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纳入妇女人权和性别公平观：暴力侵害妇女

暴力侵害妇女、其原因及后果问题特别报告员

亚肯·埃蒂尔克的报告

增 编 \*

对墨西哥的访问

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\* 本访问报告的内容提要以所有正式语文分发。报告本身载于内容提要附件，仅以原文和西班牙文分发。

## 内 容 提 要

本报告载有暴力侵害妇女、其原因及后果问题特别报告员 2005 年 2 月 21 日至 25 日对墨西哥的访问结果。报告说明了该国境内对妇女各种形式的暴力，查明了为确保保护和增进妇女权利、消除侵害妇女的暴力行为所需采取的关键措施和行动。

墨西哥政府已加入一系列保护妇女的国际标准，包括《消除对妇女一切形式歧视公约》、《消除对妇女歧视公约任择议定书》和《美洲防止、惩罚和根除对妇女暴力行为公约》。虽然各级政府已采取重大步骤履行其国际义务，但还需要采取更多的行动来改善警察和司法部门，增进联邦和州政府之间的协调。

本报告证明，在墨西哥大量存在的暴力侵害妇女行为既是普遍的性别歧视和不平等的后果，也是这种现象的一个症状。基于民族血统、族裔或社会经济地位等其他层面的歧视，加上无法平等取得国家的保护，它们与性别歧视交差在一起，使一些妇女群体——移民、贫穷和土著妇女——尤其容易遭到暴力行为。

鉴于仍然面临的挑战，暴力侵害妇女问题特别报告员吁请墨西哥政府在以下六大领域采取行动：(a) 制止暴力侵害妇女行为不受惩罚的现象；(b) 特别是在其奇瓦瓦州，调查和起诉暴力侵害妇女的罪犯；(c) 提供保护和支助服务；(d) 建立意识到性别问题的信息和知识库；(e) 加强提高妇女地位的体制结构；(f) 推动培训、业务和提高认识方案。

特别报告员还吁请民间社会、包括人权组织和新闻媒体发展团结网络，制定共同的战略来提高妇女地位，支持和监督政府增强妇女能力的努力，开展研究并在铲除暴力侵害妇女行为方面继续发挥有力的宣传作用。

特别报告员吁请国际社会优先考虑提供旨在帮助提高妇女地位的研究和宣传项目的团体的筹资活动，并提供充分的资源加强联合国国别小组的能力，将增进和保护妇女权利纳入其各项活动。

**Annex**

**REPORT OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST  
WOMEN, ITS CAUSES AND CONSEQUENCES, YAKIN ERTÜRK, ON  
HER MISSION TO MEXICO**

**(21-25 FEBRUARY 2005)**

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## **I. INTRODUCTION**

1. At the invitation of the Government, the Special Rapporteur on violence against women, its causes and consequences visited Mexico from 21 to 25 February 2005. The mission was primarily motivated by the situation in Ciudad Juárez, where hundreds of women have been murdered over the last 12 years.<sup>1</sup>

2. The Special Rapporteur on violence against women visited Mexico City, the States of Chihuahua and Puebla and had extensive consultations with national and local authorities, parliamentarians, law enforcement and justice authorities, and representatives of national human rights institutions. She would like to thank the Government of Mexico for its excellent support and collaboration throughout the visit. The Government showed serious concern about the persisting violence and commitment to take action towards its elimination. The openness to acknowledge the problems and discuss strategies to address the issue provides an enabling environment in this regard.

3. The Special Rapporteur on violence against women also met with the United Nations resident coordinator, representatives of United Nations specialized agencies and civil society. She is most grateful for their support and the insightful information they provided. Last but not least, the Special Rapporteur would like to express deep appreciation to the victims of violence or their families for sharing their stories.

4. The present report is not a substitute for official inquiries. Its scope is limited to the mandate entrusted to the Special Rapporteur and makes reference to the general human rights situation only to the extent that it can contribute to the understanding of the causes and consequences of violence against women in Mexico and the identification of areas of intervention towards its elimination.

5. The Government of Mexico has assumed a range of obligations relating to violence against women by ratifying international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará). While the different levels of Government have taken significant steps towards fulfilling their international obligations, there is need to do more to improve the police and justice sectors as well as coordination between federal and State levels.

6. The situation in Ciudad Juárez, which occupies a central focus in the present report, should be perceived as an exemplary case since similar patterns of violence against women are observed in other parts of Mexico. Ciudad Juárez has simply become visible due to the national and international attention it has attracted. This selective attention to the problem may allow the violence in other parts of Mexico, particularly on the southern border with Guatemala, to continue out of sight with impunity. The present report should be understood as an appeal to identify and address these patterns comprehensively and with urgency.

## **II. CONTEXTUALIZING VIOLENCE AGAINST WOMEN**

7. Violence against women in Mexico typically resembles only the tip of an iceberg with more systemic and complex problems lurking below the surface, which can only be understood

in the context of socially entrenched gender inequality on the one hand and a multilayered governance and legal system that does not effectively respond to violent crime, including gender-based violence, on the other hand.

#### **A. Discrimination in the *machista* culture**

8. Since the 1970s, the Government and civil society have continuously undertaken strong efforts to overcome social attitudes based on gender discrimination. Although much has since been achieved, the *machista* culture is still a dominant social paradigm causing and perpetuating high levels of violence against women.<sup>2</sup>

9. The *machista* culture relegates women to a subordinate role in their family and community. Irrespective of women's contributions to family sustenance, it is the man who is perceived as the provider. Women are defined and ultimately come to define themselves through their relation with the men that dominate different phases of their lives. This factor, which denies women an independent existence, makes it difficult for many women to escape abusive relationships as it may appear tantamount to a loss of identity and subjection to greater vulnerability. As a result, it may often be the victimized women themselves who evoke distorted notions of privacy to preserve the impunity of their tormentors, a situation that is reinforced by societal norms and practices.

10. In the *machista* culture, a man will see no inherent contradiction in taking offence in his wife's style of dress while simultaneously considering her complaints about his infidelities to be an unacceptable encroachment on his personal liberty. Violence serves as the ultimate tool to uphold these double standards. Studies demonstrate that many abused women have internalized these social norms to such an extent that they may blame their husband's alcoholism, violent childhood or personal insecurity for the violence instead of identifying the discriminatory social norms, which are instrumentalized to condone and justify violence against women in society.

11. The extended family, still the backbone of Mexican society, often perpetuates gender discrimination. The family of the man - often other women such as the mother-in-law or sisters-in-law who want to preserve the privileges of their son or brother - will impose specific norms of conduct on the woman and put pressure on the husband to enforce them, if necessary through violence. A woman in such an abusive environment may find little support from her own family, who will advise her to comply with her domestic responsibilities. The informal support networks that many women have, therefore, entangle them in a life of discrimination and violence. The Special Rapporteur is pleased to note that Mexico has set up the national telephone hotline "A life without violence", which provides support and information to persons trapped in violent relationships. Not surprisingly, 90 per cent of all callers are women.

12. While patriarchal institutions still continue to disempower women contradictory forces of change challenge the very basis of the *machismo*. As men fail to fulfil their role as providers, women fill the income gap by entering the workforce. This gives them the economic independence to provide for themselves and their children, if necessary. Perhaps more importantly, working opens up opportunities for additional training and education; women become more self-confident and build non-family support networks which can facilitate departure from an abusive environment. Increased human rights consciousness, created through

the efforts of the State and civil society, the international gender agenda, including the promotion of non-violent forms of masculinity, are other important factors.

13. While ultimately empowering women to overcome structural discrimination, these factors may exacerbate violence and hardship in the short-run. The inability of men to fulfil traditional *machista* roles as providers cause family abandonment, unstable relationships or alcoholism, which in turn may increase the risk of violence. Even cases of rape and murder, may be understood as desperate attempts to uphold discriminatory norms that are outpaced by changing socio-economic conditions and the advance of human rights.

## **B. Multiple governance and legal systems**

14. Mexico has a federalized structure of government. The country is divided into 31 federal states and a Federal District encompassing Mexico City and its immediate environs. In addition to the federal Government, each state exercises legislative, judicial and executive functions. Within each state the municipalities have a certain degree of autonomy. This division of powers is also reflected in the criminal justice system which is composed of a federal jurisdiction (*fuero federal*) and a state jurisdiction (*fuero común*). Different police forces exist at the federal, state and municipal level. The federal authorities only have jurisdiction over a limited number of specific matters, namely drug-related crimes. The rest, an estimated 95 per cent of all crimes, fall under the jurisdiction of the state and local authorities.

15. While decentralization offers unquestionable advantages with regard to democratic governance, it also presents challenges for Mexico to effectively comply with its international obligations, particularly with regard to those related to violence against women. Legal standards to prevent and respond to violence against women differ significantly throughout the country. Many states have taken important legislative steps forward. During her visit to the State of Puebla, for instance, the Special Rapporteur was informed that the State Parliament had adopted legislation to prevent and punish domestic violence. Among other things, the legislation calls for the creation of a Council on Domestic Violence tasked with the evaluation, integration and coordination of all measures to prevent and respond to domestic violence.<sup>3</sup> According to the National Institute of Women (*Inmujeres*), 23 out of 31 Mexican states and the Federal District have similar domestic violence legislation.<sup>4</sup> A further 19 states and the Federal District have amended their penal code to include domestic violence as a specific offence. Altogether 19 states also take part in an integrated system for victims of domestic and sexual violence that aims at sharing good practices and developing joint referral systems.<sup>5</sup>

16. Other states, however, continue to uphold norms that sanction discriminatory patriarchal gender clichés and violence against women. In some states, for example, the seduction of minors is only considered to be an offence, if the victim proves to have conducted herself “with chastity and honesty” (which is usually interpreted as being a virgin) prior to the offence. Article 122 of the Chiapas Penal Code stipulates that the physical abuse of spouses and partners is not punishable if the perpetrator “exercised his right of correction towards those against whom he may exercise it” and the inflicted injuries take less than two weeks to heal. In eight states,

no shelter exists for women victims of violence.<sup>6</sup> Shockingly, the penal codes of 20 states fail to criminalize marital rape<sup>7</sup> and 11 states do not recognize domestic violence as a specific ground for divorce.<sup>8</sup> In this context, it is positive to note that the First Chamber of the Mexican Supreme Court, in a decision handed down on 16 November 2005, reportedly recognized marital rape as a wrongful act thereby departing from previous jurisprudence that only considered marital rape to be an illicit exercise of a right.

17. The duality of jurisdictions may also cause federal and state authorities to waste time, resources and legitimacy on blame games over public security deficits. The Special Rapporteur must stress that human rights obligations exist for all levels of Government - federal, state and local - even though criminal justice functions are mainly exercised by State and local authorities. States and municipalities are bound by the same international obligations to which the Mexican federal Government has committed itself.<sup>9</sup> Therefore, the competence of states to investigate, prosecute and adjudicate in criminal matters also entails the international obligation to respond with due diligence to all cases of violence against women that fall in their jurisdiction. At the same time, the federal Government retains a residual obligation to ensure that applicable international human rights standards are observed at State and local levels.<sup>10</sup> For this reason, the Special Rapporteur was very pleased to be informed about the draft amendment to article 73 of the Constitution, introduced in the Senate against the backdrop of the impunity in Ciudad Juárez. The amendment would give the federal authorities jurisdiction over local crimes that are related to human rights violations. This would allow the Prosecutor-General of the Republic to exercise jurisdiction, for instance, when state authorities fail to investigate murders or other violent crime with due diligence.

18. The Special Rapporteur has also been informed that, while the states have broad responsibilities, the resources to fulfil them are often controlled by the federal Government. Therefore, it is particularly important that state and the federal Government accept non-penal measures to prevent and respond to violence against women as their joint responsibility. In this regard, the Special Rapporteur is pleased to note that the federal Government has correctly identified domestic and sexual violence as a national public health problem. Reportedly, funds from the national health budget have been used, for example, to support a national network of over 30 shelters for violently abused women.<sup>11</sup>

### **III. MANIFESTATIONS OF VIOLENCE AGAINST WOMEN**

19. While violence against women, fuelled by gender discrimination and impunity is a widespread phenomenon, women who lack access to State authorities and equal protection of the law, namely undocumented migrant women, indigenous and other marginalized women, suffer from particularly high levels of violence.

#### **A. Violence against women in society at large**

20. According to a 2003 national survey, one in four women has been the victim of physical violence at least once in her lifetime and one in six women has experienced sexual violence.<sup>12</sup> The same survey has identified domestic violence to be by far the most prevalent type of violence against women. Of all victims of violence a mere 3.6 per cent identified strangers as the perpetrators; the rest had exclusively suffered violence at the hands of partners or family

members. One in five women currently lives in a relationship that is characterized by physical, sexual and/or psychological abuse. Out of all women 2.8 per cent were physically forced to have sexual relations by their current or last partner.<sup>13</sup>

21. Police and prosecutors often fail to intervene decisively in the early stages of an abusive intimate relationship that becomes incrementally more violent over the course of time. Cases of domestic violence are often not taken seriously, partly since many police agents share the same gender bias that motivates the perpetrators. In many cases, women also fail to give evidence against the perpetrators due to a lack of confidence in the authorities or because protection is not provided to the victim who is injured and terrified.

22. Women are also subject to high levels of the gravest forms of violence. While the murder rate for women has actually dropped over the last two decades from 3.4 cases for every 100,000 women in 1985 to 2.6 cases in 2003, this coincided with a general decrease of murder in the country. Indeed, the murder rate for men decreased more sharply than that for women meaning that today a higher percentage of murder victims are women than in 1985.<sup>14</sup> At the same time, Mexico has one of the highest rates of rape for women in the world. Most Mexican states lack comprehensive and sex disaggregated statistics, however, according to a 2004 study an estimated 13.3 cases of rape are reported annually for every 100,000 women.<sup>15</sup> The study concludes that only 32 out of the 136 countries with available data have a higher rate of reported rapes.

23. The number of rape cases might actually be far higher since many victims reportedly do not approach the authorities out of fear or shame. The internalized feeling of guilt that victims of sexual violence typically experience is often exacerbated by the speculations about the victim's particular lifestyle or outward appearance that might have provoked the sexual assault. 23.1 per cent of the men interviewed in a 2005 national survey hold the opinion that women provoke their rapist.<sup>16</sup> Widespread impunity for sexual violence and lenient sentencing also discourage victims from reporting crimes of sexual violence to the authorities. In only 25 per cent of all rapes reported to the authorities is the perpetrator apprehended and convicted,<sup>17</sup> and in 19 per cent of all convictions the sentence is between one month and five years, of which the perpetrator typically only serves half.<sup>18</sup>

24. The positive correlation between impunity and high crime rates is evidenced by the situation in Quintana Roo and Tlaxcala, two states with the highest rate of crime and impunity.<sup>19</sup> There is also a positive correlation between poverty and violence against women. Apart from the special case of Chihuahua, only the poorer southern states - Guerrero, Morelos and Chiapas - stand out with rape and murder rates for women above the national average.<sup>20</sup>

25. Also a matter of concern are reports of sluggish and unprofessional investigations into rape cases that often lead to illegal, unsafe abortions endangering the reproductive health and life of the women. Reportedly, abortion-related death is the fourth highest cause of death for women in Mexico. Abortion laws differ from state to state, but generally speaking, rape constitutes a ground for legal abortion within the first months of the pregnancy. However, police often fail to promptly investigate rape cases making it difficult for victims to obtain a certificate in a timely manner to allow health institutions to carry out an abortion. In addition, the physician may reportedly refuse to carry out the abortion on the grounds that it is "immoral". The Special Rapporteur was informed about the case of Paulina, who was raped and became pregnant at



age 13. Despite a judicial order to perform an abortion, the doctor responsible first refused and then convinced her parents that they would bear responsibility in case Paulina died or became sterile due to the abortion.<sup>21</sup>

## **B. Most vulnerable groups of women**

26. While the levels of violence against women in Mexico are generally high, migrant and indigenous women, who systematically lack access to justice, are particularly vulnerable. As a result, the gender discrimination they suffer is compounded by an additional layer of discrimination on the basis of ethnicity and/or migrant status.

### **Violence against migrant women**

27. Changing patterns of migration over the past two decades and to some extent the increased incidence of trafficking in women and girls in the region at large<sup>22</sup> have led to a feminization of population movements across national borders. In this regard, Mexico is a sending, receiving and transit country. Women and girls from other parts of Central and Latin America enter Mexico either to find economic opportunities or transit to the United States of America. The southern border with Guatemala is particularly volatile. The often illegal nature of the migratory flows makes female migrants vulnerable to exploitation, abuse and violence. Statistics of the Mexican immigration authorities suggest that one out of every six undocumented migrants is a woman.<sup>23</sup>

28. Widely held prejudices against women who travel unaccompanied, coupled with their irregular status, make undocumented migrant women likely targets of violence. As a result, the patterns of violence against migrant women in Chiapas, on the border to Guatemala, increasingly resemble those observed in the State of Chihuahua. According to information provided by the National Human Rights Commission, 1,000 women have been killed in the south of the country over the past three years, far exceeding the figures in Chihuahua.<sup>24</sup> Having paid organized human smugglers (*coyotes*) to cross the border, unaccompanied women and girls interrupt their journey in border towns for weeks or even months to earn money or await remittances from friends and relatives abroad before they continue northwards to more affluent regions. Without papers or financial means these women and girls are vulnerable to extortion, exploitation, sexual violence and even murder at the hands of powerful organized criminal gangs and the corrupt officials with whom these gangs are said to be allied.

29. The victims' vulnerability is exacerbated by the fact that Mexican migration law bars undocumented migrants from accessing State authorities. The General Population Act (*Ley General de Población*) prohibits State authorities from dealing with any request from a non-citizen who has not demonstrated legal status in Mexico.<sup>25</sup> Information received indicates that even victims of severe sexual violence are sometimes deported to their country of origin before they can denounce their perpetrators to the authorities.

30. Mexico has concluded memorandums of understanding on protecting migrants, especially women, children and trafficking victims, with Guatemala in March 2004 and with El Salvador in May 2005. It is hoped that the swift implementation of these agreements will ameliorate the situation.

## **Violence against indigenous women**

31. Living mainly in the south and south-east of the country, Mexico's indigenous population of approximately 13 million people continues to be marginalized.<sup>26</sup> Most indigenous people live in the poorest and least developed localities. Oaxaca, Guerrero and Chiapas, the states with the largest indigenous populations, occupied the bottom three places in the United Nations Development Programme (UNDP) human development index for Mexico, which compared literacy and school enrolment rates, life expectancy at birth and gross domestic product per capita in all Mexican states.<sup>27</sup>

32. Indigenous women are particularly disadvantaged since they experience four layers of discrimination - on the basis of sex, ethnicity, poverty, and of being rural. For this reason, the risk of maternal mortality, for instance, is more than twice as high for indigenous women as for non-indigenous women.<sup>28</sup> They also suffer from disproportionately high levels of physical and sexual violence within their own communities as well as within the wider society.

33. The violence against indigenous women is rooted in the traditional patriarchal gender hierarchies of indigenous communities, ethnic stereotyping and discrimination in the wider society as well as in the relationship between the indigenous population and State institutions within the context of multiculturalism.<sup>29</sup> Authorities in indigenous communities instrumentalize customary norms to condone domestic violence,<sup>30</sup> particularly if women attempt to deviate from the masculine discourse and assert their own will on matters such as the number and spacing of their children.<sup>31</sup> Indigenous women are also likely to face stigmatization and rejection by their family and community if they denounce acts of sexual violence. Both State law and custom demand that indigenous women conform to "traditionally" ascribed behaviour. The general understanding that women often provoke domestic violence by failing to perform as expected legitimizes violence as a disciplinary and corrective tool.

34. Indigenous women's inability to overcome their political and social disempowerment is linked to their economic dependency. The penetration of the cash economy into the agriculture sector undermined subsistence farming, where women were an important and integral part of household production. Under market forces rural households had to diversify their household labour use patterns through migratory work. Research shows that this has actually increased the dependency of rural indigenous women since they often remain on the land and perform labour intensive tasks while men temporarily migrate to the cities or coastal plantations to earn cash,<sup>32</sup> giving men both a monopoly over cash and a familiarity with the wider society. This has increased their control of the family and deepened the asymmetric gender power structure. However, indigenous women are also increasingly seizing temporary migration opportunities. A large majority of Mexico's estimated 2.7 to 3.7 million temporary agricultural migrants, are indigenous people, half being women.<sup>33</sup>

35. In addition, indigenous women are also organizing and establishing micro-businesses that, for instance, produce and market traditional indigenous artwork. These self-help initiatives are crucial in laying the economic base for overcoming gender discrimination and the violence emanating from it. Programmes to support the productive organization of women such as that of the Mexican National Commission for the Development of Indigenous Peoples are important contributions towards addressing the root causes of violence against indigenous women. The

head of the Commission cautioned about romanticized notions of “preserving indigenous culture” which according to her can serve to uphold practices that violate women’s rights, thus preserving a system of oppression.

36. Indigenous women resort to national law in their struggle to overcome marginalization in their own communities and challenge the multiple normative practices that have been homogenized as “traditional”. However, the State legal and justice system is also shaped by patriarchal conceptions of gender relations and are embedded in prejudicial conceptions of indigenous communities. Therefore there is a tendency to perceive violence against indigenous women as an inherent component of their culture, which naturally obstructs justice. Indigenous women also encounter multiple barriers in accessing State institutions, which are often located far away from their homes in larger towns and cities. Furthermore, since many indigenous women are illiterate and speak little or no Spanish, they are often inhibited from approaching formal institutions.

37. The insufficient protection offered by the State justice system, makes indigenous women also vulnerable to violence perpetrated by persons outside their own communities. The allegations that soldiers have raped indigenous women with impunity are particularly alarming. These incidents reportedly occur in areas of southern Mexico where the Government had deployed substantial military forces in response to the emergence of armed insurgent groups. Since 1997, soldiers have allegedly raped at least six women in the State of Guerrero alone. In all six cases, military authorities asserted jurisdiction relying on a contested interpretation of the Regulations for the Internal Service of the Army Corps. Rather than carrying out full and impartial investigations, military investigators have reportedly delayed criminal proceedings and tried to disprove the allegations thereby placing the burden of proof on the victim.<sup>34</sup> As of September 2005, not one soldier had been convicted in connection with the rapes. In this climate of impunity, it is very likely that far more indigenous women have experienced sexual violence but have kept silent about it due to fear or shame.

### **C. Murder and disappearances of women in Chihuahua State**

38. The State of Chihuahua borders the United States. Its largest city, Ciudad Juárez, is situated on the border crossing to El Paso, Texas. Long a gateway for migration to the United States, Ciudad Juárez has seen the rapid growth of export industries (the *maquiladoras*) since the conclusion of the North American Free Trade Agreement (NAFTA) in 1992. The prospect of employment and migration opportunities has attracted migrants from other parts of Mexico and Central America causing the city’s population to rapidly swell to its current 1.5 million inhabitants. Social inequality in Ciudad Juárez is marked. A small group of wealthy, powerful families own the land on which the *maquiladoras* and urban districts are located, while the majority of the population, especially female-headed households,<sup>35</sup> live in extreme poverty. This situation of destitution is exacerbated by the fact that vital public services, such as health, education, housing, sanitation and general infrastructure, have not been able to keep up with the basic needs of the rapidly growing population.<sup>36</sup> The combination of destitution and inequality on the one hand and the proximity of the international border on the other hand spurred the growth of various forms of organized crime such as trafficking in drugs and persons, human smuggling or money laundering, among others.

39. From 1993, Ciudad Juárez became the focal point of national and international attention due to the high incidence of murders and disappearances of women.<sup>37</sup> According to official figures, 377 women were murdered in Ciudad Juárez between the beginning of 1993 and 12 December 2005. At least 33 more women have disappeared.<sup>38</sup>

40. The murders are said to have different motives ranging from domestic violence to drug trafficking. About one third of all murders involved sexual violence.<sup>39</sup> In many cases the victims were also tortured and their bodies mutilated. The victims came typically from poor, underprivileged families and often worked in the *maquiladoras*, local bars or nightclubs. Some were continuing their education or were young, single mothers with several children.

### **Continuing impunity for the perpetrators of crimes against women**

41. Notable success in responding to the murder wave such as the conviction of 10 gang members on numerous counts of murder in early 2005, are overshadowed by the fact that the majority of cases remain unsolved and the perpetrators continue to enjoy impunity. A study undertaken by federal prosecution authorities analysing 203 of the murder cases indicates that only in 46.7 per cent of all cases was a conviction of the perpetrator secured. For murders involving sexual violence, the study suggests an even lower conviction rate of 33.3 per cent.<sup>40</sup>

42. The failure to convict and curb the murders has been to a large part the result of extremely poor, indifferent and negligent investigations by the authorities of the State of Chihuahua, who have jurisdiction over these cases. According to reports, in some instances, investigators deliberately obstructed the investigations by concealing or planting evidence. In the murder case of Paloma Escobar, for instance, expert analysis showed that the police commander initially heading the investigation had fabricated evidence to incriminate the boyfriend of the victim and the police commander was later convicted on charges of making false accusations.

43. The complete erosion of public confidence in administrative, judicial and political authorities has fuelled speculations that the major perpetrators have been systematically shielded from investigation and prosecution. In 1998, the National Human Rights Commission examined a sample of the case files and concluded that the conduct of investigations had included human rights violations of the victims and their relatives as well as violation of international regulations and instruments, to the detriment of the aggrieved persons.<sup>41</sup>

44. Since then various international human rights monitoring mechanisms beginning with the Special Rapporteur on extrajudicial, summary or arbitrary executions in 1999, have drawn international attention to the problem in the State of Chihuahua.<sup>42</sup> In 2002, the Special Rapporteur on Women's Rights of the Inter-American Commission on Human Rights (IACHR) visited Mexico and issued recommendations specifically relating to Ciudad Juárez.<sup>43</sup> In 2003, responding to a formal request by the federal Government, the United Nations Office on Drugs and Crime (UNODC) selected an independent commission of law enforcement experts to study the Ciudad Juárez murders. The expert group provided a set of detailed recommendations to enhance the investigating, prosecutorial and judicial capacities linked to the murders in

Ciudad Juárez.<sup>44</sup> At the beginning of 2005, the Committee on the Elimination of All Forms of Discrimination against Women issued a report pursuant to an inquiry under article 8 of the Optional Protocol to the Convention.<sup>45</sup>

45. Despite these numerous interventions, the murders in Ciudad Juárez continue. According to the National Commission of Human Rights, at least 38 women were murdered between January 2004 and August 2005. Moreover, the same problem has also become visible in other parts of the State of Chihuahua. For instance, a similar pattern of murders and disappearances of women in the city of Chihuahua, approximately 300 km south of Ciudad Juárez, have increased concerns. The murders of women in Ciudad Juárez and Chihuahua as well as those in other parts of the country form part of the same problem and ought to be treated as such.

### **Steps taken by the federal Government**

46. In view of the poor investigations in the State, both IACHR and UNODC have called for the participation of the federal Government in addressing the violence and the related impunity. While, the federal Government was initially very reluctant to assume a direct role in responding to the problem, this stance has significantly improved over the last two years. In 2003, the Government adopted a 40-point plan committing itself to implement all relevant international obligations and recommendations. The plan also contains additional pledges that elaborate on international recommendations. Unfortunately, the scope of the Plan is restricted to violence against women in Ciudad Juárez and does not address similar patterns elsewhere or violence against women as a general phenomenon. Despite this shortcoming, there has been some notable progress in implementing the Plan. However, significant steps remain to be taken.

47. The Constitution of Mexico, as it currently stands, limits the jurisdiction of the Prosecutor-General of the Republic to homicide cases that are connected to criminal offences under federal jurisdiction such as drug trafficking or organized crime. Taking into account this constitutional limit, the federal and state authorities set up a joint investigation and prosecuting agency in 2003. In practice, this *Fiscalía Mixta* has so far had a disappointingly limited role since the joint investigation stage comes to an end once it is determined which level of government has prosecutorial jurisdiction.

48. At the end of 2003, the role of the federal Government was strengthened when President Vicente Fox appointed Guadalupe Morfin as Special Commissioner heading a Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez. The Commission is mandated to focus on repairing the social fabric of Ciudad Juárez and on supporting the families of victims in dealing with state authorities. The Special Commissioner has also extended her work to the Ciudad de Chihuahua and established a high degree of credibility amongst civil society actors and families of victims. Many have demanded that the Commission be awarded the power to access and scrutinize individual case files in order to be able to closely monitor the work of the investigation and prosecution authorities. In January 2004, a Special Federal Prosecutor was also appointed to oversee the crimes related to the murder of women in Ciudad Juárez. Because of the constitutional limits to her jurisdiction, the Special Federal Prosecutor had only asserted jurisdiction in nine cases involving 24 victims at the time of this visit and even in those few cases little progress has been achieved.

## **Criminal conduct of public officials**

49. The Special Federal Prosecutor has managed, however, to shed some light on the extent of negligence and misconduct in the investigations undertaken since 1993. At the time of the Special Rapporteur's visit, 101 state prosecutors, support staff, police agents and forensic experts who are possibly liable for criminal and/or disciplinary sanctions for negligence, omission, and other related offences had been identified.

50. The new Governor of Chihuahua, who took office at the end of 2004, appointed a new state Attorney-General, who in turn appointed a new prosecutor for the jurisdiction covering Ciudad Juárez. The Special Rapporteur was informed that the entire staff of the former State Prosecutor's Office was suspended on 9 November 2004. However, civil society groups report that many staff members implicated in the negligent investigations are back in their posts. When the Special Rapporteur visited Mexico, none of the 101 officials identified by the Special Federal Prosecutor had been indicted by the State Prosecutor-General, who has exclusive jurisdiction in the matter. Instead, most of the 101 cases were dropped. Only five officials were indicted, but local judges dismissed the charges against them on the ground that the statute of limitation had lapsed. These findings seem questionable in the light of the fact that in cases of abuse of authority the statute of limitations only begins to run once the criminal conduct ends, i.e. on the day on which officials rectify the criminal omission in which they are involved. In addition, no consideration seems to have been given as to whether officials might have incurred additional criminal responsibility for negligence, omission and related offences, because they negligently (or knowingly) allowed the statute of limitations to expire.

51. Serious violations of due process norms continue to plague the murder investigations of the State of Chihuahua authorities. In several cases, suspects were allegedly forced to confess under torture. On 9 November 2001, Victor Javier G.U. and Gustavo G.M. were arrested for the alleged murder of eight women. They signed confessions while in custody. However, in their first hearing in court both had consistently alleged to have confessed the crimes under torture. Gustavo G.M. died in custody on 8 February 2003 under circumstances that have yet to be fully clarified. On 13 October 2004, a judge convicted Victor Javier G.U. on eight counts of murder while refusing to consider evidence that his confession was extracted under torture. The conviction was set aside on appeal (without the court of appeal making a determination on the torture allegations) and Victor Javier G.U. was released. According to the Government, a Specialized Medical/Psychological Opinion for Cases of Possible Torture and/or Mistreatment that had been initiated in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol")<sup>46</sup> found no evidence of injuries that resulted from maltreatment or torture.

52. In July 2003, Miguel David M.A. and Jesús A. were arrested for the alleged murder of Neyra A. Both were allegedly tortured and held incommunicado for a number of hours. While Jesús A. was eventually released, Miguel David M.A. was allegedly forced to sign a confession that he had hired assassins to murder the victim. The State Prosecutor-General requested a Specialized Medical/Psychological Opinion under the Istanbul Protocol in February 2004. As of September 2005, David M.A. remained in custody and a Specialized Medical/Psychological Opinion had reportedly still not been completed. In December 2005, the Government informed the Special Rapporteur that a Specialized Medical/Psychological Opinion had found no evidence of injuries that had resulted from maltreatment or torture.

53. Cynthia K. and Ulises Ricardo P.I. were arrested for the murder of Viviana R., who had disappeared on 16 March 2003 in Ciudad de Chihuahua. Both were allegedly forced to sign a confession. On 17 December 2004, both were acquitted after the court considered their confession to be inadmissible evidence. According to the Government, a Specialized Medical/Psychological Opinion did not find proof or evidence of injuries resulting from maltreatment or torture in this case either.

54. The extortion of confessions through torture is not only a grave human rights violation in and by itself, but it may also compromise the entire investigation and lead to impunity for the actual perpetrators. The alleged recourse to brute force as an investigative tool also lends additional credibility to a number of reports which suggest that the State authorities have yet to implement the detailed recommendations of UNODC concerning modern investigative methods and documentation of investigative steps. The Special Rapporteur was informed that staff of the State Prosecutor-General has received additional training on the handling of evidence, interviewing, homicide, investigation techniques, kidnappings of minors, procurement of justice and human rights. Such training is clearly necessary but appears to be insufficient given that credible information about the torture of yet another murder suspect has emerged since this visit.<sup>47</sup>

55. With regard to impunity for public officials, the Special Rapporteur would also like to express outrage at the handling of the criminal proceedings against Héctor Armando L.G., a former senior police official in Ciudad Juárez who was allegedly involved in a criminal ring that recruited underage girls for pornography and prostitution. Héctor Armando L.G. was arrested on 26 February 2004. Three days later a local judge released him against 300,000 pesos on bail considering that the alleged crimes were “not grave”. He has since disappeared and, as of September 2005, his whereabouts are unknown.

#### **Lack of certainty, transparency and compensation for the victims’ families**

56. The corrosive impact of impunity on the legitimacy of the justice system is compounded by the uncertainty that many families of victims feel about the fate of their loved ones. This applies in particular to the families of missing women because the recovered human remains of at least 53 women have yet to be identified. Some families of women whose bodies were supposedly identified share this uncertainty because they have grave and often reasonable doubts about whether the bodies were correctly identified. Following recommendations by UNODC, the federal Government’s 40-point plan promised the forensic identification of women by means of a Forensic Genetic Data Bank, established and maintained by the Prosecutor-General of the Republic. In February 2004, this undertaking was implemented. The federal prosecution authorities have also set up a database on disappeared women in Ciudad Juárez that has reportedly helped to locate several such women. This is commendable, but falls far short of the establishment of a national database on disappearances called for in UNODC recommendations and as promised in the 40-point plan of the federal Government.

57. Building on another UNODC recommendation, the 40-point plan also foresees the participation of forensic anthropology teams in the identification process. In June 2004 the Equipo Argentino de Antropología Forense (EAAF) undertook a preliminary study of recovered human remains that were not or not properly identified. EAAF concluded that an independent body composed of experts from various disciplines should study and identify the physical

remains of women in both Ciudad Juárez and Chihuahua in one integrated and comprehensive study. It was also recommended that the investigative body have the competence to revisit cases if a victim's family expresses doubts about whether the victim was correctly identified. The Special Rapporteur is pleased to note that since her visit local and federal authorities have jointly commissioned EAAF to study and identify the physical remains of women who were not or possibly not correctly identified.

58. During the visit, the Special Rapporteur also had the honour to meet with several families of victims, who have organized themselves into courageous, competent and persistent advocacy groups. These families, joined by many other NGOs and civil society initiatives, have been instrumental in drawing national and international attention to the situation in Chihuahua. Reportedly, in the past, some state officials reacted by harassing, threatening and publicly ridiculing all those who spoke out against the nexus of negligence and impunity. Fortunately, these shameful practices seem to have decreased over the last couple of years.

59. The Special Rapporteur was also pleased to hear that Chihuahua's new governor has promised to make the investigations a priority and transparent. Transparency is indeed much needed since families of victims still complain that neither State nor federal authorities sufficiently inform them about the state of investigations. In its 40-point plan, the federal Government promised to guarantee the legal right of each family or its legal counsel to access the case files and suggest lines of investigation (right of *coadyuvancia*). Yet in practice, access is frequently obstructed through bureaucratic means. Suggested lines of investigation are ignored or the burden to produce witnesses or physical evidence is placed on the family.

60. The victims' families have the right to receive compensation for the State's failure to investigate the murders of their loved ones with due diligence. In this regard, the federal and the State Governments have jointly taken a commendable first step by setting up a fund endowed with 30 million pesos. At the time of this visit, detailed criteria had yet to be published on how to assess the needs of each victim's family and assure that no family is arbitrarily excluded. Accordingly, no funds had yet been disbursed. However, in the meantime, various smaller government and civil society initiatives have provided much needed interim benefits concerning health, education, and livelihood needs to the families and dependents of victims.

### **Limited progress in preventing additional murders**

61. Several positive steps that correspond to recommendations made by IACHR have been taken to decrease the vulnerability of women against assault in public places. The increased number of federal police agents deployed in an anti-narcotics operation in Ciudad Juárez since July 2003 has reportedly helped decrease the overall rate of violent crime in the city. In October 2003, federal, State and municipal police forces launched a joint operation to increase policing in high-risk zones of Ciudad Juárez. In addition, the lighting infrastructure was improved and a public works programme to upgrade parks and other public spaces was launched in January 2004. However, secure and reliable public transport options to the *maquiladoras* and schools, including bus stops in secure, well-lit places, are still lacking. In this regard, the corporations operating the *maquiladoras* could take on more responsibility to provide resources in order to assure the safe travel of their employees to and from work.



62. IACHR also recommended improving the practices and procedures ensuring that reports of missing persons are rapidly, thoroughly and impartially investigated. There has been some progress. In the past, the authorities often refused to open formal investigations (*averiguaciones previas*) on the first day that a woman was reported missing. This has reportedly improved. However, the rapid response mechanisms in cases of violence against women, still need to be upgraded. Reportedly, the municipal police of Ciudad Juárez does not routinely initiate search actions or other preventive measures as soon as it receives a report about a missing woman. Inexplicably, the police often wait for confirmation that a crime has actually been committed. The police authorities also fail to immediately dispatch patrols every time violence against women is reported. The Special Rapporteur was informed about one paradigmatic case that occurred on 4 November 2004. Neighbours reported an ongoing, serious assault against Martha L. to the municipal police. When police finally arrived at the scene over half an hour later, the assailant had already raped and murdered his victim.

#### IV. CONCLUSIONS AND RECOMMENDATIONS

63. **The Government of Mexico has taken significant steps to prevent, punish and eradicate violence against women with due diligence. But in the light of the unbearably high levels of violence against women that continue to exist in Mexico, the Government needs to do more to live up to its international obligations. The responsiveness of the police and justice sectors to gender-based violence remains inadequate overall and needs to be improved.**

64. **It is equally important that all levels of Government continue to strengthen their efforts to address the root causes of violence against women. Gender discrimination, which continues to permeate Mexican society, is clearly one of these root causes. The prevalence of discrimination on the basis of ethnicity, national origin or socio-economic status is another factor making indigenous women, migrant women or other socially marginalized women particularly vulnerable to violence. The lack of equal access that women in general, and these specific groups of women in particular, have to the protection of the State authorities is a related problem that also needs to be addressed.**

65. **The level of protection against gender-based violence also varies significantly between the states. Some states are clearly lagging behind and need to bring their laws, policies and implementation measures into line with their human rights obligations. The present report has placed an emphasis on the situation in the State of Chihuahua, since violence against women here has become particularly visible and acknowledged by all concerned. The indifference, negligence or even deliberate obstructionism that the state authorities have initially shown in dealing with the murders of hundreds of women in Ciudad Juárez constituted a denial of protection and justice. In response to national and international pressure, many initiatives have since been undertaken. However, both the state and the federal authorities could do significantly more to end impunity, compensate the victims' families and prevent additional murders.**

66. **The continued problems in Chihuahua noted, it needs to be re-emphasized that the case of Chihuahua is uniquely visible, but not unique. Extreme levels of violence against women are observed in other regions as well. The southern border with Guatemala**

appears to be one such region. Furthermore, while the killings and disappearances of women are an especially dramatic manifestation of violence and discrimination against women, they should be perceived as dimensions of a continuum of violence that take many forms. A comprehensive, countrywide collection and analysis of data on violence against women may well identify the inter-linkages between diverse forms of violence against women and other high-risk regions that need priority attention.

67. While a lot remains to be done by the Government, the onus is also on every individual to speak up against gender-based violence and discrimination. In this regard, Mexico's vibrant civil society, especially its women's organizations are commendable. The Special Rapporteur on violence against women considers their involvement to be an essential element of any meaningful effort to eliminate gender-based violence. It was also encouraging to see the media working with women's organizations and playing a constructive role in raising awareness about women's rights and demanding government accountability for violations of its obligation under international law to prevent and respond to violence against women with due diligence.

68. In view of the remaining gaps and challenges, and the many recommendations contained in reports of other mandate holders, the Special Rapporteur would like to make the following recommendations to the Government, civil society and the international community.

69. The Special Rapporteur recommends that the Government:

(a) End impunity for violence against women through legislative, investigative and judicial reform:

- (i) Amend the Federal Constitution and relevant legislation to give the federal authorities investigative, prosecutorial and judicial jurisdiction whenever state authorities persistently fail to discharge their human rights obligations to investigate and prosecute with due diligence violent crime, particularly crime directed against women;
- (ii) Remove all gender-discriminatory provisions still contained in federal or state law; link labour law with reproductive rights and laws governing migration with trafficking in women;
- (iii) Pass specific legislation to prevent and respond to violence against women in all states and at the federal level;
- (iv) Investigate with due diligence all instances of alleged violence against women whether it occurs in the home, in the community, or workplace with particular emphasis on the connections between violence against women and drug and human trafficking; prosecute perpetrators; grant prompt and adequate compensation and support to survivors;

- (v) **Strengthen the administration of justice, with specific attention to the barriers in law and procedure that impede the access of women, especially indigenous and migrant women, to effective judicial remedies and protection. This would include a swift implementation of the memorandums of understanding with Guatemala and El Salvador on protecting migrants, especially women, children and victims of trafficking;**
  - (vi) **Ensure, if necessary through legislative reform, that all cases of violence against civilians committed by military personnel are investigated by civilian authorities, prosecuted by civilian authorities and adjudicated by independent and impartial civilian courts;**
  - (vii) **Create a digital national database for disappeared persons that makes relevant information, including DNA samples of the disappeared person or close relatives, available to all law enforcement authorities at the federal, state and municipal level;**
  - (viii) **Adopt a federal law criminalizing domestic violence;**
- (b) Identify and prosecute all responsible for murder or other acts of violence against women in the State of Chihuahua with transparency:**
  - (i) **Adopt a holistic approach to the murders of women in Ciudad Juárez, Chihuahua and other locations within the State of Chihuahua and expand the mandates of specialized federal and state authorities working on the issue accordingly;**
  - (ii) **Strengthen the Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez, grant it the competence to access and scrutinize individual case files and ensure close collaboration with the Special Federal Prosecutor;**
  - (iii) **Have federal and state prosecution authorities jointly investigate all cases until all relevant evidence is secured, the background of the murder is understood and the identity of the perpetrator is determined;**
  - (iv) **Implement all recommendations of the United Nations Office of Drugs and Crime concerning modern investigative techniques and documentation of investigative steps;**
  - (v) **Continue to effectively support and adequately fund the second stage of the murder victim identification project carried out by the Equipo Argentino de Antropología Forense (EAAF) forensic team;**
  - (vi) **Scrupulously adhere to applicable due process guarantees, especially the prohibition of torture, in all phases of the investigation and the criminal process;**

- (vii) Investigate all allegations about the torture of suspects, including through the request of Specialized Medical/Psychological Opinions, and prosecute responsible officials;
  - (viii) Investigate all accusations of negligence, omission or complicity against officials relating to murder or other acts of violence against women in the State of Chihuahua, review the legality of all dismissals of cases on the basis of the statute of limitations and prosecute those against whom a criminal indictment is substantively and procedurally well-founded;
  - (ix) Ensure that the victims, their families or their legal representative can effectively exercise their legal right to review the case file and suggest lines of investigations and keep them informed of the development;
  - (x) Promptly disperse the monies from the Economic Fund to Indemnify the Relatives of the Victims of Homicides of Women in the Municipality of Juárez, Chihuahua on the basis of non-discriminatory criteria, while continuing government programmes providing immediate education, health and livelihood benefits to the victim's dependants;
- (c) Provide protective and support services to victims of violence or their families as well as women at risk of violence:
- (i) Promote the creation and expansion of shelters and counselling services (including telephone hotlines) for women subjected to violence and appropriate sufficient public resources for their maintenance;
  - (ii) Order police to react without delay and as a matter of priority to reports about ongoing acts of violence against women;
  - (iii) Put police systems and procedures in place to institute investigations into reports of missing persons at the earliest reasonable moment. In regions with a high risk of grave forms of violence against women search operations should be commenced immediately after a woman is reported missing;
  - (iv) Secure and upgrade public spaces where women are vulnerable to attack;
  - (v) Provide support for low-income families, female-headed households, and indigenous women, including through the allocation of funds for vocational training, adult literacy, credit schemes and provision of incentives for their employment, assistance with health care and subsidies for housing;
  - (vi) Institute witness protection programmes with the necessary mechanisms for their effective implementation;

- (d) Create a gender-sensitive information and knowledge base:**
  - (i) Standardize the collection and analysis of data on violence against women throughout the country and set up a national comparative database to determine which states and municipalities suffer from particularly high levels of violence against women and to identify the commonalities and linkages of diverse forms of violence;**
  - (ii) Support research on all forms of violence against women and the links between social attitudes, family structure, socio-economic change and public policy and their implications on violent behaviour;**
  - (iii) Use gender-sensitive data and research for informed policy formulation to end violence and for monitoring and evaluation of progress;**
- (e) Strengthen institutional infrastructure:**
  - (i) Create an observatory for crimes against women in the country at large;**
  - (ii) Strengthen the legal and financial base of all State institutions specifically promoting women's rights such as the National Institute of Women;**
  - (iii) Define clearly the mandates of the various national and state machineries for the advancement of women to avoid duplication, increase efficiency and ensure coordination of all public policy on gender issues between the states and the federal Government;**
  - (iv) Provide and implement gender budgeting at all levels of government to ensure that funds are appropriately utilized;**
- (f) Promote training, operational and awareness-raising programmes:**
  - (i) Intensify and amplify existing efforts to provide training to justice sector personnel, police and technical personnel such as forensic specialists on the protection of women's rights, gender-sensitive investigative techniques and sensitivity to the special needs of women survivors of violence;**
  - (ii) Conduct legal literacy campaigns to inform women about their rights and the institutions where complaints may be submitted;**
  - (iii) Undertake media campaigns against violence against women and all forms of discrimination and promote respect for human rights;**

- (iv) Ensure that girls have equal access to primary and secondary education and technical and professional training;**
- (v) Work with authorities in indigenous communities to institute programmes that promote the observance of women's and children's rights in the exercise of customary law;**
- (vi) Promote through school curricula and media campaigns the recognition of the multicultural nature of society and its value in cultural enrichment.**

**70. The Special Rapporteur recommends that civil society, including human rights organizations and the media:**

- (a) Develop solidarity networks with diverse groups, with special attention to ensuring participation of indigenous and migrant women's organizations, to develop common strategies for the advancement of women and joint efforts to hold Government accountable for the promotion and protection of women's rights;**
- (b) Monitor the application of law by the criminal justice system in cases of violence against women, collect data and report on the situation of women, particularly those belonging to marginalized groups, and form partnerships with authorities to develop policies to address the problems;**
- (c) Undertake research on customary law and its relation to gender-based discrimination and violence, in particular sexual and domestic violence;**
- (d) Continue to advocate, including through collaboration with the media, to raise awareness about the scale and gravity of violence against women;**
- (e) The media, as set forth in the Beijing Declaration and Platform for Action of the Fourth World Conference on Women, must avoid gender stereotypes and show sensitivity for the needs of the victims and their families when reporting incidents of violence against women. The media, in collaboration with other civil society actors, should work towards overcoming discriminatory social attitudes towards women.**

**71. The Special Rapporteur recommends that the international community:**

- (a) Prioritize through bilateral and multilateral funding the initiatives of women's organizations, research institutes and academia for research, advocacy and operational projects that aim to contribute to the advancement of women, including indigenous and migrant women;**
- (b) Provide sufficient resources to strengthen the capacity of the United Nations Country Team to integrate the promotion and protection of women's rights into all of its activities.**

## Notes

- <sup>1</sup> The Special Rapporteur has also addressed similar patterns in mission reports to Guatemala (E/CN.4/2005/72/Add.3) and El Salvador (E/CN.4/2005/72/Add.2).
- <sup>2</sup> According to a 2005 national survey, 94.2 per cent of all women in Mexico believe that gender discrimination remains prevalent; 21.7 per cent of all men consider it natural that women are not allowed everything that men are; 30.5 per cent find it normal that men earn more than women and 39.2 per cent believe that women should only do work befitting their sex. See Secretaría de Desarrollo Social, *Primera Encuesta Nacional Sobre La Discriminación en Mexico*, 2005.
- <sup>3</sup> Ley de Prevención, Atención y Sanción de la Violencia Familiar para el Estado de Puebla, adopted by the State Congress on 21 March 2001.
- <sup>4</sup> The 23 states are Baja California, Campeche, Coahuila, Colima, Chiapas, Durango, Guanajuato, Guerrero, Jalisco, Michoacán, Morelos, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz and Zacatecas.
- <sup>5</sup> The following states take part in the Integral System to Attend to Women Victims of Domestic and Sexual Violence (SIAMAVIF): Aguascalientes, Baja California, Campeche, Coahuila, Colima, Chiapas, Durango, Estado de México, Guanajuato, Hidalgo, Jalisco, Michoacán, Nuevo León, Quintana Roo, San Luis Potosi, Sonora, Veracruz, Yucatán and Zacatecas.
- <sup>6</sup> As of February 2005, the states of Baja California Sur, Colima, Estado de México, Guerrero, Jalisco, Nayarit, Tamaulipas and Veracruz did not have a shelter. Campeche was in the process of building one.
- <sup>7</sup> As of November 2005, these were: Aguascalientes, Baja California, Baja California Sur, Campeche, Chiapas, Colima, Guerrero, Jalisco, México, Michoacán, Morelos, Nayarit, Nuevo León, Puebla, Quintana Roo, Sinaloa, Sonora, Tabasco, Tlaxcala and Zacatecas.
- <sup>8</sup> As of November 2005, these were: Campeche, Chiapas, Guanajuato, Guerrero, Hidalgo, Jalisco, Nayarit, Querétaro, Tabasco, Yucatán and Zacatecas.
- <sup>9</sup> Cf. *LaGrand (Germany v. United States of America)*, Provisional Measures, I.C.J. Reports 1999, 9, p. 16, para. 28.
- <sup>10</sup> Cf. American Convention on Human Rights, art. 28.
- <sup>11</sup> Gender budgeting is an effective way to ensure that sufficient funds are channelled to combating violence against women. The concept refers to a budget allocation process, which is based on an analysis of priorities differentiated by gender and ensures the adequate participation of women. The Special Rapporteur was concerned to learn that the institute for women in Puebla is able to dedicate only 1 million peso of its 13-million-peso budget for service delivery; the rest goes for staff salary.
- <sup>12</sup> INSP-SSA, encuesta Nacional sobre Violencia Contra las Mujeres, 2003.

<sup>13</sup> Idem. Cf. also Instituto Nacional de Estadística, Geografía e Informática, Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares, 2003.

<sup>14</sup> Comisión Mexicana de Derechos Humanos A.C., Panorama de la violencia contra las mujeres y propuestas para su abatimiento - El caso de municipios del Estado de México, 2004.

<sup>15</sup> Idem.

<sup>16</sup> See Secretaría de Desarrollo Social, Primera Encuesta Nacional sobre la Discriminación en México, 2005.

<sup>17</sup> Comisión Mexicana de Derechos Humanos A.C., supra note 14.

<sup>18</sup> Idem.

<sup>19</sup> Idem.

<sup>20</sup> Idem. These are also the states with a large indigenous population.

<sup>21</sup> See Grupo de Información en Reproducción Elegida A.C., Paulina: In the name of the law, 2000; idem, Paulina: five years later, 2005.

<sup>22</sup> See Special Rapporteur's mission report to El Salvador, supra note 1, para 43; see mission to Guatemala, supra note 1, paras. 38-39.

<sup>23</sup> Instituto Nacional de Migración, Delegación Regional en Chiapas, Extranjeros Asegurados en el Año 2004 en el Estado de Chiapas.

<sup>24</sup> The situation in the south has not become a public policy concern as has Ciudad Juárez.

<sup>25</sup> Article 67 of the Ley General de Población.

<sup>26</sup> Cf. Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Report on the Mission to Mexico (E/CN.4/2004/80/Add.2).

<sup>27</sup> UNDP, Human Development Report: Mexico (2002). While the average Human Development Index for Mexico is 0.8014, Guerrero, Oaxaca and Chiapas only achieve HDIs' of 0.7312, 0.7135 and 0.7032 respectively.

<sup>28</sup> Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, supra note 26, para. 46.

<sup>29</sup> See R. Aida H. Castillo, 2002, "National Law and Indigenous Customary Law: The Struggle for Justice of Indigenous Women in Chiapas, Mexico". In Molyneux and Razavi (Eds.), *Gender Justice, Development and Rights*. Oxford: Oxford University Press: 384-412.

<sup>30</sup> Cf. also Susana Mejía Flores, Mujer Indígena y Violencia: Entre Esencialismos y Racismos, Revista México Indígena, No. 5 (March 2004).



<sup>31</sup> Women have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so. Cf. Report of the International Conference on Population and Development (Cairo, 5-13 September 1994), Programme of Action, chapter II, principle 8 (A/CONF.171/13/Rev.1) (1995). Cf. also Report of the Fourth World Conference on Women (Beijing, 4-15 September 1995), Declaration and Platform for Action, para. 94 (A/CONF.177/20) (1995).

<sup>32</sup> Paul Jeffrey, "The quiet revolution: indigenous women struggle for dignity", Response (May 2002), available at: <http://gbgm-umc.org/response/articles/indigenous.html>.

<sup>33</sup> See Quentin Wodon et al., "Migration and poverty in Mexico's southern states", World Bank: 2002 (citing data from Secretaria de Desarrollo Social, Informe de migración, ciclo otoño-invierno 1998/99, 2000).

<sup>34</sup> See Special Rapporteur on the independence of judges and lawyers, report on the mission to Mexico (E/CN.4/2002/72/Add.1, para. 78) (noting "complaints that military tribunals are not impartial, ... and that they are too lenient towards military officers who have violated the rights of civilians"). Cf. also Inter-American Commission on Human Rights, Report No. 53/01, Case 11.565, Ana, Beatriz and Clia Gonzáles Pérez, Mexico, 4 April 2001 (holding Mexico responsible for rapes committed by Mexican soldiers against three indigenous women in Chiapas in 1994).

<sup>35</sup> Of all households in the State of Chihuahua, 20.6 per cent are headed by women. Their average size is 3.5 persons. 23.4 per cent of these households (compared to 10.6 per cent of male-headed households) declared not to have any income; 13.8 per cent earned less than double the minimum wage. See INEGI, XII Censo General de Población y Vivienda, 2000.

<sup>36</sup> CEDAW, report under article 8 of the Optional Protocol to the Convention on the Elimination of Discrimination against Women, and reply of the Government, CEDAW/C/2005/OP.8/MEXICO (2005), para. 23.

<sup>37</sup> It is often assumed that these incidents started in 1993. Some of the officials the Special Rapporteur spoke to link the incidents to drug trafficking which according to them became a major business around the same period. Others call for caution and maintain that the incidents may have only gained visibility in 1993.

<sup>38</sup> Cf. Fiscalía Especial para la Atención de Delitos Relacionados con los Homicidios de Mujeres en el Municipio de Juárez, Chihuahua, Third Report, January 2005.

<sup>39</sup> CEDAW report, supra note 36, para. 37.

<sup>40</sup> Data provided by *Fiscalía Especial para la Atención de Delitos Relacionados con los Homicidios de Mujeres en el Municipio de Juárez, Chihuahua*, First Report, June 2004; Second Report, October 2004; Third Report, January 2005.

<sup>41</sup> Recommendation 44/98 (issued in 1998).

<sup>42</sup> Mission report of Special Rapporteur on extrajudicial, summary or arbitrary executions, (E/CN.4/2000/3/Add.3). Cf. also mission report of Special Rapporteur on the independence of judges and lawyers (E/CN.4/2002/72/Add.1); Report of CEDAW (CEDAW/C/2002/EXC/CRP.3/Rev.1); Office of the High Commissioner for Human Rights in Mexico, Ciudad Juárez como Símbolo: Diagnostico sobre la Situación de los Derechos Humanos en México, December 2003.

<sup>43</sup> Relatora Especial sobre los Derechos de la Mujer de la Comisión Interamericana de Derechos Humanos, Situación de los derechos de la mujer en Ciudad Juárez: El derecho a no ser objeto de violencia y discriminación, OAS Doc. No. OEA/Ser.L/V/II.117 (2003).

<sup>44</sup> UNODC, Informe de la Comisión de Expertos Internacionales sobre la Misión en Ciudad Juárez, Chihuahua, Mexico (November 2003).

<sup>45</sup> CEDAW Committee, supra note 36.

<sup>46</sup> Action for Torture Survivors et al., *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 9 August 1999 (United Nations publication, Sales No. E.01.XIV.I); also available at [www.unhchr.ch/pdf/8istprot.pdf](http://www.unhchr.ch/pdf/8istprot.pdf).

<sup>47</sup> Bryan T., who was arrested in Ciudad Juárez on 19 June 2005, was allegedly tortured in order to force him to confess to his involvement in the murder of two municipal police officers. According to the Government, these allegations are currently being investigated.

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