

# **Alternative Report on Violence against Women in Ciudad Juarez, Chihuahua, Mexico**

**Ninth Periodic Report of Mexico**

**Committee on the Elimination of Discrimination against Women  
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Submitted on June 11, 2018 by:



## **Signatories of this Report**

**El Centro para el Desarrollo Integral de la Mujer A.C.** (CEDIMAC, *the Center for the Integral Development of Women, A.C.*), founded in 1993, is an organization located in Ciudad Juarez, Mexico that provides holistic support to families whose daughters have been victims of femicide or disappearance and aims to contribute to the cessation of gender violence in Ciudad Juarez.

**Robert F. Kennedy Human Rights** is a nongovernmental organization based in Washington, D.C. Founded in 1968 as a living memorial, it strives to achieve Robert F. Kennedy's vision of a more just and peaceful world. Robert F. Kennedy Human Rights' core programs focus on the power of the individual and providing sustained advocacy, litigation, and capacity-building support to grassroots leaders to advance social justice movements around the globe.

### **A. Introduction**

The above-listed nongovernmental organizations submit this report to highlight the persistent and pervasive violations of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) committed by the Mexican government. In particular, this report aims to expose the lack of progress made since this Committee's last review of Mexico's implementation of CEDAW in 2012, and will address violations of the following rights enshrined in CEDAW: the duty of States to eliminate discrimination against women (Articles 1 & 2); the guarantee of basic human rights and fundamental freedoms (Article 3); the duty of States to eliminate gender-based prejudice (Article 5); and the guarantee of equality under the law (Article 15).

This report will focus on the patterns of violence and discrimination against women in the state of Chihuahua- specifically trends of femicide and disappearances- that we hope this Committee will consider in its review of Mexico. This report will present information collected by signatories to this report, both personally-obtained and publically-available, as well as data collected by the Mexican government and NGOs. It will compare current data with this Committee's report following the in-country visit to Chihuahua in 2004 under article 8 of the Optional Protocol in CEDAW in an effort to exemplify the absence of sustainable and effective progress made by Mexico in response to the Committee's recommendations and to highlight the need for a follow-up visit to Chihuahua.

This report will end by providing recommendations that we urge this Committee to adopt to encourage Mexico's compliance with its obligations under CEDAW. CEDIMAC and Robert F. Kennedy Human Rights authorizes the publication of this report on the CEDAW Committee's portal.

### **B. Violence Against Women in Mexico**

Violence against women in Mexico is widespread and pervasive, normalized by a culture of sex discrimination and perpetuated by enduring impunity. It is estimated that at least 66% of

Mexican women have suffered some type of violence in their lives.<sup>1</sup> Extreme violence, including disappearances and femicides – or the killing of women due to their gender – is the most severe form of gender-based discrimination and has become more common-place throughout Mexico.

Trends of femicide have continued unabated for decades, reaching epidemic proportions.<sup>2</sup> Between 1985 and 2014, more than 47,178 women were killed due to their gender in Mexico.<sup>3</sup> More recently, the epidemic has only worsened. According to the Executive Secretariat of the National Public Security System, 1,640 investigations were opened nation-wide for the crime of femicide between 2015 and 2017 alone. During those three years, the number of registered femicides increased by 72%,<sup>4</sup> and in 2017, there were almost two femicides committed daily in Mexico.<sup>5</sup>

However, the type of conduct that qualifies as a femicide is a source of constant debate, which has resulted in mass underreporting and large disparities between the registries of this type of violence. For example, 9,581 women were murdered in Mexico between 2012 and 2016, and only 1,887 cases were categorized as femicides, or 19.7%, despite evidence that would qualify the murder as a femicide in at least 7,694 of those cases.<sup>6</sup> Similarly, the Prosecutors of Justice and the State Prosecutors reported to the National Observatory of Femicide (OCNF, according to its name is Spanish) that only 30% of the 6,297 women killed between 2014 and 2017 were investigated as femicides- that is, only 1,886 cases.<sup>7</sup> Overtime, the total number of murders investigated as femicides has grown consistently with the rate of murders,<sup>8</sup> but it is likely that the total number of femicides is much higher than registered.

Regardless, it is clear that violence against women has increased no matter how it is classified. According to the National Institute of Statistics and Geography, between January and November 2017, 2,813 women were murdered in Mexico “marking 2017 as the worst period for

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<sup>1</sup> Instituto Nacional de Estadística y Geografía (INEGI) [National Institute of Statistics and Geography], *Estadísticas a propósito del día Internacional de la Eliminación de la Violencia contra la Mujer (25 de Noviembre): Datos Nacionales [Statistics on the International Day for the Elimination of Violence against Women (November 25): National Data]* (Nov. 23, 2017). Available at: [http://www.inegi.org.mx/saladeprensa/aproposito/2017/violencia2017\\_Nal.pdf](http://www.inegi.org.mx/saladeprensa/aproposito/2017/violencia2017_Nal.pdf).

<sup>2</sup> Inter-American Court on Human Rights, Case of Gonzalez and others (“Cotton Field”) v. México. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009, Series C No. 205, par. 143 [hereinafter *Cotton Field*].

<sup>3</sup> Secretaría de Gobernación (SEGOB) [Secretary of Government], Instituto Nacional de las Mujeres (INMUJERES) [National Institute of Women] and UN Women, *La Violencia Femicida en México, Aproximaciones y Tendencias 1985-2014 [Femicide Violence in México, Approximations and Trends]* (April 2016) [hereinafter SEGOB Report], page 10.

<sup>4</sup> *Estados registran 1,640 casos de feminicidio en tres años; Sinaloa, con la tasa más alta en 2017 [States register 1,640 cases of femicide in 3 years; Sinaloa, with the highest rate in 2017]* (Jan. 21, 2018). Available at: <http://www.animalpolitico.com/2018/01/feminicidio-mexico-asesinatos-mujeres/>.

<sup>5</sup> Sergio Rincón, *Con dos feminicidios diarios durante 2017, la violencia contra las mujeres en México aumenta 72% [With two daily femicides in 2017, violence against women in México increases 72%]* (Jan. 23, 2018). Available at: <https://www.univision.com/noticias/america-latina/con-dos-feminicidios-diarios-durante-2017-la-violencia-contra-las-mujeres-en-mexico-aumenta-72>.

<sup>6</sup> Valeria Duran, Mexicanos Contra la Corrupción y la Impunidad [Mexicans against Corruption and Impunity], *Las Muertas Que No Se Ven: El Limbo de Los Feminicidios [The Dead that are Not Seen: the Limbo of the Femicides]*. Available at: <http://contralacorrupcion.mx/web/femimicidiosocultos/>.

<sup>7</sup> Observatorio Ciudadano Nacional del Femicidio (OCNF) [National Citizen Observatory of Femicide], *Informe Implementación del Tipo Penal de Femicidio en México: Desafíos para Acreditar las Razones de Género [Report on the Implementation of the Penal Codification of Femicide in México: Challenges to Prove the Reasons of Gender]* (April 2018), page 35 [hereinafter OCNF Report]. Available at: <https://observatoriofemicidio.files.wordpress.com/2018/05/enviando-informe-implementacioc81n-del-tipo-penal-de-femicidio-en-mecc81xico-2014-2017-1.pdf>.

<sup>8</sup> In 2014, 1,458 women were murdered, and 33%, or 495 total, were investigated as femicides. Similarly, in 2017, 479 of 1,583 murdered women were investigated as femicides, totaling 30% of the cases. OCNF Report, pages 35 and 39.

women in almost three decades.”<sup>9</sup> In 2017, there were 671 registered cases of femicides according to OCNF.<sup>10</sup> As of April 7, 2018, a local NGO has recorded 500 femicides in Mexico already this year.<sup>11</sup> Additionally, an estimated 8,488 women are registered as disappeared of the 32,227 people missing in Mexico.<sup>12</sup> The ONCF calculated that there were 3,174 disappeared women in 2017 in five Mexican states alone.<sup>13</sup>

These patterns of violence have been attributed, at least in part, to a culture of machismo and subordination of women. Although the State denies a common motivation of the murderers, it has admitted before this Committee that the murder of women in Ciudad Juarez “is influenced by a culture of discrimination against women based in the erroneous conception of inferiority.”<sup>14</sup> This same discrimination is prevalent throughout the governmental institutions charged with preventing and responding to this violence throughout Mexico, leading to inaction in the face of accusations and perpetuating impunity for perpetrators.

Following its 2005 visit, this Committee remarked on the stark linkage between the larger context of discrimination throughout Mexico, the enduring rates of violence against women, and the lacking official response:

“The methods used in the murders and disappearances perpetrated in Ciudad Juárez over the past decade have been used again in recent years in Chihuahua City and apparently in other parts of Mexico, offering further evidence that we are face not with an isolated although very serious situation, nor with instances of sporadic violence against women, but rather with systematic violations of women’s rights, founded in a culture of violence and discrimination that is based on women’s alleged inferiority, a situation that has resulted in impunity.”<sup>15</sup>

### C. Violence Against Women in Chihuahua

Violence against women, rampant throughout Mexico, has been particularly visible in the Mexican state of Chihuahua, due mostly to the dramatic spike in femicides in Ciudad Juarez in the 1990s. Despite international attention and condemnation by the Inter-American System on Human Rights and several United Nations mechanisms, including this Committee and the

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<sup>9</sup> Jazive Perez, *Violencia Extrema contra Mujeres Rompe Record [Extreme Violence Against Women Breaks Record]* (Dec. 21, 2017). Available at: <https://www.nbcwashington.com/news/local/volencia-extrema-contra-mujeres-rompe-record-femicidios-abusos-genero-466672293.html>.

<sup>10</sup> Sergio Rincón, *Con dos feminicidios diarios durante 2017, la violencia contra las mujeres en México aumenta 72% [With two daily femicides in 2017, violence against women in México increases 72%]* (Jan. 23, 2018). Available at:

<https://www.univision.com/noticias/america-latina/con-dos-femicidios-diarios-durante-2017-la-violencia-contra-las-mujeres-en-mexico-aumenta-72>.

<sup>11</sup> Aida Hernandez, *500 feminicidios en México en lo que va del año [500 femicides in México So Far this Year]* (April 7, 2018). Available at: [https://www.huffingtonpost.com.mx/2018/04/07/500-femicidios-en-mexico-en-lo-que-va-del-ano\\_a\\_23405263/](https://www.huffingtonpost.com.mx/2018/04/07/500-femicidios-en-mexico-en-lo-que-va-del-ano_a_23405263/).

<sup>12</sup> *México, el país donde hay más de 32.000 desaparecidos [México, the country where there are more than 32,000 disappeared]* (Sept. 13, 2017). Available at: <http://cnnespanol.cnn.com/2017/09/13/mexico-el-pais-donde-hay-mas-de-32-000-desaparecidos/>

<sup>13</sup> *2017, el peor año para niñas y mujeres en México [2017, the worst year for girls and women in México]* (Dec. 2, 2017).

Available at: <https://www.vanguardia.com.mx/articulo/2017-el-peor-ano-para-ninas-y-mujeres-en-mexico>.

<sup>14</sup> Cotton Field, par. 132.

<sup>15</sup> United Nations, Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO (Jan. 27, 2005), par. 261.

Special Rapporteur on violence against women, high rates of violence against women continue unabated in Chihuahua today.

Ciudad Juarez is commonly referred to as the “epicenter of femicide”<sup>16</sup> due to its long history of and the particular characteristics surrounding the mass murders of women there. The Inter-American Commission on Human Rights has recognized that the situation for women in Ciudad Juarez is unique in comparison to other cities in Mexico due to: (1) “the rate of homicides of women [which] increased extraordinarily in Ciudad Juarez in 1993, and since then has continued elevated”; (2) “the number of homicides of women, in comparison to that of men in Ciudad Juarez is considerably greater than other cities in similar situations, and the national average”; (3) “the extremely brutal circumstances of many of the murders . . . A considerable number of the victims were young between 15 and 25 years old, and many were beaten or subjected to sexual violence before they were strangled or stabbed to death”; and (4) “the response of the authorities before these crimes has been notably deficient.”<sup>17</sup>

In the 2009 precedent-setting case of *Campo Algodonero y Otras* (translated to *Cotton Fields and others*) vs. Mexico, the Inter-American Court on Human Rights (IACtHR) found that the Mexican government had violated its obligations under international human rights law to prevent the 2001 femicides of three women in Ciudad Juarez and to adequately investigate, prosecute, and punish their murderers. The IACtHR ordered Mexico to adopt measures of non-repetition that to this day have not been implemented entirely, as evidenced by the continuous murder and disappearance of women and impunity for perpetrators in Ciudad Juarez, Chihuahua, and on a national scale.<sup>18</sup>

Not only has the situation remained unchanged due to the State’s inadequate preventative and investigative response, but violence has actually increased in Ciudad Juarez since the IACtHR’s historic *Campo Algodonero* decision. Any concerns that existed at the peak of the femicide epidemic in the 1990s have resurfaced in recent years due to the heightened levels of general violence and visible impunity throughout Mexico.

As general rates of violence in Mexico increase, so does violence targeted at women. Between 2008 and 2012, Ciudad Juarez experienced an explosion of murders and violence related to drugs. In 2010, Ciudad Juarez was the location of one in six homicides nationwide<sup>19</sup> and was classified as the most dangerous city in the world that year.<sup>20</sup> In Chihuahua, the femicide rate multiplied by 3.7 times in one year: between 2007 and 2008, the femicide rate jumped from 2.9 to 10.6 femicides per 100,000 women.<sup>21</sup> And in the five years between 2008 and 2013, 890

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<sup>16</sup> Rafael Castillo, *Murdered in México State: The Silent Epidemic of Women Killings in México* (June 22, 2015). Available at: <https://news.vice.com/article/murdered-in-mexico-state-the-silent-epidemic-of-women-killings-in-mexico>.

<sup>17</sup> Inter-American Commission on Human Rights (CIDH), *Situación de los Derechos de la Mujer en Ciudad Juárez, México: el Derecho a no Ser Objeto de Violencia y Discriminación [Situation of Women’s Rights in Ciudad Juárez, México: the Right not to be the Subject of Violence and Discrimination]* (March 7, 2003) [hereinafter CIDH Report], par. 4. Available at: <http://www.cidh.org/annualrep/2002sp/cap.vi.juarez.htm>.

<sup>18</sup> United Nations, Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO (Jan. 27, 2005), pars. 26, 33, and 34.

<sup>19</sup>SEGOB Report.

<sup>20</sup> Lorena Figueroa, *Juárez among most dangerous cities in the world* (Apr. 13, 2017). Available at: <http://www.elpasotimes.com/story/news/2017/04/13/juarez-among-most-dangerous-cities-world/100425962/>.

<sup>21</sup> SEGOB Report, page 10.

femicides occurred in the state of Chihuahua, in comparison to the 447 femicides that occurred in the 14 years between 1993 and 2007.<sup>22</sup>

Although Ciudad Juarez saw a dramatic decrease in violence and homicide rates after 2012, due in large part to a greater presence of security forces and a break in cartel fighting,<sup>23</sup> a recent increase in violence related to narco-trafficking has led to a renewed ballooning in the number of homicides. In 2017, 29,169 homicides were registered in Mexico, the highest rate in two decades.<sup>24</sup> The rate of violence in Ciudad Juarez, specifically, doubled in 2016 to 43.63 homicides per 100,000 people,<sup>25</sup> and Ciudad Juarez returned to the list of the world's 50 most dangerous cities, where it is currently ranked number 37.<sup>26</sup> Violence remains most concentrated in Ciudad Juarez throughout the state of Chihuahua: Ciudad Juarez witnessed 96 murders of women in 2017, accounting for 43% of the total in Chihuahua.<sup>27</sup>

With 2017 as the most dangerous year in Mexico on record, it is increasingly critical that Mexico devote the necessary resources to reverse the decades of gender-based discrimination and violence that has continued unabated. When looking more specifically at the recent rates of violence against women, it is clear that the kind of violence that drew international attention to Ciudad Juarez in the 1990s has swollen with impunity.

Due to the discrepancies in reporting, the number of femicides continues to vary according to the source and it is likely that there are many more instances of femicides that have not been appropriately characterized due to inconsistent legal definitions. One civil society organization reported that Chihuahua had the second highest rate of murders of women in Mexico in 2015, with a frequency of 7.87 femicides per 100,000 women.<sup>28</sup> According to the College of the Northern Frontier (*Colegio de la Frontera Norte*), 499 femicides were registered in Ciudad Juarez between 1993 and 2007. Between 2008 and November 2017, that number was 1,720, more than three times higher.<sup>29</sup>

Most recently, government sources- specifically the Chihuahua State Prosecutor- report that there were 222 murders of women in 2017, of which 70 were labeled as femicides.<sup>30</sup> It is important to note that 31.53% of those 70 femicides occurred in November and December 2017, following the codification of "murder due to gender" in the Chihuahua penal code; this suggests that if the codification had occurred sooner, it is possible the total number of registered gender-

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<sup>22</sup> SEGOB Report.

<sup>23</sup> Sam Quinones, *Once the World's Most Dangerous City, Juárez Returns to Life* (June 2016). Available at: <https://www.nationalgeographic.com/magazine/2016/06/juarez-mexico-border-city-drug-cartels-murder-revival/>.

<sup>24</sup> James Fredrick, *México Registers its Highest Homicides on Record* (Jan. 25, 2018). Available at: <https://www.npr.org/sections/parallels/2018/01/25/580239712/mexico-registers-its-highesthomicides-on-record>.

<sup>25</sup> Kyle Swenson, *Hundreds of women disappear in Ciudad Juarez each year. A smartphone app could help* (July 10, 2017). Available at: [https://www.washingtonpost.com/news/morning-mix/wp/2017/07/10/hundreds-of-women-disappear-in-ciudadjuarez-each-year-a-smartphone-app-could-help/?utm\\_term=.263931c339fc](https://www.washingtonpost.com/news/morning-mix/wp/2017/07/10/hundreds-of-women-disappear-in-ciudadjuarez-each-year-a-smartphone-app-could-help/?utm_term=.263931c339fc).

<sup>26</sup> Christopher Woody, *The 50 Most Violent Cities in the World* (April 8, 2017). Available at: <http://www.businessinsider.com/most-violent-cities-in-the-world-2017-4/#38-teresina-brazil-had-4284-homicides-per-100000-residents-13>.

<sup>27</sup> OCNF Report, page 61.

<sup>28</sup> Valeria Duran, Mexicanos Contra la Corrupción y la Impunidad [Mexicans against Corruption and Impunity], *Las Muertas Que No Se Ven: El Limbo de Los Femicidios* [The Dead that are Not Seen: the Limbo of the Femicides]. Available at: <http://contralacorrupcion.mx/web/femimicidiosocultos/>.

<sup>29</sup> Karina Suarez, *Los femicidios no cesan en Ciudad Juárez* [The femicides do not stop in Ciudad Juárez] (Nov. 23, 2017). Available at: [https://elpais.com/internacional/2017/11/22/mexico/1511307168\\_804661.html](https://elpais.com/internacional/2017/11/22/mexico/1511307168_804661.html)

<sup>30</sup> OCNF Report, page 59.

based murders would be much higher.<sup>31</sup> In contrast, according to the Special Prosecutor for the Care of Women Victims of Gender-based Crime, there were 41 registered femicide cases in 2017 in Ciudad Juárez.<sup>32</sup> The Executive Secretariat of the National Public Security System reported only 11 femicides in Chihuahua in 2017, 25 alleged victims of human trafficking- making it the state with the fourth highest number nationally, and 212 cases of intentional murders of women in the same time period- the third highest number in the country.<sup>33</sup>

On the other hand, according to the Secretary of Government (*the Secretaría de Gobernación- SEGOB*), Ciudad Juárez occupies the thirteenth position in a list of 100 municipalities with the highest number of femicide crimes in Mexico in 2017.<sup>34</sup> That translated to 28 femicides registered in Ciudad Juárez between January and November 23<sup>rd</sup> 2017, almost double the 16 registered in 2016.<sup>35</sup> Nonetheless, 88.57% of the cases that are investigated as gender-based murders enjoy impunity in Chihuahua.<sup>36</sup>

#### **D. The State's Response to Violence Against Women**

Statistics vary, but what is clear is that although “the authorities of the state of Chihuahua maintain that, since its establishment in 1998, the Special Prosecutor has put into place the measures needed to react promptly and adequately in the face of those crimes, and it has achieved a much more satisfactory rate of solving the cases”, there continues to be extreme and systemic deficiencies in the State's response to violence against women in Chihuahua.<sup>37</sup> Women continue to be disappeared and murdered with impunity at rates that mirror- and even exceed- those at the “height” of the epidemic in Ciudad Juárez.

Preventative measures, investigations, and prosecutions in Ciudad Juárez have been non-existent, totally lacking, or ineffective when dealing to violence against women. Generally, the authorities' responses to femicide and disappearances cases have been characterized by persistent errors, indifference, negligence, and prejudice. These failures reflect and perpetuate the larger culture of discrimination that motivates the acts of violence against women in the first place.

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<sup>31</sup> OCNF Report, page 61.

<sup>32</sup> Velvet González, *Detuvo FEM a 48 feminicidas [FEM arrested 48 femicides]* (Jan. 17, 2018). Available at: <https://www.elheraldodechihuahua.com.mx/local/detuvo-fem-a-48-feminicidas-564483.html>.

<sup>33</sup> Secretaría de Gobernación (SEGOB) [Secretary of Government] y Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (SESNSP) [Executive Secretariat of the National Public Security System], *Información delictiva y de emergencias con perspectiva de género [Criminal and emergency information with a gender perspective]* (De. 31, 2017) [*hereinafter* SEGOB and SESNSP Report]. Available at: [http://secretariadoejecutivo.gob.mx/docs/pdfs/nueva-metodologia/Info\\_delict\\_persp\\_genero\\_DIC2017.pdf](http://secretariadoejecutivo.gob.mx/docs/pdfs/nueva-metodologia/Info_delict_persp_genero_DIC2017.pdf).

<sup>34</sup> SEGOB and SESNSP Report.

<sup>35</sup> Karina Suárez, *Los feminicidios no cesan en Ciudad Juárez [The femicides do not stop in Ciudad Juárez]* (Nov. 23, 2017). Available at: [https://elpais.com/internacional/2017/11/22/mexico/1511307168\\_804661.html](https://elpais.com/internacional/2017/11/22/mexico/1511307168_804661.html)

<sup>36</sup> OCNF Report, page 60.

<sup>37</sup> CIDH Report, par. 148.

During México's last review in 2012, this Committee expressed its concern with those very dynamics, explaining that "a culture of impunity has taken root which facilitates and encourages terrible violations of human rights."<sup>38</sup> Specifically, it was concerned by:

"The low numbers of cases of violence against women that are reported before the authorities because women are fearful of retaliation measures and do not trust the authorities; and the lack of standardized protocols for investigating and prosecuting cases of violence against women, which hamper the right of victims to access to justice and leave a high proportion of cases unpunished, as pointed out by the Inter-American Court of Human Rights in the *Campo Algodonero* case . . . The persistent impunity with respect to the investigation, prosecution and punishment of perpetrators of acts of violence against women across the country . . . ."<sup>39</sup>

Other international bodies expressed similar concerns. In 2003, the Inter-American Commission on Human Rights (CIDH according to its name in Spanish) issued a report titled *The Situation of the Rights of Women in Ciudad Juarez, Mexico: The Right to Not be the Object of Violence and Discrimination*, which explained that "[a] common denominator of most of these crimes is the impossibility of the victims or their relatives to obtain early access to protection and judicial guarantees. These problems, in turn, are inextricably linked to historical patterns of discrimination based on gender . . . The lack of an effective official response is part of the broader context of discrimination."<sup>40</sup> Likewise, and in the same year, the Inter-American Special Rapporteur on the Rights of Women recognized that "the environment in Ciudad Juarez continues to be characterized by an extremely acute lack of confidence, suspicion [of the police] and politicization."<sup>41</sup>

The same institutional and procedural failures, rooted in systemic discrimination, characterize the response of the prosecutorial and judicial systems today. As this Committee has recognized, "Some high-level officials of Chihuahua state and Ciudad Juarez have gone so far as to publicly blame the victims themselves for their fate, attributing it to their manner of dress, the place in which they worked, their conduct, the fact that they were walking alone, or parental neglect."<sup>42</sup> Another report by the National Commission of Human Rights (CNDH according to its initials in Spanish) in Mexico documented statements by officials that revealed an "'absence of interest or willingness to pay attention to and remedy a serious social problem, as well as a form of discrimination' that constituted a 'form of sexist denigration.'"<sup>43</sup>

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<sup>38</sup> United Nations, Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO (Jan. 27, 2005), par. 26.

<sup>39</sup> United Nations, CEDAW Committee, Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/MEX/CO/7-8 (Aug. 7, 2012) [*hereinafter* CEDAW Concluding Observations], par. 18.

<sup>40</sup> CIDH Report, par. 36.

<sup>41</sup> CIDH Report.

<sup>42</sup> United Nations, Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO (Jan. 27, 2005), par. 67.

<sup>43</sup> Cotton Field, par. 153.



The lack of effective response by the Mexican government has perpetuated impunity for perpetrators, normalizing this violence.<sup>44</sup> As this Committee has recognized, “impunity for such offences contributes significantly to the entrenchment of a culture of acceptance of the most extreme forms of violence against women in society, which feeds their continued commission.”<sup>45</sup> According to the Special Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights, in 2002 only 20% of murders of women led to conviction,<sup>46</sup> meaning “the impunity of the acts of violence against women continues as a general practice, and not the exception.”<sup>47</sup> With relation to the 70 femicides recorded by the Chihuahua State Prosecutor in 2017, only eight people have been detained.<sup>48</sup>

Additionally, recent policy developments in the State’s public security strategy to combat organized crime and drug trafficking, like the promulgation of the Interior Security Law (*la Ley de Seguridad Interior*), will exacerbate violence by and corresponding impunity for state actors, realizing the very concerns this Committee expressed in 2012.<sup>49</sup> The Interior Security Law militarizes public security forces, effectively shielding them from legal scrutiny for violence perpetrated against civilians, including gender-based violence that disproportionately impacts women.<sup>50</sup>

For these reasons, this Committee should hold the exact same concerns in 2018 as it did during its 2012 review. The continuously elevated rates of violence against women - particularly disappearances, sexual violence, and femicides - and the enduring impunity perpetrators of these crimes enjoy indicate that this Committee’s fears, expressed over the two decades ago, are still very much a reality in Ciudad Juarez, Chihuahua, and Mexico more broadly. Moreover, the fact that rates of violence have remained stagnant since those Observations, and have even increased (as in the case for femicides), is an indication that the State party has not taken sufficient steps to counteract these threats to women’s security and rights.

We ask that this Committee’s recommendations to the State of Mexico be more rigorous, given the lack of progress since the last sessions. There is need to consider the State’s failures in protecting women’s fundamental freedoms and rights, and the critical shortcomings in efforts to prevent violence and react effectively to violations, including failing to: harmonize and formalize specialized procedures to respond to allegations of femicide and to locate disappeared women; enforce corresponding institutional regulations to ensure threats to women’s security and rights are met with due diligence by state actors; eliminate cultural biases and gender-based prejudice in official responses; and ensure women’s equality under the law is realized.

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<sup>44</sup> Cotton Field, pars. 149 and 164.

<sup>45</sup> United Nations, CEDAW Committee, Views adopted by the Committee under article 7, paragraph 4, of the Optional Protocol, concerning communication No. 75/2014, CEDAW/C/67/D/75/2014 (Aug. 29, 2017), par. 9.5.

<sup>46</sup> CIDH, *Acceso a la Justicia para mujeres víctimas de violencia en las Américas [Access to Justice for Women Victims of Violence in the Americas]*, OEA/Ser.L/V/II., Doc. 68 (Jan. 20, 2007) page 9, par. 20.

<sup>47</sup> CIDH Report, par. 135.

<sup>48</sup> OCNF Report, page 60.

<sup>49</sup> CEDAW Concluding Observations, par. 11.

<sup>50</sup> Robert F. Kennedy Human Rights et al., *Inter-American Commission on Human Rights Holds Important Hearing on Implications of Mexico’s New Internal Security Law* (Mar. 20, 2018). Available at: <https://rfkhumanrights.org/news/inter-american-commission-on-human-rights-holds-important-hearing-on-implications-of-mexicos-new-internal-security-law>

## E. Mexico's Non-Compliance with CEDAW and Committee Recommendations

Violence against women constitutes the most extreme form of gender-based discrimination. As discussed above, a machismo culture has led to the unequal treatment and discrimination of women throughout Mexico, with a specifically egregious impact in Ciudad Juarez, Chihuahua. That discrimination both motivates unprecedented levels of violence against women and excuses the State's inaction in the face of decades of violence. Thus, the Convention for the Elimination of All Forms of Discrimination of Women is exactly applicable in this setting, and should be leveraged to compel Mexico to reform its role in preventing and punishing violence against women. Mexico has specifically violated its obligations under the following articles:

### 1. Articles 1 & 2

Articles 1<sup>51</sup> and 2<sup>52</sup> of CEDAW create a proactive obligation on States Parties to “to take all appropriate measures to eliminate discrimination against women by any person. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”<sup>53</sup> This Committee established in general recommendation No. 19 that “the definition of discrimination under article 1 of the Convention includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights is discrimination within the meaning of article 1. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights is discrimination within the meaning of article 1.”<sup>54</sup>

Although México has put in place institutions and legislation to address trends of violence against women and girls, it has failed to effectively counteract a culture of gender inequality that encourages the perpetuation of such gender-based violence and discrimination. These failures have allowed for extreme violence, including femicides and disappearances, to persist at elevated rates in Chihuahua for decades. Not only has Mexico failed to take measures

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<sup>51</sup> Article 1: “For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” The Convention on the Elimination of all Forms of Discrimination against Women, Article 1.

<sup>52</sup> Article 2: “State Parties condemn discrimination against women in all forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: . . . (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise . . . .” The Convention on the Elimination of all Forms of Discrimination against Women, Article 2.

<sup>53</sup> United Nations, CEDAW Committee, Views adopted by the Committee under article 7, paragraph 4, of the Optional Protocol, concerning communication No. 75/2014, CEDAW/C/67/D/75/2014 (Aug. 29, 2017), par. 9.4.

<sup>54</sup> United Nations, CEDAW Committee, Views adopted by the Committee under article 7, paragraph 4, of the Optional Protocol, concerning communication No. 75/2014, CEDAW/C/67/D/75/2014 (Aug. 29, 2017), par. 9.4.

to eliminate discrimination, to promote equality, or to prevent gender-based violence perpetrated by both state and private actors, but State officials have acted with prejudice in responding to instances of gender-based violence – including failing to effectively investigate, prosecute, or punish perpetrators - thereby reinforcing widespread discrimination.

In the 2005 report following the in-country visit, this Committee expressed its concern for “the fact that these serious and systematic violations of women’s rights have continued for over 10 years, and notes with consternation that it has not yet been possible to eradicate them, to punish the guilty and to provide the families of the victims with the necessary assistance.”<sup>55</sup> The fact that the same abuses continue unabated over 10 years later reinforces the severity of Mexico’s violations of CEDAW, the State’s failure to heed this Committee’s recommendations, and the imperative need for stronger intervention.

Pursuant to General Recommendation 28, under article 2, States “have a due diligence obligation to prevent, investigate and punish acts of gender-based violence”<sup>56</sup>, requiring the State “not to cause discrimination against women through acts or omissions; [and] they are further obliged to react actively against discrimination against women, regardless of whether such acts or omissions are perpetrated by the State or by private actors”<sup>57</sup>:

“The obligation to respect requires that States parties refrain from making laws, policies, regulations, programmes, administrative procedures and institutional structures that directly or indirectly result in the denial of the equal enjoyment by women of their civil, political, economic, social and cultural rights. The obligation to protect requires that States parties protect women against discrimination by private actors and take steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes, and of stereotyped roles for men and women. The obligation to fulfil requires that States parties take a wide variety of steps to ensure that women and men enjoy equal rights de jure and de facto . . . This entails obligations of means or conduct and also obligations of results. States parties should consider that they have to fulfil their legal obligations to all women through designing public policies, programmes and institutional frameworks that are aimed at fulfilling the specific needs of women leading to the full development of their potential on an equal basis with men.”<sup>58</sup>

México has failed to fulfill its obligation to respect, protect, and fulfil its legal obligations to eliminate gender-based violence. The Mexican State is very aware of the patterns of violence against women in Chihuahua, and even admitted the deficiencies of its response in the first years

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<sup>55</sup> United Nations, Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO (Jan. 27, 2005), par. 260.

<sup>56</sup> United Nations, CEDAW Committee, Views adopted by the Committee under article 7, paragraph 4, of the Optional Protocol, concerning communication No. 75/2014, CEDAW/C/67/D/75/2014 (Aug. 29, 2017), par. 9.5.

<sup>57</sup> United Nations, CEDAW Committee, General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/2010/47/GC.2 (Oct. 19, 2010), par. 10. Available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf>.

<sup>58</sup> United Nations, CEDAW Committee, General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/2010/47/GC.2 (Oct. 19, 2010), par. 9. Available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf>.

of the boom in femicides in the 1990s.<sup>59</sup> Yet, institutional reforms have failed to effectively prevent ongoing violence against women. The steps taken by Mexico to counteract the trends of violence and impunity, including in response to the Inter-American Court’s decision in *Campo Algodonero*, have been insufficient. Any institutional protections established throughout Mexico to counteract gender-based violence have been inconsistent.

Legislatively, gaps continue to exist in the codification of femicide as a separate crime of homicide among several jurisdictions, and those gender equality provisions of federal and local legislation that do exist, do not satisfy Article 2 because they are not effectively enforced to protect the rights of women and to eliminate discrimination. At the last review of Mexico’s compliance with CEDAW, this Committee recommended that Mexico “[t]ake the steps necessary to ensure that the codification of femicide is based on objective elements which allow its proper qualification in the local penal codes; accelerate its codification in those pending local penal codes; standardize the police investigation protocols for femicide across the country; and inform without delay the families of the victims . . . .”<sup>60</sup>

Recognizing a murder as a femicide is a significant step to ensuring justice is brought for the victim and her family, as it triggers specific reparations for loved ones and heightened sentences for perpetrators. Failure to properly characterize a femicide, or gender-based violence for that matter, also leads to underreporting and to investigative failures in applying a gender-based lens. According to the National Citizen Observatory of Femicide, of the 6,297 murders of women registered between 2014 and 2017, only 1,886 cases were investigated as femicides, totaling 30%.<sup>61</sup> In some instances, authorities connected cases to drug-trafficking, without further investigation, disqualifying them from being investigated as femicides despite exhibiting relevant characteristics.<sup>62</sup>

It was not until 2010 that femicide began to be typified as a separate crime in the Mexican state penal codes,<sup>63</sup> and in 2012, the process began to codify “femicide” within the federal penal code.<sup>64</sup> Despite the progress made since then, almost half of the jurisdictions have codified femicide inadequately, including by creating subjective elements.<sup>65</sup> In fact, only 19 states comply with the necessary normative elements and define the crime objectively, according to the National Citizens Observatory of Femicide.<sup>66</sup>

The State of Chihuahua was the last state to codify the crime of femicide, and it remains incomplete.<sup>67</sup> The State of Chihuahua first incorporated a gendered element to its penal code in January 2010: article 136 recognizes a heightened sentence of 30 to 60 years in prison if the victim of the homicide were “female or a minor.”<sup>68</sup> In June 2016, however, the Mexican Supreme Court pronounced the aggravating element of the sex of the victim to be

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<sup>59</sup> United Nations, Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO (Jan. 27, 2005).

<sup>60</sup> CEDAW Concluding Observations, par. 19.

<sup>61</sup> OCNF Report, page 215.

<sup>62</sup> OCNF Report, page 216.

<sup>63</sup> OCNF Report, page 17.

<sup>64</sup> OCNF Report, page 17.

<sup>65</sup> OCNF Report, page 17.

<sup>66</sup> OCNF Report, page 17.

<sup>67</sup> OCNF Report, page 59.

<sup>68</sup> OCNF Report, page 58.

unconstitutional because the sex of the victim does not determine if the murder was gender-motivated. In compliance with the Supreme Court’s holding, Chihuahua incorporated Article 126 *Bis* in October 2017, which recognized the crime of “deprivation of life due to gender reasons”, but failed to recognize the term “femicide” explicitly.<sup>69</sup> In fact, the Chihuahua penal code only recognizes three objective circumstances for finding gender-based murder; all other factors are merely aggravating once the gender-based murder has been established.<sup>70</sup> Just as this Committee was concerned in 2012 “about deficiencies and different definitions of crime of femicide in the local penal codes”, this Committee should urge the State to harmonize all federal and state penal codes, and strengthen them by incorporating inclusive, objective criteria and the label of “femicide”.

Moreover, when an act of violence against women is reported, state officials’ responses regularly fail to meet the due diligence standard, which requires the State to “[make] every effort to comply with its obligation under the Convention to investigate the crime, bring the perpetrator(s) to trial, and impose adequate penal sanctions.”<sup>71</sup> Although this Committee “[has] recognize[d] that the obligation of the State to investigate crimes is one of conduct and not of result”<sup>72</sup>, those institutions created specifically to counter gender-based violence remain woefully and critically deficient. The “national machinery” put in place to “prevent, treat, punish, and eliminate violence against women” has failed due to the very concerns this Committee expressed: “the capacity and resources allocated to the national machinery have not been adequately strengthened to ensure effective coordination among the different bodies which compose it . . . .”<sup>73</sup>

The 1998 creation of the Office of the Special Prosecutor for the Investigation of the Murders of Women in Ciudad Juarez is one such effort, but the Office has not made any progress. The Office indicated “in its 2006 report that of the 139 preliminary investigations analyzed, in more than 85%, public servants were responsible for serious deficiencies and omissions that ‘hampered the resolution of the homicides, provoking impunity.’”<sup>74</sup> Additionally, the Special Prosecutor's Office does not have a protocol for the investigation of femicides, which leads to discretionary presumptions about which deaths of women could be due to gender reasons and which are not. The same happens at the national level.

Authorities continuously fail to respond effectively to reports of threats to women. Of particular concern are those “cases of femicide that could have been avoided [when the] victims previously reported the violence they were subjected to; however, the authorities did not respond with protective measures.”<sup>75</sup> Delays in responding to reports of disappearances by family members, negligent reactions to reports of domestic violence or the particular risks to vulnerable women (such as poor, factory workers in Ciudad Juarez who work late shifts), and insufficient

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<sup>69</sup> OCNF Report, page 58.

<sup>70</sup> OCNF Report, page 60.

<sup>71</sup> United Nations, CEDAW Committee, Views adopted by the Committee under article 7, paragraph 4, of the Optional Protocol, concerning communication No. 75/2014, CEDAW/C/67/D/75/2014 (Aug. 29, 2017), par. 9.6.

<sup>72</sup> United Nations, CEDAW Committee, Views adopted by the Committee under article 7, paragraph 4, of the Optional Protocol, concerning communication No. 75/2014, CEDAW/C/67/D/75/2014 (Aug. 29, 2017), par. 9.6.

<sup>73</sup> CEDAW Concluding Observations, pars. 15 and 16.

<sup>74</sup> Cotton Field, par. 150.

<sup>75</sup> OCNF Report, page 217.

searches for missing women qualify as failures to act with due diligence in preventing violence to women.

Common failures by investigative institutions include: DNA evidence is lost; the “search” for disappeared women is delayed and/or is limited to the morgue or hospitals; the search never begins and the victims’ bodies are found after only the family has sought to find the disappeared women; and/or lines of investigation are never followed through and suspects are never named. Additionally, authorities do not always keep the families of victims informed; sometimes parents learn of the discovery of their child’s remains through local newspapers. Families have reported being treated with contempt, prejudice, or ignored by officials, and have often resorted to searching for their missing loved ones themselves, often putting themselves in harm’s way. Conclusively, most investigations are marked by conduct that is far from reaching the due diligence standard.

Failures also exist within the prosecutorial system. Far from achieving adequate and appropriate sanctions against or punishment for perpetrators, suspects are often not brought to trial or reach the sentencing phase. Although specialized prosecutor offices exist, they are understaffed and under-resourced. In Ciudad Juarez (included in the *zona norte* of Chihuahua), the prosecutor for gender-based crimes reported in January 2018 that there were 6,678 open investigations into disappearances, femicides, and sexual crimes of women, but only 54 investigators and 69 prosecutors (*ministerios públicos*) with a \$298,564.00 dollar budget.<sup>76</sup>

With relation to disappearances, this Committee also recommended that Mexico “review local penal codes in order to define forced disappearances as a crime; simplify the existing procedures to activate the Alba Protocol and the Amber Alert, with a view to launching the search of disappeared women and girls without delay; and standardize police protocols of search; . . . .”<sup>77</sup> Although an official national registry exists today to document the number of disappearances throughout the country, it is imperfect and likely underestimates the total number of disappeared people- either because their disappearances have not been formally reported or they are simply considered “missing” or “willfully disappeared.”<sup>78</sup> Additionally, the investigative failures in instances of disappearances means that the official registry is unable to capture the total number of enforced disappearances (those involving state actors).<sup>79</sup>

The new federal General Law on Forced Disappearances of Persons, Disappearances Committed by Individuals, and the National Missing Persons Search System is a critical step in the right direction, as it establishes the definition of enforced disappearance consistent with international law and defines new mechanisms and protocols, including the National Search System and the National Search Commission, which will play important roles in harmonizing

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<sup>76</sup> Information provided by the Coordinator of the Northern Region of the Specialized Prosecutor’s Office for Women Victims of Gender-Based Crimes [*Coordinador Regional del Zona Norte de la Fiscalía Especializada en Atención a Mujeres Víctimas del Delito por Razones de Género*] (January 2018).

<sup>77</sup> CEDAW Concluding Observations, par. 19.

<sup>78</sup> See also Open Society Justice Initiative, *Undeniable Atrocities: Confronting Crimes Against Humanity in México* (2016), page 40. Available at: <https://www.opensocietyfoundations.org/sites/default/files/undenialble-atrocities-2nd-edition-20160808.pdf>.

<sup>79</sup> See Diocesan Center for Human Rights Fray Juan de Larios [Centro Diocesano para los Derechos Humanos Fray Juan de Larios], Diagnosis of the National Registry of Missing Missing Persons (RNPED) [*Diagnóstico del Registro Nacional de Personas extraviadas o desaparecidas (RNPED)*] (last accessed June 11, 2018). Available at: [http://frayjuandelarios.org/blog/Diagnostico\\_RNPED.pdf](http://frayjuandelarios.org/blog/Diagnostico_RNPED.pdf).

search efforts across jurisdictions.<sup>80</sup> That said, the effective implementation of the law remains in doubt as the country struggles to establish the National Search Committee as an impartial body, independent from those officials that might be implicated in enforced disappearances. Additionally, even today, the Special Prosecutor's Office has declined to apply the Law to the cases of missing girls and boys as ordered in article 13 of the General Law on Forced Disappearances, arguing the principle of non-retroactivity even though it is a continuous crime. To this date, Chihuahua does not have an Alert for Gender-based Violence,<sup>81</sup> although one exists on the federal level.

Similarly, although the General Law to Prevent, Punish and Eradicate the Crimes of Trafficking in Persons and for the Protection and Assistance to the Victims of these Crimes came into force in June 2012, and there exists a Unit for the Investigation of Trafficking in Persons in the State Attorney General's Office, cases of disappearances of girls and young women in contexts of trafficking continue to be investigated by the Special Prosecutor's Office without involvement from the Trafficking in Persons Unit.

Lastly, the legislative reforms addressing violence against indigenous women- including the right to have an interpreter of their language and culture and the right to political participation- have not been sufficient to overcome the obstacles indigenous women face in accessing justice and protection against gender violence with cultural sensitivity.<sup>82</sup>

## 2. Article 3

In contravention of Article 3,<sup>83</sup> Mexico's role in the perpetuation of extreme violence and discrimination against women violates women's fundamental freedoms, including: the right to life; the right to human treatment; the right to personal liberty; the right to be free from servitude; the right to a fair trial, to judicial protections, to equality under the law, and the rights of the child. By targeting women in the form of gender-based violence, especially femicide or disappearances, or through discriminatory conduct, perpetrators violate women's basic human rights and fundamental freedoms. The Mexican State's apathy towards these trends, when authorities are fully aware of the risks to women's security and their rights, qualifies as an active choice to fail to protect and to prevent violations of women's rights. The State's failure to investigate, prosecute, or punish such violence shields perpetrators from accountability, denies

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<sup>80</sup> Washington Office on Latin America, *Mexico's New Disappearances Law is an Important Step towards Ending the Disappearances and Impunity Crises in the Country* (Oct. 12, 2017). Available at: <https://www.wola.org/2017/10/mexicos-new-disappearances-law-important-step-towards-ending-disappearances-impunity-crises-country/>.

<sup>81</sup> OCNF Report, page 59.

<sup>82</sup> See Instituto de Liderazgo Simone de Beauvoir y ONU Mujeres México [*Simone de Beauvoir Leadership Institute and UN Women México*], *Derechos Humanos de las Mujeres indígenas en México: Armonización legislativa a 10 años de la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas* [Human Rights of Indigenous Women in Mexico: Legislative Harmonization 10 Years After the United Nations Declaration on the Rights of Indigenous Peoples] (Sept. 2017). Available at: [http://www2.unwomen.org/-/media/field%20office%20mexico/documentos/publicaciones/2017/10/armonizacion%20a%2010%20anos\\_220917\\_4%20\(2\).pdf?la=es&vs=1424](http://www2.unwomen.org/-/media/field%20office%20mexico/documentos/publicaciones/2017/10/armonizacion%20a%2010%20anos_220917_4%20(2).pdf?la=es&vs=1424)

<sup>83</sup> Article 3: "State parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men." The Convention on the Elimination of all Forms of Discrimination against Women, article 3.

women their rights to judicial protections and a fair trial, effectively encouraging such violence. Moreover, the failures of investigation and prosecution obstruct women and their family's ability to achieve justice for violations of their fundamental freedoms, contrary to this Committee's recommendation to "[e]nsure women's access to justice . . ."<sup>84</sup> Thus, in Mexico, women's rights are not protected in the same way as men's, qualifying as a violation of Article 3.

### 3. Article 5

Not only has Mexico failed to take proactive measures to modify the social and cultural patterns of conduct that normalize this type of violence and encourage discrimination against women, but the Mexican government itself embodies these prejudices in its response to denunciations of violence, constituting non-compliance with Article 5.<sup>85</sup> According to General Recommendation Number 28, "States parties also have an obligation to ensure that women are protected against discrimination committed by public authorities, the judiciary, organizations, enterprises or private individuals, in the public and private spheres."<sup>86</sup> Perpetrators of violence against women are not held to account for their actions because government officials regularly refuse to investigate claims of violence; if investigations are undertaken, they are riddled with errors, inconsistencies, and negligence; and even if a perpetrator is identified, it is unlikely that a charge will be brought or that the punishment will match the severity of the crime. As discussed previously, comments by state authorities about the dress, behavior, or status of the women victims are common-place; prejudices influence the judgment of authorities involved at all stages in the response to crimes of gender-based violence. The discrimination that permeates throughout the official response to cases of violence against women (1) perpetuates and reinforces cultural norms of women's inferiority and (2) facilitates continued and repeated acts of violence.

### 4. Article 15

The obstacles women and their loved ones face in pursuing justice for violence and discrimination committed against them are in direct violation of Article 15.<sup>87</sup> The failures that characterize the Mexican authorities' investigation, prosecution, and punishment of these crimes not only perpetuate the violence at issue, but manifest an additional violation of women's rights, normalizing gender-based violence and shielding perpetrators from accountability. When women experience discrimination or violence, in contravention of established law, they are entitled to recourse; their inability or their family's inability to hold their attackers to account because of

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<sup>84</sup> CEDAW Concluding Observations, par. 19.

<sup>85</sup> Article 5: "States Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority of either of the sexes or on stereotypes roles for men and women . . ." The Convention on the Elimination of All Forms of Discrimination against Women, article 5.

<sup>86</sup> United Nations, CEDAW Committee, General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/2010/47/GC.2 (Oct. 19, 2010), par. 17. Available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf>.

<sup>87</sup> Article 15: "States Parties shall accord to women equality with men before the law." The Convention on the Elimination of All Forms of Discrimination against Women, article 15.



state officials' failures is equivalent to undermining the victims' judicial protections and equality under the law. Women may be equal to men according to enacted legislation, but women do not enjoy the same protections because those laws are consistently not enforced in instances of transgressions against women.

## **F. Proposed Recommendations for the Committee**

In light of the persistently high rates of violence against women and impunity for such crimes in Mexico, and specifically Ciudad Juarez, we ask the Committee to find Mexico in violation of Articles 1, 2, 3, 5, and 15. We also respectfully ask the Committee to urge Mexico to:

- Adopt, in the state of Chihuahua and at the national level, the Latin American Model Protocol (“Latin American Protocol”) for the investigation of violent deaths of women due to gender (femicide).<sup>88</sup>
- Adopt measures required to implement the Latin American Protocol, including budgetary allocation measures, hiring agents of the public prosecutor and investigative police, training for the implementation of the protocol, and monitoring and evaluation mechanisms.
- Investigate all deaths of women consistent with the Latin American Protocol in order to precisely identify those cases that should be investigated as femicide.
- In cases of disappearance of girls and young women, incorporate the line of investigation of trafficking in persons according to the General Law to Prevent, Punish and Eradicate the Crimes of Trafficking in Persons and for the Protection and Assistance to the Victims of these Crimes, ensuring the timely coordination and cooperation of the Investigation Unit for the Disappearance of Girls and Women with the Trafficking in Persons Unit.
- Reform the monitoring, investigation, and sanction procedures of offending public servants involved in the investigation of crimes committed for reasons of gender.
- Ensure the issuance of judgments with a gender perspective, both in lawsuits against aggressors and those issued against women victims of violence who were deprived of their lives due to the lack of timely action by the State in the face of threats and aggressions suffered.
- Adopt the Alba Protocol to Search for Disappeared Women and Girls in the state of Chihuahua and throughout the country, in order to ensure a timely and thorough search, taking into account the specific risks and threats women and girls face.
- Implement measures to prevent violence and to guarantee the right of women and girls to a life free of violence, including the context of human trafficking.
- Adopt legislative and other reforms to ensure access to justice and protection against violence for indigenous women.

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<sup>88</sup> United Nations (UN) Women, et al., *Latin American Model Protocol for the Investigation of Gender-Related Killings of Women (Femicide/Feminicide)* (last accessed June 11, 2018). Available at: <http://www2.unwomen.org/-/media/field%20office%20americas/documentos/publicaciones/latinamericanprotocolforinvestigationoffemicide.pdf?la=en&vs=1721>.