



# **GENDER- BASED VIOLENCE IN CUIDAD JUÁREZ, MEXICO**

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## Introduction

Ciudad Juárez, Mexico is considered to be one of the most dangerous cities in the world. Drugs, cartels, violence, and corruption are the main problems of this city in the Mexican state of Chihuahua ("Ciudad Juarez Population 2021 (Demographics, Maps, Graphs)", 2021). The drug trafficking business and subsequent criminality cause daily hindrances to many Mexicans living in this city. However, the main victims of crimes such as homicide, enforced disappearances and other serious offences that constitute gender as a motive are, in fact, women. In 2009, an incident that took place in Ciudad Juárez became a symbolic case through which the Inter-American Court of Human Rights<sup>1</sup> (hereafter referred to as IACtHR) responded to Mexico's gender-based violence issue (IACtHR, 2021).

The incident in question is known as the Cotton Field Case, which will be used as a reference throughout this report in order to explain the severity of the issue at hand, as well as to demonstrate how the Mexican state addresses and reacts to the problem of gender-based violence. After summarizing the relevant facts of the aforementioned case, this report will provide a closer look into the Inter-American Human Rights System while also indicating the international obligations States owe towards gender-based violence at the international level. Lastly, this report will provide an insight into the criminalization of femicide and analyze gender-based violence concerning the Cotton Field Case (González et al. "Cotton Field" v Mexico, 2009).

1. The Inter-American Court of Human Rights is an autonomous court whose main responsibility is to resolve cases in the Americas by interpreting and applying the American Convention. ("Inter-American Court of Human Rights - What is the I/A Court H.R.?", 2021)

## Relevant Facts

On 10 December 2009, the IACtHR issued the judgment of the Cotton Field Case, holding the Mexican State responsible for the violation of the human rights of three women who disappeared, tortured, and murdered in Juárez, Mexico (González et al. (“Cotton Field) v Mexico, Inter-American Court of Human Rights, 16 November 2009). The three young women in question, namely Claudia Ivette González, Esmeralda Herrera Monreal, and Laura Berenice Ramos Monárrez (hereafter referred to as the victims) went missing after their work shifts. Even though their families went to the Chihuahuan local police station to report their disappearance, the local police did not conduct proper investigations and left the families with no help. Eventually, the women's dead bodies were found in the cotton fields in Ciudad Juárez. This was not the first time that women disappeared and were found murdered in Mexico, but it was the very first time that this problem was acknowledged, not only at the national level, but at the international level as well, being brought before an international court of human rights.

Since 1990, the number of disappearances and murders of women and young girls in Ciudad Juárez has increased, which clearly represents an alarming problem for the entire country and its population. The targeted victims of these crimes of homicide are generally young women and girls aged between 15 to 25 who work in local businesses or more commonly, in maquiladora factories (Rascon, 2021). Although the perpetrators of these crimes remain unidentified due to the reluctance of the local police to investigate, identify and punish those responsible for committing these crimes, it is largely assumed that drug cartel members are behind the murder of these young women (Coronado and Staudt, 2005)

The city of Juárez has become a valuable point for drug smuggling as it is situated on the route that connects Mexico with the United States of America (Zaitch,, 2002). The high number of cartels have created working relations, voluntarily or by threat, between the local Mexican police and the cartels, which eventually led to the corruption of the former. The presence of drug cartels has also resulted in a high rate of killings of innocent people, for which the police are being paid to ignore in return for their safety and economic gain. More than 300 girls and women have been sexually abused and eventually murdered by these organized crime groups in the last two decades, a series of crimes of which almost none have been solved (Coronado and Staudt,, 2005).

According to several reports on the descriptions of the victims, it was found that many of these crimes constitute similar characteristics. More specifically, the Court stated that the victims “[...] were abducted and kept in captivity, their next of kin reported their disappearance and, after days or months, their bodies were found on empty lots with signs of violence including rape and other types of sexual abuse,

torture, and mutilation” (González et al. 2009, para. 125). It is clear that the motive of these homicides is gender-based, specifically targeting women. This was reiterated by the Court, which concluded that due to Mexico's intentions, methods, and response to these crimes, it is evident that the victims were discriminated against based on their sex (Rosas 2010, p. 23). Eventually, the Court concluded that Mexico failed to fulfil its international obligation to protect the three female victims and has, therefore, been responsible for the structural violation of the rights of women in Ciudad Juárez since 1993. The obligations in question will be discussed in the following more inn depth.

## The Inter-American Human Rights System

The Inter-American human rights system (hereafter referred to as Inter-American System) was established with the adoption of the American Declaration of the Rights and Duties of Man in 1948 (Rosas 2010, p. 18). It covers the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights (hereafter referred to as Commission or IACmHR) which jointly mirror the human rights protection system of the Organization of American States (hereafter referred to as OAS). (Jo M. 2003)

The Inter-American Court of Human Rights is the court of last instance that has jurisdiction to hear cases that involve alleged human rights violations, committed by a member state of the OAS, against individuals. In other words, the IACtHR was authorized to hear the Cotton Field Case because Mexico is a member state of the OAS that has signed and ratified the American Convention on Human Rights (hereafter referred to as ACHR) and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (hereafter referred to as Convention of Belém do Pará). While the ACHR is the constituent instrument of the Court, the Belém do Pará Convention of the OAS is the first international convention on violence against women and has had a central role in establishing the human rights framework for these laws (OAS).

After receiving the petition from the mothers of the three victims requesting for an investigation on the concerned matter, the Commission analyzed and investigated the petition and decided to submit the case to the IACtHR (OAS1979, Article 19(b)-(c)).

The Court carried out its investigations on the Cotton Field Case in light of these two human rights instruments, which have a binding effect on Mexico and that assign Mexico the following duties and obligations:

- 1) The obligation to respect;
- 2) The obligation to guarantee (including the obligation to prevent and investigate);
- 3) The obligation of non-discrimination;
- 4) The obligation of special protection for children.

(González et al. 2009, para. 112, 235, 236)

Therefore, Mexico is obliged to comply with the above-mentioned obligations and must respect the fact that it is subject to the Court's jurisdiction. Furthermore, it is of great importance to note the fact that the Cotton Field Case is the very first case in the history of the Inter-American System that was examined and whose sentence was presided over by a female judge, Judge Cecilia Medina Quiroga (Rosas 2010, p. 20.)

## Gender-Based Violence at the International Level

To gain a clearer understanding of the issue of the Cotton Field Case, this report will first define gender-based violence and then focus on what the current situation in Mexico is. It will continue by explaining the concept of femicide and its criminalization and lastly, investigate violence against women in the context of the Cotton Field Case.

Firstly, according to the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence (hereafter referred to as the Istanbul Convention), gender comprises “the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for men and women”.<sup>2</sup> The combination of the term gender with violence, thus gender-based violence, is defined as “[...] an act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life” by the United Nations Population Fund's (UNFPA) report on State World Population of 2000 (UNFPA, p. 15). This definition covers all women without any discrimination based on race, ethnicity, class, or age. Such violence based on gender mirrors human rights violations which constitute acts like the trafficking of women and girls, domestic violence, and/or rape.

2. Article 3, Council of Europe, The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, November 2014.

## Criminalization of Femicide

The term femicide is widely and consistently used in the areas of law and public policy in Latin American countries, including Mexico. Since 2007, these countries have taken legal measures and classified certain homicides against women as femicide, which has been criminalized. Thus, gender violence or gender-motivated crimes, such as femicide, have received special recognition for being extreme expressions of violence that are specifically committed against women ( Toledo, 2007, p. 44.)

If one looks at the development of the crime of femicide throughout time, there appears to be a long history of such a crime in the Criminal Codes of several countries in continental Europe. In Italy, for instance, up to 1981, if a husband, father or brother killed a woman in the name of honour, the murderer would be penalized with a sentence of three to seven years of imprisonment, whereas the penalization for other kinds of homicide would be a minimum sentence of 20 years (Toledo 2007, p. 44.) Spain, however, did not penalize male spouses with imprisonment for the killing of a female partner, motivated by adulterous reasons, until 1961. (Acale M. 2006).

Many international human rights conventions protect the rights of women and focus on the prevention of gender-based crimes such as femicide. The Convention of Belém do Pará, for instance, is one of the instruments that punish femicide in Latin American countries that aim to explicitly delegitimize the historical justification of men using violence against women. The Convention was adopted in 1994 and counts as the first international convention that addresses violence against women. The Court found that the Belém do Pará Convention is applicable in the Cotton Field Case and renders the Court its jurisdiction because its general rule only allows the Convention's applicability in cases that constitute attacks that are especially addressed against women (Perozo et al. 2009 , para. 295.)



## Gender-Based Violence in Relation to the Cotton Field Case

The reaction to femicide in Ciudad Juárez, however, only shows that the Mexican State took actions and measures in order to investigate and punish the crimes committed against women while failing to address the structural aspects of the problem (Rosas 2010, p. 21-22) The problem of gender-based discrimination stems from certain aspects of the Mexican culture which follows the “erroneous idea that women are inferior” (González et al. 2009 , para. 398). This was reiterated by the IACtHR Rapporteur who stated that violence against women in Ciudad Juárez is a socially entrenched form of gender inequality that “has its roots in concepts of the inferiority and subordination of women” (González et al. 2009, para. 133).

This clearly “represents a structural situation and a social and cultural phenomenon deeply rooted in customs and mindsets and that these situations of violence are founded in a culture of violence and discrimination” (González et al. 2009, para. 133). As mentioned in the previous chapter, the victims of these crimes were young women, many of them underprivileged or migrants, who work in the maquiladora industry or local businesses. Much like the three victims of the case at hand, many victims show evidence of sexual violence that especially targeted women (Ríos et al. 2009, para. 279)

According to Mexico, one of the reasons for the increasing incidents of violence against women in Ciudad Juárez is related to the change of family roles. The North American Free Trade Agreement (NAFTA) has expanded the maquiladora industry and, as a result, more women have entered the workforce (González et al. 2009, para. 129). The hiring of more women has brought changes to women’s working lives and has also begun to impact family lives because the “traditional roles began to change, with women becoming the household provider” (González et al. 2009, para. 129). Mexico claims that this social change in women’s roles, and their competitiveness and financial independence, caused more conflicts in families due to lack of change “[...] in traditionally patriarchal attitudes and mentalities, and thus the stereotyped view of men’s and women’s social roles has been perpetuated” (González et al. 2009 , para. 129).

After having explained the gender-based crimes in the Cotton Field Case, it is now evident that the characteristics of those kinds of crimes fall under the crime of femicide. The classification of these crimes as femicide was proven by witnesses and national reports of the Chamber of Deputies of the National Congress, in the evidence submitted by civil organizations and in amicus curiae letters (Rosas 2010, p. 31) Besides the fact that the Inter-American Commission of Human Rights did not identify the facts constituting the crime of femicide, the Court decided to consider the crime in question as an act of femicide against the three victims.

Mexico objected to using the term ‘femicide’, because expert opinions presented by the representatives referred to femicide “[...] as the definition of a type of crime when this does not exist in domestic law or the binding instruments of the Inter-American human rights system”. The Court responded by referring to the Mexican legislation, namely Article 12 of the General Law on Women's Access to a Life Free of Violence, which defines femicide as:

“The extreme form of gender violence against women, resulting from the violation of their human rights in the public and private sphere, comprising a series of misogynous conducts that can lead to the impunity of the State and society and may culminate in the homicide or other forms of the violent death of women”

(González et al. 2009, paras 39-140.)

Thereupon, the Court decided to use the expression gender-based murders of women, also known as femicide, to be able to deliver a final ruling “bearing in mind the evidence and the arguments about the evidence [...] on which murders of women in Ciudad Juárez constitute gender-based murders of women, other than the three victims in this case” (González et al. 2009 , paras 144.)

Prior to the Cotton Field Case, all precedents of the IACtHR had approached the issue of gender discrimination in a marginal way. Therefore, the Cotton Field Case is widely regarded as the most progressive decision concerning the application of an analysis that utilized a gendered-perspective in the Inter-American Human Rights jurisprudence. (Loayza-Tamayo v. Peru, 1997 (Merits), para. 45).

To summarise the above-mentioned aspects, the IACtHR defined the crimes committed against the three women as violations that were especially addressed against women due to the following elements:

1. The existence of a gender-related pattern of violence;
2. The characteristics of the victims;
3. The modus operandi of the crimes, meaning the particular way or method these crimes were committed.

(González et al. 2009, para. 127).

## Conclusion

In conclusion, this report has discovered that the roots of gender-based violence in Ciudad Juárez are embedded in Mexico's customs and mindsets that perpetuate a socially entrenched form of gender inequality. According to the Court in the Cotton Field Case, Mexico's judicial ineffectiveness concerning crimes that constitute the disappearances and killings of women fall under the definition of gender-based discrimination. In the same case, the Court also found that Mexico failed to comply with its obligation to guarantee human rights and to adopt domestic legal provisions. Therefore, Mexico is responsible for failing to prevent the disappearances and murders of the three victims in a gender-based pattern of violence.

Gender-based violence remains to be a major problem in Mexico as women's rights continue to severely lack protection. Nevertheless, awareness of this issue has motivated progress and given hope to women not only in Ciudad Juárez, but all over the world. There are countless women spread around the globe who are either not aware that their rights are being violated on a daily basis or whose voices are not being heard. It is shocking to see that governments and State officials, those who should be trustworthy and capable and whose duties are to protect their people from any harm, continue to discriminate on the mere basis of gender.

Women should not feel inferior to their male counterparts, women should not have to fear walking alone come nightfall, and they should not fear seeking justice. Women's rights are human rights, and as such, women should be encouraged to come together in sorority and fight for their rights.

"I raise up my voice—not so I can shout, but so that those without a voice can be heard [...]

we cannot succeed when half of us are held back."

—Malala Yousafzai, Pakistani activist for female education and the world's youngest ever Nobel Peace Prize laureate

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