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**BACKGROUND PAPER**

**JOINT PUBLIC HEARING**

**FEMINICIDE  
THE CASE OF MEXICO AND GUATEMALA**

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**BRUSSELS**

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Rights Unit**

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*Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and nullifies the enjoyment by women of their human rights and fundamental freedoms. The long-standing failure to protect and promote those rights and freedoms is a matter of concern to all states and should be addressed.*<sup>1</sup>

## 1 DEFINITION OF FEMINICIDE

The phenomenon was initially recognised in Mexico in Ciudad Juárez and in the City of Chihuahua.

The *Mexican Chamber of Deputies' "Special Commission to study and review the investigations of murders perpetrated against women in Mexico and promote justice for the victims of femicide"*, has coined the term Femicide which describes murders of the women and girls of exceptional brutality.

The daily newspaper, *Prensa Libre*, carried an article on 12 June 2004 about the discovery of the body of 17-year-old *Andrea Fabiola Contreras Bacaro* on waste ground in Jocotenco, Zacatepec. The article described the brutal murder, stating:

*"She was found with her hands tied in a plastic bag which had been thrown into a ditch used as a rubbish dump. Her throat had been cut, she had wounds and cuts on her face and chest and she had been shot at close range in the head. She had been raped; her plastic sandals, white blouse and underclothes were found next to her body".*<sup>2</sup>

The initial concerns on murders of women and girls were raised by NGOs in late 2001, which were worried about the brutality of the killings of over 200 women since 1993 in Mexico and the wide impunity related to them. The brutality of the murders and the impunity of the perpetrators are two characteristic features of femicide.

Other distinctive marks, which can be connected to the femicide, are initial reactions of denial particularly at local level, lack of proper investigations, and the lack of willingness to detain and bring to justice those responsible for the murders, discriminatory and disrespectful attitude towards to the family members of the victims and even the blaming of the victims. ... Femicide can also continue because the authorities do not efficiently carry out their work to prevent, avoid, and sanction crimes against women and girls, which are fed by a cultural and social environment of machismo and misogyny.<sup>3</sup>

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<sup>1</sup> The United Nations Fourth World Conference on Women, 1995, "FWCW Platform for Action: Violence against Women.

<sup>2</sup> Amnesty International 2005, "Guatemala: No protection, no justice: killings of women in Guatemala, AMR 34/017/2005, at <http://web.amnesty.org>.

<sup>3</sup> Alonso Jorge, 2005, "Marcela Lagarde: A Feminist Battles Femicide", at <http://www.envio.org.ni/articulo/2934>.

## 2 FEMINICIDE AND ITS CAUSES

### 2.1 GENDER BASED VIOLENCE

Although the circumstances and lack of clarification make it difficult to characterize the motivation behind the murders of women and girls with much certainty, there is general agreement among both the State and non-state sectors that most relate to manifestations of violence with gender specific causes and consequences. A substantial number are linked to sexual violence and others to domestic violence. Some cases present multiple forms of such violence.<sup>4</sup>

Several studies on Femicide in Guatemala and Mexico have shown that murders of the women are integrally related to gender-based violence. While the murders may be attributed to different motives and may have been committed by both state and non-state individuals, studies shows that the violence has been usually gender-based; the gender of the victim would appear to be a significant factor in the crime, influencing both the motive and the context, as well as the kind of violence suffered by women. For example, in a number of cases there is evidence that women were raped or subjected to some other form of sexual violence before they died.<sup>5</sup>

In many cases, violence occurs in the family or within the home, where violence is often tolerated. The neglect, physical and sexual abuse, and rape of girl children and women by family members and other members of the household, as well as incidences of spousal and non-spousal abuse, often go unreported and are thus difficult to detect. Even when such violence is reported, there is often a failure to protect victims or punish perpetrators.<sup>6</sup>

The roots of violence are deep in the *machismo* culture in Central America and poverty has exacerbated intra family violence. Violence is positive within *machista* culture: It is a central component of the masculine identity's attributes of toughness, force and aggression.

**In Costa Rica**, 84% of victims of violence are women and 96% of sexual offenders are men. Girls are 95% of incest victims and 32.5% of all raped girls have been raped by their own fathers. A full 67% of all sexual aggression occurs in the home of the victim. **In El Salvador**, one of every 6 women is raped and one of every 3 suffers sexual abuse, in which 94% of the aggressors are men and over 50% were or are effectively united with the women. The majority of sexual violence cases occur in the home. **In Nicaragua**, physical mistreatment, sexual abuse and violence are reported as the main expressions of violence against women. Men known and connected to the family are 87% of the rapists and 60% of the rapes occur in the victim's home. **In Honduras**, violence against girls is the main expression of intra family violence. Among relatives, the father is the most frequent aggressor. **In Panama**, 90% of sexual aggressions are against women and 41% are rapes. In 67% of the cases, sexually attacked women declared that they knew the aggressor.

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<sup>4</sup> Report of the Special Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights, 2003, "The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to be Free from Violence and Discrimination, part II, at <http://www.cidh.org/annualrep/>.

<sup>5</sup> Amnesty International 2005, "Guatemala: No protection, no justice: killings of women in Guatemala".

<sup>6</sup> The United Nations Fourth World Conference on Women, 1995, "FWCW Platform for Action: Violence against Women, para 117.

**In Guatemala**, among the 80% of women who are accosted in their own homes, three quarters of them were accosted by their husbands and more than half of these received serious lesions from sharp weapons<sup>7</sup>.

According to the Special Rapporteur on the Rights of women of the Inter-American Commission on Human Rights (IACHR), the killings of women in Ciudad Juárez in Mexico since 1993 are strongly linked to and influenced by the prevalence of domestic and intrafamilial violence. Approximately, one-third to one-half of **Mexican women**, living as part of a couple, has suffered some form of abuse at the hands of their partner. Women between the ages of 15 and 29, and pregnant women have been reported being especially affected. Domestic violence affects men, women and children and leads in extreme cases to homicide.<sup>8</sup>

## **2.2 GENDER DISCRIMINATION**

Femicide is said to be a result from a climate of generalised violence and discrimination against women and leading to the attitude that "women are expendable and can be routinely used, abused and discarded"<sup>9</sup>.

Discrimination has been a persistent feature of the various offences that have been committed against women as well as in the response provided by the States. The reaction of the authorities to the disappearance of the young women, the way in which killings are investigated and the inadequate protection programmes in place to prevent murders are all examples of discriminatory treatment. Furthermore, the fact that the vast majority of the women murdered come from poor backgrounds means that they suffer discrimination on two grounds: on the basis of both gender and social class.<sup>10</sup>

The lack of an effective official response is also part and parcel of the larger context of discrimination. The denial of an effective judicial response both springs from and feeds back into the perception that violence against women and especially domestic violence is not a serious crime.<sup>11</sup>

According to the US department of State, the authorities in Guatemala have reported receiving almost 10,000 complaints of family violence against women and children in Guatemala City during 2004, yet only approximately 370 cases went to trial<sup>12</sup>.

Additionally, the absence of sex-disaggregated data in official documents means that gender-related violence is generally under recorded and often rendered almost invisible. For example, in the case of women who have been killed in Guatemala the numbers presented by the police

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<sup>7</sup> Idem.

<sup>8</sup> Report of the Special Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights, 2003, part II.

<sup>9</sup> Council of Europe, resolution 1454, adopted on 21 June 2005, <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta05/ERES1454.htm>.

<sup>10</sup> Amnesty International, "Intolerable Killings, Mexico: 10 years of abduction and murder of women in Ciudad Juarez and Chihuahua", AMR index 41/026/2003, <http://web.amnesty.org/library/>.

<sup>11</sup> Report of the Special Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights, 2003, part II.

<sup>12</sup> The U.S Department of state Country Reports of Human Rights Practises 2004, Guatemala, at <http://www.state.gov/>.

for 2004 attribute 175 deaths to gunshot, 27 to knife wounds and 323 to "other causes". The categories, however, conceal the gender-based brutality and sexual nature of many of the killings in which victims present evidence of rape, mutilation and dismemberment. Other categories such as death from multiple trauma, head trauma or abdominal trauma do not distinguish whether the deaths were accidental or the result of intentional harm, for example, being beaten to death.<sup>13</sup>

In all societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture. The low social and economic status of women can be both a cause and a consequence of violence against women.<sup>14</sup>

Violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to prevent women's full advancement. Violence against women throughout the life cycle derives essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices and all acts of extremism linked to race, sex, language or religion that perpetuate the lower status accorded to women in the family, the workplace, the community and society.<sup>15</sup>

Traditional systems of power and patriarchy remain largely unchallenged in Central American countries and stereotypes regarding the subordinated role of women in society are still firmly entrenched<sup>16</sup>. As recognised in the *Convention of Belém de Pará*, violence against women is an expression of the historically unequal power relations between women and men, and a clear expression of gender discrimination. It is obvious that there is a connection between femicide and violence towards women in the society.

### **2.3 IMPUNITY AND DUE DILIGENCE**

Many social and judicial factors exacerbate the problem of violence against women. These includes among others ... the women's lack of access to legal information, aid or protection, the lack of laws that effectively prohibit violence against women, failure to reform existing laws, inadequate efforts on the part of public authorities to promote awareness of and enforce existing laws.<sup>17</sup>

Impunity has been the hallmark of the investigation into cases of women been murdered. In each country where femicide has been recognised, there has been a general unwillingness to examine the murders of women. Unwillingness has appeared in all levels on the judicial system. Neither authorities, police, prosecutors, courts nor politicians have shown willingness to solve the crimes against women and protect them from new attacks. Although awareness

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<sup>13</sup> Amnesty International 2005, "Guatemala: No protection, no justice: killings of women in Guatemala".

<sup>14</sup> The United Nations Fourth World Conference on Women, 1995, "FWCW Platform for Action: Violence against Women, para 112.

<sup>15</sup> *Idem*, para 118.

<sup>16</sup> Amnesty International 2005, "Guatemala: No protection, no justice: killings of women in Guatemala".

<sup>17</sup> The United Nations Fourth World Conference on Women, 1995, "FWCW Platform for Action: Violence against Women, para 118.

with respect to femicide has increased and NGOs and civil society have pressed the authorities to deal effectively with the killings, there are still no adequate investigations.

An example is the case of *Claudina Isabel Velázquez Paíz*, a 19-year-old law student. Her body was found on 13 August 2005. She had been raped and shot in the head. As with the hundreds of other cases of murdered women, preliminary investigations around the case were unsatisfactory. Whilst forensic doctors carried out basic tests on Claudina's body, the authorities failed to pursue important leads. No forensic tests were carried out on her clothes. Instead, they were returned to her family, potentially losing important evidence. No tests were carried out on the main suspects to determine whether they had fired a gun. Potential witnesses and valuable leads were also reportedly not pursued.<sup>18</sup>

A leading figure in Latin-American feminism, now a member of Mexico's Congress, *Marcela Lagarde*, has defined femicide as a hate crime against women, a misogynous crime forged by the enormous social and state tolerance of gender violence. Femicide is fostered by impunity, by haphazard investigations and mishandled findings. Access to justice and fair trial have not become a reality because the authorities do not pay attention to the victims' charges and seem to see women's lives as secondary or are biased against women, discrediting and blaming them. Silence, omission, negligence and the collusion of authorities responsible for preventing and eradicating crimes against women contribute to femicide.<sup>19</sup>

## 2.4 ORGANIZED CRIME

A large part of the killings of women and girls have occurred in urban areas which have also witnessed a dramatic rise in violent crime in recent years often linked to organized crime, including drugs, arms and people trafficking, pornographic rings and prostitution, or the activities of street youth gangs known as "maras". Although violent deaths have increased generally, there has been a noticeable rise in the killings of women.

# 3 MEXICO

## 3.1 FIGURES

Since 1993, more than 400 women have been violently killed and there have been over 4,000 registered complaints of disappeared women in **Ciudad Juárez and Chihuahua**<sup>20</sup>.

In August 2003, Amnesty International published a report focusing on the 10-year cycle of abduction and murders of girls and women in the cities of Ciudad Juárez and Chihuahua in northern Mexico. The report documented more than 370 cases of women murdered. The research indicated that at least 137 of these victims suffered some form of sexual violence and at least 70 of the total number of women murdered remained unidentified. At least 70 other

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<sup>18</sup><http://web.amnesty.org/library/index/engamr340432005>.

<sup>19</sup> Alonso Jorge, 2005, "Marcela Lagarde: A Feminist Battles Femicide".

<sup>20</sup> [http://www.witness.org/option.com\\_rightsalert/Itemid,0/task/view/alert\\_id,38/](http://www.witness.org/option.com_rightsalert/Itemid,0/task/view/alert_id,38/).

women or girls also remained unaccounted for after having been officially reported missing.<sup>21</sup> In most of the cases, young women from poor background have been abducted, held captive and sexually assaulted in a most ferocious manner before being murdered and left amongst rubble on wasteland.

### **3.2 THE SITUATION IN THE CIUDAD JUAREZ**

Ciudad Juarez is a gateway city in the State of Chihuahua and one of the most densely populated cities in Mexico. More than half of the population of the municipality consist of people from other areas of the country or foreigners. A great number of people take up temporary residence there, many of them living in miserable conditions, with the expectation of crossing into the United States to work.<sup>22</sup>

In this regard, cultural, economic and social differences within the population generate particularly complex problems. For the past 40 years, Ciudad Juárez has been a pole of attraction for the maquiladora work force. In the 1970s and 1980s, as male unemployment was on the rise, jobs were increasingly offered to young women as cheaper work force. Alcohol consumption increased among the men, as did violence against women. The employment situation for male workers improved gradually until almost full employment was reached by the end of the 1990s. However, the US recession at the start of this decade hit hard, triggering a new wave of unemployment. Four out of every five jobs lost in Chihuahua were in Ciudad Juárez alone and the proportion between female and male employment again tipped strongly in favour of women. Drug addition, alcoholism and violence increased.<sup>23</sup>

The town has been marked by rising crime, including the penetration of organised crime and drug trafficking, and an increase in gang activity and the presence of firearms. Notably, in this regard, almost all the killings classified as executions in the State of Chihuahua take place in Ciudad Juarez. These problems generate high levels of violence that affect all the people in Ciudad Juarez.<sup>24</sup>

According to the Special Rapporteur on IACHR, the situation of women in Ciudad Juárez shares many aspects common to other cities in the Mexico and the region in general. It is however different in certain important respects.

First, the homicide rate for women experienced an unusually sharp rise in Ciudad Juárez in 1993, and the rate has remained elevated since then.

Second, the rate of homicides for women compared to that for men is significantly higher than for similarly situated cities or the national average.

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<sup>21</sup> Amnesty International, 2004: "Mexico: Ending the brutal cycle of violence against women in Ciudad Juárez and the city of Chihuahua, AMR 41/011/2004, at <http://web.amnesty.org/library/>.

<sup>22</sup> Procuraduría General de Justicia del Estado de Chihuahua, "Investigación sobre Mujeres Víctimas de Homicida Múltiple en Ciudad Juárez".

<sup>23</sup> Alonso Jorge, 2004, "Feminicide in Ciudad Juárez: A Multidimensional Challenge", at <http://www.envio.org.ni/utills/imprimir>.

<sup>24</sup> Report of the Special Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights, 2003, part II.



Third, the extremely brutal circumstances of many of the killings have served to focus attention on the situation in Ciudad Juárez. A significant number of the victims were young, between 15 and 25, and many were beaten and/or subjected to sexual violence before being strangled or stabbed to death. A number of the killings that fit this pattern have been characterized as multiple or serial killings.

Fourth, the response of the authorities to these crimes has been markedly deficient. The vast majority of the killings remain without prosecution or conviction, only approximately 20% have been investigated and brought to trial. Furthermore, when the rate of killings began to rise, some of the officials responsible for investigation and prosecution began blaming the victim of the crime.<sup>25</sup>

### **3.3 DENIAL AND IMPUNITY**

In all, the initial reaction to the feminicides, particularly at the state level was denial. The authorities did not investigate crimes adequately and the root causes of the violence against the women were not studied. The typical element for the brutal murders of women, namely impunity, was and has been an essential part of the phenomena also in Mexico. The impunity rate for cases of women murdered is yet very difficult to determine, mainly because the information held by the authorities is extremely variable and contradictory. According to Amnesty International a common practise has been for example to equate the number of victims with the number of case files when, in fact, a file sometimes contains more than one victim.

### **3.4 MEASURES TAKEN BY THE MEXICAN AUTHORITIES**

The Mexican State has ratified the most important international instruments which provide protections for the rights of women and the rights of the child, including the Convention on the Elimination of All Forms of Discrimination against women. Special relevance has the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, which Mexico ratified on 1998.

At national level the Constitution prohibits all forms of discrimination. With respect to the Federal district of the State of Chihuahua, sexual crimes, domestic violence and marital rape have been typified as crimes in the Criminal Code. The provision which indicated that the crime would not apply in the case of a girl not deemed "honest" was eliminated. Revisions to the Civil Code of Chihuahua adopted in 2001 added two provisions that concern domestic violence.<sup>26</sup>

As a result of intense national and international pressure, the Mexican Federal Government acknowledged its responsibility to intervene in Ciudad Juárez. In 2003, a 40-point programme of measures to improve the administration of justice, public security, and to strengthen women's rights were announced and have begun to be implemented.

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<sup>25</sup> Idem.

<sup>26</sup> Report of the Special Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights, 2003, part III.

According to the Secretary of Foreign Relations for Mexico, co-operation and coordination between the different federal, state and municipal authorities in charge of investigating the murders of women has been improved and strengthened, although the Attorney General's Office for the Republic has limited possibilities to intervene in the crimes, which fall under the jurisdiction of State authorities.<sup>27</sup>

Besides, with the respect to article 73, section XXI of the Mexican Constitution, a draft amendment has been introduced to the Senate with the aim of combating impunity in Ciudad Juárez. This amendment would give the federal authorities jurisdiction over local crimes that are related to human rights violations. This would allow the Prosecutor-General of the Republic to exercise jurisdiction if state authorities fail to investigate murders or other violent crime with due diligence.<sup>28</sup>

In January 2004, a Special Federal Prosecutor was appointed to oversee the crimes related to the murder of women in Ciudad Juárez. Because of the current constitutional limits to jurisdiction, the Special Federal Prosecutor has only asserted jurisdiction in nine cases involving 24 victims, and only little progress has been achieved.<sup>29</sup>

The role of the federal Government was further strengthened when *President Vincente Fox* appointed at the end of 2003 *Guadalupe Morfin* as Special Commissioner heading a Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez.<sup>30</sup>

In its report the Secretary for Foreign Relations has pointed out that Mexico is also fighting against the impunity of public servants. According to his report, 101 public servants were identified as probably having incurred in violations of administrative or penal law. However, by the time the Special Rapporteur visited Mexico, none of the 101 officials identified by the Special Federal Prosecutor had been indicted by the State Prosecutor-General, who has exclusive jurisdiction in the matter. Instead, most of the 101 cases were dropped. Only five officials were indicted, but local judges dismissed the charges against them on the ground that the statute of limitation had lapsed.<sup>31</sup>

### **3.5 COMMENTS**

Amnesty International has been concerned about the failure of the investigating and judicial authorities, particularly at State level, to consider the murder of women and young girls as part of a pattern of violence against women, rather than as individual criminal acts. There has been an ongoing failure to take into account gender issues, social background and the full nature of the violence suffered by victims.

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<sup>27</sup> Information on the Actions undertaken by the Mexican Government to combat Violence against Women in Ciudad Juárez, Secretary of Foreign Relations, November 2005.

<sup>28</sup> Report of the Special Rapporteur on violence against women, 2005, "Integration of the Human rights of women and a gender perspective: Violence against women", Mission to Mexico, E/CN.4/2006/61/Add.4, para 48.

<sup>29</sup> Idem.

<sup>30</sup> Report of the Special Rapporteur on violence against women, 2005, "Integration of the Human rights of women and a gender perspective: Violence against women", Mission to Mexico, para 48.

<sup>31</sup> Idem, para 50.

The report by the United Nations Office on Drugs and Crime recognised that while some improvements had been made in recent years, the State had failed to consider all the dimension of the crimes, such as abduction, rape and physical cruelty suffered by the victims. The report also highlights fundamental flaws in judicial procedures that have undermined effective investigations, destroyed credibility in the judicial system and regularly produced violations of the fundamental rights of relatives of victims and criminal suspects.<sup>32</sup>

The Council of Europe has pointed out in its resolution of 21 June 2005 that despite political will, a general commitment and the efforts by the State and federal authorities, too many cases have remained unsolved and too many victims unidentified. Regarding the resolution, reactions of the authorities can only be considered insufficient and has led to the impression that the authorities were unable to control the situation.<sup>33</sup>

The United Nations Special Rapporteur on violence against women has concluded in her report that the Government of Mexico has taken significant steps to prevent, punish and eradicate violence against women with due diligence. However, there is still a lot of work to be done, in particular at the level of investigation, prosecution, law enforcement and prevention. One conclusion of the Special Rapporteur regards the responsiveness of the police and the justice sector to the gender-based violence, which remains inadequate overall.<sup>34</sup>

The Government of Mexico seems to have true willingness to eradicate femicide and change the traditional attitudes in respect of violence against women in Mexican society. However, the murders continue in Ciudad Juárez. According to the National Commission of Human Rights, at least 38 women were murdered between January 2004 and August 2005<sup>35</sup>.

## **4 GUATEMALA**

### **4.1 FIGURES**

The precise number of women who have been murdered in Guatemala is unknown and disputed. Figures vary among institutions and are based on different criteria. According to the Committee on Femicide in Guatemala, there has been a steady increase in the number of women murdered with 303 in 2001, 317 in 2002, 383 in 2003, 531 in 2004 and 665 in 2005, totalling 2199 reported cases.<sup>36</sup> The pattern of murders of women in Guatemala show similarities with those reported in Mexico. The rate, at which women are being killed, however, is much higher in Guatemala<sup>37</sup>. Although 370 women were killed in Chihuahua, Mexico, over a 10-year period starting in 1993), more women were killed in Guatemala for example in 2003 alone.

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<sup>32</sup> Informe de la Comisión de Expertos Internacionales de la ONU, Oficina de las Naciones Unidas Contra la Droga y el Delito sobre la Misión en Ciudad Juárez, Chihuahua, México.

<sup>33</sup> Council of Europe, resolution 1454, adopted on 21 June 2005.

<sup>34</sup> Report of the Special Rapporteur on violence against women, 2005, "Integration of the Human rights of women and a gender perspective: Violence against women", Mission to Mexico, para 63.

<sup>35</sup> Idem, para 45.

<sup>36</sup> Comisión para el Abordaje del Femicidio, Guatemala, 8 March 2006.

<sup>37</sup> Report of the Special Rapporteur on violence against women, 2005, "Integration of the Human rights of women and a gender perspective: Violence against women". Mission to Guatemala, E/CN.4/2005/72/Add.3, para 29.

## 4.2 COUNTRY SITUATION

In Guatemala the 36-year armed conflict has left country in a situation, where the society is living with multi-dimensional problems. Violence belongs as an essential part rooted in socio-economic inequality, poverty and exclusion. Especially, the problems of unequal land distribution and income disparity are touching upon the indigenous groups<sup>38</sup>.

Currently, most of Guatemala's population is rural but urbanization is accelerating. Guatemala City is expanding at an amazing rate, when generally impoverished farmers move to the outskirts of the city temporarily or permanently seeking higher wages<sup>39</sup>. Rapid urbanization causes rootless, broken families, exploitation of people who are trying desperately to reach a better living, alcoholism and in many cases violence. The position of women is particularly vulnerable. Sexual exploitation and trafficking have a favorable ground to grow. On an individual level, family abandonment, unstable relationships and alcoholism among males, unemployment, and attempts to preserve patriarchal power over women contribute to domestic violence and undermine opportunities for the promotion of non-violence relationship in future generations.<sup>40</sup>

The prevalence of violence against women in Guatemala today has its roots in historical and cultural values which have maintained women's subordination and which were most evident during the armed conflict.<sup>41</sup> The commission for Historical Clarification (*Comisión para el Esclarecimiento Histórico*, CEH) had estimated in its report from the year 1999 that some 200,000 Guatemalans had either been killed or disappeared, the vast majority during the first half of the 1980s. The CEH blamed security forces for 93 per cent of these crimes. It concluded that women and girls had been raped and in some cases gang raped during massacres of the Mayan population. Soldiers reportedly committed also other acts of extreme cruelty against women.<sup>42</sup>

The vast majority of women who were victims of human rights violations during counter-insurgency campaigns lead by the Guatemalan army during the early 1980s were members of Mayan indigenous groups living in rural areas, whereas most of the reported murder victims in Guatemala today are *ladino*<sup>43</sup> women living in urban areas of the country.<sup>44</sup>

Escalating crime and issues relating to human and public security are a matter of concern in Guatemala as elsewhere in Latin America. The failure to prosecute those suspected of involvement in criminal gangs and organized crime has undermined faith in the rule of law and the system of administration of justice. At the same time, the consolidation of illegal clandestine groups has also contributed to lawlessness and the crisis in public security. In

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<sup>38</sup> Idem, para 5.

<sup>39</sup> <http://en.wikipedia.org/wiki/Guatemala#Economy>.

<sup>40</sup> Report of the Special Rapporteur on violence against women, 2005, "Integration of the Human rights of women and a gender perspective: Violence against women", Mission to Guatemala, para 25.

<sup>41</sup> Amnesty International 2005, "Guatemala: No protection, no justice: killings of women in Guatemala."

<sup>42</sup> Recovery of Historical Memory Project, Guatemala Never Again! New York: Orbis Books, 1999.

<sup>43</sup> People of indigenous and Spanish origin, who speak Spanish as their first language.

<sup>44</sup> Amnesty International 2005, "Guatemala: No protection, no justice: killings of women in Guatemala".

recent years, violent deaths have increased generally but the noticeable rise in killings of women is of particular concern.<sup>45</sup>

According to the Office of the Special Prosecutor for Crimes against Women of the Public Ministry, the Human Rights Ombudsman's office, as well as press reports, a number of the bodies of the victims bear signs of sexual violence. Some of the victims had had their throats cut, or had been beaten, shot or stabbed to death. Some bodies were mutilated. Many women were abducted and sometimes held for several hours or even days, before being murdered.<sup>46</sup>

Studies done by official bodies indicate that the murders are concentrated in urban areas such as Guatemala City and Escuintla town in the department of Escuintla. Most of the women who have been killed over the last few years were adolescent girls or women under age of 40. According to the Office of the Special Prosecutor for Crimes against Women, of the 152 cases it was investigating as of August 2004, just over a third of the victims were under age of 20, while a further half were between the ages of 21 and 40.<sup>47</sup> The report of the Human Rights Ombudsman Office's on 2003 shows that more than half of the 360 victims were aged between 13 and 36.

Many were housewives, and a number were students or professionals. Many came from poor sector of society, working in low paid jobs as domestic employees, shops or factory workers. Some were migrant workers from neighbouring countries in Central America. Among the victims were women from particularly marginalized groups, including members or former members of youth gangs and sex workers.<sup>48</sup>

According to the Network of Non-Violence against Women (*Red de la No Violencia Contra la Mujer*), a third of all cases of murder take place within the family after the victims have suffered violent incidents and attacks, often in silence, for many years. In some cases, the victims were wives or former partners who were murdered after lodging formal complaints of ill-treatment. Some of the victims were murdered reportedly because they did not belong to, or refused to join a particular gang or because they wanted to leave a gang.<sup>49</sup>

The Human Rights Ombudsman claims that agents of the PNC might be responsible for at least 10 of the murders of women. Some of the murders are thought to be part of ongoing "social cleansing" operations conducted by organized crime networks<sup>50</sup>.

### **4.3 DENIAL AND IMPUNITY**

The authorities in Guatemala have failed to ensure an effective justice system, which could have prevented an escalation in the number of killings: the absence of protection, the lack of adequate documentation and the lack of willingness to establish the identity of the perpetrators and bring them to justice, means impunity.

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<sup>45</sup> Idem.

<sup>46</sup> Idem.

<sup>47</sup> Report of the Office of the Special Prosecutor for Crimes against Women, August 2004.

<sup>48</sup> Amnesty International 2005, "Guatemala: No protection, no justice: killings of women in Guatemala".

<sup>49</sup> Idem.

<sup>50</sup> Report of the Special Rapporteur on violence against women, 2005, "Integration of the Human rights of women and a gender perspective: Violence against women", Mission to Guatemala, para 58.

Amnesty International has found serious and persistent shortcomings in the way the authorities have responded to many cases regarding killings of women at every stage of the investigative process. These deficiencies have included delays and insufficient efforts by police to locate women who have been missing, failure to protect the crime scene once a body has been discovered or gather necessary forensic or other evidence, and failure to follow up on possible crucial evidence. In many cases, investigations have been partial, while in others they have just not taken place. A lack of training in investigative techniques, lack of technical resources and lack of coordination and cooperation between state institutions particularly between police investigation units and the offices of the Public Ministry has meant that many cases have not gone beyond the initial investigation stage.<sup>51</sup>

The Women's Office of the Ministerio Público and the special unit of the PNC reported that 40 per cent of the cases are filed and never investigated. The unit has claimed lack of resources and personnel to carry out proper investigations. According to the National Coordinator for the Prevention of Domestic Violence and Violence against Women (CONAPREVI), not one of the murders committed in 2004 had been taken to court.<sup>52</sup>

#### **4.4 MEASURES TAKEN BY THE GUATEMALA AUTHORITIES**

Guatemala's Constitution affirms the principle of equality between the sexes. The country has ratified the majority of international and regional instruments providing protection for women's rights: The UN convention on the Elimination of all Forms of Discrimination against women (1982) and its Optional Protocol (2002), as well as the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1995).

The government passed the Law for the Dignity and Integral Promotion of Women, the Law to Prevent, Punish and Eradicate Violence in the Family.<sup>53</sup>

Despite the advances, the Penal code does not define violence against women in the family, including marital rape, and sexual harassment as a criminal offence. There are also some discriminatory provisions that preclude women from having the full protection of the law. For example, chapter VII, article 200, of the Penal Code exonerates perpetrators of rape if the perpetrator marries the victim, provided that the victim is over 12 years age. With such a clause, Guatemala's legal system sanctions putting victim at risk of further physical and psychological trauma by condemning them to a life with their rapist. Additionally, perpetrators of crimes of a sexual nature, most of which are committed against women, are highly likely to be pardoned.<sup>54</sup>

On 8 March 2005, a Special Commission for the Investigation on Femicide in Guatemala was established, chaired by the Minister of Women's Affairs, Mrs Gabriela Núñez Pérez.

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<sup>51</sup> Amnesty International 2005, "Guatemala: No protection, no justice: killings of women in Guatemala".

<sup>52</sup> Report of the Special Rapporteur on violence against women, 2005, "Integration of the Human rights of women and a gender perspective: Violence against women", Mission to Guatemala, para 59.

<sup>53</sup> Amnesty International 2005, "Guatemala: No protection, no justice: killings of women in Guatemala".

<sup>54</sup> Report of the Special Rapporteur on violence against women, 2005, "Integration of the Human rights of women and a gender perspective: Violence against women", Mission to Guatemala, para 45.