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A todas las mujeres y familias en México que han sido víctimas del feminicidio.

Y a mi papá por su incondicional apoyo y motivación

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List of Abbreviations:

CEDAW: Convention on the Elimination of All Forms of Discrimination Against Women

IACHR: Inter-American Commission on Human Rights

UN: United Nations

INMUJERES: National Women's Institute (Instituto Nacional de las Mujeres)

NOM: Normas Oficiales Mexicanas (Mexican Official Standards)

SCJN: Supreme Court of Justice of the Nation (Suprema Corte de Justicia de la Nación)

AHCR: American Convention on Human Rights

GA: Gender Violence Alert (Alerta de Violencia de Género)

Chapter 1 Introduction

Violence against women in Mexico has been a persistent issue for 4 decades, despite numerous measures aimed at prevention and intervention. The severity of this crisis is starkly evident each year on March 8th, International Women's Day, when the streets fill with parents, friends, and families demanding justice for their missing or murdered family members. This public outcry underscores a grim reality: despite legal frameworks and policy measures, violence against women, particularly femicide, continues unabated, often ending in impunity for the perpetrators.

Femicide, the gender-based killing of women, represents the most extreme form of violence against women.

A graph on the national trend of presumed female victims of intentional homicide in Mexico since 2015 shows a steady increase, with cases rising from 1,753 in 2015 to 2,884 in 2023. By May 2024, 1,222 cases had already been reported, suggesting this concerning trend may continue without effective intervention. This graph showed on the national trend of presumed female victims of intentional homicide in Mexico since 2015 shows a steady increase.¹

Additionally, subsequent information provides a more detailed view of regional disparities in the context of gender-based violence. A breakdown by state from January to May 2024 reveals that Guanajuato and Estado de México have the highest numbers, with 163 and 160 cases respectively. This state-level analysis highlights significant regional variations, emphasizing the concentration of cases in specific areas and the predominance of adult victims.²

Furthermore, the following information will complement the previous data with a long-term perspective. An examination of annual trends from 1990 to 2019 shows a significant increase in female homicides, rising from 252 in 1990 to 3,762 in 2019. This increase contrasts with accidental

¹ SESNSP-CNI, *Reported Data from the 32 Prosecutor's Offices or Attorney General's Offices* (20 August 2024)

² SESNSP-CNI, *Data from the Prosecutor's Offices or Attorney General's Offices of the 32 Federative Entities* accessed (20 August 2024)

deaths and suicides, which have remained relatively stable or gradually risen. This highlights the severity of the homicide issue and the urgent need for effective solutions.³

Succeeding information complements the previous discussion with details about methods of violence. A more detailed analysis reveals that firearm-related homicides have increased significantly since 2010, reaching approximately 3.5 deaths per 100,000 women in 2019. This rise is notable compared to other causes of violent death, which have remained relatively stable over the years. This underscores the growing importance of firearm control in the context of gender-based violence.⁴

In Mexico, it is a pressing human rights concern that highlights significant gaps in the legal and institutional responses. Despite Mexico's ratification of international human rights treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), there is a discernible misalignment between domestic legal frameworks and international standards. This misalignment results in inadequate protection for women's rights and limited access to justice for victims and their families.

The inadequacies of the Mexican justice system in addressing femicide are further exacerbated by systemic issues such as institutional corruption, gender biases, and insufficient resources for law enforcement and victim support services. These barriers not only hinder the effective implementation of legal reforms but also perpetuate a culture of impunity where many perpetrators evade accountability. When the state fails to adequately address such internal problems, it becomes imperative for international institutions, such as the United Nations (UN), to intervene and provide oversight and support.

This thesis aims to explore the complex legal and institutional landscape surrounding femicide in Mexico. It seeks to answer key research questions about the alignment of Mexican legal frameworks with international human rights standards, the barriers to effective legal reform, and the influence of significant legal precedents such as the Campo Algodonero case on policy

³ ONU Mujeres, 'Violencia Femenicida en México: Aproximaciones y Tendencias' (21 June 2021) http://cedoc.inmujeres.gob.mx/documentos_download/ONUMEX_Brief_Feminicidio_FEB2022-V3%20FINAL.pdf accessed 25 July 2024.

⁴ UN Women, 'La violencia feminicida en México: Aproximaciones y tendencias' (2020) https://mexico.unwomen.org/sites/default/files/Field%20Office%20Mexico/Documentos/Publicaciones/2020/Diciembre%202020/ViolenciaFeminicidaMX_.pdf accessed 24 July 2024.

development and enforcement. By addressing these questions, the thesis will evaluate the effectiveness of Mexico's efforts to combat femicide and propose measures to enhance accountability, protection for victims, and adherence to international human rights law.

1.1 Research questions

How do the legal frameworks and mechanisms in Mexico for addressing femicide align with international human rights standards, particularly those outlined in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and what are the implications for the protection of women's rights and access to justice?

What are the legal and institutional barriers hindering the effective implementation of legal reforms aimed at combating femicide in Mexico, and how can these barriers be addressed to ensure greater accountability, protection for victims, and prosecution of perpetrators within the framework of human rights law?

To what extent have legal precedents, such as the Campo Algodonero case, influenced the development and enforcement of laws and policies related to femicide in Mexico, and what lessons can be learned from these precedents to enhance the legal response to femicide and uphold women's rights under international law?

1.2 Hypothesis

Despite Mexico's ratification of international human rights treaties such as CEDAW, there exists a significant misalignment between domestic legal frameworks for addressing femicide and international standards, resulting in inadequate protection of women's rights and limited access to justice.

The effectiveness of legal reforms aimed at combating femicide in Mexico is hindered by systemic barriers, including institutional corruption, gender biases within the justice system, and inadequate resources for law enforcement and victim support services, thereby limiting their impact on reducing femicide rates and ensuring accountability for perpetrators.

Legal precedents, such as the Campo Algodonero case, have played a crucial role in catalysing legislative and policy changes related to femicide in Mexico; however, persistent challenges remain

in translating legal reforms into tangible improvements in the protection of women's rights and access to justice, highlighting the need for sustained advocacy and implementation efforts.

1.3 Objectives

Evaluate the extent of alignment between Mexico's legal frameworks for addressing femicide and international human rights standards, particularly those outlined in CEDAW.

Identify areas of discrepancy or inconsistency between domestic laws and international obligations.

Assess the implications of these discrepancies for the protection of women's rights and access to justice in cases of femicide.

Examine the influence of legal precedents, such as the Campo Algodonero case, on the development and enforcement of laws and policies related to femicide in Mexico.

Identify specific legislative and policy changes prompted by legal precedents and assess their effectiveness in addressing the root causes of femicide and providing justice for victims.

1.4 Methodology

The research is based on the following methods: Descriptive: will be used to describe characteristics of the violence against woman in Mexico; Comparative: I will do an analysis of different bodies of law with respect to a specific legal issue (e.g. between jurisdictions, historical comparisons, case-law comparison; Doctrinal: I will do a systematic exposition of rules (statutory provisions and cases) governing a particular legal category, analyzation of relationship between rules, explanation of difficulties, (occasional) prediction of future developments (analysis of legal rules/principles/cases/doctrines).

Theory of law: The Three-Dimensional Theory of Law will be used to analyse the “three” phases of the life of the law: The formation, the interpretation, and the application.

Chapter 2 Legal Framework and Implementation Challenges

In the process of analysing the ninth periodic review, the following research questions were established: What are the key barriers to women's access to justice in the context of gender-based violence in Mexico? How does the lack of comprehensive monitoring and evaluation mechanisms hinder the advancement of gender equality initiatives in Mexico? These questions aim to deepen the understanding of the structural and institutional challenges that women face in seeking justice and to explore how the effectiveness of gender equality policies can be assessed and improved in Mexico.

2.1 CEDAW and women's rights standards

The CEDAW is an international treaty adopted by the States that are part of it, which instrument requires states to eliminate discrimination against women and girls in all areas and promotes women's and girls' equal rights.⁵

Mexico signed the treaty on July 14, 1980, and ratified it on March 23, 1981. Upon signing, Mexico declared that it was doing so provisionally and subject to final approval, which expresses the country's interest in being a part of the Convention. Furthermore, Mexico explicitly stated that the implementation of the Convention would occur in accordance with its domestic laws. This means that while Mexico supports the principles laid out in the Convention, it will enact and enforce these principles within the framework of its legal system, respecting its national context and legal procedures.⁶

However, Mexico indicated that the federal government would provide material benefits in line with the Convention, but this would be "as generous as the resources available to the Mexican State permit." This statement highlights a limitation based on budgetary constraints, implying that the

⁵ UN Women, *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) for Youth* (UN Women Headquarters, 2016).

⁶ *Convention on the Elimination of All Forms of Discrimination Against Women*, opened for signature 18 December 1979, ratified by Mexico on 23 March 1981.

implementation of the Convention's provisions regarding social and economic rights may depend on the financial and logistical capabilities of the government.⁷

Some key human rights standards linked with femicide included are:

Non-discrimination: according to the introduction of CEDAW, it recognizes that states parties are required to ensure that women should enjoy all human rights and fundamental freedoms on an equal basis with men, without any discrimination based on sex.

This principle is a central tenet of the convention, which is explicitly recognized in article 1, it defines discrimination against women as 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 article above establishes a framework for combating gender-based discrimination and inequality.⁸

Violence against women: According to articles 1, 2, 3 and 5 of CEDAW it established the obligation of the state parties to recognize violence against women as a form of discrimination and calls on states to take measures to prevent, investigate, and punish violence against women, whether it occurs in the home, community, or perpetrated by the state.

Under article 1, it defines against women in broad terms, including any distinction, exclusion, or restriction made on the basis of sex that impairs or nullifies the recognition, enjoyment, or exercise by women of human rights and fundamental freedoms.

Under article 2, it outlines the obligations of state parties to eliminate discrimination against women in all areas, explicitly including discrimination resulting from violence against women. It requires states to take all appropriate measures to eliminate discrimination against women by addressing laws and practices that allow violence to persist.

⁷ ibid

⁸ *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, ratified by Mexico on 23 March 1981.

Under article 3, it reinforces the obligation of state parties to ensure women's full development and advancement in society, encompassing freedom from violence.

Under article 5 of the Convention focuses on modifying social and cultural patterns of conduct to eliminate prejudices and practices based on the idea of the inferiority or superiority of either of the sexes. It explicitly mentions the need to take all appropriate measures including legislation to modify or abolish existing laws, regulations, customs, and practices which constitute discrimination against women.

Under this article, states are required to take all necessary steps to ensure that individuals, organizations, or enterprises engage in acts of discrimination against women are brought to justice, whether these acts occur in the public or private sphere. This includes addressing violence against women, whether it takes place within the family (such as domestic violence), in the community, or is perpetrated or tolerated by the state itself.⁹

Trafficking and exploitation: CEDAW addresses issues of trafficking in women and girls, emphasizing the need to protect and support victims of trafficking, prosecute offenders, and address the root causes of trafficking.

Under article 6 of the convention, focuses on the suppression of trafficking and exploitation of women. It requires states to take measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights.

Additionally, Article 6 calls for states to take appropriate measures to suppress all forms of traffic in women and exploitation of women. This includes taking steps to prevent and combat trafficking, provide support and protection to victims, and prosecute offenders.

Therefore, Article 6 of CEDAW plays a crucial role in addressing the issue of violence against women, particularly in the context of trafficking and exploitation.¹⁰

The CEDAW committee in Mexico, created in 2018, is coordinated by the Foreign Minister and Inmujeres. The committee coordinates the follow-up done by national institutions on the observations issued by the United Nations CEDAW Committee to Mexico.

⁹ibid

¹⁰ibid

The committee is made up of six thematic subcommittees that address the following issues: Access and administration of justice; gender violence against women; sexual and reproductive health; labor equality; education and structural problems; and economic empowerment.¹¹

2.1.1 CEDAW Committee General 19th recommendation

Since CEDAW did not originally include provisions on violence, the CEDAW Committee specified in its General Recommendation No. 19 that “The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately” (para. 6).¹²

General Recommendation No. 19 in the background section mentions gender-based violence as a form of discrimination that limits women's rights and freedoms. It emphasizes the need for states to report on violence against women and measures to address it, noting a lack of connection between discrimination, violence, and human rights in state reports. The recommendation urges states to adopt comprehensive measures to eliminate violence, highlighting it as a breach of rights under international law.¹³

The recommendation identifies gender-based violence as impeding rights such as life, security, and health. It mandates states to address violence by public and private actors, implement laws, provide support services, and ensure gender-sensitive training for officials. Emphasizing cultural attitudes, it warns against viewing women as subordinate, leading to practices like family violence and exploitation.¹⁴

Additionally, the Committee incorporated the due diligence principle by arguing that states are obligated to prevent violence as part of their commitment to CEDAW (para. 9), since “gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions

¹¹ Third Intersecretarial Meeting of the Committee for Follow-up on CEDAW Observations, Secretaría de Relaciones Exteriores (2023).

¹² Paulina García Del Moral, 'Feminicidio, Transnational Legal Activism, and State Responsibility in Mexico' (2016) https://tspace.library.utoronto.ca/bitstream/1807/89243/1/Garc%c3%ada_Del_Moral_Paulina_201606_PhD_thesis.pdf 77.

¹³ Committee on the Elimination of Discrimination against Women, *General Recommendation No. 19: Violence Against Women* (United Nations, 1992) <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm> accessed 22 August 2024.

¹⁴ *ibid*

expressly mention violence”, hence the Committee linked this obligation to article 2 of CEDAW which refers to states’ duty to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women.¹⁵

For effective protection, it calls for collecting data, removing harmful practices, offering victim support, and reporting on measures taken to prevent violence. This recommendation is vital for addressing women’s violence and femicides by promoting systemic legal changes, education, and robust support systems. It advocates for states to take decisive actions to protect and empower women, ensuring their full participation and safety in society.¹⁶

2.2 CEDAW Committee’s ninth periodic report of Mexico

According to Mexico's ninth periodic report submitted to CEDAW, several concerns have been raised and highlighted in four key areas: the general context of gender-based violence, the legislative framework and definition of discrimination, access to justice, and the national machinery for the advancement of women and gender mainstreaming. The Committee’s position on each of these areas will be explained in detail.¹⁷

2.2.1 General context and gender-based violence

The Committee reiterates previous concerns and regrets that the persistence of high level of insecurity, violence, and organized crime negatively affecting women's rights enjoyment.

In the same way, it shows it’s concerns about the challenges associated with public safety strategies impacting women and girls.

Concerning General Context and Gender-Based Violence, despite the efforts to overcome the general climate of violence and promote women's rights, there are still persisting challenges, such

¹⁵ Paulina García Del Moral, ‘Feminicidio, Transnational Legal Activism, and State Responsibility in Mexico’ (2016) https://tspace.library.utoronto.ca/bitstream/1807/89243/1/Garc%c3%ada_Del_Moral_Paulina_201606_PhD_thesis.pdf, 78.

¹⁶ Ibid

¹⁷ Committee on the Elimination of Discrimination against Women, *Ninth Report* (2018).

as high levels of insecurity, violence, and organized crime, which are significant barriers to the enjoyment of women's human rights.

Nevertheless, these issues are not only affecting the safety and well-being of women and girls but also hindering progress in advancing gender equality.

Additionally, these challenges have an impact on women and girls on how the persistent climate of insecurity, violence and organized crime has big impact into women and girl's lives. Specific issues like public safety strategies are crucial for ensuring the protection to all human beings, which also are failing to adequately address specific vulnerabilities faced by women and girls, hence, the committee has highlighted the urgency to address these concerns effectively.

2.2.2 Legislative framework and definition of discrimination

The committee remains concerned about the persistence of sex-based discriminatory provisions hindering Convention implementation, due to the lack of harmonization among state-level civil and criminal codes continue to impede the effective implementation of the Convention and national gender equality legislation.

And secondly, it express concern regarding the low prosecution rates in cases of discrimination against women based on sex. of effective mechanisms and budgetary allocations for gender equality laws due to the absence of a unified criminal code and of a judicial mechanism to adjudicate cases of discrimination against women.

First of all, the effort for strengthening the harmonization of the legal framework with the Convention including through amendments to article 73 of the Constitution that enable the Congress to expedite federal laws and the adoption of a national program for equality and non-discrimination is recognized. However, it remains concerned that:¹⁸

The persistence of sex-based discriminatory provisions in legislation and the lack of harmonization among state-level civil and criminal codes continue to impede the effective implementation of the Convention and national gender equality legislation. It is crucial to reform Article 73 of the Constitution to enable Congress to adopt a national criminal code that regulates all criminal matters,

¹⁸ *Constitución Política de los Estados Unidos Mexicanos* (1917) (Mexico).

including all crimes and sanctions, or to establish a minimum legal foundation that fully guarantees the rights of women through a general law in criminal matters.¹⁹

Additionally, there is a pressing need to establish a judicial complaint mechanism specifically designed to address cases of discrimination against women. This mechanism must ensure that adequate human, technical, and financial resources are allocated for its effective implementation, including comprehensive training for the judiciary on the application of the Convention and other anti-discrimination legislation.²⁰

Furthermore, adopting a roadmap is essential, which must encompass adequate resources, a clear timeline, and measurable targets. This roadmap should require authorities at the federal, state, and local levels to implement relevant laws aimed at preventing and eliminating all forms of de facto discrimination against women. Particular attention must be paid to the needs of marginalized groups, including indigenous women, Mexican women of African descent, migrant women, women with disabilities, as well as lesbian, bisexual, and transgender women and intersex persons.²¹

In the same extent, some examples of gender-based discriminatory provisions include laws that restrict women's rights such as access to education or make decisions about their reproductive health.

Therefore, addressing the persistence of sex-based discriminatory provisions is crucial for upholding the women's rights, hence it requires comprehensive legal reforms with a gender perspective, policy changes and societal transformations. By dismantling these discriminatory provisions and ensuring equitable laws, then Mexico could foster a more inclusive and fair society where all individuals, regardless of gender can enjoy equal rights and opportunities.

2.2.3 Access to justice²²

The Committee expresses its concern about the institutional, structural, and practical barriers that continue to hinder women's access to justice. These barriers include discriminatory stereotypes and limited knowledge of women's rights among legal practitioners, as well as financial, linguistic, and

¹⁹ Committee on the Elimination of Discrimination against Women, *Ninth Report* (2018) para 4.

²⁰ Ibid

²¹ Ibid

²² Committee on the Elimination of Discrimination against Women, *Ninth Report* (2018) para 5.

geographic obstacles that prevent women from accessing justice. Furthermore, there is limited awareness of legal remedies, alongside low prosecution rates for cases of gender-based violence.

The Committee acknowledges the efforts made to improve access to justice for women, particularly through the implementation of the protocol for judging with a gender perspective. However, it remains concerned about the deep-rooted institutional, structural, and practical barriers that still impede women's ability to gain access to justice. These challenges encompass discriminatory stereotypes and a lack of knowledge regarding women's rights among members of the judiciary, legal practitioners, and law enforcement officers, including police personnel.

Additionally, there are issues related to stereotypical interpretative criteria and judicial bias in the resolution of cases, coupled with a lack of accountability for judges who fail to uphold gender-sensitive judicial practices. This situation is further exacerbated by the limited public access to judicial decisions. Women, particularly those who are low-income, rural, indigenous, or have disabilities, face significant financial, linguistic, and geographic barriers that obstruct their access to justice.

Moreover, there is a limited awareness among women regarding their rights under the Convention and the legal remedies available to them, including those who are victims of gender-based violence. This is reflected in the alarmingly low rate of prosecution for such cases, highlighting the urgent need for comprehensive measures to ensure that women can effectively access justice and seek redress for violations of their rights.

Additionally, addressing these issues, requires a range of different strategies and interventions to tackle the various challenges and barriers faced by women in seeking justice. Also including comprehensive education and training to combat discriminatory stereotypes, promote gender-sensitive practices, and raise awareness about women's rights.

Ensuring equitable access to justice for all women, regardless of background or circumstances, is essential for upholding human rights, combating gender-based violence, and fostering a more inclusive and just society.

2.2.4 National machinery for the advancement of women and gender mainstreaming

Despite the establishment of various mechanisms to promote gender equality, the Committee still expresses concern about several key issues. These include the limited resources allocated to the National Women's Institute, insufficient coordination among bodies within the national gender equality system, and the lack of monitoring and evaluation mechanisms for gender mainstreaming.

The Committee acknowledges the efforts made to develop a national gender equality policy and the creation of gender equality units aimed at promoting gender equality. However, there are still significant points that the Committee has identified. First, the limited resources allocated to the National Women's Institute hinder its ability to effectively promote gender equality and fulfill its role as the primary coordinating body for gender equality initiatives. Although there has been some increase in budget allocations for gender equality, the overall amount earmarked in the federal budget remains inadequate to achieve substantive equality between women and men.

Additionally, there is a lack of systematic and institutionalized coordination among the federal, state, and municipal levels within the national system for gender equality. This fragmentation affects the coherence and effectiveness of gender equality mandates. The absence of comprehensive monitoring and impact evaluation mechanisms for gender mainstreaming further complicates the situation, leading to limited utilization of disaggregated data by sex and targeted indicators. This deficiency hinders informed decision-making and the ability to track progress in gender equality efforts.

Moreover, the insufficient participation of women's organizations in the development and oversight of public policies related to gender equality signals a lack of diverse perspectives and expertise in the policymaking process. This absence can prevent the creation of well-rounded policies that adequately address the nuanced needs of different groups of women, ultimately undermining the goals of gender equality initiatives.

In the same way, the Committee suggested to the Mexican state the following recommendations. First, it urged the introduction of effective monitoring, evaluation, and accountability mechanisms to address the structural factors causing persistent inequalities. This includes enforcing an integrated approach to gender mainstreaming based on compliance with relevant targets and indicators, as well as effective data collection.

Second, the Committee recommended increasing the human, technical, and financial resources of the National Women's Institute to enhance its capacity to promote and monitor the implementation of gender equality policies. This would involve strengthening its role within the regulatory framework that governs gender mainstreaming at both the federal and state levels.

Finally, the Committee called for the adoption of an integrated gender-responsive budgeting process. It emphasized the importance of allocating adequate budgetary resources for the implementation of women's rights, ensuring the application of effective monitoring and accountability mechanisms across all sectors and levels of government. Additionally, improving the system for tracking the allocation of resources for women is crucial to achieving substantive gender equality.

Now, addressing and providing answers to the research questions established at the beginning of the chapter:

What are the key barriers to women's access to justice in the context of gender-based violence in Mexico? and How does the lack of comprehensive monitoring and evaluation mechanisms hinder the advancement of gender equality initiatives in Mexico?

The report presents several key barriers to women's access to justice in the context of gender-based violence in Mexico. First, discriminatory stereotypes among legal practitioners, law enforcement officers, and members of the judiciary negatively impact the treatment of women seeking justice. Additionally, there is a limited knowledge of women's rights and available legal remedies, which obstructs access for victims of gender-based violence. Financial, linguistic, and geographic barriers particularly affect low-income, rural, and indigenous women, preventing them from accessing legal resources and support. The report also highlights low prosecution rates for cases of gender-based violence, which discourage women from reporting incidents. Furthermore, judicial bias and a lack of accountability for judges who fail to uphold gender-sensitive practices exacerbate these challenges. The overall lack of awareness among women regarding their rights under the law contributes to the low rates of prosecution and reporting, creating an environment where women's rights are not effectively upheld.

And regarding the 2nd research question. The absence of comprehensive monitoring and evaluation mechanisms has significant detrimental effects on the advancement of gender equality initiatives

in Mexico. Without effective monitoring systems, there is a limited capacity to collect, analyse, and utilize disaggregated data by sex, which hampers informed decision-making regarding gender equality policies and programs. Moreover, the lack of evaluation mechanisms makes it difficult to assess the impact of gender equality initiatives over time, preventing stakeholders from understanding what works and what does not in promoting women's rights. Inadequate resource allocation can occur without justification for funding specific programs, and fragmentation of efforts across federal, state, and municipal levels diminishes the overall effectiveness of gender equality mandates. The poor accountability for gender equality initiatives results in fewer incentives for authorities to prioritize gender mainstreaming and address the structural factors that perpetuate inequalities. These deficiencies ultimately undermine the effectiveness of gender equality initiatives and contribute to the perpetuation of barriers that hinder women's access to justice and their advancement in society.

Chapter 3: Legal reforms and policy recommendations

In the following chapter, it will be analysed how effectively has Mexico's legal framework addressed and aligned with international standards, such as CEDAW, to prevent and respond to femicide?

3.1 Analysis of Current Legal Framework

Ley General de Acceso de las Mujeres a una Vida libre de Violencia (General Law on Women's Access to a Life Free of Violence)

The purpose of this law is to establish coordination between the Federation, the federative entities, and the municipalities to prevent, sanction, and eradicate violence against women, as well as to define the principles and modalities to guarantee their access to a life free of violence that promotes their development and well-being in accordance with the principles of equality and non-discrimination. It also aims to guarantee democracy, integral and sustainable development, which strengthens the sovereignty and democratic regime established in the Mexican Constitution.²³

Which as consequence the Federation, the federative entities, and the municipalities, within their respective areas of competence, will issue the necessary legal norms and take the corresponding budgetary and administrative measures to ensure compliance with this law. These measures must be in accordance with the international treaties on women's human rights ratified by the Mexican State. This means that it will be the decision of each federative entity to determine the laws and the budget to be allocated for each of the necessary measures imposed.

This might not be considered ideal because laws created by each state do not apply to other states in the Mexican State. If laws created in each state were enforceable across all states in Mexico, compliance with the norms would be more guaranteed nationwide, generating a consistent impact in protecting women from violence.

²³ *Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, (2022).

Additionally, it is important to have on mind that all laws in Mexico concerning gender-based violence must be established under four principles: a) Legal equality between women and men. b) Respect for the human dignity of women. c) Non-discrimination. d) Freedom of women.²⁴

On the other hand, it should be noted that the responsibilities of the federative entities in terms of prevention, attention, sanction, and eradication of violence against women.

Article 48 of the law mentions that the Executive Secretariat of the System has the following functions: integrating investigations on violence against women, proposing programs to eradicate violence, collaborating in the design of victim care models, promoting victim care units, channelling victims to re-education programs, promoting specialized care without discrimination, disseminating a culture of respect for women's human rights, and entering into cooperation agreements on the matter.²⁵

In Mexico, the existence of a federal or general law means that it is enforceable across all federative entities within the state. Consequently, the responsibilities of these entities in terms of prevention, attention, sanction, and eradication of violence against women encompass the implementation of public policies that align with national policy from a gender perspective, as well as the exercise of regulatory powers for the application of the law. They must contribute to the adoption and consolidation of the System and participate in the development of related programs. Additionally, it is essential for them to strengthen public and private institutions that provide care to victims and integrate the State System for the Prevention, Eradication, and Sanction of Violence against Women.

These entities should promote programs and projects for education, training, and research in women's human rights, as well as allocate budgetary, human, and material resources for state initiatives. It is also important to encourage the creation of shelters for victims and disseminate information about the law on violence against women. Furthermore, they must produce annual reports on the progress of local programs, promote research into the causes and consequences of

²⁴ *Decree to Enact the General Law on Women's Access to a Life Free of Violence* (translated by Secretaría de Relaciones Exteriores) https://www.summitamericas.org/brief/docs/Law_on_access_to_a_life_free_violence.pdf accessed 02 August 2024.

²⁵ *Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, (2022).

violence against women, and review and evaluate the effectiveness of both actions and public policies.

Encouraging the participation of private organizations that defend women's human rights is vital, along with receiving proposals and recommendations from these organizations to improve mechanisms for eradicating violence. They should provide necessary information for accurate statistics, promote reforms to meet the objectives of the law, and enter into cooperation agreements on the matter.

Now, having explained the responsibilities of the federative entities under the law, we will address how this law prevents and punishes femicide.

The law to combat violence against women in Mexico establishes two critical actions: the Declaration of Gender Violence Alert and the Reparation of Harm. The Declaration of Gender Violence Alert involves emergency actions taken by the government to address and eliminate femicidal violence, whether perpetrated by individuals or communities. The primary objective of this action is to ensure the safety of women, curb the violence they face, and eliminate inequalities resulting from legislation that violates women's human rights. Each federative entity is tasked with fulfilling several obligations as part of this law, including establishing an inter-institutional and multidisciplinary group with a gender perspective to monitor the situation, implementing preventive, security, and justice actions, preparing special reports on violence against women, and allocating necessary budgetary resources.²⁶

This declaration is issued when social order is disturbed by crimes against women's life, liberty, integrity, and security, or when women's human rights are compromised, as highlighted by national or international human rights organizations. The Declaration of Gender Violence Alert serves as a mechanism for protecting women's human rights and has several significant effects. It allocates additional resources and budget to address emergencies and implement necessary prevention measures. It activates specific measures to strengthen security in areas vulnerable to violence against women and raises societal awareness about the importance of eradicating such violence. Between 2015 and 2021, 25 alerts were issued in 22 federative entities, resulting in 552 recommended measures to reduce femicidal violence, with a mix of preventive, justice-oriented,

²⁶ Mexican Government, *Alert on Gender Violence Against Women* <https://www.gob.mx/inmujeres/acciones-y-programas/alerta-de-violencia-de-genero-contra-las-mujeres-80739> accessed 8 July 2024.

and security measures. Evaluations of these measures indicate varying levels of implementation across alerted entities.²⁷

The second key action focuses on the Reparation of Harm, which obligates the Mexican state to remedy damages in line with international human rights standards. According to Article 26, reparation includes the right to prompt, expeditious, and impartial justice, guaranteeing the investigation of women's rights violations and the punishment of those responsible. Additionally, it mandates the provision of specialized legal, medical, and psychological services for recovery, as well as measures aimed at preventing future violations. The state must accept responsibility for the damage caused and commit to reparative measures, investigate negligent acts by authorities that contribute to imp²⁸unity, and implement public policies to prevent crimes against women.²⁹

The law stipulates that the definition of a "victim" includes not only the immediate victim but also family members, dependents, and anyone who intervenes to protect the victim. This broader definition acknowledges that individuals can be considered victims regardless of the perpetrator's legal status.³⁰ The Supreme Court of Justice of the Nation emphasizes that comprehensive reparation must address both direct and indirect victims of femicide, aiming to restore rights to their previous state as much as possible.³¹ Overall, these measures reflect a commitment to addressing the root causes of femicide and ensuring justice and support for victims and their families.³²

Nevertheless, the Mexican legal system still needs to overcome obstacles to ensure that laws are drafted with a gender perspective and provide equity and equality between women and men, in line with Mexico's international commitments. Despite these challenges, national and state institutions are already working to analyse existing laws and prepare legislative proposals aimed at consolidating the necessary changes. This work is essential to ensure that legislation not only

²⁷ *Ley General de Acceso de las Mujeres a una Vida libre de Violencia* (2022).

²⁸ *Ley General de Acceso de las Mujeres a una Vida Libre de Violencia* (INMUJERES, 2007).

²⁹ Ibid

³⁰ Suprema Corte de Justicia de la Nación, *Comunicado de Prensa No. 390/2023*.

³¹ 'Determinación y Reparación del Daño con Perspectiva de Género', (FGR, 2021).

³² *Ley General de Acceso de las Mujeres a una Vida libre de Violencia* (INMUJERES, 2007).

complies with international standards but also reflects a genuine commitment to gender equality in practice³³

Additionally, internationally speaking, it is important to keep on mind that when the American Convention of Human Rights (ACHR) entered into force as a fully binding treaty for Mexico, it also constituted the Interamerican Court of Human Rights as a judicial body that could issue legally binding decisions in cases to it submitted by the Interamerican Commission of Human Rights.

Therefore, it is relevant to recall that the Courts ability to exercise its judicial functions depends of the Commission since complaints must be first presented and resolved there.³⁴ If states fail to comply with the recommendations or the parties are unable to settle the case, the Commission may forward the complaint to the Court if the state in question has ratified the ACHR and its Optional Protocol.³⁵

3.1.1 Mexico compliance with CEDAW's obligations

This section will examine how Mexico has aligned with the obligations established in CEDAW, since the country signed and ratified the convention without reservations.

The compliance with the CEDAW, will be discussed in de jure and de facto obligations.

In the jure obligations taken by Mexico, there is the legislative framework, which it was possible to observe that Mexico has enacted several laws aimed at promoting gender equality and protecting women's rights, which fulfill its de jure obligations under CEDAW. For instance, the General Law on Women's Access to a Life Free of Violence establishes a comprehensive legal framework to prevent and address violence against women. This law aligns with CEDAW's provisions,

³³ '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' (United Nations, 2005) CEDAW/c/2005/OP.8/MEXICO <https://www.un.org/womenwatch/daw/cedaw/cedaw32/CEDAW-C-2005-OP.8-MEXICO-E.pdf> accessed 8 September 2024.

³⁴ 'CIDH:: Central de Atención a Personas Usuarias:: Preguntas Frecuentes' (Comisión Interamericana de Derechos Humanos (CIDH)) <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/atencion/preguntas-frecuentes.asp#:~:text=S%C3%B3lo%20los%20Estados%20Partes%20y,etapas%20procesales%20previstas%20ante%20%C3%A9sta..>

³⁵ '¿Qué es la Corte IDH?' (Corte Interamericana de Derechos Humanos) https://www.corteidh.or.cr/que_es_la_corte.cfm accessed 6 September 2024.

particularly concerning Articles 1, 2, and 3, which mandate states to eliminate discrimination and ensure women's full development and equality.

Additionally, by ratifying the CEDAW, Mexico committed to implementing the provisions of the Convention, effectively making the principles outlined in CEDAW part of its legal obligations. This is reflected in amendments to national and state constitutions to ensure alignment with international human rights standards. Actions such as amending Article 73 of the Mexican Constitution demonstrate a commitment to facilitating the passage of federal laws that promote gender equality. Such reforms fulfill Mexico's obligations under Article 2 of CEDAW to adopt measures prohibiting discrimination.

Consequently, the establishment of mechanisms such as the Declaration of Gender Violence Alert shows the legal instruments put in place to respond to emergencies resulting from gender-based violence. This action aligns with the *de jure* obligation to create a legal environment that safeguards women's rights and addresses violations effectively.

Now, regarding to the *facto* obligations taken by Mexico, there is the implementation and enforcement of law.

However, while the enactment of laws fulfills successfully *de jure* obligations, *de facto* obligations require effective implementation. Hence, Mexico has created measures to monitor and evaluate the impact of its gender equality laws. For instance the National Women's Institute plays a crucial role in promoting and overseeing the execution of gender equality policies, aligning with Articles 3 and 5 of CEDAW that promote the full realization of women's rights.

Secondly, by allocating budgetary resources for the implementation of laws and programs addressing gender-based violence reflects a commitment to *de facto* compliance. The effectiveness of the Declaration of Gender Violence Alert relies heavily on adequate funding, underscoring the need for practical support in the application of legal frameworks.

Although, Mexico has identified the challenge of assess the effectiveness and policies related to the gender equality, therefore, it has created monitoring systems, such as the National Women's Institute (INMUJERES) which is the primary governmental body responsible for promoting gender

equality and the empowerment of women in Mexico, with 3 crucial rolls which are monitoring implementation, collecting data and capacity building ³⁶

Similarly, the implementation of the gender violence alerts aims to enable the federal government to declare a state of emergency in specific regions. The primary purpose of creating this mechanism is to assign specific responsibilities to local authorities to monitor the framework and, consequently, implement effective actions and measures to eradicate the problem. Additionally, it requires the evaluation of the special resources and actions taken during the gender violence alert.

This mechanism aligns with Mexico's obligations under CEDAW, particularly Article 2, which mandates the state to eliminate discrimination against women through appropriate measures, including legislation and policies. It also corresponds with Article 3, as the alert signifies the protection of women's rights and addresses the urgent need for safety in areas significantly affected by violence. Furthermore, it relates to Article 5, where the implementation of this alert process enables Mexico to acknowledge the urgent need for corrective action in response to a climate of violence and elevates the state's responsibility to protect women's rights.

While Mexico has made progress in implementing measures aligned with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), there are several notable areas where the country falls short of fully complying with its obligations under the Convention. One significant issue is the persistence of discriminatory practices. Despite having legal frameworks in place, systemic stereotypes and cultural norms continue to permeate legal, policing, and judicial systems. Such biases adversely affect the handling of cases related to gender-based violence, often resulting in inadequate responses to victims and alarmingly low prosecution rates.

Furthermore, the allocation of resources poses a critical challenge. Mexico has not provided sufficient financial, human, and technical resources to institutions like the National Women's Institute (INMUJERES), which is tasked with promoting gender equality. This lack of resources substantially hampers the implementation of gender equality initiatives and limits the ability of these agencies to deliver adequate support services for victims of gender-based violence.

³⁶ Secretaría de la Mujer del Estado de México, '*Misión, Visión y Objetivos*' (Gobierno del Estado de México, 2024) https://semujeres.edomex.gob.mx/mision_vision_objetivos#:~:text=Nuestro%20objetivo%20es%20coordinar%2C%20impulsar,una%20mejor%20calidad%20de%20vida. accessed 20 August 2024.

Another major concern is the low prosecution rates for cases of gender-based violence and femicide, which remain unacceptably low. Even with legal provisions designed to protect women's rights, numerous barriers prevent victims from reporting incidents, contributing to a culture of impunity. The combination of underreporting and ineffective law enforcement undermines Mexico's compliance with its CEDAW responsibilities.

Additionally, there is a lack of comprehensive monitoring and evaluation mechanisms in place to assess the effectiveness of gender equality policies and laws. While the Gender Violence Alert system provides some level of oversight, it is insufficient as there are no systematic and institutionalized evaluation frameworks. The absence of these frameworks makes informed decision-making difficult and limits accountability across government levels.

Moreover, many women, particularly those in marginalized communities, remain unaware of their rights as stipulated by both national laws and CEDAW. This lack of awareness restricts their ability to seek legal remedies and exacerbates the challenges faced by victims of gender-based violence.

The implementation of laws is often fragmented, with a noticeable lack of coordination among federal, state, and local authorities. This fragmentation can lead to inconsistencies in the application of laws and impede comprehensive efforts to combat gender-based violence effectively.

Furthermore, the participation of women's organizations and civil society in the policymaking and implementation of gender equality initiatives remains limited. Their involvement is crucial for ensuring that diverse perspectives and experiences are incorporated, which is essential for effective policy development and execution.

Finally, CEDAW mandates particular attention to the needs of vulnerable groups, such as indigenous women, migrant women, women with disabilities, and LGBTQ+ individuals. In practice, the specific issues and barriers faced by these groups are frequently inadequately addressed in national policies and action plans.

In conclusion, although Mexico has taken significant steps toward fulfilling its obligations under CEDAW, persistent gaps in implementation, resource allocation, cultural attitudes, and institutional coordination continue to hinder effective compliance. Addressing these shortcomings is crucial for improving women's rights, enhancing access to justice, and combating gender-based violence in the country. Continuous engagement with civil society, improved monitoring

mechanisms, and targeted resource allocation will be essential in advancing gender equality and effectively implementing the standards set forth by CEDAW.

3.2 Relevant Case of Femicide in Mexico in the Inter-American Court

In this subchapter it will be an analysis on the case *Campo Algodonero v. Mexico*

Firstly, it is important to mention that the Inter-American Human Rights System has played a fundamental role in promoting reforms in legal policies related to women's rights in Mexico. By providing a space for human rights organizations to present allegations of violations and engage in strategic litigation, the IAHRS exerts significant influence over legislation and its enforcement. Through its decisions and recommendations, this system helps to highlight injustices and pressure governments to implement legal changes that ensure equality and effective protection of women's rights.³⁷

Secondly, the response of Mexican authorities to the IAHRS recommendations has resulted in the creation of new laws and policies, as well as the reformation of existing approaches to gender-based violence, discrimination, and other critical issues. However, despite these advances, significant challenges remain that require continued commitment from the state to ensure the effective implementation of these reforms and the full respect of women's rights.³⁸

Having discussed the influence of the Inter-American Human Rights System, the following section will explore the contextual background in Ciudad Juárez. Located in the northern part of Chihuahua, on the border with El Paso, Texas. It is characterized by the transit of Mexican and foreign migrants. Social inequalities and its proximity to the international border have contributed to the development of various forms of organized crime, such as drug trafficking, human trafficking, arms trafficking, and money laundering, thereby increasing levels of insecurity and violence.³⁹

³⁷*The Impact of the Inter-American Human Rights System* (2024) <https://doi.org/10.1093/oso/9780197744161.001.0001>, 111.

³⁸ *ibid*

³⁹ Dra. María Teresa Martínez Almanza, María Nieves González Valles, and Alberto Castro Valles, 'Organized Crime and Its Impact on Human Mobility in Ciudad Juárez' (2024) 6 *CNEIP* <https://doi.org/10.62364/cneip.6.2024.207> accessed 8 June 2024.

Ciudad Juárez has a specific context of violence, in which it has faced a series of femicides characterized by their brutality and the apparent lack of response from the authorities, resulting in an environment of impunity and lack of protection for women.⁴⁰

The facts of the case involve the disappearance of three young women aged between 15 and 20 years. According to representatives, they were women from low-income backgrounds.

The bodies of the young women were found in Campo Algodonero under alarming conditions, showing clear signs of violence, including mutilation, torture, and physical abuse. They were abandoned in public places, reflecting the brutality of the act and a lack of respect for human dignity.⁴¹

A common element in many of these cases is that numerous young women were kidnapped, held against their will, and subjected to horrific sexual violence prior to their deaths. The forms of violence inflicted upon them include rape, biting, beatings, stabbing, and mutilation. In more than 70 percent of these homicides, the cause of death was either asphyxia due to strangulation or trauma resulting from blows. The physical and psychological torment experienced by the victims reflects a violence rooted in their subjugation and humiliation as young women. Typically, the bodies were typically discarded in abandoned lots near the city or in sparsely populated areas on the periphery. The impact of these crimes extends to the families of the victims, who must endure the constant nightmare of knowing the suffering their loved ones experienced while they were held captive.⁴²

Additionally, multiple deficiencies were identified in the administration of justice procedures by the Mexican judicial system, such as a lack of information in the report regarding the discovery of the bodies, inadequate preservation of the crime scene, lack of rigor in the collection of evidence and in the chain of custody, contradictions and insufficiencies in the autopsies, as well as irregularities and shortcomings in the identification of the bodies, and irregular delivery of the same.⁴³

⁴⁰ Ibid

⁴¹ *González and Others (Campo Algodonero) v Mexico* (Judgment of 16 November 2009) Inter-American Court of Human Rights.

⁴² Amnesty International, 'Mexico Intolerable Killings: 10 Years of Abductions and Murders of Women in Ciudad Juárez and Chihuahua' (2003) AMR 41/026/2003 <https://www.amnesty.ie/wp-content/uploads/2016/05/Mexico-Intolerable-Killings-Ciudad-Juarez-and-Chihuahua.pdf> accessed 8 September 2024.

⁴³ *González and Others (Campo Algodonero) v Mexico* (Judgment of 16 November 2009) Inter-American Court of Human Rights.

Furthermore, the investigative deficiencies that occurred in the initial stage of the investigation resulted in the case remaining in the preliminary phase for 8 years.⁴⁴

Likewise, the Court mentions in the ruling that none of the officials responsible for the occurring negligence were investigated; specifically, the serious irregularities in the pursuit of those responsible for handling the evidence during the initial stage of the investigation have not been clarified. This further highlights the victims' situation of defencelessness, contributes to impunity, and fosters the chronic repetition of the human rights violations in question.⁴⁵

Where the three mothers stated that in the first contact with the authorities after their daughters' disappearance, the authorities expressed that they had to wait 72 hours to consider their daughters as missing.⁴⁶

In addition, the expert evidence showed that the investigations did not begin after the report of their daughters' disappearance, but rather after the 72 hours had passed. It was noted that in the case of young Herrera, the crucial first hours for the search were lost. Furthermore, the statements of the experts do not provide specific dates, so the Court cannot conclude whether, according to them, the 72-hour wait existed in 2001.⁴⁷

It is important to highlight how each of the women found in Campo Algodonero disappeared in isolation, yet they were all found together. The first time they went to the Forensic Medical Service, the possibility of identifying the presumed bodies of their daughters was denied.

It is relevant to consider how the mothers experienced these events, as it is difficult to think about changing the law without awareness and sensitivity regarding the issue.

In interviews, the mothers expressed that they never thought something like this could happen to them. Moreover, the mothers indicated that the same authorities in the judicial process told them that they didn't really know their daughters, that at home they were one way and outside they were another, suggesting that they had probably gone off with a boyfriend or to a party.⁴⁸

⁴⁴ *ibid*

⁴⁵ *ibid*

⁴⁶ *ibid*

⁴⁷ *ibid*

⁴⁸ Cedimac Juárez, *Ecos del Desierto-Campo de Algodón* (14 December 2016) <https://www.youtube.com/watch?v=nl6Qgy9dfeQ> accessed 28 July 2024.

They expressed that on several occasions, when the matter had been taken to the Inter-American Court, the Mexican government attempted to buy their silence so that they would not attend the hearings to give their testimonies. Ultimately, there were also no consequences for the public officials responsible, neither in terms of criminal punishment nor administrative action, such as removal from office.⁴⁹

In conclusion, this is a matter where there was tremendous inequality, impunity, and disinterest on the part of the authorities, where there was no adequate diligence. These deficiencies reflect a lack of capacity to provide justice and protection to women in situations of violence, which is also a reflection of a deficient legal framework and the lack of protection for human rights.

Additionally, in the following it will be described how human rights violations were condemned by the Inter-American Court of Human Rights.

The Court condemned several human rights violations, such as the right to life, personal integrity, and personal freedom, enshrined in Articles 4.1, 5.1, 5.2, and 7.1 of the American Convention, as a consequence of the State's failure to fulfill its duty to investigate. In relation to the general obligation of guarantee established in Article 1.1 and the obligation to adopt internal legal provisions stipulated in Article 2 of the same, as well as the obligations outlined in Articles 7.b and 7.c of the Convention of Belém do Pará, where section (b) refers to acting with due diligence to prevent, investigate, and punish violence against women, and (c) refers to the inclusion of criminal, civil, and administrative norms to prevent, punish, and eradicate violence against women and to adopt appropriate administrative measures as necessary.⁵⁰

Likewise, the State was also condemned for failing to uphold the duty of non-discrimination, enshrined in Article 1.1 of the Convention, and for violating children's rights, as articulated in Article 19 of the Convention.⁵¹

⁴⁹ *ibid*

⁵⁰ *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará Convention)* (1994) <https://www.oas.org/es/cidh/mandato/Basicos/13.CONVENCION.BELEN%20DO%20PARA.pdf> accessed 05 August 2024.

⁵¹ *González and Others (Campo Algodonero) v Mexico* (Judgment of 16 November 2009) Inter-American Court of Human Rights.

The Ruling of the Inter-American Court of Human Rights was determined based on the following analysis: The Court determined that the Mexican State violated the right to life enshrined in Article 4.1 of the Convention, due to the lack of effective action to prevent homicides and for not providing adequate protection to women in a high-risk context.⁵²

Violation of the right to personal integrity, enshrined in Article 5 of the Convention, due to the State's failure to guarantee the right to personal integrity of the victims by not conducting the proper investigations into the femicides, which contributed to an environment of impunity.⁵³

Violation of the right to personal freedom, enshrined in Article 7 of the Convention, due to the State's failure to fulfil its obligation to guarantee the personal freedom of the victims and to take appropriate measures to prevent acts of violence that led to their deprivation of life.⁵⁴

Right to access to justice for the victims' family members, enshrined in Article 25.1 of the Convention, and the right to judicial guarantees enshrined in Article 8.1 of the Convention, for failing to provide the necessary means to obtain justice and repair the harm caused.⁵⁵

The right not to be discriminated against, enshrined in Article 1 of the Convention, due to the failure to respect and guarantee the rights to life, personal integrity, and freedom of women, highlighting their particular vulnerability to gender-based violence.⁵⁶

Consequently, the Mexican State was condemned to the following measures of reparation and compliance:

General obligations consisting of guaranteeing access to justice and comprehensive reparations for the victims, as well as ordering the conduct of thorough, swift, and efficient investigations to identify, prosecute, and punish those responsible for the femicides.⁵⁷

In Resolution Point 12 of the ruling, the State is condemned to the effective conduct of investigations, which is divided into four sections: the elimination of obstacles, the gender

⁵² *ibid*

⁵³ *ibid*

⁵⁴ *ibid*

⁵⁵ *ibid*

⁵⁶ *ibid*

⁵⁷ *ibid*

perspective, providing information to families, and the use of adequate resources. The following will break down how the Court addressed each of these aspects.⁵⁸

The State is condemned to guarantee thorough and effective investigations into the disappearance and murder of the victims, to eliminate legal and de facto obstacles that hinder such investigations, and to ensure that they are approached from a gender perspective. The Court established that this conduct of investigations not only involves complying with legal provisions but also that these investigations must be sensitive to the particularities of gender-based violence, ensuring the participation and well-being of the victims' families.⁵⁹

Highlighting the removal of obstacles, where the State is obligated to eliminate any legal or practical impediments that hinder due investigations and the development of judicial processes. Therefore, proactive measures must be taken to ensure that there are no legal or institutional barriers that complicate the investigation.

Investigations must include a gender perspective, meaning that in all phases of the investigation, they must consider the particularities of gender-based violence, recognizing that women may be victims of crimes differently than men. Such investigations must be conducted according to manuals and protocols that ensure adequate attention to gender aspects.⁶⁰

Additionally, the right of the victims' families and the State's obligation to keep them informed about the progress of the investigation is emphasized, granting them full access to the files. Investigations should be carried out by highly trained officials in similar cases and in responding to victims of discrimination and gender-based violence.⁶¹

The appropriate use of resources during the investigation is also mandated, where the State has the obligation to ensure that the various bodies involved in the investigative procedures and judicial processes have the necessary human and material resources to perform their tasks adequately, independently, and impartially, and that individuals participating in the investigation are provided with proper security guarantees.⁶²

⁵⁸ *ibid*

⁵⁹ *ibid*

⁶⁰ *ibid*

⁶¹ *ibid*

⁶² *ibid*

In Resolution Point 16 of the ruling, the State is condemned to carry out a public act of acknowledgment of international responsibility concerning the facts of the present case, in honour of the memory of Laura Berenice Ramos Monárrez, Esmeralda Herrera Monreal, and Claudia Ivette González.⁶³

In Resolution Point 22 of the ruling, the State is condemned to implement ‘permanent programs and courses on human rights and gender; gender perspective for due diligence in conducting preliminary investigations and judicial processes related to discrimination, violence, and homicides of women based on gender, and overcoming stereotypes about the social role of women aimed at public officials’.⁶⁴

In Resolution Point 25 of the ruling, the State is condemned to repair the damage, which includes indemnities and compensations for material and immaterial damages as well as the reimbursement of costs and expenses.⁶⁵

And finally, in the resolution point of the ruling, the State is condemned to publish in a nationally widely circulated newspaper, in a widely circulated newspaper in the city of Chihuahua, as well as to publish the ruling on an official state electronic page.⁶⁶

In the same way, the Court emphasized the importance of guarantees of non-repetition, which seek to ensure that the acts that violated rights do not occur again. This mechanism does not have to be linked to the victims of the present case; it must be independent of them. It is an obligation of the State, directed towards the elimination of risks of the same violations being repeated. This guarantee should be an obligatory mandate in every criminal process and aimed at preventing acts that violate the rights of individuals. This oversight and control must come from the State in the application of public policies that reduce the risks faced by citizens.⁶⁷

In this case, the Court condemned Mexico to the following guarantees of non-repetition:

⁶³ *ibid*

⁶⁴ *Campo Algodonero v Mexico* (2010) IACHR 21, Res. 22

⁶⁵ *González and Others (Campo Algodonero) v Mexico* (Judgment of 16 November 2009) Inter-American Court of Human Rights.

⁶⁶ *ibid*

⁶⁷ Peter Alexis Rivas-Zambrano and Fernando Bujan-Matos, 'Comprehensive Reparation for Victims in Criminal Proceedings: Guarantee of Restitution and Non-Repetition' (2023) 9 *Cienciamatria: Revista Interdisciplinaria de Humanidades, Educación, Ciencia y Tecnología* <https://doi.org/10.35381/cm.v9i1.1035> accessed 07 August 2024.

Standardization of protocols, ministerial criteria for investigations, forensic services, and the administration of justice to combat disappearances and homicides of women and the various types of violence against women in accordance with international standards.⁶⁸

Implementation of a search and location program for missing women in the state of Chihuahua.⁶⁹

Confrontation of genetic information of unidentified bodies of women or girls who have been killed in Chihuahua with missing persons at the national level.⁷⁰

Gender-sensitive training for public officials and the general population in the State of Chihuahua.⁷¹

The ruling by the Inter-American Court underscored critical lessons for addressing violence against women in Mexico, recognizing gender-based violence as a structural issue rooted in political, social, and cultural norms that perpetuate inequality. It's vital for both the government and society to acknowledge this as a human rights violation, leading to the development of policies that incorporate a gender perspective, encompassing prevention and victim support.

Effective justice and access to information are paramount. The case highlighted the necessity for victims and their families to have constant access to information about judicial processes. Therefore, implementing protocols to ensure justice and information access is crucial. This entails training public officials and including mandatory human rights education, ensuring justice is effective, accessible, and understandable for victims and families.

Furthermore, it should be pointed out that the State did not respond to any of those criminal activities by implementing policies that intentionally or directly excluded or discriminated against women. This does not excuse the negligence of some authorities and the failure to build capacity at the local level to address the problem but does explain the complexity of the phenomenon and its causes.⁷²

⁶⁸ Centro de Derechos Humanos, 'Caso González y otras ("Campo Algodonero") vs. México' (2010) *Boletín de Jurisprudencia de la Corte Interamericana de Derechos Humanos*
<https://backoffice.biblio.ugent.be/download/4265486/4265513> accessed 07 August 2024.

⁶⁹ *ibid*

⁷⁰ *ibid*

⁷¹ *ibid*

⁷² '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' (United Nations, 2005)

Integrating a gender perspective in investigations and public policy is essential to address gender-based violence. This requires incorporating a gender lens in both the investigation of femicides and the creation of public policies that address the specific needs and vulnerabilities of women. Ensuring all judicial personnel are equipped with the necessary training and tools to handle these cases appropriately is also critical.

3.2.1 Impact of CEDAW on the Case

The Campo Algodonero case had a profound impact on the management of gender-based violence in Mexico, significantly influenced by the guidelines of CEDAW. The case highlighted the need to address intersectional discrimination, aligning with the principles of CEDAW that recognize how gender interacts with other factors of vulnerability. This perspective helped clarify Mexico's obligations regarding the protection of women's human rights, establishing clear standards of due diligence. Although the concept of due diligence is not explicitly mentioned in an article of CEDAW, it is inferred from various combined provisions that establish clear obligations for States. For example, Article 2 instructs States to adopt measures to modify or abolish discriminatory laws and practices, which means acting diligently to prevent and address discrimination. Likewise, Article 5 requires modifying sociocultural patterns that perpetuate violence, demanding determined efforts from States to change these realities.

Moreover, General Recommendation No. 19 of the CEDAW Committee specifically focuses on violence against women and illustrates how States must act with due diligence to prevent, investigate, sanction, and remedy acts of violence. Collectively, these components establish a clear framework that requires States to act with due diligence in the protection and promotion of women's rights.

Following the ruling, Mexico promoted significant institutional and legal reforms. More rigorous protocols were developed to investigate femicides, integrating a gender perspective, and the training of judicial and police officials was reinforced to ensure a more gender-sensitive approach

CEDAW/c/2005/OP.8/MEXICO <https://www.un.org/womenwatch/daw/cedaw/cedaw32/CEDAW-C-2005-OP.8-MEXICO-E.pdf> accessed 8 September 2024.

in investigations. Notably, this includes the creation of the gender violence alert and the institutionalization of specialized units such as INMUJERES.

Additionally, this case promoted a change in judicial culture by integrating international human rights standards into Mexican practice, fostering greater awareness of the impact of gender-based violence both in the judicial arena and in society. The ruling also obliged the State to implement preventive public policies, inspired by the principles of equality and non-discrimination of CEDAW, to prevent future violations. Thus, the Campo Algodonero case demonstrated how international standards can inspire local reforms, underscoring the importance of CEDAW in promoting and protecting women's rights in Mexico.

3.2.2 Incorporation into Domestic Law

Mexico has integrated its international obligations under CEDAW into its domestic legal framework through various laws and reforms that promote gender equality and protect women's rights. A key example is the General Law on Women's Access to a Life Free of Violence, which aligns with CEDAW by establishing measures to prevent and address violence against women, reflecting Articles 1, 2, and 3. This law provides mechanisms for protection and legal action, emphasizing the elimination of discrimination.

The Federal Penal Code's inclusion of femicide, influenced by CEDAW's mandate to address violence against women, is exemplified in Article 325, which defines femicide and outlines penalties to ensure accountability for gender-based crimes.

The Law on Equality between Women and Men reflects CEDAW's emphasis on equality and non-discrimination, promoting equal opportunities in various spheres to eliminate gender disparities. Amendments to the Mexican Constitution further align national laws with international standards, facilitating the passage of gender equality laws.

Additionally, the creation of institutions like the National Women's Institute (INMUJERES) showcases efforts to oversee the implementation of gender equality policies in line with CEDAW. These bodies coordinate efforts to monitor compliance and promote women's empowerment.

Together, these legal frameworks and reforms highlight how Mexico has embraced CEDAW's principles, aiming to fulfill international obligations and advance gender equality across the nation.

While Mexico has made strides in implementing CEDAW obligations, certain challenges persist. Despite legal frameworks, systemic stereotypes and cultural norms continue to affect the legal and judicial systems, limiting the effectiveness of responses to gender-based violence.

Additionally, comprehensive protection measures for all women, especially those from marginalized groups like indigenous women, migrants, and LGBTQ+ individuals, need further development. This gap leaves specific needs unaddressed in national policies.

The discrepancies between federal and state laws create inconsistent access to justice, highlighting the need for a unified legal framework to ensure equal protection across all regions. Furthermore, there is a need for effective monitoring and evaluation systems to assess the impact of gender equality initiatives, as current mechanisms are often insufficient, hindering accountability.

Resource allocation also poses a challenge, as limited financial, human, and technical resources restrict the capacity to effectively implement and support gender equality policies. Addressing these areas is essential for Mexico to fully comply with CEDAW obligations and ensure comprehensive protection and promotion of women's rights.

3.3 Policy Recommendations for Strengthening Legal Protections

It is important that violent deaths of women are investigated with a gender perspective. This means that the authorities in charge, especially those responsible for conducting the initial investigations, determine whether the incident will be classified as femicide due to gender-based violence.

The inclusion of survivors of violence, civil society, academia, and the private sector working together to eradicate violence is crucial.

According to the publication by UN Women, INMUJERES, and CONAVIM titled "La Violencia Feminicida en México: Aproximaciones y Tendencias," there is a revealed need to strengthen the coordination of federal and local institutions responsible for addressing violence against women. In this regard, protection and access to justice should be a priority for the State.⁷³

⁷³ UN Women, INMUJERES, & CONAVIM, *La violencia feminicida en México: Aproximaciones y tendencias* (2020) https://mexico.unwomen.org/sites/default/files/Field%20Office%20Mexico/Documentos/Publicaciones/2020/Diciembre%202020/ViolenciaFeminicidaMX_.pdf accessed 24 July 2024.

As previously mentioned, a significant issue is the lack of proper harmonization between local and federal legislation. Additionally, it is essential to standardize the protocols for administering justice with a gender perspective across institutions.⁷⁴

Furthermore, public security policy actions are required to eliminate or at least reduce the risks women face in public spaces.

Data has revealed that it is important to continue working on raising awareness about femicide to support better performance by institutions that provide access to and administer justice. Consequently, it is essential to investigate all female deaths from external causes with a standardized gender-sensitive protocol to determine with certainty whether there was a gender-related motive behind them.

And regarding the way about how can the above purposes to eradicate femicide be fulfil is detailed in the following.

It is essential to pay special attention to the monitoring efforts of international bodies, such as the CEDAW Committee, as well as the binding judgments issued by the Inter-American Court of Human Rights regarding women's right to live free from violence. Hierarchically, following the directives of international organizations and the Inter-American Court, it is crucial to properly address the resolutions of the Supreme Court of Justice of the Nation. This ensures that investigations into violent deaths of women are conducted with a gender perspective, thereby aligning national practices with international standards on women's rights.

3.4 International influence in Mexico

The Importance of Establishing Standards and Obligations in International Law will be analysed in the following.

International law establishes the obligations that states must respect. When a state becomes a party to an international treaty through signing and ratifying it, it becomes subject to the obligations

⁷⁴ UN Women & INMUJERES, *Brief: Femicidio* (2022) http://cedoc.inmujeres.gob.mx/documentos_download/ONUMEX_Brief_Femicidio_FEB2022-V3%20FINAL.pdf accessed 24 July 2024.

contained in that international treaty. Therefore, in international treaties related to human rights, states must respect, promote, protect, and guarantee human rights within their jurisdiction.⁷⁵

Where the obligation to guarantee refers to the requirement of positive behavior by the state to ensure compliance with the law, aiming to secure for all the ability to enjoy human rights.⁷⁶

In the obligation to promote, it is the state's duty to inform individuals about their rights and how they can protect them. Similarly, the state is also required to teach people the most effective ways to exercise each of their rights.⁷⁷

Regarding the obligation to respect, it corresponds to not interfering with or jeopardizing human rights; that is, the state cannot interfere in the legal spheres of individuals. This obligation is fulfilled through abstention and is violated through actions.⁷⁸

In the obligation to protect, it is the duty to create a legal framework and institutional machinery to prevent human rights violations committed by private individuals. This translates into the establishment of prevention systems and mechanisms for enforcement.⁷⁹

Consequently, through the ratification of international human rights treaties, governments commit to adopting the necessary measures and laws that are compatible with the obligations established in the treaties. This helps to ensure that the human rights standards set forth in the treaties are effectively applied and respected.⁸⁰

3.4.1 Specific obligations in CEDAW

CEDAW, the Convention on the Elimination of All Forms of Discrimination Against Women, requires member states to take comprehensive action to eliminate discrimination against women

⁷⁵ Office of the United Nations High Commissioner for Human Rights, 'International Human Rights Law' (OHCHR) <https://www.ohchr.org/es/instruments-and-mechanisms/international-human-rights-law> accessed 22 August 2024.

⁷⁶ Daniel Vázquez and Sandra Serrano, *Principios y obligaciones de derechos humanos: los derechos en acción* (1st edn, 2013) <https://cdhcm.org.mx/wp-content/uploads/2015/05/5-Principios-obligaciones.pdf> accessed 22 August 2024.

⁷⁷ *ibid*

⁷⁸ *ibid*

⁷⁹ *ibid*

⁸⁰ Office of the United Nations High Commissioner for Human Rights, 'International Human Rights Law' (OHCHR) <https://www.ohchr.org/es/instruments-and-mechanisms/international-human-rights-law> accessed 22 August 2024.

and protect their rights. One of the core obligations is to ensure non-discrimination, which necessitates the modification or abolition of laws, customs, and practices that perpetuate discrimination.

States are required to enact and enforce laws that prohibit discrimination, establish legal protection for women's rights, and provide effective remedies through national tribunals. CEDAW also calls for addressing social and cultural norms by promoting changes to eliminate prejudiced and stereotyped roles.

In terms of political and public life, CEDAW mandates equal rights for women in participation, ensuring representation in government and decision-making bodies. It also emphasizes equal rights in education, aiming to remove stereotypes from education materials and ensure equal opportunities.

In the workplace, member states must secure equal employment rights, including equal pay for equal work and protection against harassment. CEDAW also focuses on eliminating discrimination in access to healthcare, with a strong emphasis on reproductive rights.

For rural women, the convention highlights the need to address their specific needs and ensure their involvement in development planning. To achieve these goals, states must implement legislative, judicial, and administrative measures. Legislative actions include drafting and amending laws that prohibit discrimination. Judicial measures involve establishing mechanisms to enforce women's rights and training legal professionals to handle gender-based cases appropriately. Administratively, states are urged to create and implement policies that promote gender equality and ensure resource allocation for women's rights initiatives.

By fulfilling these obligations, CEDAW helps member states build comprehensive frameworks that protect women's rights and promote gender equality, aiming to eradicate systemic discrimination.

3.4.2 Impact Assessment

Mexico has made notable strides in aligning its legal framework with CEDAW obligations. The implementation of the General Law on Women's Access to a Life Free of Violence reflects a strong commitment to eliminating gender-based discrimination, providing mechanisms for protection and

legal action. The inclusion of femicide in the Federal Penal Code has raised awareness and ensured accountability for gender-based crimes, aligning with CEDAW's emphasis on addressing violence against women.

The establishment of institutions like the National Women's Institute (INMUJERES) further demonstrates a commitment to gender equality policies.

However, challenges remain. Despite comprehensive legislation, cultural norms and stereotypes persist, undermining enforcement and consistent application. Discrepancies between federal and state laws create uneven access to justice, highlighting the need for a harmonized legal framework. Additionally, more efforts are needed to address the specific needs of marginalized groups, such as indigenous, migrant, and LGBTQ+ individuals, to ensure comprehensive protection.

Furthermore, the lack of robust monitoring systems limits the assessment of gender equality initiatives. Establishing comprehensive evaluation frameworks is crucial for accountability and improvement. Resource allocation also needs enhancement to effectively support gender equality policies.

While Mexico has made significant progress, addressing these challenges is essential for fully aligning with CEDAW and ensuring comprehensive protection and equality for all women.

To conclude with this chapter, starting research question in this chapter will be answered based on the above information.

Mexico's legal framework has made significant strides in addressing femicide by aligning with international standards such as CEDAW. The General Law on Women's Access to a Life Free of Violence is a comprehensive measure aimed at preventing and addressing violence against women, aligning with CEDAW's Articles 1, 2, and 3. However, challenges remain in the implementation and enforcement of these legal measures. The decentralized nature of law enforcement across federative entities can lead to inconsistent application and gaps in protection. Additionally, ongoing cultural and systemic barriers, such as stereotypes and insufficient resource allocation, hinder the effective realization of these legal provisions. While mechanisms like the Declaration of Gender Violence Alert are in place, the need for rigorous monitoring, evaluation, and alignment between federal and local legislation remains vital for meaningful impact. Further, collaboration with international bodies and adherence to critical judgments by the Inter-American Court of Human

Rights are necessary to enhance compliance and promote women's rights consistently across Mexico

Chapter 4: Gender-Based Violence: Impact and Challenges

In the following chapter, it will be analysed how do Mexico's legal definitions and frameworks around femicide impact access to justice and protection for victims across different states?

4.1 Femicide Definition

In the Federal Penal Code, Article 325 defines femicide as the act of depriving a woman of her life for gender-related reasons. Specific circumstances indicating gender-based motives include signs of sexual violence, degrading injuries or mutilations, prior records of violence by the perpetrator, a personal relationship between the perpetrator and victim, threats or harassment by the perpetrator, isolation of the victim before the crime, and public exposure of the victim's body.

The penalties for committing femicide range from forty to sixty years in prison, along with fines equivalent to five hundred to one thousand days' wages. Perpetrators also forfeit all rights related to the victim, including inheritance. If femicide is not proven, the case will be treated under homicide laws.

Furthermore, public servants who maliciously or negligently impede justice will face three to eight years in prison, fines between five hundred to one thousand five hundred days' wages, dismissal from their position, and disqualification from holding public office for three to ten years.⁸¹

Therefore, it is possible to highlight in general terms that femicide is a homicide based on gender motives. Additionally, this article recognizes the loss of all types of rights that the perpetrator had acquired due to the type of relationship they had with the victim, whether sentimental, familial, or any other type of bond.

It is also important to emphasize that the article explicitly mentions the imposition of sanctions on public officials who maliciously delay or obstruct the administration of justice. This has often been a cause in Mexico for many femicide victims lacking access to justice.

⁸¹ *Código Penal Federal* (Secretaría de Gobernación, 2024) https://infosen.senado.gob.mx/sgsp/gaceta/63/3/2018-03-20-1/assets/documentos/PA_PRI_Feminicidio_Codigo_Penal.pdf accessed 9 September 2024.

The challenge is that while femicide may be classified at the federal level, it may not be at the state level, or it may be classified differently among each state's penal legislation. Consequently, this creates different types of access to justice in each federative entity. For example, if the criminal act being investigated falls under state jurisdiction, the case will be treated as homicide under the corresponding state laws.⁸²

In the city of Chihuahua, femicide is not classified as a crime, so if there is a homicide based on gender motives, the judicial authorities responsible for administering justice will treat it as homicide and not as femicide.⁸³

Therefore, the above situation creates a problem in the access to justice for victims across the country. This is why legislative harmonization and effective implementation of laws are extremely important to comprehensively address femicide and equally protect women throughout Mexican territory.

4.2 Legal and social dimensions

In this chapter it will be explained how do existing gender-focused laws in Mexico address or fail to address the systemic issues contributing to femicide?"

Despite having laws such as the Victim Care Law, the Law on Equality between Women and Men, the General Law on Women's Access to a Life Free of Violence, and the Federal Law to Eliminate Discrimination, various elements contribute to the issue of femicide. These include hate crimes against women and girls, unequal power relations, and violent deaths due to gender. Discrimination, power and control structures imposed by men, limited access to justice, impunity, machismo, and misogyny further exacerbate the situation.⁸⁴

The term "femicide" emerged as a response to the neutral term "homicide," aiming to highlight the discrimination, oppression, inequality, and systemic violence against women that, at its extreme, results in death. According to Diana Russell, femicide applies to all forms of sexist murder

⁸² *La Armonización Legislativa en las Entidades Federativas* (Cámara de Diputados, 2009) <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGAMVLV.pdf> accessed 9 September 2024.

⁸³ *Código Penal del Estado de Chihuahua* (Gobierno del Estado de Chihuahua, 2020) art 126bis.

⁸⁴ *Ley General de Acceso de las Mujeres a una Vida Libre de Violencia* <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGAMVLV.pdf> accessed 21 August 2024.

committed by men, motivated by a sense of entitlement, superiority, sadistic pleasure, or perceived ownership over women.⁸⁵

On the other hand, Mexican researcher Marcela Lagarde defines it as the act of killing a woman solely because of her belonging to the female sex. She also considers it a state crime caused by a breakdown of the rule of law that fosters impunity.⁸⁶ This concept encompasses the set of facts that characterize the crimes and disappearances of girls and women when the response of the authorities is omission, inertia, silence, or inactivity to eradicate these crimes.⁸⁷

Similarly, author Julia Monárrez defines femicide as a progression of violent acts ranging from emotional, psychological, and physical abuse, insults, torture, rape, prostitution, sexual harassment, child abuse, infanticide, genital mutilation, domestic violence, and any policy that leads to the death of women, tolerated by the state.⁸⁸

The Organization of American States, Inter-American Commission of Women, considers femicide as the violent death of women due to gender reasons, whether it occurs within an interpersonal relationship, at home, or in the community, perpetrated by anyone, or perpetrated and tolerated by the state and its agents, by action or omission.⁸⁹

Taking into account the previous definitions by different authors, femicide can be defined as follows:

Femicide is the gender-motivated killing of women, rooted in systemic discrimination and inequality. It involves sexist killings by men, driven by entitlement or ownership. This violence

⁸⁵ Jill Radford and Diana E Russell (eds), *Femicide: The Politics of Woman Killing* (Twayne Publishers 1992).

⁸⁶ Marcela Lagarde y de los Ríos, 'El derecho humano de las mujeres a una vida libre de violencia' (2006) https://catedraunescodh.unam.mx/catedra/CONACYT/16_DiplomadoMujeres/lecturas/modulo2/2_MarcelaLagarde_El_derecho_humano_de_las_mujeres_a_una_vida_libre_de_violencia.pdf accessed 21 August 2024.

⁸⁷ *Modelo de protocolo latinoamericano de investigación de las muertes violentas de mujeres por razones de género* (Protocol) (OHCHR) <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/ProtocoloLatinoamericanoDeInvestigacion.pdf> accessed 21 August 2024.

⁸⁸ J Monárrez Fragoso, *Feminicide: Impunity for the Perpetrators and Injustice for the Victims* (Palgrave Macmillan 2018) 44.

⁸⁹ *Declaración sobre el Femicidio* (OAS) <https://www.oas.org/es/mesecvi/docs/declaracionfemicidio-es.pdf> accessed 21 August 2024.

occurs in various contexts and is considered a state crime when justice systems fail to respond, allowing impunity. It highlights a continuum of abuse that can lead to death.

Author Diana Russell highlights that, in all types of femicide, the perpetrator is always a man. She identifies several categories: Intimate Partner Femicide, involving men who have or had a romantic relationship with the victim; Familial Femicide, involving male relatives by blood or marriage; and Other Perpetrators, involving individuals with a close non-sexual connection to the victim, such as male colleagues or authority figures.⁹⁰

Tragically, these murders often involve cruelty, using methods that prolong pain, inflict suffering, and cause humiliating injuries through subjugation and force. A pattern has emerged where firearms are increasingly used to murder women, but other injuries frequently occur before firearms are involved.⁹¹

Finally, to give an answer to the research question on this chapter, it is possible to conclude that despite the existence of gender-focused laws like the Victim Care Law and the General Law on Women's Access to a Life Free of Violence, systemic issues remain unaddressed, contributing to the persistence of femicide in Mexico. These laws are challenged by deeply rooted societal factors such as hate crimes, unequal power relations, and systemic discrimination. The definitions by various experts highlight that femicide is more than just murder; it is an expression of power and control stemming from systemic inequality and patriarchy. The legal frameworks often fail to account for the complexity and continuum of abuse leading to such violence, as indicated by Marcela Lagarde and Julia Monárrez. Moreover, the role of state impunity and ineffective justice systems, pointed out by these experts, means that laws alone cannot combat this issue without addressing broader societal norms and the enforcement of existing policies.

4.3 Challenges in Addressing Gender-Based Violence

It is important that femicide crimes are investigated by the judiciary with a gender perspective.

⁹⁰*Feminicidio en México* (Economía, Revista en Cultura de Legalidad, 2016).

⁹¹ UN Women, 'La violencia feminicida en México: Aproximaciones y tendencias' (2020) https://mexico.unwomen.org/sites/default/files/Field%20Office%20Mexico/Documentos/Publicaciones/2020/Diciembre%202020/ViolenciaFeminicidaMX_.pdf accessed 24 July 2024.

A gender perspective involves analyzing certain situations to understand the dynamics between men and women and the relationships between them, with the goal of addressing the imbalances between the genders.

The Inter-American Court has used this analysis to identify how gender impacts the controversy. In the Cotton Field case, the IACHR found that a culture of discrimination was pervasive in Ciudad Juárez, Mexico, which contributed to the violence against women and, consequently, to femicides.

The Court also identified that the prevailing socio-cultural patterns in Mexican society had led to state inaction and, in turn, perpetuated violence against victims and their families. This inaction resulted in impunity, which created a cycle of repeated violent acts against women. In this case, impunity led to a loss of trust in the Mexican justice system.⁹²

Similarly, the Inter-American Court recognizes that there are particular situations that place women in a greater state of vulnerability, which consequently hinders their ability to fully exercise their rights.

Furthermore, the connection between due diligence and gender discrimination is key, highlighting how violence against women is seen as a human rights violation in international laws like CEDAW and the Belém Do Pará Convention. This link reflects the success of feminist advocacy in framing violence against women in this way. In Ciudad Juárez, reinforcing this connection was crucial to holding the Mexican state accountable for failing to protect women's rights. It was necessary for the Court to continually emphasize this link to address the state's obligations to prevent and investigate these violations. The Court had to keep reinforcing these ideas to create a gender-focused judgment on Mexico's failure to protect the rights of three young victims. The analysis reveals that the Court's use of a gender perspective depended partly on activists working at different levels—local to international—to highlight Mexico's poor response to these femicides.⁹³

In conclusion, gender-based analysis allows us to understand why and how the actions or omissions of a state affect individuals or groups differently based on their gender. It also helps identify when

⁹² *Protocolo para Juzgar con Perspectiva de Género* (Suprema Corte de Justicia de la Nación, 2020).

⁹³ Paulina García Del Moral, 'Feminicidio, Transnational Legal Activism, and State Responsibility in Mexico' (2016) https://tspace.library.utoronto.ca/bitstream/1807/89243/1/Garc%c3%ada_Del_Moral_Paulina_201606_PhD_thesis.pdf, 72.

a measure that appears to be neutral can actually have disproportionate and adverse consequences for women.

Violence against women has been recognized as a global health issue of epidemic proportions by the World Health Organization (WHO). According to the report *Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence*, published by this organization, physical and sexual violence constitute a problem of enormous magnitude that affects more than one-third of all women worldwide.⁹⁴

In Mexico, the NOM-046-SSA2-2005 standard has been established, which is mandatory for all institutions within the National Health System as well as for other private sector health service providers. The oversight of its implementation falls under the responsibility of the Ministry of Health, as well as the governments of the federal entities, within the scope of their respective jurisdictions.

The objective of the standard is to 'establish the criteria to be followed in the detection, prevention, medical care, and guidance provided to users of health services in general, and in particular to those involved in situations of domestic or sexual violence, as well as in the reporting of such cases'.⁹⁵

The utility of this standard is to prevent a potential femicide, as women who are victims of sexual violence and present severe injuries may be at increased risk of becoming victims of femicide. Therefore, it is crucial for healthcare providers to immediately report any indicators of sexual violence observed in patients to the authorities, in compliance with the regulations set forth by NOM-046.

The Inter-American Court of Human Rights has placed special emphasis on the obligation of judicial bodies to analyze the evidence provided with a gender perspective. It has been established that judges are required to avoid any stereotypical or prejudiced views when evaluating evidence,

⁹⁴ OMS, 'Estimaciones mundiales y regionales de la violencia contra la mujer: prevalencia y efectos de la violencia conyugal y de la violencia sexual no conyugal en la salud' (OMS, 2013) <https://www.who.int/es/publications/i/item/WHO-RHR-HRP-13.06> accessed 24 July 2024.

⁹⁵ SSA, *NOM-046-SSA2-2005*.

as this can result in the violation of a right and contribute to the perpetuation of gender inequalities.⁹⁶

Consequently, it has been emphasized that it is of utmost importance for judicial bodies to indicate how gender impacts the case when evaluating evidence. Additionally, the importance of considering whether there was any other factor that increased the victim's vulnerability has also been highlighted, such as the perpetrator being a member of the military or a police force, or the victim being detained or in the custody of state agents when the events occurred.⁹⁷

Furthermore, in the next paragraph it will be described how the gender perspective in criminal investigation was highlighted for the Inter-American Court of Human Rights (IACHR).

The Inter-American Court of Human Rights (IACHR) has emphasized the necessity for investigations to be conducted with a gender perspective and by officials trained to address victims of discrimination and gender-based violence. Authorities are thus obligated to investigate ex officio the possible presence of gender-related reasons in acts of violence against women, such as femicide. Possible indications of gender-based violence include specific signs of sexual violence, evidence of excessive cruelty against the woman's body, such as mutilations, and the act occurring within a context of violence against women in a particular country or region.⁹⁸

It is important to consider the need to avoid certain common problems and practices in the investigation of gender-based violence crimes, as they can negatively impact access to justice and the protection of victims' rights. For example:

In the handling and collection of evidence, it is crucial that authorities gather evidence properly and professionally. Failing to do so can result in the loss of crucial evidence or contamination of the crime scene, which can compromise the investigation and the right to due process and justice.

Investigations must be thorough and conducted with a gender perspective, considering all possible hypotheses of a crime committed for gender reasons. Otherwise, this may lead to incorrect classification of the crime and, consequently, to the impunity of the perpetrators.

⁹⁶ Supreme Court of Justice of the Nation (SCJN), '*Protocolo para juzgar con perspectiva de género*' (2022) https://www.scjn.gob.mx/derechos-humanos/sites/default/files/protocolos/archivos/2022-01/Protocolo%20para%20juzgar%20con%20perspectiva%20de%20genero_2022.pdf accessed 26 July 2024

⁹⁷ *ibid*

⁹⁸ *Caso Véliz Franco y otros v Guatemala* (Judgment of 19 May 2014) para 187.

Slowness or inefficiency on the part of the authorities responsible for ensuring due process and access to justice can result in delayed or denied justice for victims, particularly when delays are due to gender biases.⁹⁹

Prejudiced and stereotypical views held by authorities negatively impact investigations and can even lead to revictimization. Failure to properly address these issues can obstruct the justice process, violating several fundamental rights of the victims, such as the right to safety and a life free from violence. As previously mentioned, improper handling of justice procedures can also lead to revictimization, meaning that victims endure additional trauma.

Revictimization, or secondary victimization, occurs when the victim, in addition to the harm caused by the crime itself, suffers further damage inflicted by those involved in administering justice, including police, judges, volunteers, and penal system workers, as well as by society itself, including family members, communities, or media.¹⁰⁰

Additionally, the Supreme Court of Justice (SCJN) has highlighted several key points about gender perspective. It is not only relevant for interpreting laws but also important to understand how circumstances and conditions related to gender impact the assessment of facts and judicial evidence.

The interpretation of laws should not be an isolated process from the situations people face concerning gender. It is crucial for judges to recognize how laws affect men and women differently and how these influences can impact the evaluation of the evidence presented.¹⁰¹

In summary, it is crucial that authorities act with diligence, professionalism, and without prejudice to ensure that victims of gender-based violence receive justice and to avoid perpetuating discrimination and gender stereotypes.

⁹⁹ Supreme Court of Justice of the Nation (SCJN), '*Protocolo para juzgar con perspectiva de género*' (2022) https://www.scjn.gob.mx/derechos-humanos/sites/default/files/protocolos/archivos/2022-01/Protocolo%20para%20juzgar%20con%20perspectiva%20de%20genero_2022.pdf accessed 28 July 2024

¹⁰⁰ Dalia B. Carranco, '*La no revictimización de las mujeres en México*' [2020] 21 *Revista Digital Universitaria* 5

¹⁰¹ Supreme Court of Justice of the Nation (SCJN), '*Protocolo para juzgar con perspectiva de género*' (2022) https://www.scjn.gob.mx/derechos-humanos/sites/default/files/protocolos/archivos/2022-01/Protocolo%20para%20juzgar%20con%20perspectiva%20de%20genero_2022.pdf accessed 30 July 2024

In other words, incorporating a gender perspective throughout the judicial process from the interpretation of laws to the evaluation of facts is essential for achieving a more equitable and just outcome in gender-related cases involving women.

To conclude with this chapter, starting research question in this chapter will be answered based on the above information.

Mexico's legal framework defines femicide clearly in the Federal Penal Code, yet challenges persist in its implementation across various states, leading to inconsistent access to justice. While the federal law sets out detailed criteria for identifying femicide, discrepancies in state-level legislation often result in cases being treated as homicides. This lack of uniformity hinders effective protection for victims and undermines efforts to address systemic gender-based violence. Moreover, the imposition of penalties on public officials who obstruct justice highlights the legal system's recognition of structural issues, but practical barriers, such as cultural biases and resource allocation, continue to impede justice. Legislative harmonization and the adoption of a gender perspective in investigations are essential to ensure comprehensive legal protection and equitable access to justice for all victims of femicide in Mexico.

Hence, in reflecting on the significant challenge of changing deeply entrenched cultural attitudes and stereotypes, it is recognized that these beliefs, particularly those that perpetuate the notion of women's inferiority, cannot be altered overnight. It is understood that transforming such cultural norms is a daunting task for any government, especially when faced with modern societal issues like alcoholism, drug addiction, gang crime, and sex tourism. These problems not only exacerbate discrimination but also disproportionately impact already marginalized groups, including women, children, and indigenous peoples.¹⁰²

In this context, it is believed that there is a critical need for more proactive public policies that effectively address these complex challenges. These policies should not only tackle the symptoms of discrimination but also work toward changing the underlying cultural attitudes that contribute to

¹⁰²“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’ (United Nations, 2005) CEDAW/c/2005/OP.8/MEXICO <https://www.un.org/womenwatch/daw/cedaw/cedaw32/CEDAW-C-2005-OP.8-MEXICO-E.pdf> accessed 8 September 2024.

inequality. Moreover, it is recognized the importance of coordinated efforts at the international level. Since many of these challenges are global in nature, collaborative responses are essential for fostering genuine progress toward gender equality and the protection of vulnerable communities.¹⁰³

¹⁰³ *ibid*

Conclusion

The issue of femicide in Mexico remains a critical human rights challenge, reflecting broader systemic inadequacies within both legal and societal frameworks. Despite the implementation of significant legal measures such as the General Law on Women's Access to a Life Free of Violence, entrenched barriers hinder the effective protection and justice for women. These challenges are exacerbated by cultural biases, systemic gender discrimination, and inconsistencies across state and federal jurisdictions, which collectively undermine efforts to combat gender-based violence.

Throughout this thesis, the alignment of Mexico's national legal frameworks with international commitments, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), has been a focal point. While legal frameworks exist, their effective implementation is compromised by a lack of coordination and comprehensive application across various entities. This inconsistency results in disparate levels of access to justice and protection for victims, depending on regional governance.

The statistical increase in femicide cases, illustrated by national trends and regional analyses, underscores the urgent need for comprehensive intervention. Notable cases like Campo Algodonero highlight systemic issues within the judicial process and emphasize the important role of international oversight. These cases reveal the significant gap between legal provisions and practical enforcement, pointing to the necessity for robust accountability mechanisms.

The only way to eradicate the impunity that persists in the investigation of many cases and guarantee the victims' rights to truth and reparation is to punish those responsible, whether part of organized crime or authorities, and to eliminate the persistent insecurity in some regions of the country where citizens fear to perform even the most basic daily activities.

To address these profound issues, there is a pressing need for legislative harmonization and the systematic incorporation of a gender perspective across all aspects of law enforcement and judicial processes. The imposition of penalties on public officials who obstruct justice and the creation of gender-sensitive investigative protocols are crucial steps in addressing these structural inadequacies.

Moreover, collaboration with international institutions and adherence to critical judgments by bodies like the Inter-American Court of Human Rights are imperative for enhancing compliance and promoting women's rights consistently across Mexico. Continuous engagement with civil society organizations and the development of comprehensive monitoring mechanisms are essential to hold authorities accountable and ensure that gender-based violence is both addressed and prevented.

Ultimately, achieving substantive progress requires not only a reevaluation and strengthening of legal frameworks but also an enduring commitment to cultural change and societal transformation. By tackling both the systemic and symbolic dimensions of gender-based violence, Mexico can make significant strides toward a just and equitable future where the rights and lives of women are fully protected and respected.

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Abstract:

This thesis examines the persistent issue of femicide in Mexico, exploring the legal and institutional frameworks intended to address gender-based violence and the systemic barriers that hinder effective implementation. Despite the introduction of domestic laws, such as the Ley General de Acceso de las Mujeres a una Vida Libre de Violencia and the establishment of various international obligations through instruments like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), significant gaps remain in the enforcement and impact of these policies.

By analysing the case study, Campo Algodonero case, and reviewing reports from the CEDAW Committee, the Inter-American Court of Human Rights. The research highlights the interplay between cultural attitudes, legal frameworks, and the challenges faced by marginalized groups, especially women. The thesis argues for a comprehensive approach that not only addresses legal compliance but also seeks to transform the underlying cultural norms contributing to gender discrimination.

Abstrakt:

Diese Dissertation untersucht das anhaltende Problem des Femizids in Mexiko und analysiert die rechtlichen und institutionellen Rahmenbedingungen, die darauf abzielen, geschlechtsspezifische Gewalt zu bekämpfen, sowie die systemischen Barrieren, die eine effektive Umsetzung behindern. Trotz der Einführung nationaler Gesetze, wie dem Ley General de Acceso de las Mujeres a una Vida Libre de Violencia, und der Schaffung verschiedener internationaler Verpflichtungen durch Instrumente wie die Konvention zur Beseitigung aller Formen von Diskriminierung der Frauen (CEDAW), bestehen bedeutende Lücken in der Durchsetzung und den Auswirkungen dieser Politiken.

Durch die Analyse des Fallbeispiels Campo Algodonero und die Überprüfung von Berichten des CEDAW-Ausschusses sowie der Interamerikanischen Menschenrechtskommission hebt die Forschung die Wechselbeziehungen zwischen kulturellen Einstellungen, rechtlichen Rahmenbedingungen und den Herausforderungen hervor, mit denen marginalisierte Gruppen, insbesondere Frauen, konfrontiert sind. Die Dissertation plädiert für einen umfassenden Ansatz, der nicht nur die rechtliche Konformität berücksichtigt, sondern auch darauf abzielt, die zugrunde liegenden kulturellen Normen zu transformieren, die zur Geschlechterdiskriminierung beitragen.