



Systemic discrimination is a key driver of gender-based violence in Latin America. So how is a key ruling by the Inter-American Court of Human Rights helping to improve the protection of women's rights across the region?

## THE COTTON FIELD CASE IN MEXICO: SETTING LEGAL PRECEDENTS FOR FIGHTING GENDER-BASED VIOLENCE



### SUMMARY

The Cotton Field case in Ciudad Juarez, northern Mexico, is illustrative of the structural causes of discrimination and violence against women in Latin America. After the violent abuse and murder of three women, investigative processes were marred by institutional prejudices and inconsistencies, representing a grave failure by the Mexican government to protect women's rights and provide adequate access to justice for the victims' families. The case made its way up to the Inter-American Court on Human Rights, which ultimately delivered a ruling ordering the government to implement actions aimed at preventing the future reoccurrence of these events, including changes to search and investigation protocols. Civil society groups have played a vital role in calling for justice and overseeing the implementation of the ruling, which is helping to set standards beyond Mexico, particularly in Central American countries with comparable socio-cultural contexts.

### THE CONTEXT OF THE CASE: VIOLENCE AGAINST WOMEN IN CENTRAL AMERICA

According to [UN-Women](#), 66,000 women worldwide were killed per year as a result of gender-based violence between 2004 and 2009. This is despite the fact that at least 160 countries have established laws addressing violence against women.<sup>1</sup>

In Central America, the particular context of insecurity and extreme violence against women and girls since the 1990s in countries like El Salvador, Guatemala and Mexico, as well as the economic and social backdrop in which homicides against women were being committed, influenced the construction of the concept of *femicide*<sup>2</sup> to identify these gender-related crimes.<sup>3</sup>

<sup>1</sup> Speech made by the Executive Director of UN Women, Michelle Bachelet, on [Gender-motivated Killings of Women, Including Femicide](#) on 8th March 2013. Online Publication.

<sup>2</sup> To learn more about how Central American countries are dealing with the prevalence of femicide, read the [ELLA Brief: Building Legal Frameworks to Address Femicide in Latin America](#).

<sup>3</sup> Manjoo, R. 2012. [Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences](#), United Nations, Geneva.



In Mexico, over 36,000 women were murdered between 1985 and 2010.<sup>4</sup> In Ciudad Juárez, in the state of Chihuahua, northern Mexico, femicide has gained prominence since the 1990s due to the on-going impunity of perpetrators, as well as the complex social and economic circumstances which surround the killings.<sup>5</sup>

## THE 'COTTON FIELD' CASE

### Background

Ciudad Juárez is a border city inhabited by large numbers of migrants where drug trafficking, organised crime and violence are on the rise.<sup>6</sup> The creation of the *maquila* industry (mainly foreign-owned assembly plants with exploitative working conditions, including low wages and long working hours) and the prominence of women as workers in the factories have changed traditional patterns of female inequality and sparked tension within society. Since 1993, femicide rates in Ciudad Juárez have risen sharply. Between 1993 and 2003, at least 263 women and girls aged 15 to 25 suffered sexual abuse before being killed. Some of these women were students and many were employed by the *maquila*. A significant number of the victims had migrated to Ciudad Juárez from other parts of Mexico.

Persistent denunciations made by victims' relatives, activists and organisations about the murders helped to reveal a systematic pattern of violence and discrimination against women. One emblematic case is the disappearance and killing of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez, whose bodies were found in a cotton field in Ciudad Juárez on 6 November 2001.

The 'Cotton Field' case was brought before the Inter-American Commission on the 6 March 2002, and was consequently presented before the [Inter-American Court of Human Rights](#) (hereinafter Inter-American Court)<sup>7</sup> on 4 November 2007. On 16 November 2009, the Inter-American Court ruled that the killings of the three women constituted an infringement of the

right to life, integrity and personal freedom. Furthermore, it ruled that the Mexican government had violated the right of the victims' families to access justice and judicial protection.<sup>8</sup>

This Brief focuses on four key aspects of the ruling that are having implications for the fight against gender violence in Mexico and beyond.

### 1. *The State Failed to Protect Human Rights and Access to Justice*

The Inter-American Court ruling that the right to life, integrity and personal freedom had been infringed came in light of the fact that the Mexican government failed to guarantee and protect these rights and did not take the necessary actions to address violence against women, including establishing legislation to punish perpetrators. Furthermore, the Inter-American Court ruled that the government had not fulfilled its duty to investigate the crimes adequately. It found irregularities in the integrity of the crime scene, gathering and handling of evidence, performance of autopsies and in the identification and delivery of the victims' remains. Given that the basic protocols for dealing with violent death were not observed, the Inter-American Court concluded that the full truth about what happened was not established.<sup>9</sup>

The implications of this judicial ineffectiveness clearly go beyond the individual case, and in fact had helped to create in Mexico "an environment of impunity that facilitates and promotes the repetition of acts of violence in general and sends a message that violence against women is tolerated and accepted as part of daily life".<sup>10</sup>

### 2. *Violence Against Women Constitutes a Form of Discrimination*

The Inter-American Court noted that the Mexican government had, on various occasions, accepted that the "culture of discrimination" against women had meant that murders of women in Ciudad Juárez had not been initially acknowledged as a serious problem requiring immediate and decisive action

<sup>4</sup> UN Women. 2012. [Violencia Femicida en México. Características, Tendencias y Nuevas Expresiones en las Entidades Federativas, 1985-2010 \(Femicide Violence in Mexico. Characteristics, Trends and New Manifestations in Federal Agencies, 1985-2010\)](#). UN Women, Mexico City.

<sup>5</sup> Simmons, W. P. 2006. [Remedies for Women of Ciudad Juárez through the Inter-American Court of Human Rights](#). *Northwestern Journal of International Human Rights* 4(3): 492-517.

<sup>6</sup> The [Inter-American Commission on Human Rights \(IACHR\)](#) visited Ciudad Juárez in 2002 and subsequently produced the following report, on which this background information is largely based: Inter-American Commission of Human Rights. 2003. [The Situation of the Rights of Women in Ciudad Juárez, Mexico: the Right to Be Free from Violence and Discrimination](#). Inter-American Commission on Human Rights, Washington, DC.

<sup>7</sup> To learn more about the Inter-American Court of Human Rights and its role in the region, see the [ELLA Guide: Human Rights in Latin America](#).

<sup>8</sup> Inter-American Court of Human Rights. 2009. [Case of González et al. \("Cotton Field"\) vs. Mexico](#). Judgement of 16 November 2009.

<sup>9</sup> Inter-American Court of Human Rights. 2009, see n6 above.



on the part of the corresponding authorities. Furthermore, the Inter-American Court found that the investigations were prejudiced by gender-based stereotyping to the extent that public officials adopted stereotypical attitudes and blamed the victims themselves, as well as their relatives, for their fate<sup>11</sup>.

In particular, the court ruled: “The subordination of women can be associated with practices based on persistent socially-dominant gender stereotypes, a situation that is exacerbated when the stereotypes are reflected, implicitly or explicitly, in policies and practices and, particularly, in the reasoning and language of the judicial police authorities, as in this case. The creation and use of stereotypes becomes one of the causes and consequences of gender-based violence against women.”<sup>12</sup>

### 3. Integral Compensation Required to Tackle Structural Causes of Violence

Given the context of structural discrimination in which the murder of the three women occurred, the Inter-American Court ordered comprehensive compensation to provide “integral redress” in order to rectify the former situation of violence and discrimination.<sup>13</sup> As part of the reparations, the tribunal ordered the identification, processing and punishment of those responsible for the disappearance, abuse and murder of the women. Among other things, this was to include a gender approach to specific lines of inquiry concerning sexual violence and the investigation and prosecution of officials in order to combat impunity.<sup>14</sup>

### 4. Protocols for Investigating Disappearances of Women

To prevent the repetition of gender-based violence, the Inter-American Court ordered the Mexican government to “harmonize the protocols, manuals, judicial investigation

criteria, expert services and delivery of justice used to investigate all crimes concerning the disappearance, sexual abuse and murder of women with the Istanbul Protocol, the United Nations Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, and the international standards for searching for disappeared people, based on a gender perspective.”<sup>15</sup>

The court ordered the state to create and continually update a webpage containing the names of all of the women who have disappeared since 1993. The aim is to enable anyone with information about the whereabouts of the women or, if applicable, their remains, to communicate with the authorities. The court also ordered the development of a database containing the personal information of disappeared and murdered women nationwide, including genetic information and tissue samples of relatives.

The court determined that in light of the lack of due diligence in conducting preliminary inquiries, as well as the discrimination and stereotyping displayed by officials, the Mexican authorities should make improvements to the existing search protocol known as the ‘Alba Protocol’. This protocol emerged from ‘Operation Alba’ in July 2003, during which a special investigation was carried out in addition to the surveillance that already existed in high risk areas or where victims had been murdered. Subsequently, in May 2005, the Alba Protocol for Reception, Reaction and Coordination between federal, state and municipal authorities in cases of missing women and girls in Ciudad Juarez was established.<sup>16</sup> Due to weaknesses identified in the Alba Protocol, the Inter-American Court outlined the minimum characteristics and guidelines for operations and protocols carried out and enforced by the authorities for combating the disappearance of girls and women (Box 1).

<sup>10</sup> Inter-American Court of Human Rights. 2009, see n6 above.

<sup>11</sup> Ibid. According to the Inter-American Court, “gender stereotyping refers to a preconception of personal attributes, characteristics or roles that correspond or should correspond to either men or women”.

<sup>12</sup> Ibid.

<sup>13</sup> Integral redress entails a range of structural and institutional reforms, as well as appropriate compensation, sanctions for human rights perpetrators and transparent efforts to reconstruct the truth. To learn more about the right to redress, read the [ELLA Brief: Integral Redress: The Case of Oaxaca Mexico](#).

<sup>14</sup> Tiroch, K. 2010. [Violence against Women by Private Actors: The Inter-American Court’s Judgment in the Case of Gonzalez et al. \(“Cotton Field”\) v. Mexico](#) In: *Max Planck Yearbook of United Nations Law* 14, 371-408.

<sup>15</sup> Inter-American Court of Human Rights. 2009, above n6.

<sup>16</sup> The ‘Alba Protocol’ is still being implemented within federal and local bodies but despite this progress, more needs to be done to tackle the problem of disappeared women and the lack of coordination between the authorities in charge of conducting inquiries. See the [official government statement during the signing of the Alba Protocol](#).



**Box 1: Parameters for the Alba Protocol or any analogous mechanism in Chihuahua:**

- (i) Implement searches *ex officio* and without any delay in cases of disappearance as a measure to protect the life, personal liberty and personal integrity of the disappeared person.
- (ii) Coordinate the efforts of the different security agencies to find the person.
- (iii) Eliminate any factual or legal obstacle that reduces the effectiveness of the search or that prevents it from starting, such as requiring preliminary inquiries or procedures.
- (iv) Allocate the human, financial, logistic, scientific or any other type of resource required for the search to be successful.
- (v) Cross-check the missing report with the database of missing persons.
- (vi) Give priority to searching areas where reason dictates that it is most probable to find the disappeared person, without arbitrarily disregarding other possibilities or areas.
- (vii) All of the above must be even more urgent and rigorous when a girl has disappeared.

Source: Quoted from the Inter American Court of Human Rights. 2009, see above n6.

## IMPACT OF THE RULING

Implementing international rulings represents a challenge not only for states, but also for other actors who may help fulfil them in the most complete and adequate way, be it by monitoring actions taken or by helping to carry them out.<sup>17</sup>

Given that the ruling is directed at the entire Mexican state, its impact is not only local as it requires all authorities - not just those in Ciudad Juarez - to carry out improvements to search and investigation mechanisms. Human rights activists and defenders have demanded that the Alba Protocol be adequately implemented at all levels of government - federal,

state and municipal - with appropriate coordination between authorities, police forces and other agencies, thus allowing for a reduction in the number of disappeared women or of victims of femicide.

The ruling of the Inter-American Court also transcends the national scope and outlines obligations and guidelines for all Latin American countries under its jurisdiction.<sup>18</sup> It is likely, therefore, that the Cotton Field case will influence future rulings in other Latin American countries.

When it comes to violence against women as a form of discrimination, the study of gender stereotypes represents a substantial contribution since it leads to the identification of subordination practices conducted by state and private actors in order to eradicate the culture of discrimination.<sup>19</sup> Thus, the Inter-American Court made a key move when it declared that investigations should examine the role of stereotypes, culture and discrimination, as well as their connection with violence against women. This has played a key role in setting protocol across Latin America, and in particular in Central American countries that share similar realities to Mexico.

In terms of compensation, the Inter-American Court's ruling includes a variety of actions to be carried out by governments with the aim of preventing future disappearances, such as the webpages and database. The Inter-American Court rulings are outstandingly detailed and allow for a better implementation of the decisions.

Lastly, due to the importance of having protocols and operational guidelines to search for and investigate disappeared women, organisations from countries such as El Salvador have begun pushing to develop a regional protocol based on the Cotton Field case. In 2012, the Office of the Attorney General of El Salvador approved an operational protocol for the investigation of the crime of femicide. At a regional level, UN Women, the [Office of the High Commissioner for Human Rights](#) and other institutions are working on the adoption of a protocol for investigating gender-related deaths: *femicide/feminicide*.<sup>20</sup> This can be said to be an indirect impact of the Cotton Field case.

<sup>17</sup> Huneus, A. 2011. [Courts Resisting Courts: Lessons from the Inter-American Court's Struggle to Enforce Human Rights](#). *Cornell International Law Journal* 44: 494-531.

<sup>18</sup> The Inter-American Commission on Human Rights has also developed two important studies on the topic of violence against women in Latin America. They are: (2007) [Access to Justice for Women Victims of Violence in the Americas](#) and (2011) [Access to Justice for Women Victims of Sexual Violence in Mesoamerica](#).

<sup>19</sup> Centre for Justice and International Law (CEJIL). 2010. [Tools for the Protection of Human Rights. Summaries of Jurisprudence: Gender-Based Violence](#). CEJIL, Washington, DC.

<sup>20</sup> UN Women. 2013. [Femicide in Latin America: Creating a Regional Protocol for Ensuring Justice](#). UN Women. Online Publication.

## CONTEXTUAL FACTORS

## ENABLING GETTING A FAIR HEARING



In the Cotton Field case, civil society played a fundamental role joining the victims' relatives' calls for justice in support of their struggle. Regionally, organisations such as the Citizen Network for Non-Violence and Human Dignity, the Centre for the Integral Development of Women, the Latin-American and Caribbean Committee for the Defence of Women's Rights (CLADEM) and the National Association of Democratic Lawyers (ANAD), are acting as victims' representatives in cases brought before the Inter-American Court. Pressure from civil society has also influenced legal rulings and government responses. Currently, victims' relatives and civil society have an on-going strategy to monitor the implementation of rulings domestically. Also, civil society oversight of the implementation of measures set out in rulings has been essential for ensuring that justice is obtained by the relatives. For example, organisations such as the Network of Feminist Civil Society Organisations of Ciudad Juarez have joined the cause to demand the adequate implementation of the ruling. The National Citizen Femicide Observatory

(*Observatorio Ciudadano Nacional del Femicidio*) lobbies the government and judiciary on issues such as the need to classify femicide in the penal code as a type of murder.

Another factor that enabled the Cotton Field ruling was a decision made by the Chamber of Deputies to establish the 'Special Commission for Identifying and Exhaustively and Precisely Tracking the Actions Taken by Competent Authorities with Regards to the Femicides Recorded in Mexico'.<sup>21</sup> The lines of work of this commission include following up on government implementation of the Cotton Field ruling, as well as monitoring the status of disappearances and killings of girls and women all over Mexico. Furthermore, the Special Commission has published two very important studies for tackling this problem - *Femicide in Mexico: Approaches, Trends and Changes 1985-2009*,<sup>22</sup> and *Femicide Violence*.<sup>23</sup> These reports have produced reliable and trustworthy information on femicide and have been used as a basis for developing measures to prevent and sanction femicide in Mexico.

<sup>21</sup> See, for example, Special Commission for Identifying and Exhaustively and Precisely Tracking the Actions Taken by Competent Authorities with Regards to the Femicides Recorded in Mexico. 2012. [Informe Final: Febrero 2010 - Agosto 2102 \(Final Report: February 2010 - August 2012\)](#). Special Commission, Mexico City.

<sup>22</sup> Special Commission for Identifying and Exhaustively and Precisely Tracking the Actions Taken by Competent Authorities with Regards to the Femicides Recorded in Mexico. 2011. [Feminicidio en México: Aproximación, Tendencias y Cambios 1985-2009 \(Femicide in Mexico: Approaches, Trends and Changes 1985-2009\)](#). Special Commission, Mexico City.

<sup>23</sup> Special Commission for Identifying and Exhaustively and Precisely Tracking the Actions Taken by Competent Authorities with Regards to the Femicides Recorded in Mexico. 2012. [Violencia Femicida \(Femicide Violence\)](#). Special Commission, Mexico City.

### LESSONS LEARNED

- 1 Strategic litigation can be used as a tool for achieving changes with a country-level and regional impact.
- 2 The Cotton Field case has set regional standards when it comes to the obligation of states concerning the prevention, punishment and eradication of violence against women.
- 3 The regional adoption of a protocol for the search for or investigation of disappeared or murdered women can help governments confront the problem in a more coordinated way.
- 4 In order to eradicate violence against women, governments must implement public policies to change the prevailing culture of discrimination, and also educate civil servants with a gender perspective.

### CONTACT [FUNDAR](#)

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