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PREVENTION, PUNISHMENT AND ERADICATION OF VIOLENCE:

FEMICIDE/FEMINICIDE

(Punto 5 a) en la agenda)

INTRODUCTION

Until 1992, the term *femicide* was used in the press and society to refer colloquially to the killing of women. In that year, Diana Russell and Jill Radford imbued the concept with legal and social content in their text *Femicide: The Politics of Women Killing*, defining it as the murder of women, by men, because they were women.[1/] They developed the term to refer to the gender-based motives behind the deaths of women at the hands of men: attempts to control their lives, bodies, and/or sexuality, to the point of punishing with death those who did not accept such subjection.

Subsequently, Marcela Lagarde took Russell and Radford's notion of *femicide* and developed it as *feminicide*, rather than *femicide*, which would become the literal translation. For Lagarde, while *femicide* means the killing of women without specifying the causes of such deaths, the term *feminicide* lends itself better to covering the gender-based reasons and social construct underlying such deaths, as well as the impunity surrounding them.[2/] Lagarde uses the term *feminicide* in analyzing the murders of women in Ciudad Juárez, Mexico.

However, at the international level, the terms *feminicide* and *femicide* are being used indistinctly to refer to the same problem,[3/] although in the case of the Caribbean, no such disagreement exists and only the term *femicide* is used.

Moreover, the Inter-American Commission on Human Rights (IACHR) adopted the term *feminicide* in 2007, in the case of Bolivia, based on discussion in the "In-depth study on all forms of violence against women" of the United Nations Secretary-General, who also refers to this problem as *feminicidio* [in Spanish, but the English version uses only femicide – tr.].[4/] Prior to that, the IACHR referred to this problem as *murder of women*, and expressed its concern by convening a thematic hearing on this problem (2006). The IACHR has admitted four cases on murders of women in Ciudad Juárez, Mexico.

Despite advances in acknowledgement of the problem in the region, debate continues regarding its scale and characteristics. In Ciudad Juárez and Chihuahua, Mexico, since 1993, some 400 women and girls have been murdered and over 70 are still missing.[5/] In the case of Guatemala,

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1. RUSSELL, Diana and HARMES, Roberta:. *Feminicidio: Una Perspectiva Global* (Mexico City, Mexico: Centro de Investigaciones Interdisciplinarias en Ciencias y Humanidades, Autonomous University of Mexico, 2006), p. 74.

2. LAGARDE Y DE LOS RIOS, Marcela. *Presentación a la Edición en Español.* In Russell, *et al*., p. 12.

3. The Committee on the Elimination of Discrimination against Women (CEDAW) uses *femicidio* in the reports on Honduras (2007) and Guatemala (2006), whereas it uses *feminicidio* in the report on Mexico (2006).

4. Inter-American Commission on Human Rights (IACHR): *Access to Justice and Social Inclusion: The Road towards Strengthening Democracy in Bolivia*. At: http://www.cidh.oas.org/pdf%20files/BOLIVIA.07.ENG.pdf

5. Inter-American Institute of Human Rights: *Femicidio: Más Allá de la Violación del Derecho a la Vida* (San José: IIDH, 2008), p. 7.

the IACHR found that 1,188 women were murdered between 2001 and 2004,[6/] while 665 murders (that is, over half the murders that occurred in three years) were recorded in 2005 alone.[7/] In that connection, a United Nations report found that Guatemala came second on the list of countries with highest murder rates for women, ranking higher than Mexico, and second only to Russia.[8/]

Despite the gravity of the problem, at the Latin American level, only three states (Mexico, Guatemala, and Costa Rica) have attempted to prevent and punish femicide in their penal codes or special laws, although based on different definitions. At the national level, states still lack studies and statistics reporting the number of women killed per year, the causes of such deaths, or measures taken to prevent and punish such deaths. The figures compiled are generally obtained through the efforts of civil society organizations, which, in compiling their statistics, use primarily the main national newspapers to extract information from notices of women's deaths.[9/]

Femicide in the work of the CIM

Taking account of said context, in resolution CIM/RES.240 (XXXIII-O/06), by which was adopted the work program of the Inter-American Commission of Women (CIM) for the 2006-2008 biennium, the Assembly of Delegates assigned a mandate to the CIM, through its Permanent Secretariat, to consult with all of the governments and with civil society to compile background information on the efforts of governments and international, regional, and nongovernmental organizations to define the concept variously named femicide, feminicide, or femicidal violence and to write a concept paper.

In that regard, the expected outcomes were:

1. Consensus on the appropriate terminology.

2. A recommendation to the Committee of Experts of the MESECVI that they include an appropriate indicator in the questionnaire of the Mechanism.

3. Recommendations to the member states on the inclusion of this concept in their domestic criminal law and national policies.

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6. Inter-American Commission on Human Rights*: The IACHR Special Rapporteur Evaluates the Effectiveness of the Right of Women in Guatemala to Live Free from Violence and Discrimination.* September 18, 2004. At: http://www.cidh.org/Comunicados/English/2004/20.04.htm

7. Central American Council of Human Rights Prosecutors: *Primer Reporte Regional: Situación y Análisis del Femicidio en la Región Centroamericana* (San José: IIDH, 2006), p. 95.

8. TREJO, Alba: *Guatemala: Mujeres al borde de la muerte*. At: http://www.isis.cl/Feminicidio/doc/doc/albatrejo.doc. Cited in Central American Council of Human Rights Prosecutors, op.cit., p. 93.

9. Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM): *Monitoreo sobre Feminicidio / Femicidio en Bolivia, Ecuador, Paraguay, Perú y República Dominicana* (Lima: CLADEM, 2008), pp. 14-15. Available at: http://www.cladem.org/espanol/regionales/Violenciadegenero/Docs/feminicidio2/feminicidio%20vf2.pdf

In fulfillment of said mandate and in the framework of the First Multilateral Evaluation Round of the Mechanism to Follow up on Implementation of the Convention of Belém do Pará (MESECVI), the Committee of Experts (CEVI) of the Mechanism included this subject in the evaluation questionnaire sent to the states. In that regard, the states were asked whether anti-feminicide/femicide penal policy was in place, and whether data and statistics were available regarding the number of victims of this crime, and regarding prosecutions, circumstances, and the procedural status of such cases.

As a result, the Hemispheric Report[10/] approved by the CEVI and adopted by the Conference of States Parties of the MESECVI, which met on July 9 and 10, 2008, in Caracas, Venezuela, contains two recommendations related to this problem. Recommendation 37 urges the states to adopt a policy that allows the prevention, punishment, and eradication of femicide/feminicide, which implies, *inter alia*, its inclusion in the Penal Code. Additionally, Recommendation 45 requests the states to carry out studies and research on the extent and magnitude of femicide and/or feminicide, disaggregated by ethnicity, region, and local constituency in each country, and to encourage the creation of statistical registry on this topic.

Subsequently, in August 2008, at its fourth meeting, the CEVI adopted the Declaration on Femicide, which is attached to this informational document. In said Declaration, the Committee defines femicide as:

> ***"...the murder of women because they are women, whether it is committed within the family, a domestic partnership, or any other interpersonal relationship, or by anyone in the community, or whether it is perpetrated or tolerated by the state or its agents.***

The Committee decided to use the term femicide on a temporary basis pending further consultations in this regard. This topic has also been included in the indictor document to be used for follow up of the recommendations of the CEVI to the states. The country reports on the follow up of recommendations are expected to be ready in the second half of 2009.

10. Published as MESECVI-II/doc.16/08 rev. 1.

CEVI DECLARATION ON FEMICIDE[11/]

(Adopted by the Committee of Experts-CEVI at its fourth meeting
held in Washington, D.C., on August 14 and 15, 2008)

THE COMMITTEE OF EXPERTS (CEVI) OF THE MECHANISM TO FOLLOW UP ON IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT, AND ERADICATION OF VIOLENCE AGAINST WOMEN, "CONVENTION OF BELÉM DO PARÁ" (MESECVI), at its fourth meeting, in Washington, D.C., on August 14 and 15, 2008, recognizing the serious problem of femicide in Latin America and the Caribbean and concerned about the increasing number of murders of women in the region, declares:

1. That in Latin America and the Caribbean the violent death of women is the most serious manifestation of discrimination and violence. High rates of violence against women, their limited or nonexistent access to justice, impunity in cases of violence against them, and the persistence of discriminatory sociocultural patterns influence the rise in the number of deaths.

2. That we consider femicide as the murder of women because they are women, whether it is committed within the family, a domestic partnership, or any other interpersonal relationship, or by anyone in the community, or whether it is perpetrated or tolerated by the state or its agents.

3. That femicide victims are women at different stages of life and in different situations or circumstances.

4. That most femicides go unpunished because of women's limited access to justice and because of gender bias during judicial proceedings and police work. Cases are either closed because of an alleged lack of evidence or punished as simple homicides with lesser penalties, in which the extenuating circumstance of "the heat of passion" is frequently invoked to exonerate the perpetrator from any responsibility.

5. That we recommend that the states parties to the Convention not allow passion to be used as an extenuating circumstance in cases of femicide as it has traditionally enabled perpetrators of crimes against women to escape responsibility.

6. That the situation of impunity for femicides is exacerbated in cases of states of emergency, armed conflict, natural disasters, and other hazardous situations for governments.

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11. The Committee of Experts (CEVI) of the MESECVI decided to use the term femicide on a temporary basis pending further consultations in this regard.

7. That it urges states to have citizen security policies that cover bodily risks, personal safety, and other manifestations of violence to which women are exposed in all spheres.

8. That it also recommends that women be guaranteed increased and enhanced access to justice, improving the criminal investigation system, including forensic expertise, and court proceedings to eliminate impunity for aggressors and adequately punish civil servants who did not use due diligence in those proceedings.

9. That it urge the states to make use of data banks, research, and statistics that enable them to ascertain the scope of the femicide problem in their countries and to monitor the governments' progress and setbacks in this regard.