

# FEMINICIDE: A GLOBAL PHENOMENON FROM BRUSSELS TO SAN SALVADOR

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**From Brussels to San Salvador**

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## From Brussels to San Salvador

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## INTRODUCTION

*'Each femicide should be carefully examined to identify any failure of protection, with a view to improving and further developing preventive measures. In addition, a "Femicide watch" by its mere existence would increase awareness about femicides and other forms of gender-based violence against women and galvanise actions for its prevention. States should increase their efforts to use all available global and regional women's human rights instruments and experts' mechanisms to put in place effective systems to prevent and end femicide and gender-based violence against women and girls.'*

International Day for the Elimination of Violence Against Women – November 25, 2016

**Dubravka Šimonoviæ,**  
**UN Special Rapporteur on violence against women,**  
**its causes and consequences.**

## Editorial

**Patricia Jiménez / *Heinrich-Böll-Stiftung***

Edited every two years on the eve of the European Union and Community of Latin American and Caribbean States (EU-CELAC) Summit, this fifth edition of the series 'Femicide: A Global Phenomenon' would not have much to add if it were limited to the progress of the chapter on gender from the Action Plan, EU-CELAC.<sup>1</sup> With the exception of the workshop 'Gender Violence: Prevention Policies and Education for Males,' taking place at the end of September 2017, there have been no further actions to combat violence against women (VAW) in the framework of the Action Plan 2015-2017. Fortunately, other initiatives exist that hopefully will help eradicate femicide/femicide, and also inspire the implementation of the Action Plan EU-CELAC.

As with the previous four editions, this publication presents articles written by prominent feminists, women's human rights activists, academics and representatives from civil society in Latin American (LA) and the European Union (EU). The articles will cover the following main topics: (i) the mass demonstrations against gender violence which have taken place in LA and, on a smaller scale, in the EU; (ii) the joint call to establish a 'femicide watch' observatory by the Special Rapporteur on violence against women, its causes and consequences;<sup>2</sup> (iii) finally, the changes that have occurred in relation to the voluntary interruption of pregnancy in countries from LA and EU.

For quite some time, organizations for the defence of women's rights have demanded official monitoring and recording of cases of VAW and femicides. In fact, these very organizations initiated the recording of data on femicides in the first place. This publication will investigate the official records from various countries of LA and the EU, detailing the progress, the limitations and the challenges of each one of them. At the same time, it will highlight the campaigns and databases that various women's organizations have launched.

There are three causes that explain the intensification of mass demonstrations in both regions: the rise of conservative forces in many parts of the world that threaten the achievements of the feminist movement; a resurgence of VAW and femicides; and the conviction that States are responsible for tackling this issue. How are these demonstrations related to traditional feminist organizations? What new perspectives arise and what impact will they have on States? These are some of the questions that the articles of this fifth edition will attempt to respond to.

Since the translation of the term 'femicide' from English to Spanish, the terms femicide and femicide have been used interchangeably to refer to the same phenomenon, i.e. the death of women on account of their gender or simply because they were women. The articles in this publication reflect the interchangeable use of the terms 'femicide' and 'femicide' according to their use in the different countries.

1 See chapter 7: Gender issues

<http://www.consilium.europa.eu/media/23757/eu-celac-action-plan.pdf>

2 Joint call with all global and regional mechanisms to stop femicide and gender-based violence.

[http://www.oas.org/en/iachr/media\\_center/PReleases/2016/172.asp](http://www.oas.org/en/iachr/media_center/PReleases/2016/172.asp)

Report by the Special Rapporteur on violence against women, its causes and consequences, 23 September 2016:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/297/11/PDF/N1629711.pdf?OpenElement>

# I. An initiative to cherish

**Ana Carcedo / *President of CEFEMINA, Costa Rica, Coordinator of the Central American Observatory for the Eradication of Femicide***

We have to celebrate the call by the UN Special Rapporteur on violence against women, Dubravka Šimonović, for the creation of **national observatories for femicide/feminicide**, as well as the UNODC's recent proposal for these observatories. Both the Convention of Belem do Pará and the Istanbul Convention establish the responsibility of States to collect accurate information about violence against women, and therefore, implicitly, about femicide.

When discussing the murder of women based on gender subordination, the gravity of the problem not only derives from its incidence – femicides are committed all over the world and in some countries, the rates are high enough to be considered an epidemic; 10 for every 10,000 women. Once we set the numbers aside (one is already too many), we see that the severity of the issue is due to its very nature: **an extreme violation of human rights** that threatens half of the population.

What is surprising, however, is how long it has taken for this UN call to be made. For over two decades, the international feminist movement, particularly in Latin America, has been protesting and reporting crimes of femicide, building theoretical frameworks to explain it, developing the methodology to investigate it, requesting transparency of information and calling for adequate responses to stop this slaughter of women, which shows no signs of abating. We need to recognize the vision of Diana Russell, who identified, named and conceptualized this issue in 1976, when there were still no mass movements to stop femicides.

As regards to femicide specifically, feminist organizations created the benchmarks for what to look at, and how to look for it. For example, there are various femicide observatories that operate both globally and regionally and there have been

many investigations published since the start of the century. Feminist organizations have been keeping track of incidences of femicide for years in countries such as Costa Rica, Argentina, Honduras and Spain. Additionally, the Central American Feminist Network Against Violence Towards Women has a Central American Observatory for the Eradication of Femicide. Progress has been made and lessons learned. The call by the Rapporteur and the UNODC proposal should **recognize these efforts** and not turn a deaf ear to collective learning experiences.

The identification of femicides is no easy task as not all the murders of women are femicides. It is necessary to investigate the circumstances and dynamics of the crimes to recognize the unequal relationships of power between men and women that undergird a femicide. The availability of such information requires **specialized judicial processes** that are applicable to all murders of women, something that cannot always be guaranteed. Even with the political will and resources to carry out such a task, the exact circumstances of particular crimes can be hard to ascertain.

Identifying and **compiling statistics on femicides is clearly not enough**. We need to learn more about them to be able to explain why there are increases or decreases in numbers, and more importantly, there is simply no way of assessing the impact, if any, of public policies designed to eradicate the phenomenon. When reduced to numbers, femicide becomes a mysterious problem, both impenetrable and unavoidable; its history and trajectory unfathomable.

Needless to say, the final goal of investigating femicides is to tackle them with increasingly efficient processes until complete eradication is achieved. In that sense, numbers must be a tool and not the sole purpose of our efforts. The risks

of forgetting this have become apparent during the more than two decades of our endeavour.

The first risk is to **stop identifying femicides** due to the difficulty of discerning which killings of women are femicides, and instead use statistics on homicides of women as a proxy.<sup>3</sup> The labelling of all homicides of women as femicides detracts from the sexism implicit in femicide. Making femicides visible is a political act that decries the fact that women are killed for being women in societies that discriminate against us. In addition, the characteristics and dynamics of femicides are different to non-femicide murders of women.

Another risk is prioritizing **comparability between countries** in terms of how the problem is understood in each one of them. In this respect, the operative definition we use of femicide is fundamental. When faced with the difficulty of identifying femicides it has seemed practical to restrict cases to those committed by partners and ex-partners, as they are the easiest to identify. A limited definition of this kind allows for comparability between countries but in some cases it simply does not apply. In Mesoamerica, for example, most femicides are committed in different scenarios, mainly linked to sexual violence and criminal gangs.

The third element to consider is that, although in many countries femicide or feminicide has already been classed as a criminal offence, no law deals adequately with the problem – all typologies of crime are restrictive in some way. While observatories continue to use information sources that stick to judicial definitions there will be under-recording and biases. In some countries the issue has been resolved by **expanding the definition of femicide and creating mixed spaces for State and women's organizations** to identify and analyze the cases.

The difficulties and risks represent a challenge that must be confronted. The call by the UN offers an excellent opportunity to advance in each country towards a greater understanding of femicides, a necessary prerequisite for their subsequent eradication. It will encourage greater transparency from official sources, and offers the chance to establish or consolidate alliances that increase the resources and capabilities of States whilst providing the vision and experience of the feminist movement. This is an initiative to celebrate; of that there is no doubt.

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<sup>3</sup> When there are difficulties in measuring a particular variable, another with a close relation to the original is used – the latter is considered the proxy variable of the original.



## 1. EL SALVADOR

### TRAPPED: SEXUAL VIOLENCE, FEMINICIDE, FEMICIDAL SUICIDE AND FEMINIST DEMONSTRATIONS

*Morena Herrera/ Feminist Collective for Local Development*

Women in El Salvador face a culture of **beliefs and traditions that combine to spin a web of aggression** inside which they feel trapped and unable to fully enjoy their freedoms and rights as human beings, especially their right to live a life free from violence. Despite progress in the legal area, belief systems deeply rooted in Salvadorian society continue to perpetuate gender-based violence.

In this context, the rape of a woman is not considered 'such a serious' act. The resulting psychological damage is also not given sufficient consideration, and in the case of pregnancy the only alternative offered by Salvadorian society is to continue the pregnancy in any case and to give up the child for adoption after birth.

A major difficulty when addressing this kind of violence against women is the **transfer of responsibility** onto the victim, so as to make the woman or girl feel ashamed or somehow responsible for the aggression, in many cases inhibiting them from reporting the crime and demanding justice for the acts perpetrated against them. It has become somewhat frequent **for authorities to question** the victim's dress and behaviour, choice of time to be on the street or reputation of the area where the crime took place, and rape victims who dare to

report the crime are fairly soon warned about the penalties for making false allegations.

For women it is much more difficult and painful to confront sexual violence when the perpetrator is a person from the same family, someone responsible for the victim, or someone on whom **the victim is emotionally, economically and socially dependent**. A 2015 report entitled *Report on acts of violence against women*<sup>4</sup> found that around 25% of all violent acts were in the form of sexual violence, corresponding to 5,019 crimes of this nature reported in 2015. The report shows that in 74% of the cases the sexual aggression took place in the victims' homes, with 7 out of 10 of the victims under the age of 20.

The Ministry of Health reported in 2015 that 13,146 Salvadorian girls aged between 10 and 17 were registered in prenatal care programs, of which 11% (1 in 9) were 14 years old or younger.<sup>5</sup> Of the total number of pregnancies, 25,132 (30%) were registered for girls or women between the ages of 10 and 19. It is important to recognize that many of these pregnancies are the result of **rapes that take place in family units**. According to the Special Comprehensive Law for a Life free from Gender Violence (LEIVLVM in its Spanish acronyms), all sexual relations with girls under the age of 15 will be punished with sentences of between 14 and 20 years in prison, and sexual relations with a girl between the ages of 15 and 18, with 4 to 10 years in prison<sup>6</sup>. Teenage pregnancies are directly connected to another reality, **early unions and child marriages**,<sup>7</sup> which constitute another reflection of the **social acceptance and toleration of sexual violence**.

In this problematic context, one positive development has been the creation of the **National**

4 Ministry of Justice and Public Safety. Report on Violent Actions against Women («Informe sobre Hechos de Violencia contra las Mujeres»). El Salvador. 2015.

5 The United Nations Population Fund (UNFPA). El Salvador. Map of Pregnancies in Girls in El Salvador, first edition, July 2016.

6 Articles 159 and 163 of Special law for a life free from violence against women («Ley especial para una vida libre de violencia para las mujeres»).

7 While this article is being written there is a pending debate in parliament, on the initiative of the MP Lorena Peña, who proposed the modification of the Family Code («Código de Familia») that permits the marriage of minors under 14 in case of pregnancy.



**System for Data, Statistics and Information on Violence against Women**, coordinated by the Ministry of Justice and Public Security along with the Department of Statistics and Census (DIGESTIC). Both bodies have requested assistance from other government departments and institutions,<sup>8</sup> connected to violence against women, to **develop an information management tool** that will help research the facts about both victims and perpetrators of gender-based violence, as well as the secondary effects of such violence. The tool also has the task of **evaluating the impact of policies designed to eradicate this violence**, and monitor resource allocation for victim support.

This System, which is the result of the enactment of article 30 of the LEIVLVM, has created standardized instruments for the collection and recording of data, a virtual platform for data feeds

and data consolidation, Technical Committees for the verification and validation of data, and Specialized Committees for the Analysis and Review of hypotheses about data systems. The publication of an annual report, based on the systematization of information, has been proposed.

Due to the dynamics of social violence and criminality in the country, men continue to be the main victims of violent deaths, with a mortality rate of 199 for every 100,000 men. The 2015 *Report on acts of violence against women*, however, shows that the rate of femicide continues at alarming levels. In 2015, there were 574 femicide, which is equivalent to a rate of more than 16 for every 100,000 women. Despite the increased information available, the report also claimed that of the 574 femicide that occurred only 64 arrests were made.<sup>9</sup>

8 Those who participated in the first Report of violent acts against women in 2015 («Informe sobre hechos de violencia contra las mujeres 2015») are: Fiscalía General de la República (FGR) (General Attorney of the Republic) ; Instituto de Medicina Legal Dr. Roberto Masferrer (IML) (Institute of Legal Medicine Dr. Roberto Masferrer); Instituto Salvadoreño para el Desarrollo de la Mujer (ISDEMU) (Salvadorian Institute for the Development of Women); Ministerio de Hacienda (Ministry of Finance); Ministerio de Trabajo y Previsión Social (MTPS) (Ministry of Labour and Social Security); Ministerio de Salud (MINSAL) (Health Ministry); Policía Nacional Civil (PNC) (Civil National Police) along with the Asociación Organización de Mujeres Salvadoreñas por la Paz (ORMUSA) (Association, Organization of Salvadorian Women for Peace).

9 The report details that 30 arrests were for femicide and 34 for aggravated femicide. Page 55.

In another change, the 2015 report recognized the categories of femicide-suicide and maternal deaths, as they are now considered preventable deaths. According to the data, during 2015 the System registered 108 suicides, of which 74 were due to self-administered intoxication. Girls, teenagers and young women are the main victims of this type of violence, 'with those between the ages of 11 and 19 comprising 42.59% of suicides. The data shows that approximately 6 in 10 women who took their own lives were under the age of 24.'<sup>10</sup>

While violence against women is still broadly tolerated and while offenders still enjoy widespread impunity, Salvadorian society and its Government will shoulder an enormous responsibility for gender-based crimes. Despite the recent reform of the Criminal Code<sup>11</sup> that included the withdrawal of statutes of limitation for crimes of torture and those committed against the sexual freedom of minors or a person incapable of defending himself/herself, the State is directly responsible for femicide-suicides in the case of maternal deaths, as women are still put through the torture of being forced into full term rape-induced pregnancies.

Women's organizations and movements see the prevention, investigation and punishment of violence against women as their main area of contention with Salvadoran state institutions. The experience of recent years has shown at least three directions for our creative endeavours:

- Requesting the **application and development of legal and institutional resources for the prevention, investigation and eradication of violence against women**. The latest victory in this campaign is the creation of Specialized Courts for a life free of violence and discrimination against women, approved by legislative decree in February 2016.

- **The struggle for the recognition of all forms of violence against women** as a violation of human rights, the reporting of hate crimes and the strengthening of women's agency to oppose gender-based situations of violence such as street harassment. Womens' organizations and movements, with many young people from the LGBTI movement, have participated in significant initiatives such as NI UNA MENOS (NOT ONE LESS), and WE'RE STOPPING BECAUSE WE'RE SICK OF ABUSE AND SEXUAL VIOLENCE.

- The fight for the **decriminalization of abortion** to incorporate exceptions to the total punishment imposed more than 20 years ago. A number of platforms drawing together women's organizations, youth groups, health workers and academics demand **the right to health, life**, and for women and girls to have the option of terminating a rape-induced pregnancy. They also request the release from prison of women imprisoned for abortion and/or obstetric difficulties associated with abortion.

<sup>10</sup> Ibid. page 70.

<sup>11</sup> Legislative Decree Number 217, December 10, 2015, published in the Official Diary 237, volume 409 on December 23, 2015.

## 2. PERU

### FEMINICIDE: BETWEEN THE DATA AND SOCIAL OUTRAGE

Liz Meléndez / *Flora Tristan Peruvian Women's Centre*

After years of actions to raise awareness of femicide as the cruelest expression of violence against women, we can say that significant progress has been achieved both at a political level and with regard to the increasing public outrage at this form of violence. Unfortunately, this has not led to a decrease in the number of cases.

In terms of progress made in confronting femicide, we note the following: (1) **the creation of official databases of cases**, (2) **the typology of femicide**, (3) **the Interagency Action Protocol** to deal with femicide, attempted femicide and high risk intimate partner violence, (4) the approval of the **Law against Violence towards Women and Family Members** (Law 30364) with risk assessments of cases in order to prevent femicides, and (5) **the approval of the Legislative Decree 1323** which includes aggravating circumstances in the sentencing.

### Databases of femicide cases

The collection and analysis of data on femicide cases was started by feminist organizations.<sup>12</sup> Later, in 2009 the Public Ministry (MP in its Spanish acronym)<sup>13</sup> decided that a Registry of femicides and attempted femicides should be set up within the Criminality Observatory, where currently a database continues to be compiled with data supplied by family, criminal and mixed prosecutors.

This database can be accessed by the public and provides key information based on variables such as ages of the victim and the perpetrator, the relation between them, and the details and location of the criminal act.<sup>14</sup>

That same year the Ministry of Women and Vulnerable Populations (MIMP in its Spanish acronym)<sup>15</sup> started the *Registry of victims of femicide and attempted femicide*, which is managed by the National Program against Family and Sexual Violence. This registry – which can be accessed by the public – uses data mainly provided by the media,<sup>16</sup> as well as a database of cases that arrive at the attention centres in charge in this sector (Centres for Women in Emergencies).

According to the database provided by the MIMP, which is updated every two months, 927 cases of femicide and 1,165 cases of attempted femicide were reported between 2009 and 2017 – an average of 115 cases per year.

12 Specifically in 2003 by the Centro de la Mujer Peruana Flora Tristan and Demus, which compiled the first data base from information in newspapers. The database was shared with state institutions and played a key role in incidence. Qualitative and quantitative data demonstrated the fatal consequences of the prevalence of violence and the characteristics of gender-based crimes.

13 The Criminality Observatory has the responsibility for the Register of Femicides and attempted Femicides as mandated by a ruling by the Attorney General No 216-2009- MP-FN. Another ruling by the Attorney General 1690-2009- MP-FN resulted in Decree No 006-2009- MP-FN which called for the inclusion in the Femicide Register of those cases where the aggressor had no intimate relation with the woman (non-intimate femicides) as well as attempted femicides.

14 The latest information available provides data up to 2015, where it is reported that between 2009 and 2015 there were 299 cases of femicide.

15 As mandated by the Ministerial Resolution No 110-2009 MIMDES dated March 6, 2009.

16 This information is checked with the authorities, both the National Police and the Public Ministry to confirm its veracity.

The variables handled by the MIMP are quite complex.<sup>17</sup> Apart from the data provided by the Public Ministry, there is a more complete profile of the victim, the **location of the crime**<sup>18</sup> and information about the victim's previous reports of violence. According to this database, 45% of women reported acts of aggression before suffering an attack on their lives.

Some recommendations to improve these databases are as follows:

- **Unify databases**, taking into account the many variables, the possibility of updating and the impact of the MIMP database with the aim of creating a joint Observatory.<sup>19</sup>

- Increase research into **non-intimate feminicides**.

- Collect information about the situation of **indigenous Amazonian and Afro-descendent women, as well as women with disabilities**.

- Include the variable: **sexual orientation and gender identity**.

- Provide data that help establish **a link between missing persons and femicide**.

- Inform about **the legal status of the perpetrators**, sentences and aggravating circumstances of the crime, with the implementation of the femicide law and any future legislation pertaining to the final goal.

- Inform about the situation regarding **sons/daughters in orphanages** as a result of the violence.

- Include information about **suicides of women victims of gender-based violence and**

**forced pregnancies as a result of sexual violence**. Increase research and conceptualization of femicide violence, as a form of sexist violence that leads women to their deaths.

### Beyond data, social outrage

In the last five years the feminist movement has significantly diversified throughout the country. With its base in **feminist organizations**<sup>20</sup> and **academia**, the movement has significantly broadened to numerous women's collectives, groups, local and regional initiatives as well as individual activism that constitutes a transformative force.

The **growth of communication media and the use of social media** have created greater possibilities for exchanges of information and for coordination to confront violence against women at both a global and national level.

The demonstration and march *Ni Una Menos* (Not One Less) – Peru, of 2016 was a milestone not only in the history of mobilizations against male violence, but also contributed enormously to make concrete changes in the people who came out onto the streets in large numbers to defend the right to live without violence. The demonstration also had a significant impact on the State, resulting in **the approval of legislation to improve sentencing** and an increased focus on the victims. However, the response from the authorities and the budgets allocated are still far from sufficient; impunity for offenders is still the norm and the issue of prevention is generally neglected.

While the issue of women's rights has become more publicized and the work and actions of the feminist movement feature more in the public discourse, it is important to note that **conservative and fundamentalist forces** have

17 The records can be accessed at: <http://www.mimp.gob.pe/contigo/contenidos/pncontigo-articulos.php?codigo=39>

18 Data separated into urban, rural and urban-marginal zones.

19 Although up to now, in order to facilitate joint access, the MIMP has highlighted in its report the data produced by the Public Ministry.

20 There is historical effort – decades of struggle and raising awareness about women's rights by feminist organizations in the country.



strengthened their strategies and become more active in disseminating messages of hate and opposition to equality.

Despite **decreasing tolerance of gender-based violence and greater public concern** about it, only the very worst cases of violence against women – such as femicide and the rape of young girls – ignite widespread public opprobrium. However, there still exists **indifference when it comes to other forms of aggression** such as harassment, psychological, economic and physical violence, adult sexual violence, lesbophobia, transphobia and the denial of reproductive rights to women.

We can conclude that on the one hand feminist organizations have been responsible for the

creation of national femicide databases, which have been a significant factor behind new policies aimed at the prevention, penalization and attention of all violence perpetrated against women.

On the other hand, the combination of visibility given to the cases, data and strength of argument along with a local and globalized feminist movement using all its varied means of expression (i.e. social media), have helped to create greater public outrage. However, it is necessary to continue working to confront the conservative resistance and ensure that this public anger is not focused solely on the cruellest cases of violence, but on the complete situation of exclusion suffered by women, as femicide is the last link in the chain of discrimination.



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### 3. COLOMBIA

#### CHALLENGES FOR THE IDENTIFICATION AND PROSECUTION OF FEMINICIDES IN COLOMBIA

Diana María Salcedo López /  
Women's International League for  
Peace and Freedom – WILPF Colombia

In Colombia, two years after the passing of the Law 'Rosa Elvira Cely' (Law 1761) which criminalizes femicide, a court handed down a severe sentence for aggravated femicide for the murder of 7-year-old Yuliana Samboni, with a prison term of 51 years. The judge found that the accused *'steered his conduct to the satisfaction of his sexual appetite under circumstances that he knew were contrary to the law'*, and reminded the court that the accused had accepted the fact he caused the girl's death due to her 'being a woman.'

In what is a milestone in Colombia's legal history, the judge noted the circumstances and facts necessary for a case to receive the criminal classification of femicide, ratifying the importance of the context of events and the attribution of the motive 'for being a woman.'

Pursuant to the Law 1257 of 2008, the Criminal Chamber of the Supreme Court of Justice pointed out that femicide goes far deeper than the death of women at the hands of a spouse or a partner in the context of a marital or intimate relationship.

Similarly, the trial judge in the case of 7-year-old Yuliana Samboni clearly stated in her sentencing that *'the body is in essence the place where the cul-*

*tural interpretations of the roles of women and men in society are reflected and reproduced. The body of the man is the one that thinks, creates, builds, fights and defends. Woman reproduces, cares for, offers warmth and comfort, and loves. From ancient times, these concepts have determined the assignment of social roles: masculinity organizes and governs in public life; femininity is subdued and obeys in private... this notion constitutes the cornerstone of the discrimination and domination to which historically women have been subjected and the basis for the multiple types of violence inflicted upon them.'*<sup>21</sup>

Yuliana's case marked a watershed not only in the length of the sentence imposed but in the clarity and power of the judge's sentencing remarks, which were based on gender analysis and the rights of women and girls. However, it is as well to remember that Yuliana's is far from the only case in Colombia, and the identification of particular violent deaths as femicides presents enormous difficulties.

According to data collected by the Institute of Legal Medicine of the 3,077 violent deaths of women in 2016, 205 were committed by unknown aggressors, and 128 by a partner or ex-partner.<sup>22</sup> From a gender analysis perspective, we can conclude that femicide should at least be considered as a hypothesis in the criminal investigation of these 128 violent deaths of women, generating the necessary alerts.

In Colombia, the Legal Medicine Institute collects data on **violent deaths of women**, classifying them as either homicides or murders. However, **for murders to be designated with the special criminal classification of femicide** it is incumbent on the Attorney General of the Nation (Fiscal General de la Nación) to carry out case-by-case investigations.

21 Sentence of the Case Yuliana Samboni, 2017, page 27.

22 National Institute of Legal Medicine and Forensic Sciences, 2017, page 116.



Legal Medicine's Annual Reports are the **only official source** for systematic information on femicide and other forms of violence against women. The reports reveal the seriousness of the problem of the plague of attacks on women's lives: *'Every 28 minutes a woman suffers sexual violence, every 12 minutes a woman is injured by her partner or ex-partner; at least 1 in 3 women are the victims of economic violence and every 4 days a woman is killed by her partner or ex-partner. 413 women were the victims of femicide in the last three years.'*

The figures are even more alarming if we take into consideration the numerous problems we have with **the under-recording of victims or the lack of recognition of attempted femicide** finds itself relegated to the category of personal injury. We can safely say, therefore, that in Colombia the full scale of femicide is still unknown.

Given this situation, it is of the utmost importance that the databases form the basis for the drawing up and the implementation of government policies. Some of the challenges that the Colombian State faces in compiling a comprehensive database on feminicides are:

- Difficulties in **the identification of feminicides by authorities**: recognizing this crime involves eliminating substantial gaps in the legal system as well as confronting the prejudices, stereotypes and practices common among State legal personnel. Such beliefs and attitudes question, in many cases, the very existence of femicide, reducing it to concepts such as 'crime of passion' that ignore its historical foundation in sexism and patriarchy.

- The lack of an **effective policy of femicide prevention** that would include a systemic approach, the analysis of cases and determining factors, and the assessment of the context of the crimes. As this is a crime that generally occurs after a cycle of violence, a prevention strategy must be put in place that identifies key indicators of likely feminicides and acts decisively to prevent them.

- The difficulties involved in the **analysis and collection of evidence** in these types of crimes causes problems when it comes to identifying cases of the killing of women as feminicides. While in Colombia there have been exemplary prison sentences handed down for femicide, in other cases the perpetrators have got away with their crimes. Such laxity in the law sends out the wrong message to society about the tolerance (explicit or implicit) of this type of criminality.



— The non-recognition of the **inducement of women into suicide of femicide nature**.<sup>23</sup> In Colombia this type of feminicide is not even considered, with the result that in most cases women's suicides are not investigated as femicides and are not subject to, for example, psychological autopsies. Evidence that could prove that suicides by induction or assistance are in fact femicides is therefore not considered.

Faced by a culture of impunity for these forms of violence against women, **women's social movements and the other organizations** have developed various processes of political lobby-

ing, through which they address the Colombian State and demand that it confronts this violence and eradicates feminicide. The cases referred to and those of other women victims of feminicide have roused the anger of women around the country. Society has had to listen to the voices of women that year after year meet where the body of Rosa Elvira was found, to remember her and all the women that have suffered this crime. Today, those voices strongly demand respect for **the right to life and security for women and girls, as well as a real commitment from the Colombian State** to eliminate all forms of violence that give rise to feminicides.



23 A feminicide suicide is the inducement of a woman to commit suicide or to aid her in doing so in the context of a relationship of oppression and subordination. (MASATUGÓ 2009-2014, 2015).

## 4. ARGENTINA

### THE BIRTH OF FEMICIDES IN ARGENTINA: A RECOGNITION OF GENDER VIOLENCE

Samanta Funes / *Cordoba Feminist Lawyers Group*

On June 3 2015, Argentina witnessed one of the largest demonstrations in its history. Millions of women from all over the country came out onto the streets under the banner 'Not One Less' ('Ni Una Menos') to protest against a series of homicides of women by men in the context of gender violence.

According to the Meeting House (Casa de Encuentro)<sup>24</sup> a total of 1,088 femicides occurred between 2008 and 2014, with 277 deaths alone in 2014. In the first months of 2015 statistics were much higher than for the year before and cases began to come to public notice. After finding the lifeless body of a pregnant girl buried in the patio of her boyfriend's house in Rufino in Santa Fe Province, women's movements and feminist organizations decided to organize a demonstration that gave birth to one of the biggest movements in the country.

After the historic mobilization in 2016 the Supreme Court of Justice of the Nation (CSJN in its Spanish acronym), the body responsible for official records, through the Women's Office<sup>25</sup> (OM in its Spanish acronym), published a statistical report<sup>26</sup> of the femicides that had been registered in the country, listing 235 deaths in 2015. The report received criticism for not taking

into account those murders where the man had taken his own life. The CDE report, in contrast, registered 286 femicides.

The CSJN also reported that women between the ages of 21 and 40 were most affected (101 out of 235 women); 26 had reported some sort of violence on previous occasions, 149 were partners of the aggressor, in 30 cases the perpetrators were family members, while in 44 cases they were men known to the victims, and in 13 cases complete strangers. Among the offenders, the age group most represented were men between the ages of 19 and 40 (139 deaths). In 2016 the number of victims rose to 254<sup>27</sup> – 90 of them in Buenos Aires, 23 in Cordoba and 21 in Mendoza. In contrast to previous reports, in this edition the OM included the gender of the victims; of the total 5 were trans or transvestites. These deaths occurred in Formosa, Jujuy, Mendoza, Misiones and Rio Negro.

One of the main demands was for the **provision of legal aid** as the main avenue by which to gain access to the justice system. Although law 27.210 was drawn up to create a Body of Lawyers for the victims of gender violence, it was never enacted into law. The law would not only **ease the pressure on today's limited legal aid** for victims of violence but would guarantee a **reliable and accurate source of information**, paving the way for **starting justice processes** without professional help, which today is virtually impossible. But above all, it would solve the **problem of financial cost**, which represents a barrier for the vast majority of victims of male violence.

It should be pointed out that the passing of legislation, the creation of public policy and the allocation of funds are three elements that are difficult to reconcile in this country. As one of largest countries in South America with one of

24 The Meeting House was founded in 2003 to design a feminist project for the human rights of all women, girls, boys and adolescents. Its main activity is to maintain a femicide database. See: [www.lacasadelencuentro.org](http://www.lacasadelencuentro.org)

25 See more at: <http://www.csjn.gov.ar/om/index.jsp>

26 [http://www.csjn.gov.ar/om/docs/femicidios\\_2015.pdf](http://www.csjn.gov.ar/om/docs/femicidios_2015.pdf)

27 [http://www.csjn.gov.ar/om/docs/femicidios\\_2016.pdf](http://www.csjn.gov.ar/om/docs/femicidios_2016.pdf)

the highest populations, budget allocation and the lack of a decentralization policy are the most significant flaws.

In 2012, Argentina modified its Criminal Code and included gender violence as an aggravation in homicides. Thus, article art. 80 inc. 11 defines that one who kills ‘a woman when the act is perpetrated by a man and involved gender violence’. After court decisions and legal discussions, the Cordoba High Court for Justice (TSJ in its Spanish acronym), ruled that a previous relationship or the personality of the woman<sup>28</sup> are not requirements for establishing an aggravation.<sup>29</sup> Correspondingly, a bigger budget for policies of prevention and aid to women in situations of violence were the items most requested. However, 2017 is a year characterized by another **low budget for policies**, a product of the obligations embedded in the National Law for the protection of violence towards women (Law 26.485).

With regard to women’s rights, Argentina can boast comprehensive legislation, as a result of either the passing of internal laws or the ratification of international treaties. This legislative inflation, however, has not been accompanied by sufficient funding for policies, making them – and the whole system – inefficient and ineffective. As a result, **the institutions that receive women and carry out policies find themselves completely overwhelmed**, which also reveals how the most affected group – young women with children – was ignored when designing these policies. On the other hand, when addressing the **territorial distribution and decentralization of policies**, the focus was set on provincial capitals and large cities (and in the centres of those cities). This has led to an initial exclusion of women living in smaller towns or in the outskirts of cities where the legal centres and police stations do not have primary care facilities.



In 2009, the Law 26.485 recognized the right to live without violence, to comprehensive care and to access to the legal system in all provinces. In spite of the comprehensive nature of this legislation, the **lack of coordination between the centres** for family law, family violence and criminal law creates a *second layer of exclusion* for women. This legal and institutional pilgrimage that forces women to visit different institutions in what is a male-dominated legal system is another example of the many obstacles a woman faces, especially when she finds herself in a situation of violence. Other difficulties involve the provision of **legal aid** which is designed to assist her, and a situation of **economic struggle** that urges her to leave her home or become the sole breadwinner for her children.

In conclusion, the protection of rights promised by the Argentinian State does not correspond with the level of funding required to guarantee such protection. The *two exclusions* that women must leapfrog in order to just gain access to the legal system or to public policies enable us to conclude that the exclusions do correspond with statistics that show femicides have not ceased. Argentina has an internal debt, and that is to women.

28 After court decisions and legal discussions, the Cordoba High Court for Justice ruled that a previous relationship or the personality of the woman are not requirements for establishing an aggravation

29 Sentence No. 56 of the TSJ of 09.03.2017, which adds femicide as an aggravation.

## 5. BRAZIL

### AN INSUFFICIENT LAW AND THE LOSS OF AN INTEGRAL PERSPECTIVE

**Carla Gisele Batista / Educator and researcher, lecturer in women's, gender and feminist studies at the Federal University of Bahia**

In July 2013, the Brazilian National Congress created a Mixed Parliamentary Research Commission (CPMI in its Portuguese acronym) whose objective was to 'Investigate violence against women in Brazil and denounce the failure of authorities to implement the legal tools established in the Law for the protection of women in a situation of violence.' The report was drawn up on the basis of public hearings designed to gauge the results of the implementation of the *Law Maria de Penha* (LMP in its Portuguese acronym) in states. This report brought to light a series of problems to resolve. Among the recommendations and suggestions was the modification of the Criminal Code to include the insertion of **feminicide as an aggravating type of homicide**. As a result, in 2015 the Law 13.104, known as the Feminicide Law, was passed, making homicides for motives of gender a crime.

The LMP had a significant impact in the struggle to eradicate violence against women and offer protection for its victims at a time when femicide rates were rising in the country: in 1980 femicide rates were 2.3 out of 100,000, rising to 4.8 per 100,000 in 2013, an increase of 111.1%. That year there were a total of 4,762 homicides of women. There was a slight reduction in 2014 with 4,621 killings (4.5 per 100,000), followed by another drop to 4.38 per 100,000 in 2015. However, in the period 2005 to 2015 there was a 22% increase in the number of homicides of black women com-

pared to a reduction of 7.4% in the mortality rate of non-black women. This data shows increased vulnerabilities as well as the **impact of the racial question** in violent deaths.

The '*Atlas of Violence*' is the portal which contains data from the Ministry of Health (MS in its Portuguese acronym) and the police, managed by the *Institute for Applied Economic Research* (IPEA), and the *Brazilian Public Security Forum*, which is currently the reference in the country for deaths caused by gender-based violence. It provides data on the incidence of domestic, sexual and other violence, which began to be registered in the Notification of Injury Information System (SINAN)/MS after the passing of the Law 10.778 for the notification of cases of violence against women. The main problems identified are: on the one hand, not all cases of violence are reported and, on the other, among those reported, some are not registered in the system. The mortality records are available at the **Mortality Information System** (SIM/MS). This data deals only with the victims, with no reference to the perpetrator or aggressor.

The qualitative and quantitative improvement of information continues to be one of the greatest challenges. Currently, there is a **lack of official information** about the deaths, and there are **problems with the statistics and deficiencies in the data provided by the police and the justice system**, which do not always include the gender and colour/race of the victim. Furthermore, there is no exhaustive follow-up of the judicial processes to review how cases were resolved.

Quality and monitoring studies reveal that the **lack of resolution of police investigations and the number of cases per judge** are factors that negatively affect continuity in judicial processes. Faced with this lack of data, one of the recommendations of the CPMI was for the creation of a National Information System for Violence against Women.

Regarding social policy, in July 2016 there were 1,662 specialized care services for women in situations of violence, which includes 238 Women's Care Centres, 502 specialized delegations or police centres, 103 specialized courts, 45 care centres at the office of the Public Defender, 95 special promotions, 3 women's shelters, and 596 specialized health services.

The National Policy Office for Women, a ministry created by the Lula government, put a substantial effort into the creation of a **national strategy to confront violence against women**. During Dilma Rousseff's second term, and under the present administration, this institution found itself weakened and lacking a comprehensive approach to confronting the problem, instead relegating it to a mere police matter.

State and municipal policies also suffered from this, though there already were problems with constituting themselves as a national '*net-work*'. On the other hand, the proposals to develop **education policies that include a debate about gender equality and prevention of domestic violence** were met with strong opposition from the resurgent religious and/or conservative legal groups, who presented draft laws to limit the debate in schools.

Simultaneously, there was a growing outrage among women and feminist movements and more demonstrations against violence took place. From 2013, with the *marcha de las vadias* or 'slutwalk',<sup>30</sup> the 2015 *black women's march*,



the rural workers' march, and a series of actions which became known as the **women's spring**, until 2017, with the March mobilizations joining the transnational Not One Less movement to put an end to the gender violence, both social media and the streets have been taken over by militant young people, adding the power of their voices and their presence to the movements. The 25th of November will be another significant date to continue the struggle against this scourge.

30 Also known as 'Marcha de las Putas' (Slutwalk) in Spanish-speaking countries.



## 6. CHILE

### FOR A WIDER DEFINITION OF FEMICIDE

**Lorena Astudillo Pérez /  
Chilean Network against violence  
towards Women**

In Chile only murders committed by intimate partners or family members are classified as femicides, known as *intimate or domestic femicide*.<sup>31</sup> Collecting statistical data on femicide using these parameters therefore leads to data bias as all other cases of gender-based violence are ignored. Currently, **there is no national central database** that could be used by all relevant public bodies that are involved in the struggle against femicide, so data provided by the Ministry of Women can differ from that issued by, for example, the Public Ministry.

One of the biggest weaknesses in the system for collecting and processing data on femicide and violence against women is the **lack of dialogue and coordination between institutions**. Each institution uses different units of analysis for the selection of data corresponding to the particular institution's remit, its interests and objectives. For example, for the Office of the Under-Secretary of Crime Prevention what matters, and therefore is registered, are cases that involve the police; for the Public Ministry, it is crimes and their causes; the Health Ministry focuses on deaths related to illness; and for the Legal Medical Service, the key element is deaths.

Another difficulty in the development of a single central database are **the systemic flaws in each institution**. For example, the Legal Medical Service doesn't have a system that can generate informa-

tion automatically, available online and connected on a national level.

Some of the explanations for the differences in the data about femicide used by the various institutions can be, for example, **the difficulty in recording cases** in which the woman died some time after the violence took place; **the different units of analysis**; **the fact that femicide does not have a specific category** that is valid in some sectors, as well as **differences in information systems**.

Currently, femicide data is accessed through the Women's Ministry, which collects and processes the statistics with information collected from the Office of the Under-Secretary of Crime Prevention. This information is freely available on the Ministry's website<sup>32</sup> and includes the name of the deceased victim, her relation to the perpetrator and the number of children she had, if any.

A much more complete database was created by the **Chilean Network against violence towards women**, which collects information from many sources. On its website one can find the identity of the woman victim of intimate or non-intimate femicide, the identity of her killer, his relation to the woman, how the murder was committed, and legal/police data such as the reporting of previous violence or precautionary measures.<sup>33</sup>

In 2014, the Chilean Network against violence towards women published an investigation into extreme violence against women in Chile. According to the data presented,<sup>34</sup> in some 16% of the cases of women who had committed suicide in the period of the study had been suffering from violence by their partners. These are women who are driven to suicide probably as a consequence of the **assaults and constant violence** to which they have been subjected; women who sought help as the reality of their situations became ever more palpable. It is not possible to ascertain, with

31 Chilean Penal Code ART.390.

32 <http://www.minmujeryeg.gob.cl/wp-content/uploads/2015/11/Femicidios-junio3.pdf>

33 <http://www.nomasviolenciacontramujeres.cl/femicidio-ano-2015/>

34 MMetropolitan Region, 16.11%; Libertador Bernardo O'Higgins Region, 16.11% and Bio Bio Region, 15.0%.



existing data, how many more women took their own lives as a **desperate measure to put an end to abuse**, or from a feeling of **impotence in the face of the impunity** enjoyed by the perpetrators. In at least one case where a woman was raped, she committed suicide on hearing that the court had allowed her rapist to walk free.

Unfortunately, on many occasions the widespread impunity for violent partners continues after a woman commits suicide and, in some cases, the very same person is even awarded custody of the children. This is due to the fact that the real motive that led women to take their own lives, namely the abuse and the systematic and permanent violence perpetrated by aggressors against them, or a real feeling of being bereft of protection from the State and its institutions, is not taken into serious consideration. Instead, it is labelled as depression by legal courts and the health system.

The impending task of creating an **integrated database** that reveals the true scale of violence against women in Chile is both urgent and certainly arduous. On the other hand, all the information that various institutions collect could be used as a complement to create **effective policies** that are designed to **prevent and to eliminate the violence**.

Similarly, it is necessary to understand femicide as the direct murder of a woman for reasons of gender but also to understand that, as part of a continuum, femicide violence damages women throughout their lives either directly or indirectly. **Which is to say that when a woman takes her own life as a result of no longer being able to tolerate the violence of her partner, we are also talking about a femicide.** However, up to now, these appear to be realities which the Chilean State is not willing to address.

## 7. MEXICO

### IMPUNITY AND THE CRIMINALIZATION OF LEGITIMATE DEFENCE

Lucía Lagunes Huerta / *Women's  
Communication and Information  
(CIMAC)*

Since the decade of the 1990s Mexico has been considered as a country of high risk to women, especially after the femicide that occurred in Ciudad Juárez. What then appeared to be an isolated incident proved to be just the tip of an iceberg of horrific daily violence against women in Mexico.

The exact scale of this social scourge, how many lives of women and girls have been devoured by it, and what steps are being taken to stop it, are questions that have been asked repeatedly over two decades.

To provide some answers and at the same time an analysis of what authorities knew, registered, documented and investigated about femicide, in 2004 the feminist anthropologist and Federal Congresswoman, Marcela Lagarde y de los Ríos, carried out the first research project on femicide in ten states, comprising a third of the national territory.

The research produced the first data on femicide in Mexico. In 2004 alone, 1,205 Mexican women and girls were murdered for reasons of gender violence, which is equivalent to four women and/or girls per day.

What the research also uncovered was the **disdain on the part of authorities** for the investigation of the crimes committed against women, the **information disparity** among authorities on the subject, the **injustice for the victims of femicide and impunity** for offenders.

The official excuse for the absence of information and justice for women murdered as a result of gender-based violence was the lack of a legal framework that would serve as a roadmap. The **General Law on Women's Access to a Life free of Violence in 2007 (LGAMVLV)** was the response to this failure. The law also mandated the Federal Government to compile a **National Database of Information about Cases of Violence against Women** (BANAVIM), including the types and modalities of violence against women.

Neither the Law nor the creation of BANAVIM resolved the issue of institutional negligence. The Database represented a milestone, but it has not achieved what it was mandated to do, namely to provide information that would form the basis of public policy. One reason for this failure is that BANAVIM relies on information provided by the institutions and federal bodies, which creates huge weaknesses. Mexico City, for example, does not have one single database. Also, there is a **bias and inaccuracy in the information provided**, added to the fact that many governments prefer to hide data on violence against women and femicide to avoid them being 'identified' as dangerous entities for women. The lack of transparency also responds to the first findings in 2004 – the **indifference on the part of the government**, reflected in the lack of monitoring and inadequate registers for femicide violence.

According to the First Diagnosis on Sexual Violence in Mexico, carried out in 2016 by the Executive Commission for Attention to Victims, only 6 in 100 sexual aggressions were reported to authorities and of those only half were taken up by authorities. The **lack of credibility of authorities**, according to the diagnosis, is the main reason for the under-reporting of these crimes.

Impunity is one of the biggest problems in Mexico. Research indicates that 98 per cent of crimes in the country go unpunished. At the heart of this structural problem is impunity for gender-based crimes, which in turn fuels femicide violence.



**Impunity and the lack of a real commitment by the Mexican authorities** to comply with its constitutional mandate to protect the human rights of women is an unfortunate combination.

Since the promulgation of the LGAMVLV, the actions by authorities at all levels of the government were based on hindering, fragmenting and weakening that mandate. As a result, the lives of women and girls continue to be destroyed by misogynist violence. We are not only talking about the **breakdown of the rule of law**, but about the disillusion of new generations of feminists, who see the interaction with the State and its laws as a 'failed policy'.

**#VivasNosQueremos** (We Want Us Alive) was the slogan that rallied women in 27 of the 32 federal entities of the Mexican Republic on April 24, 2016. Brought together by social media, the new weapon of young feminists, it showed their frustration with government inaction to sexist violence. In the demonstrations, all generations of Mexican feminists were to be found, with a leadership comprised wholly of young people. While young women organized, chose the slo-

gans and methods, older feminists participated in the event with face-to-face meetings and by joining the march. However, like in many of these protests, after the march there was no tracking of the fulfilment of the demands or a questioning of the State's role.

**Impunity and the criminalization of legitimate defence** of women have become the linchpins of the feminist campaigns, such as the Committee for the Liberation of Yakiri<sup>35</sup> or the university-based demonstrations against the feminicide of Lesby.<sup>36</sup>

**Nourishing the resistance** is an urgent necessity, as well as **establishing political dialogues** that bring together strategies for a transformation in gender politics, the eradication of gender inequality and the elimination of violence against us.

It is crucial that international commitments such as the Action Plan EU-CELAC are not only acts of good faith, but also call for **accountability and monitoring both internally and externally**. Counterbalances have to be developed from a strong civil society, where the media are key to the transformation to equality of women.



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35 [https://elpais.com/sociedad/2013/12/16/actualidad/1387227046\\_222077.html](https://elpais.com/sociedad/2013/12/16/actualidad/1387227046_222077.html)

36 [https://elpais.com/internacional/2017/05/05/mexico/1493949825\\_841060.html](https://elpais.com/internacional/2017/05/05/mexico/1493949825_841060.html)

## II. The accession of the European Union to Istanbul: a mere gesture?

Gema Fernández Rodríguez de Liévana / *Women's Link Worldwide*

The Council of Europe Convention on preventing and combating violence against women and domestic violence represents the first piece of legislation for preventing and combating violence against women and girls that is legally binding at regional European level.<sup>37</sup> The Convention entered into force in August 2014, after ratification by ten States, eight of them members of the Council of Europe. It imposes obligations on States with regard to the **prevention of these forms of violence, protection for victims, criminal prosecution of those guilty of unlawful conduct and integration**. By imposing these obligations, all the measures contained in the Convention can form part of an integrated and coordinated set of policies that provide a global response to violence against women and domestic violence.<sup>38</sup>

### *Contribution of the Convention to the legal framework pertaining to violence against women*

Currently, all the member states of the European Union (EU) have signed the Convention and the EU is in the process of accession. This article briefly explains the progress of this process and explores the impact that the accession may have on the legal framework of violence against women, evaluating whether this is the best step that could have been taken, or whether there are other more appropriate measures for strengthening the framework.

### *Process of accession and effects*

In February 2014 the European Parliament called on the Commission to begin the process of accession 'once the consequences and the added value of this had been evaluated.'<sup>39</sup> The accession process began on June 13, 2017 with the signing of the Convention by the EU Commissioner for Justice, Consumers and Gender Equality. After the signing, the accession requires the consent of the European Parliament, which must approve the necessary legislation before it comes into force.

The accession has been presented by the European institutions as an example of their **commitment to combat violence against women**, both globally and within its territory, and as enhancement **of the existing legal framework and its capacity to act**.<sup>40</sup> It has also been said that the EU accession will guarantee complementarity between nations and the EU, and will bolster the ability of the former to play a more effective role in international forums such as the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO).<sup>41</sup>

Without wishing to dampen institutional enthusiasm, it is necessary to calculate the potential impact of the accession on the difficulties that exist in a region where legislative shortcomings and weaknesses in state systems for protection

37 Convention of the European Council on preventing and combating violence against women and domestic violence, adopted in Istanbul on 11 May, 2011. <https://rm.coe.int/168046031c>

38 European Council Convention on preventing and combating violence against women and domestic violence: Free from fear. Free from Violence. <https://rm.coe.int/1680464e73>

39 European Parliament resolution of 25 February 2014 with recommendations to the Commission on combating Violence Against Women (2013/2004(INL)), paragraph 4.

[www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0126+0+DOC+XML+V0//EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0126+0+DOC+XML+V0//EN)

40 Press release by the European Council 11 May 2017: The EU joins the international convention for combating violence against women.

<http://www.consilium.europa.eu/en/press/press-releases/2017/05/11-violence-against-women/>

41 Ibid. GREVIO is the monitoring mechanism of the Convention.



and justice in cases of violence<sup>42</sup> continue to exist. On the other hand, **the integration of the Convention into the legislative framework of the Union and its capacity to have a direct effect** on its legal system are in doubt.<sup>43</sup>

The legal systems of **each one of the twenty-eight member states offer unequal protection** for women against the different types of gender-based violence, which, moreover, are defined and dealt with in different ways in each country. The situation is exacerbated by the absence of directives that define and regulate violence against women. Although the mere existence of directives does not ensure the harmony of legisla-

tions in EU countries, as illustrated by the case of human trafficking, it is a solid first step.<sup>44</sup>

This accession represents a strong political gesture that positions the EU as the global leader in the defence of human rights, and could guarantee against the risk of incoherence or double standards with regard to violence against women. However, legally, the most appropriate measure for combating gender violence **would be the adoption of a Directive**, as recommended by a study commissioned by the European Parliament.<sup>45</sup> Effectively, a European Directive about violence against women would, for the first time, have the capacity to create a common understanding about the

42 An example of this are the cases where the European Court of Human Rights has ruled that there were violations of the European Convention on Human Rights by EU Member States: Slovakia, Italy, Romania, Lithuania, Austria, France, Cyprus, Greece, Belgium, Sweden, Poland, UK, Bulgaria, Hungary, Spain, Ireland, Slovenia – in cases of violence towards women.

([http://www.echr.coe.int/Documents/FS\\_Violence\\_Woman\\_ENG.pdf](http://www.echr.coe.int/Documents/FS_Violence_Woman_ENG.pdf)) and violence between couples ([http://www.echr.coe.int/Documents/FS\\_Domestic\\_violence\\_ENG.pdf](http://www.echr.coe.int/Documents/FS_Domestic_violence_ENG.pdf))

43 Research paper: Assessing the necessity and effects of intervention at EU level. Pages 42 and 43.

[www.europarl.europa.eu/RegData/etudes/etudes/join/2013/504467/IPOL-JOIN\\_ET\(2013\)504467\(ANN01\)\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/504467/IPOL-JOIN_ET(2013)504467(ANN01)_EN.pdf)

44 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and the protection of its victims.

45 European Added Value Assessment of a Directive on combatting violence against women. An assessment accompanying the European Parliament's Legislative own-Initiative Report, Page 33.. [www.europarl.europa.eu/meetdocs/2009\\_2014/documents/femm/dv/eav\\_violence-against-women-eav\\_violence-against-women-en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/femm/dv/eav_violence-against-women-eav_violence-against-women-en.pdf)

definition and category of this violence in each Member State; it would have a direct effect on the legislation of States; and it would incorporate mechanisms for stronger sanctions than those laid down by the Convention.

The question now is whether European institutions will continue to take the necessary steps to legislate on this matter and make a real change in the lives of millions of women and girls in the European Union.

### *Influence of the accession on the EU's foreign policy*

The significance of the accession in terms of the EU's foreign policies, which are the responsibility of the European External Action Service (EEAS), is an interesting question. Reducing violence against women has become **one of the priorities of development policies and humani-**

**tarian action plans of the EU**, while one of the three objectives of the new EU Gender Action Plan 2016-2020 is for women and girls to live a life free from violence.<sup>46</sup> The struggle against gender-based violence is mentioned in some treaties between the EU and the African, Caribbean and Pacific group of states (ACP) as a way to reduce the HIV problem and as a necessary element in the process of building peace, and the prevention and resolution of conflicts.<sup>47</sup>

It is to be hoped that the accession strengthens the EU's inter-regional dialogue with regions that already have legal instruments to combat violence towards women, such as the pioneering Latin American Belém do Pará Convention,<sup>48</sup> and that the European External Action Service integrates the obligations contained in the Istanbul Convention into its foreign policies.

46 EU Gender Action Plan 2016-2020. Transforming the lives of girls and women through EU external relations. <https://europa.eu/capacity4dev/public-gender/minisite/eu-gender-action-plan-2016-2020>

47 Partnership Agreement 2000/483/CE between the States of Africa, the Caribbean and the Pacific countries, on the one hand, and with the EU on the other (Cotonou Agreement). [http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:22000A1215\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:22000A1215(01)&from=EN)

48 Interamerican Convention to Prevent, Sanction and Eliminate Violence against Women, adopted in 1994. <http://www.oas.org/en/mesecvi/convention.asp>

## 1. SPAIN

### THE HIDDEN FIGURES OF GENDER-BASED VIOLENCE IN SPAIN

Estefanny Molina Martínez /  
*Women's Link Worldwide*

The current political and social scenario demonstrates that inequality and violence against women is a structural problem that affects every society in the world, including Spain. With the global rise of the economic and political power of the conservative right, the situation has undoubtedly worsened. Faced by this, feminist and women's movements have reconsidered their strategies with the aim of combining into one campaign all the diverse struggles: against racism; for the rights of migrants; for the protection of sexual and reproductive rights; for access to health services, for the rights of LGBTIQ; for a dignified life free from violence; and for a diverse, intercultural and feminist future. This vision would make possible an **intersectoral project** that, unfragmented, would raise awareness about the violations of the human rights of women and girls, showing governments that global civil society will not tolerate violence and is ready to defend equality and non-discrimination.

The need to recognise the full scale of gender violence (GV) has been a key demand of the Spanish feminist movement for some time. During the International Women's 'Walkout' (PIM) which took place on 8 March 2017 in various

Spanish cities, hundreds of women, platforms<sup>49</sup> and various Spanish feminist organizations called for the State to comply with its obligation to protect against 'old and new' types of GV.<sup>50</sup>

#### What is not seen in Spain

Since 2004, Spain has the Organic Law 1/2004 that seeks to prevent and sanction GV, and protect its victims.<sup>51</sup> However, the law's **definition of what constitutes GV is limited and inadequate**, reducing it to violence perpetrated on women by partners or ex-partners, or those with emotional ties to the victim but do not necessarily cohabit. Meaning that other forms of GV, such as trafficking of women, female genital mutilation, non-intimate feminicide or sexual violence, are not recognized by law. They are therefore invisible in official data.

The same law created the **State Observatory on Violence against Women**,<sup>52</sup> an inter-ministry body that works with the Government Office for Gender Violence. This Office is responsible for analysis, institutional cooperation and the drawing up of reports and studies, as well as the creation of action plans for GV. One of the main objectives of the Observatory was the creation of an official database that collates all information provided by the relevant public institutions with a focus on GV, with the aim of 'analysing the scale of the phenomenon and its development'.<sup>53</sup>

The official information and sources are very diverse.<sup>54</sup> The **legal data on the number of crimes reported** for GV, the **number of protection orders** issued and **information on how legal cases were resolved** is provided by the

49 Such as the CEDAW Sombra Espana (Spanish Shadow) and 7N Platforms.

50 Demands for end to impunity for feminicide and sexual assaults, for a fair and just wage, for the protection of children from abusive fathers, for the protection from street and web harassment, for a dignified abortion, for the secularism of the Spanish State, for equality in public office, for an education on equality, for a justice system free from stereotypes, for sufficient public funding for combating GV.

51 Organic Law 1/2004, of 28 December, Measures for the Integral Protection against Gender Violence.

52 Article 30. See also: Real Decree 253/2006, of 3 March.

53 Information available at: [www.violenciagenero.msssi.gob.es/violenciaEnCifras/observatorio/home.htm](http://www.violenciagenero.msssi.gob.es/violenciaEnCifras/observatorio/home.htm)

54 Information available at: [www.poderjudicial.es/cgpj/es/Temas/Violencia-domestica-y-de-genero/Actividad-del-Observatorio/](http://www.poderjudicial.es/cgpj/es/Temas/Violencia-domestica-y-de-genero/Actividad-del-Observatorio/)

General Council of the Judiciary.<sup>55</sup> The information on the **monitoring and follow-up of cases**, and data on prisoners carrying out sentences for GV are provided by the Ministry of the Interior.<sup>56</sup> The Employment and Social Security Ministry (ESSM)<sup>57</sup> supplies data on the **employment situation of women** who have survived attacks. Information about **phone calls for support service and legal advice**, as well as protection services for women who have survived assaults are provided by the Government Office, which also keeps count of **the number of femicide** as well as the **murders of children of the victims**.<sup>58</sup>

In spite of all the information produced by the State, there are various limitations when it comes to interpreting the data. The main drawback is the definition of GV laid down in the Law 1/2004, with the result that only data on intimate femicide are gathered and not on all cases of femicide. According to official sources, by July 2017 there had been 32 femicide,<sup>59</sup> while for civil organisations that collect wider data on femicide the number doubles.<sup>60</sup>

In consequence of the fact that official data and the Law's definition of GV do not include other types of femicide and other forms of violence they remain invisible.<sup>61</sup> The errors of definition have a knock-on effect in the creation and implementation of measures against GV by the State, making them neither sufficient nor effective for the prevention, investigation and subsequent sanction

of gender-based violence. With such serious limitations and with such incomplete official data it is not possible to comply with the objectives of the UN Special Rapporteur who called for the creation of an Observatory of femicide. Furthermore, the available data is not broken down into categories such as the sex of perpetrator or victim, or the relationship, if any, between them.

On the other hand, regarding the types of violence that are included in the Law, merely reading the official statistics is sufficient to be concerned about the relation between the obstacles women face in receiving fair and equal treatment from the justice system and the number of femicide. Obstacles like the **lack of credibility of survivors of GV** in the courts, the continuing **designation of mitigating circumstances in crimes of femicide**, the use of gender stereotypes in court rulings, or the **filing of criminal cases**. The result is that many women who report GV to authorities are unable to enjoy the benefits of full protection measures, such as the issuing of protection orders, and continue to suffer GV and, down the line, can even be murdered. This reveals the tolerance shown by the Spanish State towards violence and impunity for offenders.

In light of the foregoing, for Spain to comply with international and European treaties on violence against women it will be necessary to change Law 1/2004 to make it all-encompassing.<sup>62</sup> The Law should **include all types of GV** so that

55 [www.poderjudicial.es/cgpj/es/Temas/Violencia-domestica-y-de-genero/Actividad-del-Observatorio/](http://www.poderjudicial.es/cgpj/es/Temas/Violencia-domestica-y-de-genero/Actividad-del-Observatorio/)

56 [www.interior.gob.es/web/servicios-al-ciudadano/violencia-contra-la-mujer/estadisticas](http://www.interior.gob.es/web/servicios-al-ciudadano/violencia-contra-la-mujer/estadisticas)

57 [www.sepe.es/](http://www.sepe.es/)

58 The data was collected after the Spanish State was found guilty in the case of Angela Gonzalez Carreño by the CEDAW Committee in 2014.

59 [www.violenciagenero.msssi.gob.es/violenciaEnCifras/victimasmortales/fichamujeres/pdf/VMortales\\_2017\\_07\\_28.pdf](http://www.violenciagenero.msssi.gob.es/violenciaEnCifras/victimasmortales/fichamujeres/pdf/VMortales_2017_07_28.pdf) (Provisional data)

60 Femicidio.net has counted 63 feminicides and murders. Information to 29 July 2017.

[www.femicidio.net/articulo/listado-femicidios-y-otros-asesinatos-mujeres-cometidos-hombres-espa%C3%BA-2017](http://www.femicidio.net/articulo/listado-femicidios-y-otros-asesinatos-mujeres-cometidos-hombres-espa%C3%BA-2017) See, also: information to 3 July 2017 by the Federation of Separated and Divorced Women. Available at: [www.separadasydivorciadas.org/wordpress/graficos-en-2017/](http://www.separadasydivorciadas.org/wordpress/graficos-en-2017/)

61 The Spanish Congress is in the process of a full debate for the approval of the Pacto de Estado (Government Pact) on gender violence. The Pact responds to the urgent situation regarding murders of women and to the need for State institutions to dedicate all resources to combating GV. However, due to lack of political will, State treatment of GV is still insufficient. Among other drawbacks, the Pact lacks enforceability and sufficient funding.

62 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), chapter II.

official information and statistical data are accurate and complete, and serve effectively as the basis for the creation of policies and special measures for each type of violence. Furthermore, such measures must guarantee the right to **reparation and full protection for victims and survivors**.

Official statistics and data should also include the experiences of women and girl survivors of femicide. Lastly, special training must be given to all legal and other personnel who deal with victims of GV or femicide in a professional capacity.



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## 2. FRANCE

### FEMINICIDE: THE NEED FOR A WIDER CAMPAIGN

Angela Muller, Anne-Cécile Mailfert /  
Fondation des femmes  
(Women's Foundation)

Intimate partner deaths account for around 20% of homicides each year. In 2015, 122 women were murdered by their partners or ex-partners in France. Such numbers are sufficient to demonstrate both the existence and the scale of the femicide phenomenon in French society, and the need for French law to adequately classify gender-based crimes.

In spite of the recent reforms, there is still a **problem of public recognition of femicide and its legal classification**. Since the law on the promotion of equality and citizenship was put in place on 27 January 2017, aggravating circumstances for discriminatory motives have been introduced. Thus, article 132-77 of the Penal Code establishes that 'when the offence is preceded, accompanied or followed by written or spoken words, images, objects or actions of whatever nature which damage the honour or the reputation of the victim, or a group of persons to which the victim belongs, on account of their sex, their sexual orientation or their gender identity, true or supposed, the maximum penalty of deprivation of liberty shall be increased. (...)'

This new amendment, rather than focusing on the sex of the victim – it could be a man or a woman – is directed at the motive of the perpetrator. For the first time the law recognizes the specific nature of sexist murders, and, therefore, in an indirect way the murder of a woman for being a woman. Until the modification of the Law, crimes linked to sexist discrimination were not classified as such. There were only aggravating circumstances when there had been

violence or offences against a woman when these were committed by her partner. When a murder was committed by the partner of the victim the legal distinction between vicious and sexist motivations did not exist. In this context, the law of January 2017 represents progress with the addition of aggravated circumstances to sexist offences whether committed in intimate or public circumstances.

However, the new law does not explicitly recognize the existence of a **macho system of discrimination** that results in the death of women. French criminal law still refuses to recognize the concept of femicide as such due to the principle of non-discrimination and equality enshrined in the Constitution. For this reason the new law does not completely meet either the demands of women's organizations or international advances in this area.

Apart from the legal problem of classification, there are serious difficulties in creating a proper database for this type of crimes. The **legal vacuum with regard to gender-based crimes** that existed before the passing of the January 2017 law meant that no accurate census of femicide existed in France. One can only suppose that a massive number of crimes committed by intimate partners and classed as murders were in fact femicide. The statistical data relating to sexist crimes published by the relevant authorities must take into account a sexual profile. Until then we will be unaware of the dimensions of this social problem. In general, the **data is not published in a timely manner**. Data compiled by the Ministry of the Interior relating to intimate partner murders in 2016 have still not been published and women's organizations have been forced to glean information from the press to create their own census.

With respect to public opinion, the campaign for the recognition of femicide has been and continues to be somewhat hesitant. The first campaign to recognize femicide in law was organized by the French association *Osez le féminisme!* in 2014. Later, the *Insomnia Collective*





created a flash campaign supported by the media, where posters of the 100 women who died at the hands of their partners were plastered on all over bus stops. Combating feminicide became the rallying call in the demonstrations against violence against women of 25 November 2016. Through social media, anonymous activists campaigned using hashtagssuchas *#IAMFEMINICDEOPHOBE* (*#JeSuisFeminicidophobe*) or through websites that draw the media's attention. However, when feminicide occur the response continues to be marginal. Often it is left to the families of the victims to publicize cases and 'white marches' take place regularly, such as the one organized for Aissatou Sow, a young woman murdered by her ex-partner in November 2016.

Recently, the national newspapers decided to give exclusive coverage to feminicide. In 2017, the newspaper *Libération* devoted an entire dossier to intimate partner murders, while the online daily *Slate* published an article entitled 'In France you die if you are a woman'. Though such articles

are **testament to raising awareness by a section of the media**, they are relatively few and far between. The term feminicide, which is included in the dictionary since 2014, is still concealed and absent from public debate. We can conclude, therefore, that it is not a priority for policy makers.

If the January 2017 law leads to a **better classification of crimes committed for reasons of gender**, we will have to wait to see the concrete results of its application. For this to happen, it would be necessary for the French authorities, together with members of the public of both genders, to use this new law and insist on applying aggravating circumstances to gender-based crimes. Finally, in spite of recent legal progress, there is still much work to be done in campaigning to raise public awareness so as to reach a definition and a better understanding of these types of crimes with the ultimate aim of eradicating them completely.

### III. Femicide and clandestine abortions in the European Union and Latin America<sup>63</sup>

Ana Martínez Fernández / Heinrich-Böll-Stiftung European Union



*'We live in a society that bargains with women for the technical and subjective resources to be owners of our bodies and our sexuality, and in this way, expropriates our power to be owners of our own lives. The misogynist and sexist double standards regarding abortion drive women to risk their health and their lives in unsafe abortions. Or, in a different sense, these double standards are imposed on us by bureaucrats with greater power than our democratic rights.'*<sup>64</sup>

The right to abortion has been and continues to be one of the most hard-fought for and controversial demands of women's movements. The struggle for abortion rights is a matter of social justice, where a woman's right to choose about her body and life is the main victim.

According to the UN, Latin America is currently the area of the world with the highest percentage of unplanned pregnancies (56%),

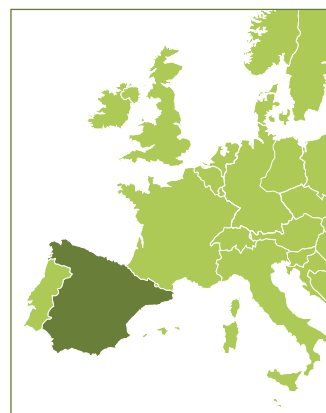
with hundreds of thousands of clandestine abortions taking place every year in the region. Nicaragua, the Dominican Republic, Honduras, Haiti, El Salvador, along with Chile – where legislative changes are ongoing – are countries where abortions are severely punished and where women's and girl's human rights are being continually violated. In Europe, Andorra, Malta and the Vatican are the only countries where abortion is prohibited in all cases.

<sup>63</sup> The following texts have been written with the collaboration of Estefanny Molina, Morena Herrera, Liz Meléndez, Carla Gisele Batista, Samanta Funes, Diana Maria Salcedo, Lucía Lagunes y Evelyn Flores.

<sup>64</sup> Lagarde, Marcela (2013): *El feminismo en mi vida*.

In **Spain**, the Law of sexual and reproductive health recognizes women's rights to abortion. However, the desire for dignified abortions in the sense of a process involving **respectful treatment, accurate medical information**, non-discriminatory attitudes and the granting of the freedom to choose is often met with **prejudice, gender stereotyping** and an **institutionalized conscientious objection** in the public health services. In many cases public medical professionals have not provided women with sufficient information about the state of their pregnancy or of the foetus for them to take a free, conscious decision.

On the other hand, conscientious objection, which must be an individual and not an institutional matter, is being wrongly interpreted.



There are Spanish regions where no abortions are carried out by public services (Aragón, Castilla León, Castilla La Mancha and Murcia<sup>65</sup>); instead, they are all channelled to private clinics. The **lack of medical professionals in public health services who are not objectors** has obliged many women to use private clinics, often located at other ends of the country with all the extra cost, family inconvenience and travel expense involved.

In **Northern Ireland [4]**, the 1967 Abortion Law which legalized abortion in Britain was never enforced. Abortion is therefore prohibited except in extreme cases where the mother's life is in peril. **Scotland [3]**, **Wales [2]** and **England [1]**, on the other hand, have pro-abortion regulations. Recently, the British Minister for Equalities announced that women from Northern Ireland could have free abortions provided by the National Health Service (NHS).<sup>66</sup> However, the First Minister of Northern Ireland recently declared that her administration will do 'everything in its power' to resist calls from the UK government to alter the province's abortion laws. The Belfast court of appeal subsequently ruled that Northern Ireland's restrictive legislation did not infringe human rights.



In **Ireland**, the Protection of Life During Pregnancy Act,<sup>67</sup> which came into force in 2014, is one of the most restrictive in the world, allowing the termination of pregnancy only if there is a real and substantive risk to the life of the mother, including the risk of suicide. All other cases such as pregnancies resulting from rape, incest or foetal abnormalities that do not risk the life of the mother are prohibited.

65 Information available at: [www.felgtb.org/rs/7262/84bd1f8d-134d-42a0-a8ee-cd688d29aaa2/e1e/filename/informasalud-sexual-y-reproductiva.pdf](http://www.felgtb.org/rs/7262/84bd1f8d-134d-42a0-a8ee-cd688d29aaa2/e1e/filename/informasalud-sexual-y-reproductiva.pdf)

66 <https://www.theguardian.com/world/2017/jun/29/rebel-tories-could-back-northern-ireland-abortion-amendment>

67 <http://www.consciencelaws.org/law/laws/ireland001.aspx>

In a recent decision the **United Nations Human Rights Committee** (UNHRC) has again condemned Ireland for legislation that protects the right to life of the unborn.<sup>68</sup> This is the second time in the last year that the organization has pressured the country to legalize abortion. In June 2016, the UNHRC criticized **Ireland's abortion law** in the case of Amanda Mellet, a young woman who suffered 'cruel, inhuman and degrading treatment' after being denied an abortion, despite the fact that she had been diagnosed with fatal foetal impairment. She was forced to travel to Britain to have the pregnancy terminated.

In addition, a **Citizens Assembly** set up by the Irish Parliament to study the abortion laws in Ireland, recommended, among other things, 'the elimination of the eighth amendment to the Constitution which gives the foetus the same right to life as the woman,' according to the Irish Constitution. This amendment, according to the Constitution, can only be repealed by means of a referendum.

In **El Salvador** [1], many young girls and young women living in conditions of poverty find themselves trapped between sexual violence, rape-induced pregnancies and the criminalization of abortion in all circumstances.



The legal system continues to unjustly condemn women with obstetric complications **to sentences of 30 years in prison**. These are young women who have been initially accused of abortion.

Despite the recognition by the Ministry of Health that the absolute criminalization of abortion is a grave public health problem,<sup>69</sup> eight years have passed without any other statements by government bodies in favour of changing the abortion law. Meanwhile, in the Legislative Assembly political parties continue casting their votes to reform the abortion legislation in the Penal Code with electoral calculations in mind.

In **Mexico** [2], ten years have passed since the **City of Mexico** decriminalized abortion for pregnancies **less than twelve weeks**. In the rest of the country abortion continues to be a crime, with some exceptions depending on particular federative entities, but abortion after rape is decriminalized in all of them. With Mexico City's new constitution women's right to choose is safeguarded, and in Veracruz, in the Gulf of Mexico, the local congress is currently debating the amendment of the Penal Code to decriminalize abortion for up to 12 week gestations.

68 [tbinetnet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRL/CCPR\\_C\\_119\\_D\\_2425\\_2014\\_25970\\_E.pdf](https://tbinetnet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRL/CCPR_C_119_D_2425_2014_25970_E.pdf)

69 On 21 February 2017 the Minister of Health (MINSAL) together with the High Council for Health (CSSP), the Salvadoran Social Security Institute (ISSS) and the National Commission for Bioethics (CNBES), publicized their public position in the framework of the legislative debate of reforms to the Penal Code for the decriminalization of abortion in four cases.

In **Nicaragua [3]**, all types of abortion have been criminalized since 2006. This has caused an increase in the suicide rate among young women, and many women are forced to have unsafe abortions. For a decade an answer has been expected from the Supreme Court of Justice on an appeal of unconstitutionality for the elimination from the Penal Code of therapeutic abortion. The National Assembly shelved the draft Termination of Pregnancy Law for reasons of health, which was proposed by a group of citizens who complied with all the established legal formalities. However, they did manage to popularize their slogan *Las Queremos Vivas* (We Want Them Alive).

In **Peru [1]**, therapeutic abortion has been decriminalized.<sup>70</sup> In a country that leads the region's statistics for sexual violence, where in 2016 around 60% of adolescent pregnancies (12 to 16 years of age) were a consequence of rape, the situation is of great concern. **The lack of guarantees for the exercise of women's reproductive rights** is a form of direct discrimination with possibly fatal consequences, and campaigning for such rights must be part of the ongoing struggle to combat gender-based violence.

After the 2016 general elections and with a new Congress in place, feminist organizations<sup>71</sup> presented a new proposal of law<sup>72</sup> that called for the decriminalisation of abortion for rape. In contrast to their previous legal submission, this time they added foetal 'malformations incompatible with life' as a cause, requiring the State to guarantee a woman's right to choose and to provide the appropriate support. The debate about the proposed legislation is pending but it will be met with serious opposition given that the conservative majority in Congress will be reluctant to engage with gender politics.

In **Brazil [2]**, the Supreme Federal Court displayed a more democratic understanding of human rights and social justice in November 2016, when it issued a judgement in a case against the criminalization of abortion during the **first three months of pregnancy**. In February 2017, an opinion poll revealed that **64% of the population disagreed** totally or partially with the **imprisonment of women for abortion**.



Religious political groups in the National Congress have presented their own **proposals for changes in the law which threaten the reproductive rights of women**. Women's and feminist movements have rallied against the passing of such legislation and their campaign, a product of the alliance between women, trade unions and some sectors of political parties, will culminate in the street protests of 28 September.

70 Voluntary termination of pregnancy when it is the only means to save the life of a pregnant woman or avoid a grave or permanent danger to her life; legal since 1924.

71 Centro de la Mujer Peruana Flora Tristán, Movimiento Manuela Ramos, Promsex, Demus, Católicas por el derecho a decidir y Cladem.

72 Law that decriminalizes abortion in cases of pregnancies resulting from rape, artificial insemination or ovarian transplantation without consent and non-viable fetuses.

In **Argentina** [3] since 1921 the Criminal Code (art. 86) establishes exceptions to the criminalization of abortion: '*a) in the case of danger to the life of a woman; b) in the case of danger to the health of a woman; c) in the case of rape; d) in the case of sexual assault on a feeble-minded or demented woman.*' In 2015 the Ministry of Health issued a '*Protocol for the comprehensive care of persons entitled to legal termination of pregnancy*', updating the 2007 and 2010 protocols, with medical, bioethics and legal information for health professionals. However, this document lacks the status of a ministerial resolution and has been widely rejected by public hospitals and health professionals.

According to official statistics, between 460,000 and 600,000 clandestine abortions are carried out every year, while in public hospitals 53,000 abortions were performed. In 2015, around 55 women died as a result of unsafe abortions while 298 women lost their lives due to other indirect causes such as infections, hypertension and/or haemorrhages during pregnancy or birth.<sup>73</sup>



In **Colombia** [4], the struggle for the decriminalization of **abortion** has had a direct effect on public health, as well as on the institutional strategies that, with an ethical and secularist constitution, should guarantee access to health services for sexual and reproductive matters.<sup>74</sup> Around 400,000 clandestine abortions<sup>75</sup> are carried out in Colombia each year. As a consequence of the techniques used in these abortions, complications arise that are then not treated properly in hospitals and clinics. Furthermore, it is clear that there is a **dearth of statistical data** and when **the plight of poor and rural women is ignored** to such an extent we have to ask ourselves what are we offering these young people as a society. What sort of life plans or expectations do we have for them? What academic and work goals, if any?

In **Chile** [5], in August 2017, the Parliament passed a draft bill that proposes providing legal abortion in cases of **risk to the life of the mother, non-viable fetuses and pregnancies resulting from rape**, within the first 12 weeks of a pregnancy. The women's movement has reported that 70% of the Chilean population

support decriminalization for these three situations. In spite of the progress represented by the draft bill, especially in the case of sexual violence, the conservative coalition proposed an amendment that stopped the passage of the bill. However, as I write these lines, the Constitutional Court has just given the green light to the Chilean abortion law. Despite celebrating the new legislation as a 'social gain' in recovering rights that were snatched away from them three decades ago, women's organizations argue that there will still be women condemned to back street abortions and that the battle for the right to choose in Chile still has a long way to go.

73 FEIM (Foundation for Study and Research about Women).

74 Objectives for Sustainable Development, United Nations. Available at: <http://www.un.org/sustainabledevelopment/es/>

75 Prada E. et al. (2011): Unintended pregnancy and induced abortion in Colombia – causes and consequences. New York: Guttmacher Institute.

In **Bolivia** [6], where in 2016 115 illegal abortions were carried out every day, the existing Penal Code establishes that abortions are only permitted in cases of rape, abduction not followed by marriage, incest, or danger to the life or health of the mother when all other medical possibilities have been exhausted.<sup>76</sup>

Last March, the government presented a **proposal for modifications to the existing legal framework**, where it considered other reasons for the voluntary termination of pregnancy, such as women in extreme poverty, students and mothers of three or more children lacking sufficient resources for their upkeep, provided the request for abortion is presented **within the first eight weeks of the pregnancy**. However, in cases where any of the above reasons do not apply, the punishment for illegal abortions is established at between one and three years in prison.

In spite of the significant progress represented by the draft bill, presented by the most progressive elements within the governing party and with the approval of OACNUDH,<sup>77</sup> there has been much criticism, especially from the Catholic Church and other religious creeds, which have totally rejected it.

In **Uruguay** [7] there is a **law with time limits** that permits abortion within the first 12 weeks in all cases; up to 14 weeks in cases of rape and without time limits for non-viable fetuses or when a woman's life or health would be in danger. The Uruguay law also proposes what is called "informed consent", a procedure whereby a woman has to consult with a team of professionals and, after a five-day period for reflection, she can make a decision.

The country has seen a **large decrease in maternal mortality in recent years**. In Uruguay, 14 women die for every 100,000 births,<sup>78</sup> which is the second lowest maternal death rate of any country in the region. However, there are still cases of clandestine or unsafe abortions,<sup>79</sup> especially among women in situations of social exclusion and those who live in rural areas. Apart from a lack of information available, studies point to **conscientious objection** as the reason why some women find it difficult to access services for the voluntary termination of pregnancy as permitted by the law. Thus, the National Gender Observatory for Sexual and Reproductive Health of the MYSU has calculated that in some departments of the country over 60% are conscientious objectors.



76 Art. 266 Código Penal Boliviano. <https://bolivia.infoleyes.com/norma/1401/codigo-penal-cp>

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# Links

## Links to article references and authors' organizations

**Feminist Center for Information and Action (CEFEMINA), Costa Rica**

[www.cefemina.com](http://www.cefemina.com)

**Feminist Collective for Local Development, San Salvador**

<http://colectivafeminista.org.sv/>

**Flora Tristán, Peruvian Women's Center, Peru**

[www.flora.org.pe](http://www.flora.org.pe)

**Women's International League for Peace and Freedom (LIMPAL), Colombia**

<http://limpalcolombia.org/>

**Chilean Network Against Violence towards Women, Chile**

<http://www.nomasviolenciacontramujeres.cl/>

**Women's Communication and Information (CIMAC), Mexico**

<http://www.cimac.org.mx/>

**Women's Link Worldwide**

<http://www.womenslinkworldwide.org/>

**Women's Foundation, France**

<http://fondationdesfemmes.org/>

**Women's Network against Violence, Nicaragua**

[facebook.com/rmcv.nicaragua/](https://facebook.com/rmcv.nicaragua/)

**Cordoba Feminist Lawyers Group, Argentina**

[facebook.com/CuorpodeabogasFeministas/](https://facebook.com/CuorpodeabogasFeministas/)



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Violence against women (VAW) and femicide/feminicide are issues of great concern in Latin America as much as in Europe. Proof of this can be seen in the incorporation of chapter 7 into the EU-CELAC Action Plans 2013-2015 and 2015-2017 by the EU-CELAC, which dedicates specifically on guaranteeing gender equality and protection, relevance and promotion of women's rights and, as one of their main component, the eradication of all kind of violence affecting them.

However, despite what is established in the Action Plans only few initiatives regarding the combat against VAW have been implemented. In this context, it is necessary to introduce legislative measures or adequate norms to ensure that the approach towards VAW is not limited to the violence in the spheres

of the couple, former couple or family, as well as to implement the recommendations by the CEDAW Committee for Latin America and Europe such as the education and specialization of prosecutors, police and judges and other public agents related to cases of VAW to ensure the strict application of the law.

This fifth edition of 'Feminicide: A global phenomenon' covers the situation of femicide in different countries and the recent call by the UN Rapporteur on violence against women for the creation of 'feminicide observatories'. Further, it contains articles about the absolute criminalization of abortion and its relationship with reproductive rights, maternal deaths and clandestine abortions.

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