committee on Women's Rights and Gender Equality.

<http://www.europarl.europa.eu/committees/es/femm/home.html>

European Parliament resolution of 5 April 2011, on priorities and outline of a new EU policy framework to fight violence against women.

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP7-TA-2011-0127%2b0%2bDOC%2bXML%2bV0%2f%2fES&language=ES>

European Parliament resolution on the murder of women (femicide) in Mexico and Central America and the role of the European Union in fighting the phenomenon (2007).

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2007-0431&language=ES&ring=A6-2007-0338>

European Parliament resolution on the elimination of violence against women (2009).

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2009-0098+0+DOC+XML+V0//ES#def_1_7

European Parliament resolution on the escalation of violence in Mexico (2010).

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0067+0+DOC+XML+V0//ES>

Euro-Latin American Parliamentary Assembly.

http://www.europarl.europa.eu/intcoop/eurolat/default_en.htm

Links to article references and authors' organisations

CEM-H, Centre for Women's Studies, Honduras – www.cemh.org.hn

CLADEM, Latin American and Caribbean Committee for the Defence of Women's Rights – www.cladem.org

Chilean Network against Violence towards Women – <http://www.nomasviolenciacontramujeres.cl/>

Flora Tristán, Peruvian Women's Centre, Peru – www.flora.org.pe

Antigone Research Group from the Faculty of Law at the Autonomous University of Barcelona
<http://antigona.uab.cat/>

ORMUSA, Organisation of Salvadoran Women for Peace, El Salvador – www.ormusa.org

INSGENAR, Institute of Gender, Law and Development, Argentina –
<http://insgenar.org/drupal-6.14/sobre-insgenar>

Bolivian Chapter of Human Rights, Democracy and Development, Bolivia –
<http://www.derechoshumanosbolivia.org/>

Femicide.net – femicide.net

European Women's Lobby (EWL), EWL Observatory on Violence against Women –
<http://www.womenlobby.org/spip.php?rubrique219&lang=en>

Convenzione nazionale contro la violenza maschile sulle donne – femminicidio, Italy
[National convention against male violence towards women-femicide, Italy] –
<http://convenzioneantiviolenzanomore.blogspot.be/p/v-behaviorurldefaultvmlo.html>

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The 6th Summit of the European Union-Latin American and Caribbean States Summit (May, 2010) included a paragraph on gender-based violence in its Final Declaration whereby any type of gender-based violence is strongly condemned. It is envisaged that the Summit of the Community of Latin American and Caribbean States and the European Union (CELAC-EU) in Santiago de Chile (January 2013) will decide on the creation of a "Bi-Regional Dialogue on Gender Issues" which will include the fight against gender-based violence.

The purpose of this publication, which is the third in the series "Femicide: A Global Phenomenon", is to identify the content to be included in this new

space for bi-regional dialogue on gender issues with regard to violence against women and the importance of the participation of defenders of women's rights in this area.

As on previous occasions, the document contains a series of articles written by prominent defenders of women's rights, professors and representatives of the Latin American Civil Society. However, this time it also includes articles on European Countries like Italy and Spain, which highlights the magnitude and global nature of this serious violation of human rights as well as the responsibility of the states in both continents to eliminate impunity.

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