

EVENT REPORT: BÖLL EXPERTS MEETING, October 8th, 2012

“Gender Related Murder of Women” in Latin America: A pressing problem which needs to be tackled now!¹

“Gender-related killings of women” is the expression that Rashida Manjoo, United Nations Special Rapporteur (UNSR) on Violence Against Women (VaW), has chosen for her 2012 report² to name the most “extreme manifestation of existing forms of VaW”. Femicide is the term Latin Americans (LA) and some European countries are using to refer to these crimes. Following Rashida Manjoo’s report “these manifestations are reaching alarming proportions all around the world where they continue to be accepted, tolerated or justified – with impunity as the norm”.

LA countries have made different efforts to fight against femicide. Some have reformed their criminal laws to include femicide as a specific crime and increase the penalty for such murders. Some have initiated preventive programmes to take into account the gender discrimination that cause such crimes or action plans to tackle the problem in a more holistic way. Parallel to this, the European Parliament, the Council and the EU External Action Service have expressed their political willingness to support LA countries to fight against femicide. Moreover, the EU has developed some instruments to try to implement this willingness but despite the progress that has been made, the remaining challenges are huge and the situation on the ground is pressing.



What are Rashida Manjoo’s assessments and recommendations about the situation in LA? How effective are the EU instruments such as the EU Guidelines on VaW and Girls, the EIDHR, the political and Human Rights dialogues as well as the bilateral- regional cooperation? And what are the EU challenges? How could the EU support to the LA countries to make eradication of VaW be more effective? Especially in those countries where the implementation of the due diligence obligations by the State is weak?

Femicide/ femicide (both in Europe and Latin America) refers to the killing of women because of their sex and/or gender and constitutes the most extreme form of violence against women. As such, gender-related killings of women form the most violent manifestation of discrimination and inequality against women.

¹ Guest speakers were: **Francisco Acosta**, Deputy Head of Division, Regional Affairs, European External Action Service (EEAS), **Rashida Manjoo**, United Nations Special Rapporteur on Violence against women (UNSR), and members of Civil Society Organizations (CIDSE, ALOP, ODHACO, CIFCA, Amnesty International, Oxfam-Solidarité, etc). The event was held under Chatham House rule. The opinions expressed are not necessarily ours.

² <http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A-HRC-17-26.pdf>

It results in clear violations of the most fundamental human rights of women, including the right to life, freedom from torture and the right to a life free of violence and discrimination. Femicide is a global phenomenon and, as highlighted by the Secretary General of the United Nations³, it takes place in many contexts, both the private and the public spheres, including intimate partner violence, armed conflict, dowry disputes or the protection of family 'honor'. Such killings are not isolated incidents which arise suddenly and unexpectedly, these are the ultimate acts experienced in a *continuum* of violence.

While femicide is the crime of killing women and girls for reasons related to their gender and their subordinate position in society, femicide is considered a State crime. Either by action or omission, femicide has been tolerated by public institutions and officials due to the inability to prevent, protect and guarantee the lives of women who have consequently experienced multiple forms of discrimination and violence throughout their lifetime.

Gender-related killings of women are often the final and the most serious consequence of a reality often characterized by pervasive discrimination, particularly acts of violence, and which reflects women's subordination and perpetrators impunity. In such contexts, women are confronted by a systematic disregard of their human rights and the failure of States to comply with their due diligence obligation to prevent, investigate, punish and provide compensation for all acts of violence against women. Gender-motivated brutal killings of women have taken disturbing proportions in the last few years. While important legal and institutional initiatives are underway to address weaknesses in investigation and prosecution of gender-related killings of women, impunity remains widespread and the underlying causes of socio-economic inequalities, high levels of violence and a strong patriarchal culture persist.

Terms such as femicide, femicide, honour killings, crimes of passion and so on, have been used to define such killings of women. Rather than a new form of violence, gender-related killings of women have been occurring worldwide and are the extreme manifestation of existing forms of VaW.

What are the assessments and recommendations about the situation in LA?

Some relevant contextual factors in Latin America include amongst others: post-conflict situations with fragile States and institutions; the establishment of conservative governments; the influence of neo-liberal economic policies; little or no efforts at the judicial level for crimes committed during the conflict; the absence of disarmament and reintegration programmes for military and paramilitary personnel (which has made them an easy target to be absorbed by organized crime and private security companies). These factors and others have contributed to the establishment of a culture of terror, corruption and impunity at the state and non-state levels. The devastating effects of neoliberal economic policies and Structural Adjustment Programmes imposed in this region by the IMF, and in the case of Mexico by the North America Free Trade Agreement (NAFTA) have resulted in the creation of export-oriented manufacturing industries, i.e. the *maquilas*, that directly influence the appearance of VaW.

³ [Report of the Secretary-General. In-depth study on all forms of violence against women, A/61/122/Add.1, para. 84.](#)

LA has been characterized by increasing levels of violence perpetrated within the family and also the community. Such violence has disproportionately affected more women than men. While the killings of men have been high and stable over the last few years, the increase in killings of women is shocking compared to that of men. Studies have shown that victims come from a wide range of social and economic backgrounds, which vary from country to country, as do the circumstances in which they are killed. However, many of the



murdered women come from the most marginalized sectors of society. It has been expressed on many occasions by women's organizations and feminist activists that the perpetrator can be either known or unknown to the victim. When the perpetrator is known by the victim, it is often a current or former intimate partner, a family member, a friend of the family or a person with a position of authority. Most of these cases show a history of physical, psychological and sexual violence experienced by the victim for long periods. In the majority of the cases, the family or the community knows who the perpetrator is, but there is no formal investigation or punishment. When the killer or killers are unknown to the victims, studies show that gangs, organized crime groups, drug dealers, human and drug trafficking networks, or random perpetrators acting alone, are usually the perpetrators.

The obligation of the State to realize women's rights under international human rights law arises in particular from the duty of States to prevent, protect, punish and compensate individuals for human rights violations. The failure of States to guarantee women's right to a life free from violence allows for violence to continue, including the deaths of women.

The European general assessment is that Latin American countries have made progresses in gender issues, besides some exceptions. However, Europe expects more advance in woman access to education and better protection against violence, as far as there are several countries that have established a legal framework in order to punish femicide as proper crime. There have also been improvements about the identification of vulnerable groups in Chile, Cuba, Guatemala and Mexico, as well as a better promotion of woman participation in politics and institutionalization of gender issues. Despite the situation is not perfect and the legislative frameworks are diverse, the countries of the region are advancing in all those aspects, because the issue of gender is more and more in the agenda of these countries lately.

As far women participation in politics is concerned, civil society believes that despite it has grown exponentially during the last decade, the objective is to assure that there is a real participation and not just their presence. On the other hand, Europe believes that quotas can be useful in order to assure the participation of women in politics.

Accordingly, some attempts to establish positive discrimination in private companies has been established. However, Europe cannot interfere in the national legislation of any Latin American country, and actually, Europe is not in a position of giving lessons to anybody in those issues. Specially, considering that Latin American countries are pretending to be treated more and more as equals in their dialogue with the European counterpart. Thus, Europe perceives that different measures can be discussed with Latin American partners, but never through an intervention in their national spheres. Quotas are then important because they assure women presence and push them to participate assuring that some forgotten issues by men, can be also brought to the table. However, despite quotas can be useful, in some countries it is difficult to establish them. In any case, some criteria can be determined in order to promote women in public positions. Nonetheless, even if quotas and criteria are in place, they do not assure that the sexist environment has changed. Accordingly, if women perceive that despite being present, the political process is still developed under a sexist mentality; quotas are not useful because business remains as usual.

How effective are the EU instruments such as the EU Guidelines on VaW and Girls, the EIDHR, the political and Human Rights dialogues as well as the bilateral- regional cooperation?

The initiative that is currently being launched in a cooperative effort between European and Latin American experts on violence against women to draft a “Model Protocol” on the prevention, legal investigation and effective documentation of femicide in Latin America and the Caribbean is overwhelmingly welcomed. The document aims to provide judicial, fiscal, and medical-legal guidance on the investigation and documentation of crimes against women, as well as to establish the ethical guidelines and functions that lawyers, doctors and other service providers should follow when dealing with victims and their families. However, VaW and femicide are far from being resolved.

In Europe, the most important instruments of dialogue between the EU and Latin America are the EU-CELAC Strategic Partnership⁴, together with the Development Cooperation Instrument (DCI)⁵, the Bilateral Relations with Latin American Countries (Brazil, Chile, Mexico, Colombia and Cuba)⁶ and the European Instrument for Democracy and Human Rights (EIDHR)⁷. As far as the Bi-lateral Relations instrument is concerned, the issue of gender is included in the majority of the bi-lateral relations, as well as in the Action Plans. In fact, the gender issue is coming up in the agenda lately. Working Groups have been also established together with Colombia, Bolivia and Ecuador as well as in some states of Central America. Despite Europe has today, less relation with the Caribbean and *Mercosur* member countries, the dialogues and structures are very well exported from one country to another. As far the cooperation instrument is concerned, the list of initiatives and activities developed through the EIDHR is long. Briefly, in relation to the rule of law and gender democracy, cooperation has been set-up between the EU and Brazil, Honduras, Ecuador, Mexico and Bolivia, while in relation to encouraging an active participation of women in politics, initiatives have been established together with Honduras, Mexico and Brazil (specially for indigenous peoples).

⁴ http://eeas.europa.eu/lac/index_en.htm

⁵ http://ec.europa.eu/europeaid/where/latin-america/index_en.htm

⁶ <http://www.eurunion.org/eu/images/stories/eufocus-globpartglobchall-lac-9-10.pdf>

⁷ http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

Furthermore, in the concrete issue of violence against women and children, projects have been launched in countries such as Dominican Republic, Uruguay, Ecuador, Mexico or Honduras (in Honduras a project of women rehabilitations has also been established). In addition, also projects in border areas have been set-up in order to deal with displacement, prostitution and trafficking issues in Honduras, while in Brazil and Mexico, projects related to women immigration have been also launched. In terms of cooperation, mechanisms of bilateral relations that indentify gender issues as one of the main objectives, as well as entrepreneurship or employment issues have been also established. Finally, other initiatives have been taken in order to assure access to national services, as well as reducing violence against women through the provision of funds for NGO's.

What are the EU challenges?

The previous EU-CELAC Summit between Heads of State and Government that took place in Madrid in May 2010, concluded with the adoption of the Madrid Declaration as well as an



Action Plan for 2010-2012. The commitments agreed upon during the Summit include, inter alia, the promotion of cooperation programmes to combat and prevent trafficking and migrant smuggling networks, and to assist the victims, with special attention to women and children. There is however no reference made to other forms of violence against women which are pervasive in the Latin-American region, such as domestic violence or femicide. Building on the momentum generated, it is important that the issue of violence against women and

femicide is addressed as a priority theme for the EU and the CELAC Summit, in Chile in January 2013, to ensure that specific commitments in this regard are included in its Declaration and Action Plan.

There is a need to ensure effective investigations, prosecution and sanctions; guaranteeing *de jure* and *de facto* access to adequate and effective judicial remedies; treating women victims and their relatives with respect and dignity throughout the legal process; ensuring comprehensive reparations to victims and their relatives. Identifying certain groups of women as being at particular risk for acts of violence, due to multiple forms of discrimination; and modifying the social and cultural patterns of conduct of men and women as well as eliminating prejudices, customary practices and other practices based on the idea of the inferiority or superiority of either of the sexes, and on stereotyped roles for men and women.

In these regard, the European assessment results from what the EU delegations defined through certain number of subjects to approach using a cross-cutting analysis about the region. The first challenge is to give continuity to gender policies, because usually, these policies vary when there is a change in the governments of the region. And these changes affect negatively the implementation of previous laws. The other challenge is to realize how to change the social barriers that undermine the opportunities of the society to change because of cultural or historical reasons as well as due to the economic crisis. Among others, legal parity in terms of salaries or the ambiguity between the objectives of the law and how it is implemented are also perceived as two of the most important challenges.

Regarding the next EU-CELAC Summit next January in Chile, it has to be underlined that gender issues and specially, the issue of violence against women and femicide or feminicide are included in the agenda. Accordingly, the debate about these topics will be discussed at the ministerial level. In parallel, a space of dialogue between both regions had been established last march, in order to serve as a platform to advance towards a stable Action Plan about gender issues. In conclusion, the EU assessment is that the issue of gender had been out of the agenda for many years, but now it is again in the agenda and there is the political impulse to create a good legal framework and the necessary instruments to assure a good implementation strategy.

As far as the strategy of the EU towards the problem of violence against women from a more global perspective is concerned, there are some concerns within the civil society about how the EU includes its work within a more multilateral framework, such as the UN, in terms of reporting and information sharing. Specially, in the eve of the next meeting about the Status of Women at the UN, it is perceived that the EU should have a strong position. In these sense, Europe beliefs that there are some well-established examples that demonstrate that things are evolving properly, such as the recently opened dialogue between the UN, the EU and the US about how to tackle violence in Central America, through focusing in human and soft security (and not in hard security). In these regard, the objective is to have a financial package (within the Multi-annual Financial Framework) in order to better implement these new instruments that will also include the issues related to gender.

How could the EU support to the LA countries to make the eradication VaW be more effective? Especially in those countries where the implementation of the due diligence obligations by the State is weak?

In the first place, there are some concerns about the problem of simulation, in the sense that some states simulate that they are taking measures to fight VaW but in reality they are not. Accordingly, Europe beliefs that there is a difference between what they would like to do and what it can be effectively done. The EU can observe and ask how a country is implementing its compromises, and disagree about how certain policies are implemented. However, despite it is not possible to intervene in the legislative process of a country, in its agreements with other countries in Latin America (bi-lateral relations, cooperation agreements, free trade agreements, etc.) the EU introduces clauses that refer to the obligation of the partner country to accomplish its obligations in relation to the international law and the UN Conventions on human rights. If the LA counterparts do not respect these clauses, the agreements can be suspended by the EU at any time.

In relation to the question of impunity (one of the most important challenges regarding VaW in Latin America according to civil society organizations) the EU assessment is that despite the problem is still there, it is believed that there have been progresses. Specially, thanks to the negotiation process of trade agreements between the EU and Latin American countries (Colombia, etc.), that include a deep reform of laws to achieve the end of impunity.

Furthermore, in the declaration of the EU-CELAC Summit that has been filtered, there is a paragraph that makes reference to the issue of VaW. However, it has to be taken into account that there is no specific reference to femicide as the last consequence of a continuum of violence as far as it is different to speak about gender in general, than to speak about violence against women, which constitutes a clear violation of human rights. Accordingly, Europe believes that this declaration is very important in the actual context considering that the EU is now preparing and programming, the future cooperation between the two regions.

The aforementioned draft declaration about VaW in the eve of the CELAC-EU Summit is written as follows: *“Gender-based killing of women are the violent death of women and girls based on their gender whether if it occurs at the domestic, familiar or other inter-personal levels, in the community by any person or group, or when it is perpetrated or tolerated by the state or its agents by action or omission”*.

In this sense some concerns appeared in relation to the term “violent deaths” of the declaration as far as it could be interpreted that only extreme violent deaths should be persecuted, when the reality shows, that the deaths of women do not necessarily have to be always extremely violent. And of course, despite whether it is an extremely violent death or not, all forms of femicide should be persecuted. In these regard,



Europe argues that in political declarations, flexibility is needed in order to arrive to some agreements, while it is clear that in a juridical text, terms should not leave space for confusion.

Both the EU and Latin America have their regional instruments to fight against VaW. Nonetheless, the EU and Latin America need to strengthen their cooperation in the framework of the existing regional mechanisms of each region in order to fight more effectively against VaW and femicide. In Latin America, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention “Belem do Pará”⁸) has provided an excellent normative framework for legislative initiatives and reforms on violence against women in Latin America. The Inter-American Commission and Court have also comprehensively

⁸ <http://www.unhcr.org/refworld/publisher,OAS,,,3ae6b38b1c,0.html>

addressed the issue of gender-related killing of women in the case of *González et al.* (“Cotton Field”) vs. Mexico⁹. The Court found violations of the general duty to ensure the human rights of the three victims under Article 1.1 of the American Convention, by reason of the State’s failure to act with the due diligence required to protect their rights to life, humane treatment, personal liberty, and their right to be free from violence, and to conduct an adequate and effective investigation into their disappearances and homicides. The Court also addressed the issue of reparations through a gender perspective, particularly measures of satisfaction, rehabilitation, guarantees of non-repetition and compensation. The judgment also discusses in detail the obligation of States to provide adequate access to justice and remedies to victims and their family members in situations of gender discrimination and violence against women, and how this obligation relates to the due diligence. In Europe on the other hand, the Istanbul Declaration¹⁰ should be useful in order to achieve commitments and strengthen the bilateral cooperation.

Regarding the Inter-American system on human rights, many different stakeholders are worried about the recent attacks that the system is receiving recently by some countries in Latin America. In fact, it is perceived that those attacks are due to political reasons rather than real ones. In fact, the system is a reference in the world, and it is a great complement of what it is done in bigger multilateral spaces of human rights protection. In these regard, Europe clearly supports the system as far as it functions properly, it has good judges and people both in the Commission and the Court. Accordingly, the track record is really valuable in terms of functioning and jurisprudence. In consequence, together with the civil society, Europeans are also worried about the attacks to the system, something which is particularly risky taking into account that the US do not belongs to the system. In these regard, some countries are thinking about creating (and some have already withdrawn from the actual one) a new system more adapted to their own beliefs and concerns, something that, according to some civil society actors, only hides the unwillingness to accomplish with their human rights obligations.

With regard to the implementation of the due diligence obligations by those states in which it is weak, the civil society is worried because even if there have been improvements at the legislative level, in certain cases an institutional duplicity do not allows a good implementation of these legal instruments. And the EU, until some extent, is co-responsible of the situation because it has been funding those double structures. Furthermore, other studies show that many women organizations do not know the EU guidelines to implement the legislative frameworks which try to tackle VaW, resulting in a difficulty to identify potential allies when it comes to the implementation of the rules to fight against VaW. Moreover, it is also perceived that there is not a true coordination between the EU and its delegations as well as with civil society organizations in the region. While at the same time, there is a lack of information about indicators and the different political points of dialogue regarding implementation issues, something that should be more periodically revised in order to identify which ones work and which ones do not work.

Finally, to effectively tackle VaW, it should be considered as an issue of citizenship, as far as violence takes away humanity, and governments have obligations in relation to human rights and citizenship, specially, in Europe.

⁹ http://www.corteidh.or.cr/docs/casos/articulos/seriec_205_ing.pdf

¹⁰ <http://hdr.undp.org/en/media/Istanbul%20Declaration.pdf>