JUSTICE ON TRIAL

FAILURES IN CRIMINAL INVESTIGATIONS OF FEMINICIDES PRECEDED BY DISAPPEARANCE IN THE STATE OF MEXICO

AMNESTY INTERNATIONAL

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EXECUTIVE SUMMARY

> **"I tell the other mothers: 'If you're angry, you can always find a can to kick and cry until you're exhausted, and then, when you've finished crying, you calm down, clear your mind and ask: What are you going to do about your daughter's investigation?'"**
>
> LAURA CURIEL, MOTHER OF DANIELA SÁNCHEZ CURIEL, A VICTIM OF DISAPPEARANCE

Laura Curiel - the mother of Daniela Sánchez Curiel, a victim of disappearance in 2015 and possible feminicide – knows very well that the families of victims of disappearance and feminicide play a crucial role in the State of Mexico in combatting impunity for these crimes. As in the rest of the country, disappearances and feminicides also turn families into victims and the inaction and negligence of the authorities in investigating cases sometimes mean that families are forced to take on the investigation and the search for truth, justice and reparation themselves, which revictimizes them and prevents them from carrying on with their normal lives.

In 2009, the Inter-American Court of Human Rights (Inter-American Court) issued its judgment on the killing of three young women whose bodies was found in a cotton field in Ciudad Juárez in the State of Chihuahua. It concluded that Mexico did not adopt the norms and measures necessary for the authorities to carry out an investigation with due diligence and that this contributed to creating a climate of impunity. The Inter-American Court found that Mexico had violated: the rights to life, personal integrity and liberty of the victims; failed to fulfil its duty to investigate and, consequently, its duty to guarantee the rights to life and personal integrity; the rights of access to justice and judicial protection of victims' families; the duty of non-discrimination; the rights of the child; and families' right to personal integrity because of the suffering and harassment they experienced.

In 2020, the killings 3,723 women were registered in Mexico 32 states, of which 940 were investigated as feminicides; not a single state was free of feminicide. For this report, Amnesty International has documented four emblematic cases of feminicides following disappearance, specifically analysing failures in the criminal investigations of these cases. The findings regarding these cases show a pattern of failings in criminal investigations that are consistent with those identified in previous research and exposed by civil society organizations and rights holders themselves. All of this suggests that ***feminicidal violence and the failings in investigation and prevention in northern Mexico are not anecdotal, but rather form part of a broader reality in the country.*** The failings in

criminal investigations noted in Ciudad Juárez more than 20 years ago continue to occur today in other parts of Mexico. ***Mexico is continuing to fail to fulfil its duty to investigate and, therefore, its duty to guarantee the rights to life and personal integrity of the victims as well as to prevent violence against women. Mexico is also continuing to violate the rights of access to justice and judicial protection of the families of victims of feminicide and disappearance, the duty of non-discrimination, and the right to personal integrity because of the suffering and harassment inflicted on the families.***

In this report, Amnesty International has specifically documented the situation in the State of Mexico, one of the country's 32 federal entities. The state shares a long border with capital, which is why part of its territory is known as "the periphery" (in a geographical sense, but also a socio-economic and symbolic sense). With almost 17 million inhabitants, it is one of the largest and most urbanized states in the country, although a significant percentage its inhabitants also live in rural areas. The State of Mexico is the federal entity with the lowest level of community facilities and structures, the second highest perception of public insecurity and one with the highest rates of impunity.[1]

In recent years, some municipalities in the State of Mexico have seen a series of brutal feminicides, leading them being compared to the emblematic killings of women in the 1990s in Ciudad Juárez in the north of the country. In addition, in recent years there has been an increase in the number of women reported disappeared, which may suggest the number of feminicides is in fact higher.[2]

In this report, Amnesty International documents failings in criminal investigations carried out by the authorities in the State of Mexico into feminicides following disappearance.[3] The focus of this research is predominantly the crime of feminicide, although disappearances of women are also referred to when these crimes are linked. Amnesty International documented the cases of three victims of feminicide following disappearance and one case of disappearance in the eastern part of the State of Mexico: ***Nadia Muciño Márquez***, killed in 2004; ***Daniela Sánchez Curiel***, disappeared in 2015 and whose fate and whereabouts remain unknown and whose family fears is a victim of feminicide; ***Diana Velázquez Florencio***, disappeared and killed in 2017; and ***Julia Sosa Conde***, disappeared and killed in late 2018.

Amnesty International's research has confirmed that ***there are failings in criminal investigations by the authorities into feminicides following disappearance*** which constitute a breach of Mexico's obligation to investigate with due diligence and violate the rights of access to justice, judicial protection and to fair and effective reparation for families. ***The failings in the investigations of the four cases documented are consistent with those found in other investigations, both in the State of Mexico and in other federal entities, and that have been previously been highlighted by civil society organizations, experts and rights holders.[4]*** Specifically, the failings identified are:

1. ***During investigations, public servants lose evidence related to the case.*** Loss of evidence generally occurs for three reasons: a) the authorities do not properly examine the scene; b) they do not store the evidence collected securely; and c) they do not carry out certain forensic

1 CONEVAL, *Estudio diagnóstico del derecho a la vivienda digna y decoros 2018, National Council for the Evaluation of Social Development Policy, 2018, p.154; INEGI, Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública ENVIPE) 2018, Principales Resultados,* Instituto Nacional de Estadística y Geografía, 2018, p.38; Universidad de las Américas Puebla, *IGI-MEX, Global Impunity Index, México 2018,* Mexico, 2018.

2 In 2020, 2,059 disappearances of women were reported (5.6% are still not found or missing, 93% were found alive and 1.4% were found dead), while in 2019, 469 disappearances were reported (5.3% are still not found or missing, 93.2% were found alive and 1.5%, were found dead). Comisión Nacional de Búsqueda de Personas, *Estadística del Registro Nacional de Personas Desaparecidas y No Localizadas*, Government of Mexico, 2020. Consultation carried out in July 2021.

3 People living in the State of Mexico are referred to as Mexiquense (not to be confused the Mexican, which refers to the country as a whole).

4 See, for example, Lydiette Carrión, *La fosa de agua: Desapariciones y feminicidios en el Río de los Remedios*, Debate; Centro PRODH, *Nos llaman las locas de las palas: El papel de las mujeres en la búsqueda de sus familiares desaparecidos*, Mexico City, 2020; Frida Guerrera, *Ni una más, El feminicidio en México, tema urgente en la agenda nacional.* Aguilar; IDHEAS & IMDHD, *Diagnóstico: Mujeres desaparecidas en el Estado de México Investigación presentada para la solicitud de Alerta de Violencia de Género por Desaparición de niñas, adolescentes y mujeres en el Estado de México,* 25 June 2018; OCNF, *Informe implementación del tipo penal de feminicidio en México: Desafíos para acreditar las razones de género 2014-2017*, Católicas por el Derecho a Decidir, A. C., Mexico City, 2018.

tests or processes, or do not do so promptly, resulting in loss of data, objects or substances and testimonies. For example, in one of the cases documented in this report, the rope and shoelace found at the crime scene (believed to have been used in the killing) were lost; the clothing at the scene of the crime was not securely stored, resulting in the loss of a jacket bearing traces of blood; nails were not scraped to see if there was evidence of defence; and an acid phosphatase test to see if there was evidence of sexual assault was not carried out.[5] The authorities involved in the investigation of another of the feminicides documented did not test or secure the clothes worn by the victim and her whereabouts are currently unknown. Images from the video surveillance cameras of the last place where women were seen alive are frequently not requested promptly, resulting in recordings being lost because they are usually only stored for up to 15 or 20 days.

2. ***The authorities do not carry out adequate investigations.*** On the one hand possible lines of investigation in each case are not always pursued, on the other the necessary steps are not carried out to exhaust a line of investigation thoroughly. In one of the documented cases, the officials investigating the feminicide considered that it was "evident" that the person responsible was the victim's partner, but sufficient steps were not taken to prove it and lines of inquiry relating to the involvement of a third person were never pursued, despite the fact that the victim's daughters provided significant indications pointing to possible third-party involvement. The inaction of the authorities is particularly grave when women go missing because this is the stage at which there is a possibility of finding them and of finding them alive. For example, sometimes the authorities do not initially accept the missing person report on the grounds that 72 hours have not elapsed, despite the fact that national and international standards establish that when a disappearance is reported action to initiate a search must be taken immediately.

   The lack of action on the part of the authorities means that the families themselves – generally women relatives – are the ones who, to a certain extent take on leading the investigations, putting pressure on the authorities to open and pursue certain lines of inquiry and carry out some procedures, such as requesting images from video surveillance cameras, questioning suspects or examining articles of clothing. In fact, sometimes it is the victims' families themselves who initiate and carry out these processes, interviewing witnesses or inspecting locations themselves.

3. ***A gender perspective is not applied correctly.*** A gender perspective must be applied throughout the criminal proceedings in a cross-cutting manner; that is to say, at all times and in all actions. However, Amnesty International's research has found that sometimes procedures are not carried out from a gender perspective, as established by various protocols for the investigation of killings of women. For example, a gender perspective is not applied (or is not done so correctly) in relation to nail scraping or vaginal discharge, which are necessary tests to determine whether there has been a sexual assault, which is a factor in some killings of women and that, according to Mexican law, determines that it is a case of feminicide. This results in the loss of evidence that in many cases is decisive in proving the crime should be categorized as feminicide. Additionally, there are cases in which lines of inquiry are not developed from a gender perspective. This means that sometimes cases that are feminicides are investigated as suicides or that people in the victims' circle are not considered as suspects who should be investigated. Finally, the lack of a gender perspective can be seen in the use of stereotypes and victim blaming.

Amnesty International has also documented cases where families of the victims of feminicide are re-victimized by the authorities throughout the process of seeking justice, which in itself constitutes institutional violence. Specifically, it found that:

5 Acid phosphatase is an enzyme that is present in semen and other fluids and so is a marker for sexual offences. Likewise, nail scrapings are used to identify biological or physical samples from the attacker that may be left under the victim's nail when she tried to defend herself.

1. ***Seeking justice takes time and is financially and emotionally costly.*** Due to the failings in investigations, families frequently become the main driving force behind the investigation, which requires them to go repeatedly to the offices of the Attorney General and other institutions, and places linked to the case, for example, to search them. In addition, the State of Mexico covers a large area and journeys by public transport – which most of the population uses as they cannot afford the cost of private transport – are very long. All this means that many family members lose or leave their jobs, because it takes time to carry out the investigation, and face serious financial problems, which affect their health and their ability to continue to cover costs related to the investigation.

2. ***Pursuing justice is dangerous.*** Some families are threatened by those responsible for the feminicide of their daughters, mothers or sisters. Although some families ask the authorities for protection, this is usually inadequate, resulting in some families being forced to move home. In other cases, the authorities themselves threaten and harass families. In the cases documented in this report, the threats take the form of "warnings" to "not make too much noise"; that is, not to complain about the investigation or bring it to the attention of their superiors. In all cases without exception, the families stated that some public servants had treated them badly.

Mexico is thus failing to fulfil its obligation to refrain from any action or practice of violence against women and to ensure that their authorities, officials, personnel, agents and institutions act in conformity with this obligation, and to adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property (Article 7, Belém do Para Convention). Thus, in addition to their right to access to justice, judicial protection and effective participation in the process, the harm done by the authorities' failure to adequately investigate these cases often amounts to ill-treatment in a way that violates the families' right to personal integrity.

All of this leads Amnesty International to emphasize that changes, in relation to a range of issues, are needed in the justice systems at the national and state level applied in the State of Mexico in order to respect the rights of victims. In general terms, public servants in the State of Mexico Attorney General's Office lack the necessary conditions to enable them to carry out investigations: their workload is excessive and they lack the material resources to carry out some procedures. For example, there is a worrying shortage of official vehicles, which means that staff must travel in their own private vehicles – without being reimbursed for the expense – or on public transport. Using public transport in the State of Mexico means they have to spend many hours of their working day travelling to carry out processes, contributing to delays. In addition, personnel have to pay out of their own pockets for some of the materials needed to carry out investigations; some have to share their desks with other colleagues, and therefore, have to take turns when dealing with victims; and their offices do not have adequate storage facilities to keep the evidence securely, which increases the chances of contamination and destruction.

Amnesty International has also found that members of the State of Mexico Attorney General's Office require more specialized training in carrying out investigations, as some members of the prosecutors and experts interviewed acknowledged. In general, the training provided is too generic (on human rights and a gender perspective) and a greater focus is lacking on various technical aspects, for example, on information technology, how to collect certain forensic samples and how to apply a gender perspective in developing investigations. In addition, working conditions, such as excessive workloads, make it difficult for staff to attend sufficient appropriate training and for it to have a real impact.

Lastly, there is a clear need for real supervision to be exercised over the work of public servants and responses to negligence and omissions in investigations.

In summary, Amnesty International has documented that investigations into feminicides preceded by disappearances in the State of Mexico are flawed because evidence is lost, there is insufficient investigation and a gender perspective is lacking. In addition, families are re-victimized because they

have to spend time and money on investigating cases themselves or putting pressure on the authorities to investigate. Re-victimization also occurs as a result of the frequent threats and harassment they face from the perpetrators and sometimes also from the authorities. All of this hinders the prosecution process and increases the likelihood that cases will remain unpunished, seriously affecting the right to truth, justice and reparations of victims afflicted by feminicides.

Amnesty International, therefore, makes the following recommendations:

TO THE FEDERAL AUTHORITIES

- Publicly acknowledge the scale of the problem of feminicides and disappearances in Mexico, as well as the failings in the investigations into these crimes, and send a clear message that these crimes will no longer be tolerated or go unpunished.

Ministry of the Interior:

- Design and implement a comprehensive public policy for the protection of human rights defenders and journalists. This policy should take into account that in those states where alerts on gender-based violence have been issued, such as the State of Mexico, affected families face a double danger in their search for truth, justice and reparation: the gender-based violence that was the reason for the alert being issued and attacks aimed at making them give up their fight.

STATE OF MEXICO ATTORNEY GENERAL

- Ensure that the Central Attorney General's Office on Crimes Linked to Gender-Based Violence (Gender Prosecutor's Office) has the human and financial resources necessary to carry out its function efficiently and with decent working conditions. Specifically:
  - Increase the team of experts assigned to the Gender Prosecutor's Office.
  - Increase the team of officials in the Public Prosecutor's Office and investigative police in the Attorney General's Office specializing in Feminicide and Disappearances.
- Ensure that the Gender Prosecutor's Office has the necessary infrastructure to carry out its function efficiently and with decent working conditions.
- Design and implement training programmes focused on the technical aspects of investigations with a gender perspective into disappearances and killings of women. These training programmes must be specific and differentiated according to professional roles (investigative police, prosecutor, experts...) and area of investigation or specialization (disappearances, feminicides, scientists specializing in chemistry, criminology, forensic medicine…).
- Ensure that all public servants involved in investigating feminicides are aware of the State of Mexico Protocol on Investigations of the Crime of Feminicide. In particular, disseminate and supervise the application of this Protocol in Regional Attorney Generals' Offices, Expert Services and Forensic Medical Services and the Municipal Police.
- Ensure that in all cases of missing women, urgent search procedures are carried out immediately, especially those related to the geolocation of cell phones and requests for video surveillance camera recordings.
- Ensure that expert reports contain detailed and accurate information and can be understood by non-experts.
- Investigate public servants responsible for misconduct or crimes against the victims and impose adequate disciplinary measures when appropriate.

- Strengthen the studies carried out by the Context Analysis Unit so that they are more complete and specific. In addition, the Context Analysis Unit should carry out a more in-depth analysis of cases of feminicide following disappearance in the State of Mexico.
- Establish coordination between the Special Prosecutor's Office for Disappearances and the Special Prosecutor's Office for Feminicides in cases in which a feminicide has been preceded by a disappearance, with the aim of strengthening the investigation of feminicide with the procedures carried out at the stage in which the woman was missing.
- Improve the training of officials in the Special Prosecutor's Office for Disappearances regarding the prosecution of cases of disappearance.

CONGRESS OF THE STATE OF MEXICO

- Ensure that the State of Mexico Attorney General's Office, especially the Central Attorney General's Office on Crimes Linked to Gender-Based Violence, has the human and financial resources, and the necessary infrastructure needed to carry out its function efficiently and with decent working conditions.
- Assign appropriate and adequate budgets for the functions entrusted to the State of Mexico Attorney General's Office. In particular, ensure that the Attorney General's Office has the necessary resources to apply the State of Mexico Protocol on Investigations of the Crime of Feminicide, the Protocol approved for the search of missing persons, the AMBER Alert Programme and the Alba Protocol.
- Formally request the appearance of the State of Mexico Attorney General before the State of Mexico Legislature to demand accountability and information on the quality of investigations into feminicides and disappearances.

STATE OF MEXICO HUMAN RIGHTS COMMISSION

- Investigate the problem of failures in criminal investigations of crimes of violence against women, especially feminicides and disappearances, and issue recommendations that address the issues highlighted in this report, such as excessive workloads, lack of investigation, the application of a gender perspective, the collection and secure storage of evidence and the need for training of public servants in Public Prosecutors' Offices.

TO ALL AUTHORITIES AT THE STATE AND NATIONAL LEVELS

- Ensure that public servants working in the administration of justice, including those working in institutions at the state level, especially police officers and public defenders, receive decent wages and have working conditions and the appropriate social benefits for the work they perform, and dignity at work.
- Guarantee that public servants working in the administration of justice assigned to Attorney Generals' Offices are provided with the material resources necessary to carry out their functions efficiently and in accordance with the law and human rights.
- Adopt and implement effective measures to protect and assist women complainants and witnesses of gender-based violence before, during and after legal proceedings, (CEDAW General Recommendation 35).[6]
- Provide effective reparation to women victims of gender-based violence. Reparation should include a variety of measures, such as monetary compensation and the provision

6 Convention on the Elimination of All Forms of Discrimination against Women, *General recommendation 35 on gender-based violence against women, updating general recommendation No. 19*, CEDAW/C/GC/35, 26 July 2017.

of legal; social and health services, including sexual, reproductive and mental health, for a complete recovery; and satisfaction and guarantees of non-repetition. Such reparations should be adequate, promptly attributed, holistic and proportionate to the gravity of the harm suffered, (CEDAW General Recommendation 35).

METHODOLOGY

This report documents research into four cases of feminicides preceded by disappearance. In these four cases, the judicial case files were studied, which include the procedures carried out by officials of the Attorney General's Office of the State of Mexico in charge of their cases, expert reports and the transcript of interviews with witnesses. In addition, in the four cases, family members, their legal advisers and officials from the State of Mexico Attorney General's Office of in charge of their cases were interviewed.

Likewise, 47 interviews were conducted with people who work in the administration of justice in the State of Mexico (officials from the Public Prosecutor's and Attorney General's Offices and experts), members of the State Search Commission (Comisión Estatal de Búsqueda) and of the Municipal Search Units (Células Municipales de Búsqueda) of the State from Mexico, rights holders, legal advisers and academic experts, and members of civil society organizations from both the State of Mexico and other states, which provided a broader view of national context. The interviews were conducted by video call or in person between January 2020 and March 2021.

A review of international law and standards was also carried out, especially those related to women's human rights, as well as of national and state legislation on feminicide and disappearances. Finally, requests for information were made through transparency portals and a review of the existing literature on feminicides and disappearances and criminal investigations of these crimes in Mexico and, in particular, in the State of Mexico was carried out.

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Amnesty International would like to thank all those who shared their accounts of the human rights violations they experienced and gave permission for them to be included in this document.

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Amnesty International is grateful to those who work in the field of law enforcement and administration who agreed to meet with the organization and share their experiences and perspectives on criminal investigations into disappearances and feminicides, which form part of their duties.

1. FEMINICIDE AND HUMAN RIGHTS

1.1. WHAT IS FEMINICIDE?

Feminicide is the ***gender-based killing of women***.[7] It expresses the fact that women are killed because of their gender and that these crimes exploit the discrimination women face and their unequal position in society.

To determine whether when a woman is killed it is because of her gender, some countries have established certain circumstances that can be applied at the legal level. In Mexico, these circumstances include, for example, that: prior to her death the woman was held incommunicado; the body was exposed or dumped in a public place; the body shows signs of sexual violence and/or demeaning or degrading injuries; the woman was killed by someone with whom she had or has had a personal relationship, was friends with or related to; or the victim and the perpetrator were linked through their employment or another relationship suggesting trust, subordination or authority.[8] Where a woman's death reflects these circumstances, it indicates that discrimination was a factor in her killing and, therefore, is evidence that she was killed for reasons of gender.

Feminicides can occur in both the private and public spaces, by people known to the victim or strangers.[9] Furthermore, in some contexts, this violence is perpetrated and/or tolerated by the state and its agents, either by action or omission. The term "feminicide" (used in Mexico) highlights, unlike that of "femicide" (used in other countries in Latin America), that impunity is one of the factors that facilitate this crime and therefore that the state and legal structures bear responsibility for the prevention and perpetration of this crime.[10]

7 The United Nations defines feminicide 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" and can be found in OHCHR and UN Women, Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide), 2014, para. 39.

8 There is no exhaustive list of factors based on which the killing of a woman is considered to have been committed for reasons of gender. Some proposals can be found in the Committee of Experts of the Follow-up Mechanism of the Convention of Belém do Pará (MESECVI), Inter-American Model Law On the Prevention, Punishment and Eradication of the Gender-Related Killing of Women and Girls (Femicide/Feminicide), approved at the XV Meeting of the Committee of Experts of the MESECVI, held on 3, 4 and 5 December 2018 in Washington, DC; and, in the Mexican context, in the National Citizen Observatory on Feminicide (Observatorio Ciudadano Nacional del Feminicidio, OCNF), *Informe implementación del tipo penal de feminicidio en México: Desafíos para acreditar las razones de género 2014-2017*, Católicas por el Derecho a Decidir, A. C., Mexico City, 2018. Various criminal codes incorporate some of these circumstances in their categorization of criminal offences. For example, article 325 of the Federal Criminal Code of Mexico, relating to feminicide, provides for circumstances, among which are that the victim shows signs of sexual violence of any kind ("la víctima presente signos de violencia sexual de cualquier tipo") and that the body of the victim is exposed or exhibited in a public place ("el cuerpo de la víctima sea expuesto o exhibido en un lugar público"). Each federal entity has its own definition and circumstances.

9 This definition is based on the one adopted by the United Nations (see footnote number 7).

10 Marcela Lagarde, Presentación a la edición en español, en Feminicidio: La política del asesinato de las mujeres, eds Diana Russell and Jill Radford, UNAM, Mexico, 2006.

Feminicide thus constitutes ***the most extreme form of violence against women*** and the most violent manifestation of the discrimination and inequality women face.[11]

The Criminal Code of the State of Mexico (article 281) states that:

> Anyone who deprives a woman of life because of her gender commits the crime of feminicide. It is considered to be gender-based when any of the following circumstances are present:
>
> I. The victim shows signs of sexual violence of any kind;
>
> II. The victim has been subjected to humiliating or degrading injuries or mutilation, before or after the deprivation of life or acts of necrophilia;
>
> III. There is a history, information or evidence of violence of any kind in the family, work or school environment, by the perpetrator against the victim;
>
> IV. There has been a personal or emotional relationship or a relationship of trust between the perpetrator and the victim;
>
> V. There is information or evidence establishing that there were threats linked to the crime, harassment or injuries inflicted by the perpetrator on the victim;
>
> VI. The victim was held incommunicado, at any time prior to the deprivation of life;
>
> VII. The body of the victim is exposed or displayed in a public space; or
>
> VIII. As it is a result of gender-based violence, the perpetrator may someone known to the victim or a stranger without any kind of relationship to her.[12]

1.2. WHY IS FEMINICIDE A HUMAN RIGHTS VIOLATION?

International human rights law has developed a set of norms, standards and principles to guarantee the rights of women. The right of women to live a life free of violence is enshrined both in the international and Inter-American human rights systems.

The ***Convention on the Elimination of all forms of Discrimination against Women*** (CEDAW), adopted by consensus in 1979 by the United Nations General Assembly, was ratified by Mexico in 1981.[13] CEDAW establishes the obligation to eliminate all forms of discrimination against women and adopt all appropriate measures to modify or repeal discriminatory laws, regulations, customs and practices. The

11 Committee of Experts of the Follow-up Mechanism of the Belém do Pará Convention (MESECVI), Declaration on Femicide, approved at the Fourth Meeting of the Committee of Experts (CEVI), 15 August 2008. See also, Fem[in]icide Watch, UN Studies Association (UNSA) Global Network and UNSA Vienna's Femicide Team, http://femicide-watch.org/

12 State of Mexico Criminal Code, current legislation can be consulted on the official website of the Government of the State of Mexico: https://legislacion.edomex.gob.mx/codigos/vigentes (last visited 21 June 2021).

13 OHCHR, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted by the General Assembly in resolution 34/180, 18 December 1979.

Declaration on the Elimination of Violence against Women, adopted in 1993, sets out standards and principles which have become sources of customary international law.[14]

In Latin America, the ***Inter-American Convention to Prevent, Punish and Eradicate Violence against Women***, also known as the Belém do Pará Convention, was adopted in 1994.[15] This was the first binding international treaty recognizing the ***right to a life free from violence as a human right*** (Article 4)[16] and defines violence against women as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere" (article 1).

States parties to the Belém do Pará Convention, including Mexico, which ratified it on 19 June 1998, have an obligation to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate all forms of violence against women (article 7). From this obligation assumed by the states parties, it follows that, ***if a state does not prevent, investigate or punish feminicide, the most extreme expression of violence against women, with due diligence, it fails to comply with its obligation to guarantee – among others – the right to life.***[17]

Therefore, the lack of adequate protection for women by the state and the failure to prevent and investigate violence against them amounts to a breach of the state's obligation to respect, protect and fulfil human rights recognized in international law.

Feminicide violates several rights enshrined in the Convention of Belém do Pará (Articles 3, 4 and 6) and the American Convention on Human Rights (Articles 4, 5, 7 and 24): the right to life; to a life free of violence; to equal protection before the law; to have their physical, mental and moral integrity respected; to liberty and security of person; and to non-discrimination. In addition, in some cases, the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment and the right of access to justice are also violated.

1.3. FROM CIUDAD JUÁREZ TO THE STATE OF MEXICO: FEMINICIDES, CRIMINAL INVESTIGATIONS AND HUMAN RIGHTS VIOLATIONS

In 2020, in Mexico Public Prosecutors' Office in the different states registered 3,723 killings of women, of which 940 were investigated as feminicides.[18] This means that at least 10 women were killed every

14 Regional Office for Central America of the United Nations High Commissioner for Human Rights and the Regional Office of UN Women for the Americas and the Caribbean, Latin American Model Protocol for the investigation of gender-related killings of women, 2014, para. 31.
15 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence, approved by the General Assembly of the Organization of American States, 9 July 1994.
16 Article 4 states: "Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others: a. The right to have her life respected; b. the right to have her physical, mental and moral integrity respected; c. The right to personal liberty and security; d. the right not to be subjected to torture; e. The rights to have the inherent dignity of her person respected and her family protected; f. The right to equal protection before the law and of the law; g. The right to simple and prompt recourse to a competent court for protection against acts that violate her rights; h. The right to associate freely; i. The right of freedom to profess her religion and beliefs within the law; and j. The right to have equal access to the public service of her country and to take part in the conduct of public affairs, including decision-making.
17 Patsilí Toledo, *Feminicidio, Consultancy for the Mexico Office of the United Nations High Commissioner for Human Rights,* Mexico, 2009.
18 SESNSP, Information on violence against women (Crime incidence and 9-1-1 emergency calls) National Information Centre, with cut-off date of 31 December 2020, 2021. In addition to the deprivation of life, the crime of feminicide – unlike the crime of homicide – requires that such deprivation be motivated for reasons of gender, which are determined by circumstances that vary, depending on the particular

day in Mexico throughout 2020 and that around a third of them were killed for gender-based reasons.[19] Illustration X shows the number of killings of women, that is, intentional homicides and feminicides, registered in 2020 by state.[20] As can be seen from the map, there is not a single state in Mexico that registered no killings of women, including feminicides.

REPORTED VICTIMS OF KILLINGS OF WOMEN (INTENTIONAL HOMICIDES AND FEMINICIDES) IN MEXICO, 2020

	Killings of women (intentional homicides + feminicides)		Feminicidies		Intentional Homicides	
	Total	Number per 100,000 women	Total	Number per 100,000 women	Total	Number per 100,000 women
Aguascalientes	7	1,0	2	0,3	5	0,7
Baja California	287	15,8	31	1,7	256	14,1
Baja California Sur	8	2,0	4	1,0	4	1,0
Campeche	5	1,0	3	0,6	2	0,4
Coahuila	33	2,1	24	1,5	9	0,6
Colima	96	24,3	12	3,0	84	21,3
Chiapas	69	2,4	28	1,0	41	1,4
Chihuahua	288	15,1	30	1,6	258	13,5
CDMX	161	3,5	64	1,4	97	2,1
Durango	18	1,9	12	1,3	6	0,6
Guanajuato	432	13,5	19	0,6	413	12,9
Guerrero	153	8,1	12	0,6	141	7,5
Hidalgo	52	3,2	18	1,1	34	2,1
Jalisco	264	6,2	66	1,6	198	4,6
Estado de México	403	4,5	150	1,7	253	2,8
Michoacán	250	10,1	21	0,9	229	9,2
Morelos	83	7,9	33	3,1	50	4,8
Nayarit	20	3,1	12	1,9	8	1,2
Nuevo León	95	3,4	67	2,4	28	1,0
Oaxaca	131	6,1	38	1,8	93	4,3
Puebla	133	3,9	52	1,5	81	2,4
Querétaro	21	1,9	10	0,9	11	1,0
Quintana Roo	78	9,2	15	1,8	63	7,4

criminal code, for example, the presence of signs of sexual violence or the fact that the victim's body is exposed or exhibited in a public place (see, for example, the classification of the crime in the Federal Criminal Code, article 325, and the State of Mexico Criminal Code, article 281).

19 On the difficulty of establishing the number of feminicides and interpreting official data, see Carolina Torreblanca, "¿Qué contamos cuando contamos "feminicidios?", *Animal Político*, 12 November 2018.

20 Given that some feminicides are registered as homicides by the authorities and that there are states that have a greater tendency to classify killings of women as feminicides than others, it is important to take into account both the number of intentional homicides and feminicides in order to have a better idea of scale of the problem.

San Luis Potosí	58	3,9	27	1,8	31	2,1
Sinaloa	37	2,3	26	1,6	11	0,7
Sonora	86	5,6	31	2,0	55	3,6
Tabasco	57	4,4	15	1,2	42	3,2
Tamaulipas	73	4,0	12	0,7	61	3,3
Tlaxcala	23	3,3	6	0,9	17	2,4
Veracruz	189	4,3	84	1,9	105	2,4
Yucatán	11	0,9	6	0,5	5	0,4
Zacatecas	102	12,1	10	1,2	92	10,9
Total	**3,723**		**940**		**2,783**	

NB: All figures refer to the number of victims except for the rate per 100,000 of feminicides, which refers to crimes, since SESNSP does not publish the rate for victims. The figures come from the information registered in the case files for investigations initiated by the Public Prosecutor's Office and are provided on a monthly basis by Attorney Generals and Public Prosecutors' Offices of the 32 states.
Source: Based on the information published by the General Secretariat of National Public Security System (Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública, SESNSP).

In the 1990s, a series of brutal killings of women began to come to light in Ciudad Juárez (Chihuahua, Mexico), which had particular characteristics: the victims, young women or adolescents working in the maquilas (factories) and with limited resources, were deprived of liberty for a few days and their dismembered bodies were later found bearing signs of extreme violence, sexual assault and torture.[21]

In 2003, Amnesty International documented the cases of seven women who disappeared and were killed in Ciudad Juárez between 1998 and 2002, concluding that there was evidence of extreme violence against women and of a lack of action by the authorities in responding to these crimes, whether due to indifference, lack of will, negligence or lack of capacity.[22] The research highlighted that the investigations of the cases presented various irregularities, including a failure to secure the crime scenes and evidence, casting doubt the victims, and a failure to pursue certain lines of investigation.

The ineffectiveness of the investigations led members of the victims' own families and people who knew them to organize searches and track down leads all over the city. Families and friends of the victims, as well as civil society organizations and litigants, were also the targets of smear campaigns and even intimidation and threats from the authorities.[23]

In 2007, the case of the disappearance and subsequent murder of three young women – Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez – whose bodies were found in a cotton field in Ciudad Juárez in November 2001, reached the Inter-American Court).[24] In 2009, the Inter-American Court ruled that Mexico was responsible for the lack of due diligence in the investigation of the women's deaths and for failing to prevent this type of crime. The judgment states:

21 See Amnesty International, *Intolerable Killings: 10 years of Abductions and Murders of Women in Ciudad Juárez and Chihuahua (AMR 41/027/2003)*. Other authors who have documented the case are Rita Segato, La guerra contra las mujeres, 2ª ed. Autonomous City of Buenos Aires, Prometeo Libros, 2018; and Diana Washington, Cosecha de mujeres, Safari en el desierto mexicano, Mexico, Oceano, 2005.
22 Amnesty International, *Intolerable deaths*, op. cit., p.4.
23 Amnesty International, *Intolerable deaths*, op. cit., p.4.
24 Inter-American Court, Case of González et al. ("Cotton field") v. Mexico, Preliminary objection, merits, reparations and costs, Judgment of 16 November 2009.

"The duty to investigate is an obligation of means and not of results, which must be assumed by the State as an inherent legal obligation and not as a mere formality preordained to be ineffective. The State's obligation to investigate must be complied with diligently in order to avoid impunity and the repetition of this type of act. In this regard, the Tribunal recalls that impunity encourages the repetition of human rights violations."

Inter-American Court, *Case of González et al. ("Cotton Field") v. Mexico*, para. 289.

"This judicial ineffectiveness when dealing with individual cases of violence against women encourages an environment of impunity that facilitates and promotes the repetition of acts of violence in general and sends a message that violence against women is tolerated and accepted as part of daily life."

Inter-American Court, *Case of González et al. ("Cotton Field") v. Mexico*, para. 388.

The Inter-American Court declared that, arising from the failure to comply with its obligations, Mexico violated the rights to life, personal integrity and personal liberty of the victims; failed to comply with its duty to investigate and thereby guarantee the rights to life, personal and family integrity; violated the rights of access to justice and judicial protection of the victims' families, the duty of non-discrimination and the rights of the child. It also found that the suffering caused to the victims' families due to the failings in the investigation constituted a violation of their right to personal integrity.[25]

The Inter-American Court ordered 16 provisions for reparations, including the obligation to conduct effectively the criminal proceedings in the case at the national level; the obligation to investigate and punish the officials accused of irregularities and those responsible for the harassment of the victims' families; the obligation to publish the judgment in the national and local press; the obligation to standardize all protocols, manuals and prosecutorial investigation criteria for investigating crimes related to disappearances, sexual violence and killings of women, ensuring there is a gender perspective; and to provide continuous training in human rights with a gender perspective for its officials.[26] It should be noted that the "Cotton Field" judgment is addressed to the Mexican state as a whole and not to any specific federal entity and its findings are valid for the entire country, as well as the obligation to comply.

In 2017, the Inter-American Court explicitly stated that nine of the 16 provisions had been complied with, including the publication in the Official Gazette of the Federation of part of the judgment, the holding of an international public act of acknowledgment of responsibility, the erection of a monument in memory of women victims of gender-based homicide, the continuation of the standardization of protocols and other instruments used to investigate all crimes related to disappearances, sexual violence and killings of women; and the ongoing implementation of continuous education and training programmes and courses on human rights and a gender perspective.[27] Thus, the state had not fulfilled the obligation to effectively conduct criminal proceedings in the case at the national level; the obligation to investigate and punish the officials accused of irregularities and those responsible for the harassment of family members; or the obligation to provide free medical, psychological and psychiatric care in public institutions to the families of the victims. In addition, despite the fact that the National Registry of Missing or Disappeared Persons was created, there have been several criticisms of it,[28] and

25 Inter-American Court, *Case of González et al. ("Cotton field") v. Mexico*, para. 602 et seq.
26 A summary of these cases in Spanish is available at Inter-American Court, Technical data: *González y otras ("Campo Algodonero") Vs. México.*
27 Inter-American Court, *Case of González et al. ("Cotton Field") v. Mexico*, Reparations declared completed, 5 December 2017.
28 For more detailed information, see Instituto Belisario Domínguez, Senate of the Republic, *Historia, retos de mejora y cifras del registro de personas desaparecidas*, Temas estratégicos no. 70, April 2019.

concerns have been expressed regarding the obligation to train professionals in the justice system on the grounds that the courses delivered have failed to have a significant effect.[29]

Although there had already been previous legislative initiatives,[30] the Cotton Fields ruling helped Mexico start defining the crime of feminicide in 2010. In 2012, steps were taken to define it in the Federal Criminal Code, and later some states adopted its categorization as a distinct criminal offence,[31] among them the State of Mexico.

Thirteen years after the Cotton Fields judgment, national figures show that feminicides continue to be a serious problem in the country and there continue to be serious failings in criminal investigations.[32] This suggests that Mexico ***is still failing in its obligation to prevent and investigate feminicides.***[33]

In 2020, 3,723 killings of women were registered in Mexico, of which 940 were investigated as feminicides

One of the contexts in which what in Mexico is called "feminicidal violence"[34] has been documented is the State of Mexico, one of 32 Mexican states, located in the centre of the country.[35] The State of Mexico, and in particular, some of its most populous municipalities, have been the scene of numerous cases of feminicides and disappearances of women, adolescents and girls, and significant failings in the investigations by the authorities have given rise to further human rights violations.

29 Presentation by Andrea Medina, "10 años de la sentencia González y Otras ("Campo Algodonero" vs. Mexico"), Supreme Court of Justice, 25 November 2019.
30 Patsilí Toledo, La tipificación del femicidio/feminicidio en países latinoamericanos: Antecedentes y primeras sentencias (1999-2012), coctoral thesis, Universidad Autónoma de Barcelona, 2012.
31 OCNF, *Informe implementación del tipo penal de feminicidio en México: Desafíos para acreditar las razones de género 2014-2017*, Católicas por el Derecho a Decidir, A. C., Mexico City, 2018.
32 See, for example, OCNF, *Informe implementación del tipo penal de feminicidio en México*, op.cit.
33 Both CEDAW and the IACHR have recommended the adoption of measures aimed at complying with due diligence to prevent, punish and eradicate violence and discrimination against women: CEDAW, Concluding observations on the ninth periodic report of Mexico, CEDAW/C/MEX/CO/, 2018; IACHR, Chapter V: Follow-up of recommendations issued by the IACHR in its country or thematic reports; and Third report on follow-up of recommendations issued by the IACHR in its report on the human rights situation in Mexico, 2018.
34 The General Law on Women's Access to a Life Free of Violence, of 1 February 2007, defines feminicidal violence in article 21 as an extreme form of gender-based violence against women, a result of human rights violations, in the public and private spheres, composed of a combination of misogynistic behaviours that can lead to social and state impunity and can culminate in homicide and other forms of violent killings of women ("la forma extrema de violencia de género contra las mujeres, producto de la violación de sus derechos humanos, en los ámbitos público y privado, conformada por el conjunto de conductas misóginas que pueden conllevar impunidad social y del Estado y puede culminar en homicidio y otras formas de muerte violenta de mujeres").
35 Lydiette Carrión, *La fosa de agua: Desapariciones y feminicidios en el Río de los Remedios*, Debate, 2018; Javier Juárez, Paralelismos en los capítulos de feminicidios y desapariciones forzosas de mujeres y niñas en Ciudad Juárez y Ecatepec entre 2008 y 2014, *Estudios sobre el Mensaje Periodístico*, 2016, 22(2), 1-18.

2. STATE OF MEXICO

The State of Mexico, with approximately 17 million inhabitants,[36] has the largest population of any state. It is also one of the most urbanized and has the highest population density in Mexico.[37] It is located in the centre of the country, with a long border with the capital, Mexico City, which is why part of its territory is known as "the periphery" (in a geographical but also socioeconomic and symbolic sense).

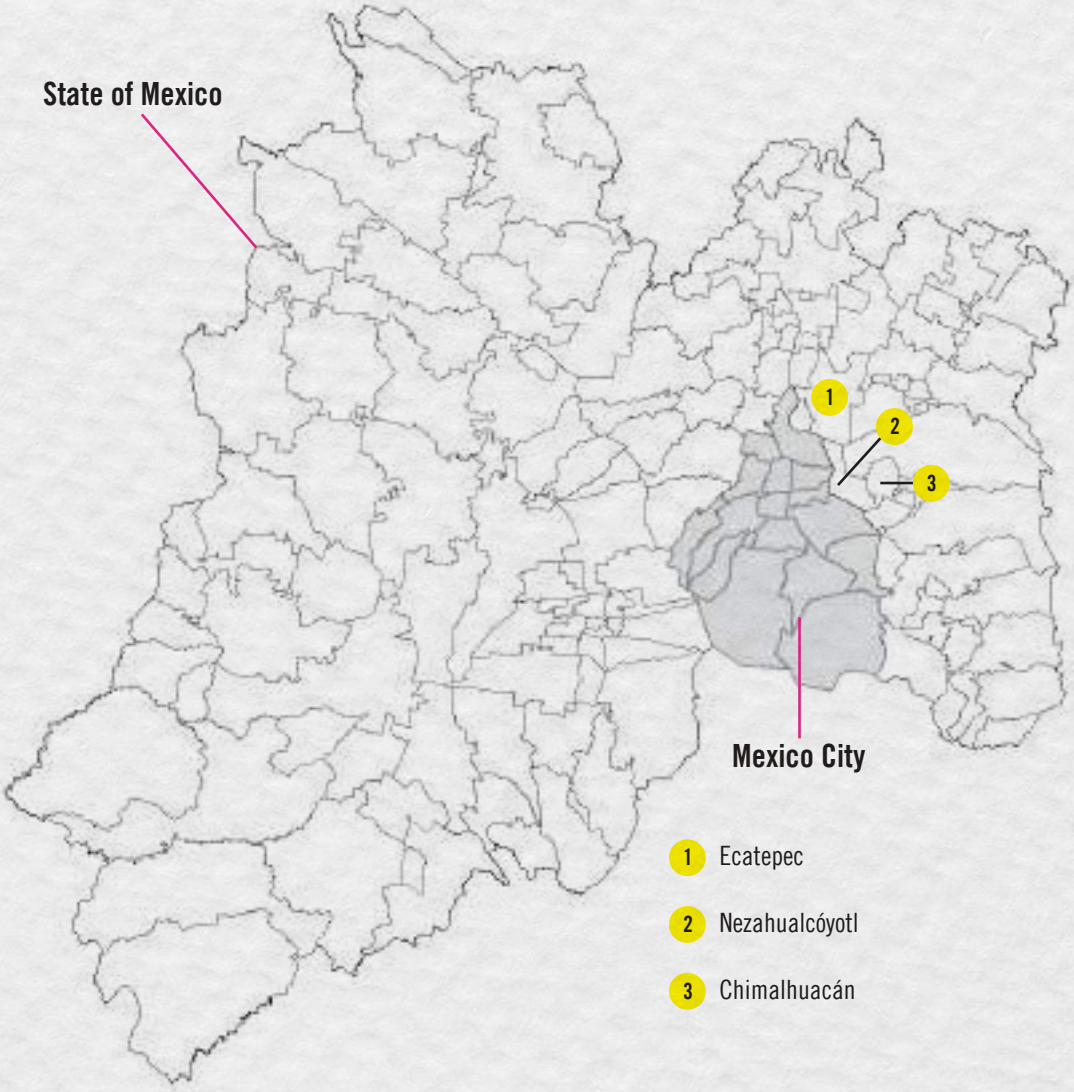
In 2018, 79.6% of the population of the state (about 14 million people) was living in a situation of poverty or vulnerability due to social deprivation or income.[38] Specifically, 42.7% of the population lived in a situation of poverty, 28.1% in a situation of vulnerability due to social deprivation[39] and 8.7% in a situation of vulnerability due to income; that is, their income was not sufficient to cover basic needs.[40]

Due to its proximity to the capital, millions of people living in the State of Mexico commute from their homes daily to work or study: 22.5% of the population works outside their state and 7.9% travels for study purposes, making the state the federative entity with a higher percentage of daily mobility in the country.[41] Additionally, the State of Mexico is the federal entity with the highest percentage of people who report that their commute time to work is more than 60 minutes (32.6%).[42]

The degree of urbanization, the high population density and the proximity to Mexico City, with greater employment opportunities, political decision-making centres and high levels of finance capital, means that large cities in the State of Mexico, such as Chimalhuacán, Nezahualcóyotl and Ecatepec, are or have become "dormitory towns", that is, cities where many inhabitants spend the day elsewhere and only return to sleep.[43] The National Council for the Evaluation of Social Development Policy (Consejo Nacional de Evaluación de Política de Desarrollo Social, CONEVAL) points out that the State of Mexico is the state with

36 Figures for 2020. INEGI, Presentación de resultados, Estados Unidos Mexicanos, 2021.
37 The State of Mexico is the second most densely populated federal entity (after Mexico City) with 725 inhabitants per km^2. INEGI, *Población, Densidad de población*, 2015.
38 CONEVAL, *Informe de pobreza y evaluación, Estado de México*, 2020 p. 14.
39 For example, 19.8% of the population lacked access to health services, 9.6% to quality housing and spaces and 19.8% to food. CONEVAL, *Informe de pobreza y evaluación, Estado de México,* 2020, p. 14.
40 CONEVAL, *Informe de pobreza y evaluación, Estado de México,* 2020, p. 14.
41 INEGI, *Encuesta intercensal 2015, Principales Resultados*, Instituto Nacional de Estadística y Geografía, 2016. 48 and 40 (respectively).
42 CONEVAL, *Estudio diagnóstico del derecho a la vivienda digna y decoros 2018*, Consejo Nacional de Evaluación de la Política de Desarrollo Social, 2018, p.99.
43 Silvia Céspedes and Enrique Moreno, "La urbanización y el crecimiento demográfico en relación al recurso agua: caso municipio de Chimalhuacán, Estado de México", *Quivera*, 2009, 11, 2, pp. 127-141; and Jaime Linares, "Nezahualcóyotl, de ciudad dormitorio a polo de desarrollo de la región Oriente del Valle de México", *Paradigma económico*, 2013, 5, 2, pp. 117-144.

the lowest level of community facilities and structures in the country: its rates of recreational and cultural facilities and community centres are lower than the national rates, which reflects "the lack of sufficient spaces for coexistence and community development".[44] Consequently, CONEVAL considers the State of Mexico to be "a priority" in terms of social environment among neighbours, since it reports the lowest percentage of satisfaction with one's neighbourhood and perception of security in the home.[45]



Additionally, the State of Mexico is the federal entity with the second highest perception of public insecurity[46] and has one of the highest crime prevalence rates in the country.[47] In addition, it has one of the highest levels of unreported crimes (cifras negras) in Mexico,[48] in large part due to problems related to the authorities, since the reasons why crimes are not reported include fear of extortion, mistrust or the fact that is considered to be a waste of time.[49] There is also a widely held perception

44 "la insuficiencia de espacios para la convivencia y el desarrollo comunitario", CONEVAL, *Estudio diagnóstico del derecho*, op. cit., p.154.
45 CONEVAL, *Estudio diagnóstico del derecho*, op. cit., p.155.
46 91.8%, after Tabasco (91.9%). INEGI, *Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública ENVIPE) 2018, Principales Resultados*, Instituto Nacional de Estadística y Geografía, 2018, p.38.
47 46.7 victims per 100,000 inhabitants, in 2017, the national average being 29.7. INEGI, *Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública (ENVIPE) 2018, Principales Resultados*, Instituto Nacional de Estadística y Geografía, 2018, p.9.
48 94.8%, after Guerrero with 96.8% and Tamaulipas with 96.4%. INEGI, *Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública (ENVIPE) 2018, Principales Resultados*, Instituto Nacional de Estadística y Geografía, 2018, p.31.
49 In 74.3% of the cases these reasons are not reported. INEGI, *Encuesta Nacional de Victimización y Percepción sobre Seguridad*

that the authorities are corrupt, especially the Traffic Police, the Municipal Police, the Public Prosecutor's Office and the State Attorney;[50] and the State of Mexico is the federal entity with the highest impunity rate in the country.[51]

According to a study by Víctor Manuel Sánchez (Universidad Autónoma de Coahuila), the presence of organized crime in the State of Mexico has spread and intensified in the last decade, increasing from two criminal organizations between 2009 and 2017 to a total of 14, operating in 96 municipalities in the state.[52] Sánchez points out that, unlike other regions of Mexico, the centre of the country is characterized by a significant fragmentation of criminal organizations, which is linked to an upsurge in violence sparked by territorial disputes between different rival groups.[53] In addition, Mexico's response at the national level, opting for the militarization of public security, has also had an impact on the increase in homicides in the country, as previous studies have shown.[54]

In relation to violence against women, around 2010 a series of feminicides started to come to light in the eastern part of the State of Mexico which had a number of similar characteristics, for example the women mostly came from marginalized areas and had limited resources; they were missing for a period of time and their dismembered bodies were later found dumped on public thoroughfares, with signs of torture and extreme sexual violence.[55] There were serious failings in the investigations into these feminicides: the authorities failed to act; victims were blamed and stigmatized; there were delays in starting the search for the missing women; and information was withheld from families, among other omissions.[56] The number and brutality of these cases, as well as the failures in their criminal investigations, which often resulted in the re-victimization of families and impunity, have led to the feminicidal violence that occurred in some areas of the State of Mexico, like Ecatepec, being compared with the emblematic feminicides in Ciudad Juárez (Chihuahua),[57] which drew worldwide attention in the early 2000s.[58]

In this context, the State of Mexico has initiated two alerts on gender-based violence, a mechanism that provides for the adoption of a series of emergency actions by the government to confront and eradicate feminicidal violence in municipalities with a high levels of this type of crime.[59] The first alert on gender-based violence regarding feminicide was declared in 2015 in 11 municipalities of the State of Mexico.[60] In 2019, a second alert was declared, in this case for the crime of disappearance of girls, adolescents

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Pública (ENVIPE) 2018, Principales Resultados, Estado de México, Instituto Nacional de Estadística y Geografía, 2018, p.19.

50 85.6% of the people interviewed in the State of Mexico consider the Traffic Police to be corrupt (at the national level the percentage is 77.3%); 79.7% consider the Municipal Police also to be corrupt (the national figure is 69.1% %); 78% consider that the Public Prosecutor's Office and the state prosecutors to be corrupt (the national figure is 66.5%); and 77.9% think that the Ministerial or Judicial Police are also corrupt (at the national level the figure is 64.9%). INEGI, *Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública (ENVIPE) 2018, Principales Resultados*, Estado de México, Instituto Nacional de Estadística y Geografía 2018, p. 29.

51 Universidad de las Américas Puebla, IGI-MEX, *Global Impunity Index, México 2018*.

52 Víctor Manuel Sánchez, "Los cárteles que operan en el centro de México", *Animal Político*, 25 July 2017.

53 Víctor Manuel Sánchez, "Los cárteles que operan en el centro de México", *Animal Político*, 25 July 2017.

54 See, for example, the study by DATA CIVICA, Área de Derechos Sexuales y Reproductivos del Programa de Derecho a la Salud del Centro de Investigación y Docencia Económicas, "Claves para entender y prevenir los asesinatos de mujeres en México", 2019.

55 Lydiette Carrión, *La fosa de agua: Desapariciones y feminicidios en el Río de los Remedios*, Debate. The book documents in detail six cases of adolescents who were disappeared and killed. In addition to these, at least 18 more cases of feminicide and disappearances of women in the same area are mentioned.

56 Lydiette Carrión, *La fosa de agua: Desapariciones y feminicidios en el Río de los Remedios*, Debate.; IDHEAS y IMDHD, Request for alert on gender-based violence against women for the State of Mexico, National Commission to Prevent and Eradicate Violence Against Women, Mexico City, Mexico, 25 June 2018; Javier Juárez, "Paralelismos en los capítulos de feminicidios y desapariciones forzosas de mujeres y niñas en Ciudad Juárez y Ecatepec entre 2008 y 2014: el patriarcado como sistema de poder garante de la impunidad y la desinformación", Estudios sobre el Mensaje Periodístico, 2016, 22(2), 1-18.

57 For example, Javier Juárez, "Paralelismos en los capítulos de feminicidios y desapariciones forzosas de mujeres y niñas en Ciudad Juárez y Ecatepec entre 2008 y 2014: el patriarcado como sistema de poder garante de la impunidad y la desinformación", *Estudios sobre el Mensaje Periodístico*, 22(2), 1-18, 2016; Humberto Padget & Eduardo Loza, *Las muertas del Estado: Feminicidios durante la administración mexiquense*, Grijalbo, 2014.

58 For more information on the feminicides in Ciudad Juárez, see the Amnesty International, *Intolerable deaths: 10 years of abductions and murder of women in Ciudad Juárez and Chihuahua* (AMR 41/27/2003).

59 For example, some of the measures that can be adopted are the allocation of budgetary resources or the creation of an inter-institutional and multidisciplinary monitoring group with a gender perspective. This mechanism is provided for in the General Law on Women's Access to a Life Free of Violence (arts 22-26). For more information, see Instituto Nacional de las Mujeres (2020).

60 Ecatepec de Morelos, Nezahualcóyotl, Tlalnepantla de Baz, Toluca, Chimalhuacán, Naucalpan de Juárez, Tultitlán, Ixtapaluca, Valle de Chalco Solidaridad, Cuautitlán Izcalli and Chalco.

and women, in seven of the municipalities which were already covered by the alert on feminicide.[61] The organizations IDHEAS and IMDHD, when requesting the aforementioned alert, warned that while at the national level girls and women represent 25% of the cases of disappearances, in the State of Mexico this rises to 46%.[62] Likewise, they highlighted the need to observe the behaviour and evolution of organized crime and its link with crimes such as trafficking in women, adolescents and girls, feminicide and kidnapping in order to evaluate/properly assess the problem of disappearances in the State of Mexico. They pointed out that feminicide and disappearance share the context of systematic discrimination against the women that gives rise to them, which also includes violence in the family.[63]

Despite the alerts issued, feminicidal violence remains a serious problem. In 2020, 2,059 women were reported missing[64] (5.6% have not been found or remain missing, 93% were found alive and 1.4% dead). In addition, 253 intentional homicides of women and 150 feminicides were registered.[65] The State of Mexico is the federal entity with the highest number of investigation files opened for feminicide in absolute terms and the 11th in relative terms, with a rate of 1.68 per 100,000 women (the national rate is 1.44).[66]

As noted above, the Inter-American Court, in the Ciudad Juárez "Cotton Field" case, linked the ineffectiveness of the authorities' criminal investigations of feminicides with an environment of impunity, which in turn is a key obstacle to the eradication of violence against women in Mexico.[67] The criminal investigations of the State of Mexico Attorney General's Office, in particular, a number of which have resulted in violations of the rights of access to justice, judicial guarantees and due process for victims of violence against women, have been the subject of observation by human rights organizations. For example, in the case Atenco v. Mexico, on the torture and other ill-treatment of 11 women, including sexual abuse and rape, the Inter-American Court concluded in 2018 that the investigations carried out by the Attorney General's Office of the State of Mexico and the Special Prosecutor for Crimes related to Acts of Violence against Women in the Country (now the Special Prosecutor's Office for Crimes of Violence against Women and Trafficking in Persons, FEVIMTRA) were not conducted with due diligence, because, among other issues, the gathering and handling of the evidence was "very inefficient"; the interviews and medical examinations that were conducted did not comply with the requirements in cases of victims of sexual violence and/or torture; the items of evidence submitted by the victims were not processed; and the women were subjected unnecessarily to re-victimizing appraisal – all of which "caused significant prejudice to the subsequent

61 Toluca de Lerdo, Ecatepec de Morelos, Nezahualcóyotl, Chimalhuacán, Valle de Chalco, Ixtapaluca, and Cuautitlán.
62 DHEAS y IMDHD, Alert request, op. cit. p.14. In 2020, women made up 56.4% of all recorded disappearances in the State of Mexico (including people who were found and those who were not found or remained missing), while at the national level women made up 39.3% of missing persons.
63 IDHEAS y IMDHD, Alert request, op. cit. p.21.
64 This represents 56.4% of disappearances; Comisión Nacional de Búsqueda de Personas, *Estadística del Registro Nacional de Personas Desaparecidas y No Localizadas*, Government of Mexico, 2020. Consultation carried out in March 2021. In 2019, 469 disappearances were reported (5.3% are still not located or missing, 93.2% were found alive and 1.5% were found dead).
65 SESNSP, *Información sobre violencia contra las mujeres (Incidencia delictiva y llamadas de emergencia 9-1-1) Centro Nacional de Información, Información con corte al 31 de diciembre de 2020*, 2021. In addition to the deprivation of life, the crime of feminicide - unlike the crime of homicide - requires that such deprivation be motivated for reasons of gender, which are determined by circumstances, such as for example the presence of signs of sexual violence or the fact that the victim's body is exposed or exhibited in a public place, that vary, depending on the particular criminal code (see, for example, the classification of the crime in the Federal Criminal Code, article 325, and the State of Mexico Criminal Code, article 281).
66 SESNSP, *Información sobre violencia contra las mujeres (Incidencia delictiva y llamadas de emergencia 9-1-1) Centro Nacional de Información, Información con corte al 31 de diciembre de 2020*, 2021, p. 16.
67 Inter-American Court, *Case of González et al. ("Cotton field")* v. Mexico, paras 289 and 388

investigations".[68] Likewise, the Inter-American Court concluded that the investigation was not carried out within a reasonable time and from a gender perspective, which, added to the previous irregularities, led to the conclusion that the state violated the rights to judicial guarantees and judicial protection set out in Articles 8.1 and 25.1 of the American Convention and in Article 7.1 of the Convention of Belém do Pará.[69]

Also emblematic is the 2013 ruling of the Mexican Supreme Court of Justice (Suprema Corte de Justicia de la Nación, SCJN) on the case of Mariana Lima Buendía, a victim of feminicide in the State of Mexico whose death was initially investigated as a suicide.[70] The SCJN concluded that there were several irregularities in the state authorities' investigation of her death, including that the crime scene and evidence that could have been used in the investigation were not correctly safeguarded or adequately inspected.[71] The SCJN ruling was especially significant because it highlighted the need for investigations of killings of women to be carried out from a gender perspective.

These are just some of the examples that show the systemic problems relating to Attorney General's Offices in the State of Mexico and guaranteeing access to justice for victims. The following sections look at investigations by the authorities in the State of Mexico into three feminicides preceded by disappearance and one emblematic disappearance in the State of Mexico. The focus on feminicides preceded by disappearance allows a more in-depth examination of the problem of a pattern of feminicidal violence that links feminicide with disappearance; both crimes that blight the lives of women in the State of Mexico and that have put its institutions on alert (on paper, if not always in practice).

68 Inter-American Court of Human Rights, *Case of women victims of sexual torture in Atenco v. Mexico*, Judgment of 28 November 2018 (Preliminary Objection, Merits, Reparations and Costs), paras 284-285.
69 Inter-American Court of Human Rights, *Case of women victims of sexual torture in Atenco v. Mexico*, Judgment of 28 November 2018 (Preliminary Objection, Merits, Reparations and Costs), para. 138.
70 Supreme Court of Justice, Amparo review 554/2013.
71 Supreme Court of Justice, Amparo review 554/2013, para. 143.

3. THE INVESTIGATION: FEMINICIDES PRECEDED BY DISAPPEARANCE

In this report, Amnesty International examines how investigations are carried out into feminicides preceded by disappearance in the State of Mexico, thus focusing on this first stage in the criminal justice process. This stage of the investigation aims to clarify the facts, so its purpose is for the state to gather evidence to determine the existence of a crime and the persons responsible for it.[72] This stage is therefore important because it is lays the foundations that allow a case to be brought to trial later. Amnesty International's examination of the criminal investigations into feminicides preceded by disappearance in the State of Mexico has found that they are flawed and revictimizing, violateing the rights of access to justice, judicial protection and to obtain just and effective fair reparation for families, the rights of the child when the victim is a minor, and the right to personal integrity when the relatives of a victim suffer through the negligence or inaction from the state in investigating the cases.

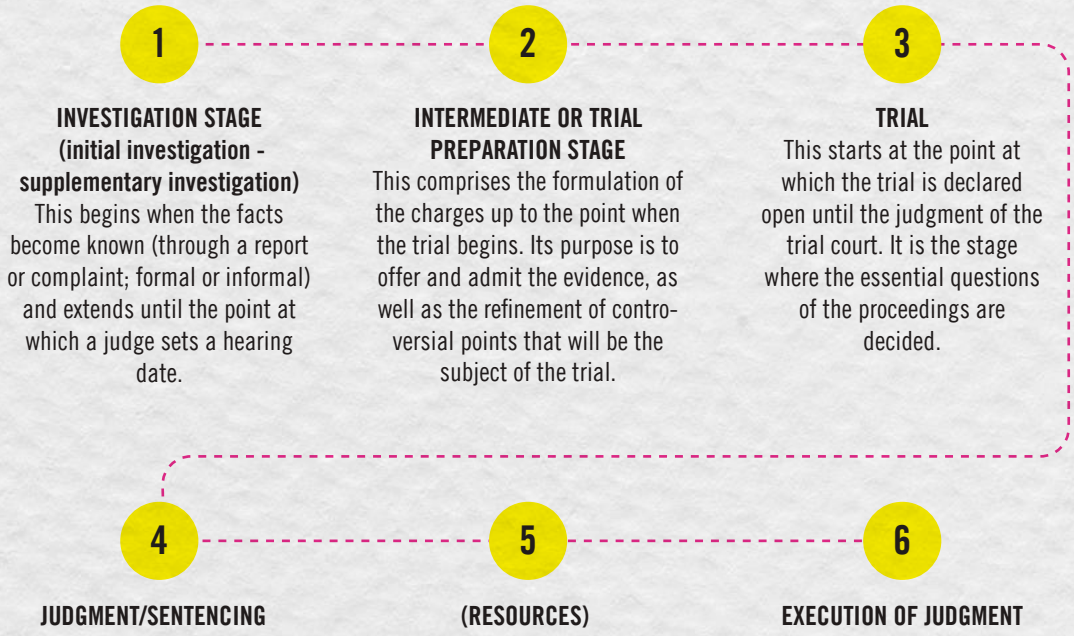
The investigation of disappearances and feminicides in the State of Mexico is the responsibility of the State of Mexico Attorney General's Office, and specifically of the Central Prosecutor's Office for the Attention of Crimes Linked to Gender Violence (Gender Prosecutor's Office), on which depend the Special Prosecutor's Office for the Investigation and Prosecution of Crimes Regarding Forced Disappearance of Persons and Disappearance Committed by Individuals (hereinafter, the Special Prosecutor's Office for Disappearances) and the Special Prosecutor's Office for Feminicides, created in 2014 and 2011 respectively.[73] Each of these Specialized Prosecutors' Offices has a coordinating Prosecutor, officials from the Public Prosecutor's Office (who are in charge of the investigations) and Investigative Police officials(who assist officials from the Public Prosecutor's Office in investigation tasks).[74] Additionally, the Specialized Prosecutor's Offices also collaborate with experts. The Gender Prosecutor's Office includes a small group of experts, although they do not carry out the initial steps, but the majority of experts are part of the Expert Services (Servicios Periciales), which come directly under the State of Mexico Attorney General's Office.

72 In Mexico, the investigation stage is divided into two: the initial investigation, which begins when the complaint, report or equivalent procedure is loged and and concludes when the accused is brought before a arraignment judge to be charged, and the supplementary investigation, which begins once charges have been laid and ends when the investigation has been closed (Article 211 of the National Code of Criminal Procedures).

73 The Office of the Special Prosecutor for Trafficking in Persons also reports to the Central Prosecutor's Office for Crimes Linked to Gender-Based Violence.

74 See the OHCHR Guidelines on the Role of Prosecutors, approved at the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders, Havana, Cuba, 27 August 27 to 7 September 1990, UN Doc. A/CONF.144/28/Rev. p. 189 (1990).

STAGES IN THE CRIMINAL JUSTICE PROCESS



Although the Special Prosecutors listed above are in charge of carrying out the criminal investigation of the crimes of feminicides and disappearances, they are assisted by the Regional Attorney Generals' Offices. These are distributed throughout various part of the State of Mexico and deal with a variety of crimes, such as car theft, injuries and homicides. If there is a Special Prosecutor's Office for a crime, the Regional Prosecutor's Offices refer the investigation initiated to that Special Prosecutor's Office.[75] Thus, for example, the Regional Prosecutors' Offices are the first to hear about the killing of a woman and carry out the initial procedures,[76] and when they believe that it could be a gender-based killing (that is, a feminicide) the investigation is passed from the Regional Prosecutor's Office to the Special Prosecutor's Office for Feminicides. [77]

The Special Prosecutors' Offices also rely on the Agencies of the Public Prosecutor's Office Specializing in Family, Sexual and Gender-Based Violence (known as Agencias del Ministerio Público Especializadas en Violencia Familiar, Sexual y de Género, AMPEVFSYG), which deal with crimes such as harassment, sexual abuse, gender-based injuries and rape. Prior to the creation of the Special Prosecutors Offices for Feminicides and Disappearances, the AMPEVFSYGs dealt with this type of crime. Currently, neither the Regional Prosecutors' Offices nor the AMPEVFSYGs are deal directly with feminicides and disappearances, but they are relevant because they sometimes assist the Special Prosecutors' Offices and because they may have known about crimes of family violence prior to a feminicide or a woman's disappearance. In addition, as mentioned, it is in the Regional Prosecutor's

75 If there is no special prosecutor's office, the regional prosecutor's office follows the entire investigation and prosecutes these cases.
76 On occasion, the staff of the Special Prosecutor's Office for Feminicides may also be present.
77 This may happen because the Regional Prosecutor's Office initiates the transfer on its own initiative or because the Special Prosecutor's Office requests the case be transferred, which is has the power to do (facultad de atracción"). The State of Mexico Protocol on the Investigation of the Crime of Feminicide of the establishes that if the investigation into the killing of a woman reveals elements consistent with the crime of femicide, the investigation case file must be sent to the Special Prosecutor's Office on Femicide, unless it has intervened from the beginning, in order to continue with the investigation. However, this does not exempt the official from the Public Prosecutor's Office who initiated the investigation, from carrying out the procedures that, given the nature of the incident, need to be carried out without any delay. "Si de la investigación por homicidio de una mujer se desprenden elementos que configuren el delito de feminicidio, la carpeta de investigación iniciada se deberá remitir a la Fiscalía Especializada de Feminicidio, salvo que ésta haya intervenido desde el inicio, a efecto de que continúe con la investigación; sin que ello sea dispensa para que el agente del Ministerio

Offices where investigations of killings of women are initiated and where cases continue which are not considered as gender-based crimes. This is important because there is evidence that sometimes the authorities do not investigate cases as feminicides that in fact are, and they investigate them, for example, as suicides, so they remain in the Regional Prosecutor's Offices and are not transferred to the Special Prosecutor's Office for Feminicides.

Finally, the National and State Search Commissions, the victim support units and the Municipal Police Search Units are the institutions that coordinate with the Special Prosecutor's Offices for Feminicides and, especially, for disappearances, because they are responsible for carrying out searches for missing persons.

It should be noted that, although it is not formally provided for, in practice, the families of the victims of feminicides and disappearances in Mexico play an important role in the investigation of these crimes, as will be seen throughout this report. Faced with the inaction of the authorities, families sometimes drive forward searches for missing persons and investigate for themselves what happened in crimes of disappearance and feminicide (asking neighbours, inspecting locations, looking for security cameras that may have recorded what happened...), and subsequently they usually inform the authorities of their findings so that they can incorporate that information into their investigations. Additionally, it is common for the authorities themselves to ask families to help them by carrying out certain procedures, especially courier work, for example, handing official papers (documents) requesting information on security cameras, medical records, information contained in a certain database or even subpoenas over to other areas of the law enforcement or other institutions.

The following sections, set out the main failings identified in the four criminal investigations of the feminicides preceded by disappearance studied. As indicated above, the failings of the investigations identified in these cases are consistent with those that found in other investigations, both in the State of Mexico and other federal entities, and that have been previously highlighted by civil society organizations, experts and rights holders.[78]

3.1. THE EVIDENCE: INVESTIGATIONS ARE FLAWED

Amnesty International's research found failures in criminal investigations by the authorities of feminicides preceded by disappearance. Specifically, it was found that 1) in investigations, evidence related to the incident is frequently lost; 2) the authorities do not investigate sufficiently; and 3) a gender perspective is not applied correctly in investigations.

International bodies have established the following standards to assess the adequacy of criminal investigations according to international human rights law:[79]

- The existence of independent and impartial judicial bodies
- The timeliness and diligence of the investigation
- The quality of the investigation

78 See, for example, Lydiette Carrión, *La fosa de agua: Desapariciones y feminicidios en el Río de los Remedios*, Debate; Centro PRODH, *Nos llaman las locas de las palas: El papel de las mujeres en la búsqueda de sus familiares desaparecidos,* Mexico City, 2020; Frida Guerrera, *Ni una más, El feminicidio en México, tema urgente en la agenda nacional.* Aguilar; IDHEAS & IMDHD, D*iagnóstico: Mujeres desaparecidas en el Estado de México Investigación presentada para la solicitud de Alerta de Violencia de Género por Desaparición de niñas, adolescentes y mujeres en el Estado de México,* 25 June 2018; OCNF, *Informe implementación del tipo penal de feminicidio en México: Desafíos para acreditar las razones de género 2014-2017*, Católicas por el Derecho a Decidir, A. C., Mexico City, 2018.
79 Latin American Model Protocol on Feminicides, op. cit, paras 74-93.

- The collection and effective protection of evidence
- The effective participation of the victims and their representatives in all stages of the investigation and trial

EXHIBIT 1: EVIDENCE IS LOST

One of the applicable international standards for evaluating whether investigations are satisfactory concerns the collection and secure storage of evidence. The Latin American Model Protocol for the investigation of gender-related killings of women (Latin American Model Protocol on Feminicides) states that the collection and effective safeguarding of the evidence must enable the procedural and objective truth of the criminal investigation to be verified. The investigation ought to "aim at identifying and producing the necessary evidence. It should avoid the loss of any probative elements because of the passage of time as well as any delay in the discovery of the truth and the achievement of justice and reparations".[80] The Latin American Model Protocol on Feminicides also stresses that: "The investigation should be based on the relevant elements that are derived from the crime scene, from the study of the context, and on certain aspects linked to other criminal acts, and it should explore all the clues that allow for discerning the motives of the crime and the responsibility of different persons involved."[81]

NADIA MUCIÑO MÁRQUEZ

En 1998, Nadia Muciño Márquez was beaten for the first time by her partner in 1998, when she was pregnant with her first child. Years later, on 27 May 2003, Nadia's mother and father, unable to find her, tried to report her disappearance. However, the authorities did not accept the complaint because 72 hours had not yet elapsed and they said that she would surely "be with her boyfriend", despite the fact that María Antonia, Nadia's mother, told them that she had already spoken with Nadia's husband and he had told her that she was not with him. Two days later, they were able to file the complaint, although the authorities did not carry out the appropriate searches. It was the family who, after carrying out their own investigation for several days started to suspect Nadia's husband and searched the area around his house.

Six days after she went missing, they found Nadia alive. She explained to her family that her husband had beaten her and locked her up on some wasteland, and that when her family started searching the area around his home, he started to fear that they would find her and so he had let her escape, threatening to harm the children. After this violent episode, Nadia left her partner and she and her three children took refuge in the house of a relative who lived in another state. Despite the fact that Nadia filed a complaint about having been deprived of liberty, the family said that they were not aware of any investigation being carried out by the authorities. Two

80 Latin American Model Protocol on Feminicides, op. cit, para. 88.
81 Latin American Model Protocol on Feminicides, op. cit, para. 88.

months after she fled, Nadia decided to return and get back together with her husband.

On 12 February 2004, María Antonia received a call from Nadia's sister-in-law telling her that her daughter had committed suicide. When Nadia's parents arrived at Nadia's home, they found her lifeless body hanging from a beam in the bathroom. Nadia's children, who were 5, 4 and 2 years old at the time, witnessed what happened that night and stated on numerous occasions that their father and his brother attacked their mother and later killed her, indicating that they had prepared the scene to create the impression that Nadia had committed suicide.

According to Nadia's family, the authorities arrived at the scene five hours after they were notified and did not conduct a full inspection of the scene or collect all the evidence. As the judicial file shows, this was corroborated by the fact that on 18 February 2004, an official from the Public Prosecutor's Office stated that "no items (that is, the rope and shoelace) had been secured" and when he asked the official from the Public Prosecutor's Office who inspected the scene for these items, he was told that "he could not immediately recall where the requested rope and shoelace had been left". Nor were nail scraping and acid phosphatase tests carried out at any time to determine whether there were signs of defence or of a possible sexual assault, the clothing at the scene was not securely stored, leading to a jacket with traces of blood being lost, and no other blood samples were tested.

In the first phase of the investigation, the main theory pursued by the team of experts from the Attorney General's Office was that Nadia had committed suicide, showing a lack of gender perspective by not considering the possibility that she was killed or the pre-existing violence against her.

Despite this, the Public Prosecutor's Office official in charge of the investigation requested that an arrest warrant be issued for Nadia's partner and his brother; this was issued on 30 March 2005. In 2009, Nadia's brother-in-law was convicted, but was later acquitted in 2010, because the court considered that the children's testimonies were "imaginary" ("fantasiosos") and had no probative value, despite the existence of expert witnesses who indicated that the children's accounts were consistent with their ages. As a consequence of the failures in the investigation by the Public Prosecutor's Office, during which numerous pieces of evidence were lost, the case of Nadia's feminicide was basically based on the testimonies of her young children.

In 2012, eight years after the killing, Nadia's husband was arrested and, in 2017, convicted of homicide, since in 2004 there was no criminal offence of feminicide. Unlike his brother, Nadia's husband could be convicted after the Attorney General's Office strengthened the charges against him with additional expert analyses (consisting of the testimony of Nadia's children), which supported the prosecutor's inspection carried out in 2004. These expert analyses were consistent with the testimonies of Nadia's children collected in at the start of the investigation and demonstrated that the suicide thesis, pursued by the defence and also initially by the team of experts from the Attorney General's Office, was not feasible.

Nadia's family said that they have been threatened on numerous occasions by the family of Nadia's husband throughout all these years. The did not receive sufficient protection from the State of Mexico authorities, to the extent that the family had to move out of their home for fear of reprisals and currently live in another house. This has seriously affected their economic

situation, which has been negatively impacted since Nadia's feminicide. Because of the amount of time María Antonia had to spend investigating her daughter's death (putting pressure on the authorities to investigate the case, dealing with formalities and paperwork, investigating the case herself...) she lost her job in the boutique where she worked as an embroiderer. She found another job where she could work from home: in the mornings, she investigated the feminicide of her daughter and, at night, she embroidered in the sewing workshop that she improvised in the bathroom of her house. Her salary, that of her husband and all their savings were used to pay the expenses of the judicial process and in looking after her five children and Nadia's three children, who were left in her care after the killing.

As a result of the failings in the investigation of Nadia's feminicide, the case remains partially unpunished and the family has not received sufficient reparation.

Amnesty International reviewed the judicial case file on Nadia Muciño, which includes the proceedings carried out by the authorities of the State of Mexico Attorney General's Office, expert reports, transcripts of interviews with witnesses and the judgments. Nadia's family and officials from the State of Mexico Public Prosecutor's Office and Attorney General's Office responsible for prosecuting Nadia's husband, were also interviewed.

The case of Nadia Muciño Márquez shows that, despite the importance of the adequate collection and secure storage of the evidence by the authorities, there is evidence that during the investigation of feminicides probative material goes missing, or rather, "is lost". The loss of evidence can also be seen in the other cases of feminicide studied by Amnesty International in preparing this report[82] and is an issue that has been highlighted in other investigations carried out in Mexico,[83] which suggests that this is a pattern common to the conduct of criminal investigations in the country.

82 This report has documented the cases in the State of Mexico of Nadia Muciño Márquez, killed in 2004; Daniela Sánchez Curiel, disappeared in 2015 and still missing; Diana Velázquez Florencio, disappeared and killed in 2017; and Julia Sosa Conde, disappeared and killed in late 2018. Amnesty International also documented the feminicide of Karla Pontigo in San Luis Potosí, which was initially investigated as a manslaughter (an accident).

83 See footnote number 78.

The study of the four cases included in this report and the interviews carried out with the personnel working in the criminal justice system, it is possible to deduce three main reasons why evidence is lost:

1. ***Public servants do not inspect crime scenes properly.*** As in the feminicide of Nadia Muciño, public servants who go to the scene sometimes do not inspect it properly. In the various cases Amnesty International documented, it found that the required photographs were not always taken and/or they were not included in the case files; the crime scene and the surrounding area were not thoroughly inspected, so that objects and significant indicators that could potentially help clarify the facts (clothing, fluids, substances and other trace evidence, such as fibres) were not discovered. Likewise, according to one of the State of Mexico Attorney General's Office experts interviewed, it is common for some samples to be taken incorrectly, because they are collected quickly and/or without using the appropriate methods.

2. ***Public servants do not store evidence securely.*** Sometimes, important evidence is identified but is not properly stored, resulting in it being lost or destroyed. In the investigation of the death of Nadia Muciño, the official who inspected the scene asserted that at he could not immediately recall where the rope and shoelace, which were important pieces of evidence for establishing the facts, had been left. Likewise, in the investigation of the feminicide of Diana Velázquez (detailed later) the authorities lost the clothes that Diana was wearing when she was killed without them having been analysed, and in the investigation of the disappearance and possible feminicide of Daniela Sánchez (also described later in this report) the information of some recordings contained on some CDs was lost because one of the officials from the Public Prosecutor's office in charge of the case did not store them correctly and kept them in a cardboard box on the floor under her desk.

3. ***Public servants do not carry out, or do not carry out promptly, some procedures, resulting in loss of data, objects or substances and testimonies.*** In the cases documented by Amnesty International in preparing this report, there were procedures that were not carried out (such as acid phosphatase tests and nail scraping to determine a possible sexual assault and signs of defence in the case of Nadia Muciño) or that are carried out with such a delay that it was no longer possible to obtain a result. This frequently occurs with video surveillance cameras footage, which is usually stored for about 15 or 20 days. It is common to find in the investigation case files that the authorities delay in requesting the recordings and, consequently, the companies in charge of the video surveillance cameras reply that they no longer have that information. Also, telephone data is stored for a maximum of two years. Despite this longer margin of time compared to videotapes, in some of the cases studied by Amnesty International for this report, the authorities requested them after a two-year delay, making it impossible to recover the data.

   Both the recordings of the video surveillance cameras and the telephone data (the call log or history) can provide especially crucial information when a person disappears. According to officials from the Public Prosecutor's Office interviewed by Amnesty International, in the past these types of inquiries were infrequent but currently happen more often. However, the legal advisers interviewed and some public servants stated that they are not yet carried out in all cases and/or that they are not done immediately.

A lot of time is lost regarding the call history; it should be requested in five days, but it usually takes longer.

Official from the Gender Prosecutor's Office

The collection and secure storage of evidence is crucial to ensure the facts can be established and, therefore, to determine the responsibility of the people who committed the crime. In the investigation of the feminicide of Nadia Muciño, the collection and storage of the evidence was so flawed that it meant the judicial case against those responsible was solely reliant on the testimony of Nadia's older children, who were only 4 and 5 years old. In other words, if the inspection of the scene had been carried out correctly, if the evidence had been properly stored and if all the necessary expert opinions had been sought, a more solid legal case could have been built, with evidence that supported the testimonies of Nadia's children from the beginning, thus reducing the possibility that one of those responsible for the feminicide could go unpunished.

It is important to remember that, as stated in the Latin American Model Protocol on Feminicide,[84] the Inter-American Court has highlighted that the loss of the evidence, whether due tampering, destruction, negligence or lack of care, generates presumptions of illegality for which the authorities may bear responsibility,[85] and that "evidence that could have been very important for the due clarification of the homicides was not ordered, practiced or evaluated".[86]

EXHIBIT 2: FAILURE TO INVESTIGATE

The second piece of evidence that investigations into feminicides preceded by disappearance are flawed is that the authorities do not investigate sufficiently, something which Amnesty International has noted in the four cases studied for this report and is consistent with other reports on the country.[87] The failure to investigate takes to forms: firstly, not all possible lines of investigation are always examined in each case and secondly, the necessary steps are not carried out to thoroughly exhaust a specific line of inquiry.

JULIA SOSA CONDE

El On the morning of 16 October 2018, 43-year-old Julia Sosa left her home in Ozumba, a municipality in the State of Mexico on the slopes of the Popocatépetl volcano. Julia worked as a trader and had five daughters and two sons. When one of Julia's daughters returned home later that evening, Julia was not at home and she did not answer her calls, which began to worry her. Julia's daughters tried to report her disappearance to the Nepantla Municipal Police but the authorities told them that they could not accept the complaint because 72 hours had not yet elapsed, although they did collect some

84 Latin American Model Protocol on Feminicide, op. cit. para. 89.
85 "la pérdida de los medios probatorios, ya sea por alteración, destrucción, negligencia o falta de cuidado, genera presunciones de ilegalidad y puede acarrear la responsabilidad de las autoridades", Inter-American Court, Case of Carlos Antonio Luna López et al. v. Honduras. Expert opinion of Michael Reed Hurtado, 30 January 2013, p. 12.
86 Inter-American Court, Case of the "Street Children" (Villagrán Morales et al.) v. Guatemala, Merits, Judgment of 19 November 1999, Series C No. 63, para. 230.
87 See footnote number 78.

information. Days later, on 20 October, Julia's daughters filed a complaint with the Amecameca Attorney General's Office, which opened an investigation file for the crime of disappearance. Although they were aware of the disappearance and the complaint, the authorities did not carry out the appropriate searches. For example, no attempt was made to geolocate Julia's phone or track her movements via her accounts, despite the fact that her daughters said they had received "strange messages" from her phone asking for the passwords.

Faced with the authorities' failure to take action, Julia's daughters decided to confront Julia's partner, whom they had started to suspect when they saw him acting "strangely" from the day of the disappearance. In that confrontation, they could see that he was very nervous and he told them that he was being threatened by someone else, but finally agreed to give them the keys to the ranch where he worked. That same day, at around 7pm, Julia Sosa's daughters went to the ranch and, after searching the place, they saw a point where the earth had been disturbed. They began to dig until they found a sheet, which they identified as their mother's, and they saw part of a human body, so they decided to stop digging and call the authorities. However, they said that they could not go to the scene because they did not have enough personnel, so Julia's daughters had to stay alone at the ranch all night safeguarding the scene. It was not until the next day at 2pm that a municipal police official arrived at the ranch to secure the scene until the arrival of the Public Prosecutor's Office personnel, who came at 5.30pm, almost 21 hours after the authorities had been notified. The authorities continued digging and later confirmed that they had found a dead body, which Julia's daughters confirmed was their mother.

Vanesa Sosa, Julia Sosa's daughter, remembers that that night they spent the entire night in offices in Ameca and later in Nezahualcóyotl, waiting to be interviewed, which happened around 4am: "I remember it as a very bad experience. The police officer was falling asleep. He was questioning me and he was falling asleep. It was very unpleasant, he fell asleep and by the end of it, he made me read what I had told him and it was all badly written".

That same day, 24 October, they found Julia Sosa's partner hanging from a tree near the ranch; he had apparently taken his own life. According to the authorities, he allegedly killed Julia and later decided to commit suicide out of remorse. However, according to Julia Sosa's daughters there are signs that a second person was involved in their mother's killing and who could have been behind the threats that Julia's partner received. Despite the family's suspicions, the authorities have never investigated this person, justifying this by claiming that it was Julia's partner who killed her and that the case is "clear".

"They said 'He's already dead, they've both died, so that's it.' … From the interview we had there [at the Attorney General's Office] I realized that what they gave us to understand is that we should leave things and forget about it, and I saw that it is really true that there is no justice.

Vanesa Sosa, daughter of Julia Sosa, a victim of feminicide

The lack of investigation to corroborate different hypotheses is one of the failings observed in the investigation of the disappearance and subsequent feminicide of Julia Sosa, along with other shortcomings, such as the failure to start searching immediately, the delay in responding to the Julia's daughters call when they found her body and the leaking to the press of images of the bodies of Julia and her partner being removed.

Due to the failings in the investigation of the feminicide of Julia Sosa, it is possible that the case will remain in impunity and the family has not received reparation, truth and justice.

In the case of Julia Sosa, it is clear that ***all possible lines of inquiry were not explored***. The authorities considered that it was "evident" that the person responsible for Julia's feminicide was her partner, although they did not take sufficient steps to prove it and rule out other possibilities. Thus, the line of inquiry linked to the person indicated by Julia's daughters has not been investigated, despite the fact that they have significant indications pointing to this person's possible involvement in the case. For example, the daughters say that after their mother's disappearance they received text messages from her phone written in a style that was not consistent with the way Julia wrote, and that they attribute to a family friend who they suspect was involved in the case. This lack of investigation is not in line with international standards on the quality of criminal investigations, which states that states have the duty to carry out an investigation that is thorough, that is, "all available legal means must be exhausted and the focus must be on the truth, the capture, prosecution, and punishment of those responsible", so that "the investigation must be aimed at examining *all possible lines of inquiry*".[88] In other words, only a thorough examination of all possible lines of inquiry can prevent impunity.

As will be seen later, the officials from the Public Prosecutor's Office interviewed by Amnesty International usually attribute the impossibility of thoroughly investigating all the cases assigned to them to their excessive workloads. In addition, some also believe that they need more specialized training on how to carry out investigations of feminicides and disappearances, and especially on how to take advantage of technological resources, such as the analysis of images or calls.

Based on the ***Minnesota Protocol***,[89] the Latin American Model Protocol on Feminicide[90] establishes that an investigation must aim:

a. To identify the victim;

b. To recover and preserve evidentiary material related to the death, as well as other evidence associated with the crime scene and the disposal of the body in order to identify the masterminds and perpetrators of the crime, especially when State agents are or may be involved;

c. To identify possible witnesses and obtain statements from them concerning the death;

d. To determine the cause, manner, location and time of death, as well as any pattern or practice that may have brought about the death;

e. To distinguish between natural death, accidental death, suicide, and homicide. In the case of the killing of woman or suicide, the investigative team should presume that it is a femicide;

f. To identify and apprehend the person(s) involved in the crime;

g. To bring the suspected perpetrator(s) before a competent court established by law.

88 Latin American Model Protocol, op. cit. para. 83.
89 Minnesota Protocol on the Investigation of Potentially Unlawful Deaths (2016), Office of the United Nations High Commissioner for Human Rights,New York and Geneva, 2017.
90 Latin American Model Protocol, op. cit, para. 83.

In addition to not examining all possible lines of inquiry, the lack of investigation can also be seen in the ***failure to carry out all the necessary steps to pursue a specific line of investigation and establish the facts.*** Thus, by the beginning of 2021, three years after Julia Sosa's feminicide, her daughters had not been interviewed nor had the investigation case file for the alleged suicide of Julia's partner been incorporated into the investigation case file on the feminicide in order to exhaust this line of investigation.

The lack of investigation violates international standards on the timeliness and diligence of investigations, which underline the importance of collecting basic evidence in a reasonable time and *ex oficio*.[91] The failure to comply with these standards can result in evidence being lost, as noted in the previous section, because procedures that are not carried out or are delayed. From its analysis of judicial files, Amnesty International notes that in some of the cases documented there are delays of more than a year in conducting interviews with witnesses, in the inspection of places related to the case, as well as in the analysis of cell phones and other electronic equipment belonging to the victim or possible perpetrators.

The Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide)[92] states that: "as soon as State authorities are aware of the fact, they should initiate, ex officio and without delay, a serious, impartial and effective investigation using all available legal means, aimed at determining the truth and the pursuit, capture, prosecution and eventual punishment of all the perpetrators of the facts, especially when public officials are or may be involved".[93]

The lack of investigation is particularly serious at the stage when the woman is believed to have disappeared, because the possibility of finding her and finding her alive depends on it. Thus, the law establishes that search procedures must begin immediately when it is reported that a person is feared missing.[94] The Inter-American Court has stated that: "adequate procedures must be in place to ensure the launching of an effective investigation within the first hours that a disappearance is reported" and that "in cases where there is a real and imminent risk to the life and integrity of a woman, there is an obligation of strict due diligence vis-à-vis the reports of disappearances of women. This obligation demands immediate action on the part of the authorities including an exhaustive search."[95] In recent years, based on the General Law on Enforced Disappearances , Disappearance committed by Individuals and the National Search System (Ley General en Materia de Desaparición Forzada de Personas, Desaparición cometida por Particulares y del Sistema Nacional de Búsqueda de Personas),[96] some progress has been noted in the search for missing persons in Mexico, such as the creation of the search commissions. However, failings persist even in the most recent cases, such as

91 Latin American Model Protocol for the investigation of gender-related killings of women, para. 77
92 Latin American Model Protocol for the investigation of gender-related killings of women, para. 77.
93 Inter-American Court, *Case of González et al. ("Cotton field") v. Mexico*, Preliminary objection, merits, reparations and costs, Judgment of 16 November 2009.
94 General Law on Enforced Disappearances , Disappearance committed by Individuals and the National Search System, 17 November 2017.
95 Inter-American Court, *Case of González et al. ("Cotton Field") v. Mexico*, 2009, para. 283, cited in Latin American Model Protocol for the investigation of gender-related killings of women, para. 80.
96 General Law on Enforced Disappearances , Disappearance committed by Individuals and the National Search System, 17 November 2017. The Law on Enforced Disappearances and Disappearance Committed by Individuals of the Free and Sovereign State of Mexico was approved by the State of Mexico on 12 December 2019.

that of Julia Sosa, who disappeared at the end of 2018, and that of Daniela Sánchez, who disappeared in early 2015 and is still unaccounted for (see page 39). Thus, for example, public servants continue to believe that 72 hours must elapse a disappearance can be reported, which indicates that the changes made in the regulatory environment have not been fully translated into practice.

"It was us who found my mother. They [the authorities] did not help us to search, they did not help us arrest anyone, we did everything."

Luz María Silva Sosa, daughter of Julia Sosa Conde, a victim of feminicide

The lack of action on the part of the authorities means that the families themselves – generally women family members – are the ones who, in some respects, take on leading the investigations, putting pressure on the authorities to open and examine certain lines of inquiry and carry out some procedures.[97] In addition to taking forward investigations, sometimes it is the families themselves who propose and directly carry out some of the processes. For example, one of the lawyers interviewed by Amnesty International[98] stated that, because of the inactivity of the Public Prosecutor's Office officials in charge of her case, she offered to undertake interviews herself with her clients, relatives of a victim of feminicide and witnesses to the events; the investigating police then signed them as if they had done the interviews themselves.

The authorities not only draw on families' investigation efforts, but they normalize them to the point that sometimes they wait for the families to make progress before continuing with their own investigations. A Public Prosecutor's Office official interviewed by Amnesty International said that the speed of the investigation "depends a lot on the complainants to ensure it is followed up". Laura Curiel, the mother of Daniela Sánchez, a victim of disappearance, said that one of the Public Prosecutor's Office officials who was in charge of her case asked her "what she had investigated".

"An [official] on my case would ask me when I went there: 'What have you got for me? What have you investigated for me? What do you know?' And I would say to him: 'Well, I come here so you can tell me what you have investigated, what you have, what you know'."

Laura Curiel, mother of Daniela Sánchez Curiel, a victim of disappearance

Families often believe that, if it were not for their contribution and for the pressure they exert, their cases would not make progress and impunity would definitely prevail, as in fact happened in all the cases documented in this report. A strategy adopted by many families, therefore, is to join a group of other families in the same situation who provide emotional support and share knowledge about the justice system.

97 See also the report by the Centro PRODH, *Nos llaman las locas de las palas: El papel de las mujeres en la búsqueda de sus familiares desaparecidos*, Mexico City, 2020.

98 The name of the lawyer has been withheld in order not to prejudice the judicial process.

"I have always thought that if they have done something, if they have reviewed Diana's investigation case file, it has been because of the pressure that the family has exerted… Because when we go to the Attorney General's Office, we see lots of folders that they do not even touch on other killings of other women and when we ask the families if there has been any progress in their investigation and they tell us no, absolutely none. So if something has been done in the case of Dianita it is because we have been there, we have not stopped pressing."

Lidia Florencio, mother of Diana Velázquez, a victim of feminicide

The COVID-19 pandemic worsened criminal investigations in several ways, for example impacting the ability of families to follow up on investigations[99].

"When COVID arrived I thought 'oh my god, let me not get it'. My concern was 'how am I going to keep track of my daughter's case file?'"

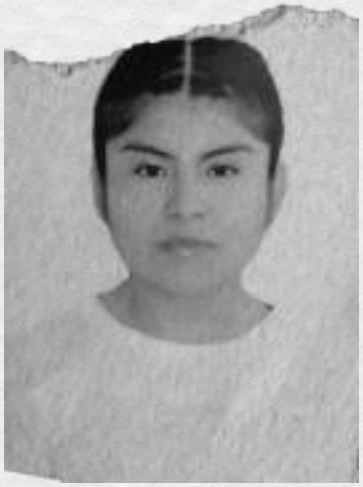
Laura Curiel, mother of Daniela Sánchez Curiel, a victim of disappearance

As will be seen later, the investigative functions that families take on seriously affects their economic situation, because some lose their jobs or are forced to leave them because of the time they devote to the investigation and, consequently, their state of physical and mental health is also seriously impacted.

EXHIBIT 3: A GENDER PERSPECTIVE IS NOT APPLIED CORRECTLY.

The third piece of evidence that investigations into feminicides preceded by disappearance are flawed is that a gender perspective is not always applied appropriately.

DIANA VELÁZQUEZ FLORENCIO



On 2 July 2017, Diana Velázquez Florencio, aged 24, left her home in Chimalhuacán (State of Mexico) at 1.50am to make a phone call. When she failed to return and did not answer her calls, her mother, father and sister went looking for her. They went round the neighbourhood, asked at hospitals and police stations, but did not find her. At around seven in the morning, they tried to file a missing person's report with the Chimalhuacán Public Prosecutor's Office, but officials did not accept it because 72 hours had not yet elapsed, so the family had to continue with the search without the support of the authorities. That afternoon, Diana's family decided to go to the Public Prosecutor's Office again and, as more hours had passed since her disappearance, the complaint was accepted. However, the necessary searches were not carried out.

The same morning that Diana Velázquez disappeared, at around 5am, the authorities received a call from a neighbour reporting that there was a dead body on the public highway a few blocks from the Velázquez Florencio family home. It was Diana, but police officers identified her as

99 See Amnesty International, *Como anillo al dedo: El impacto de la pandemia de Covid-19 en los servicios de procuración de justicia del Estado de México*, 2020.

a male person. Later, as stated in the judicial case file, the municipal police officer argued in one of his statements that he identified Diana as a man because "several transvestites" ("varios travesties") gather near the scene where the body was found.

On 6 July, Diana's sister and her father were handing out flyers at the Nezahualcóyotl Justice Centre, as they had been asked to by a Public Prosecutor's Office official, and, after seeing a sign that said "SEMEFO" (Forensic Medical Service), it occurred to them to ask if they might have the body matching Diana's description. This is how her family found Diana, whose body was not properly safeguarded, since it was on the floor of the SEMEFO, along with other bodies and without protection.

"They let us in and [the bodies] weren't in cold chambers, they were just all lying on the floor, it was very dirty in there, there was blood. When we got to Diana's body, they pointed it out to us with their foot and told us it was her. The sun was beating down on her, she was with lots of other bodies there on the floor. I was like… it affected me, everything we saw."

Laura Velázquez Florencio, Diana Velázquez Florencio's sister

Later, the expert evidence from the Attorney General's Office confirmed that there were traces of semen in Diana's body, indicating that she may have been sexually assaulted before she was killed.

Amnesty International confirmed that there were numerous failures in the investigation into the feminicide of Diana Velázquez, in addition to the initial refusal to accept the missing person's report early on the morning of the day she disappeared and the lack of immediate efforts to search for her. The investigation was carried out without an appropriate gender perspective, which, for example, led to the identification of Diana at the beginning as a male person and, according to her family, some authorities made stigmatizing comments about Diana's personal life. In the interviews carried out by staff of at the Attorney General's Office concerning Diana that appear in the judicial case file, there are several references to the way Diana used to dress. Likewise, there are concerns about the nail scrapings carried out, one of the examinations that forensic services personnel must carry out under the State of Mexico Protocol on investigating crimes of feminicide.

Additionally, other evidence was lost; the underwear Diana was wearing was missing and the authorities took more than a year to return to the scene to search for it, as confirmed in the judicial case file. Similarly, the clothes Diana was wearing were never

examined or securely stored and it is still not known where they are. Finally, there was a failure to safeguard Diana's body properly in the SEMEFO and the lack of investigation, which is seen in the unjustified delays in inspecting the crime scene, in searching for witnesses and in other proceedings that were carried out after more than a year.

A gender perspective should cross-cutting and applied throughout any investigation of the disappearance and killing of a woman, which includes when collecting evidence and devising lines of inquiry. This requires that the initial proceedings, as well as the subsequent ones, must be carried out taking into account the specific factors that characterize killings of women, such as the fact that they are frequently killed by people they know and/or are sexually assaulted. The State of Mexico Protocol on investigating crimes of feminicide, approved on 16 May 2016, sets out in a concrete and clear manner the procedures that must be carried out by those involved in the investigation of feminicides, both generically and from a gender perspective. For example, the expert services must protect the hands of the corpse and the forensic medical services must remove the protection from the hands and with the assistance of the chemical expert, proceed to carry out the corresponding nail scrapings and store the samples taken from each of the fingers separately. However, in the four cases of feminicide documented in this report, there are failings in this regard; for example, in the investigation into the death of Diana Velázquez, which took place after the Protocol was approved, there are concerns that the nail scraping was not carried out correctly.

Currently, there is a small group of experts assigned to the Gender Prosecutor's Office but, in general, they do not carry out the initial stages of the investigation, but rather support the subsequent steps. The experts who usually carry out the initial stage (that is, the first stage of the investigation) belong to the State of Mexico Attorney General's Office. According to several of the experts from the Gender Prosecutor's Office interviewed by Amnesty International, a gender perspective is lacking in the conduct of experts from the Attorney General's Office (in addition to a lack of personnel, material resources and an excessive workload that prevents them from performing their duties appropriately). Thus, one of the experts interviewed pointed out, for example, that in cases where the death is made to look like suicide, there are experts who do not collect sufficient evidence: *"they collect two or three little things for me and then they leave. When I start to examine them later, I start to see that I am missing this, I am missing that, things that should have been collected."*

An expert interviewed stated that examinations are now carried out that were not done before (such as gynaecological and proctological examinations), but that there are frequently errors in the way in which some samples required by the protocols are taken (for example, because swabs are not used correctly to take the vaginal and anal samples from women). They also pointed out errors such as an inadequate description of the injuries or a lack of coordination between the different experts. An expert told Amnesty International: "There is no communication. The criminologist gives their description, the photographs, but then does not show them to the others. Everyone does their job separately.

Investigating with a gender perspective involves determining whether the woman was the victim of a sexual assault prior to death as well as whether she was the victim of abuse by a person close to her (for example, verifying whether there were previous complaints or checking for the presence of signs of injury indicating previous chronic abuse); leaving a clear and detailed record in the investigation case file that the body was found in a public place, if that is the case; and detailing how it was found; using a language free from stereotypes; in cases where there are suggestions that the death may be the result of suicide or an accident, rule out, through forensic and criminological analysis, the possibility that this has been simulated in order to conceal a killing, for example.[100]

100 See more generally the State of Mexico Protocol on Investigating crimes of feminicide or the Latin American Model Protocol on Feminicide, mentioned previously

Applying a gender perspective is especially important to clarify whether the death was the result of natural causes, an accident, suicide, homicide or feminicide. In other words, the examination of all possible lines of inquiry must be informed by a gender perspective. This implies that, in the case of killings of women or suicide, the investigating team should assume that it is a case of feminicide, as indicated in the Latin American Model Protocol on Feminicide. However, the investigations into the feminicides of Nadia Muciño and Mariana Lima indicate that the authorities do not always make this assumption.[101] As mentioned previously, the 2013 Supreme Court of Justice ruling in Mariana Lima's case is emblematic precisely because it pointed out irregularities in the actions of the authorities throughout the investigation and highlighted the need for investigations into the killings of women to be carried out from a gender perspective.

Several of the legal advisers working on cases the documented that Amnesty International interviewed asserted that at present some feminicides continue to be investigated as suicides and that this is due to two main factors: a) investigations of the killings women are not always initiated by the Special Prosecutor's Office for Feminicides, but rather by regional prosecutors' offices, which deal with various types of crimes and are not specialized in applying a gender perspective; b) because excessive workload means staff have incentives to categorize some women's deaths as suicides and not as feminicides, since the former involve less work. Professionals from the Special Prosecutor's Office for Feminicides told Amnesty International that they are in permanent contact with the regional prosecutors' offices to identify possible cases of feminicides that are being investigated as suicides, but that, in effect, the fact that the investigations are initiated in the regional prosecutors' offices increases the likelihood of mistakes being made in this regard.

Finally, the lack of a gender perspective can be seen in the treatment of victims by some public servants, who make, for example, discriminatory and victim-blaming comments. The CEDAW Committee has stated that one of its concerns about the situation of women in Mexico is that the "deep-rooted institutional, structural and practical barriers continue to hinder women's gaining access to justice", these include: "Discriminatory stereotypes and limited knowledge of women's rights among members of the judiciary, legal practitioners and law enforcement officers, including the police".[102] In investigations of feminicides and disappearances of women, these stereotypes translate into a delays in starting searches because of the idea that "surely the girl has gone off with her boyfriend" and in a misinterpretation of the evidence or victim blaming, which leads to the re-victimization of the families.

"We have already told [a public servant] that Diana did not have two partners, one was her friend and the other was her partner. And then [the public servant] says: 'Everyone is free to live how they want, if Diana had two partners' and we have just told her that she did not have two partners. It's very insensitive, we have told her many times and she always come out again with the idea that Diana had two partners.

Laura Velázquez Florencio, Diana Velázquez Florencio's sister, a victim of feminicide

Prejudices or stereotyped notions about the attitudes, characteristics or roles of victims violate the standard of impartiality that should be the basis for any judicial action.[103]

101 Despite the fact that the feminicide of Nadia Muciño predates the adoption of the Protocols, the authorities had a duty to investigate with due diligence from a gender perspective based on international treaties, such as CEDAW and the Belém do Para Convention, which Mexico had already ratified.
102 CEDAW, Concluding observations on the ninth periodic report of Mexico, CEDAW/C/MEX/CO/9, para. 13.
103 Latin American Model Protocol, para. 76.

3.2. THE EVIDENCE: FAMILY MEMBERS ARE REVICTIMIZED

The second piece of evidence identified by Amnesty International in relation to the criminal investigations of feminicides preceded by disappearance in the State of Mexico is that families are revictimized and victims of institutional violence, which manifests itself in two ways: first, seeking justice requires that families invest their time and it is costly financially and emotionally; and second, seeking justice can be dangerous.

EXHIBIT 1: PURSUING JUSTICE TAKES TIME AND IS EXPENSIVE

> **"They sent us from one place to another, as if it was a game. 'Now go over there, now go over here', without any support, without eating, without money.**
>
> Vanesa Sosa, daughter of Julia Sosa Conde, a victim of feminicide

Because of the failings in the investigations, presented in the previous section, families often become the main driving force behind the investigation and are forced to carry out investigative tasks and put pressure on the authorities to progress their cases. All this requires that they repeatedly go Attorney General's Offices and other places related to the case, for example, to carry out searches for missing persons or delivering documents, which has enormous consequences for their lives.[104]

DANIELA SÁNCHEZ CURIEL

Daniela Sánchez Curiel was 20 years old when she disappeared on 11 March 2015 in Tlalnepantla, State of Mexico. To this day, Daniela remains missing. Her family is convinced that she was the victim of feminicide at the hands of a previous partner who abused her.

When Daniela's mother, Laura Curiel, wanted to follow up on the search for her daughter after filing the complaint, she found the authorities disorganized and uncoordinated, to such an extent that it took a week to locate the public servant in charge of the investigation: ***When I arrived, he told me 'no, ma'am, well, look, the file is sent to Barrientos,[105] but since it's a holiday, your file won't get there until Monday. There they'll tell you what kind of actions they took in the past few days'. I was, therefore, surprised when I went there and the official in the Public Prosecutor's Office who dealt with me said: 'No, it's not us. Those who should have undertaken the investigation are***

104 See also the report of the Centro PRODH, *Nos llaman las locas de las palas: El papel de las mujeres en la búsqueda de sus familiares desaparecidos*, Mexico City, 2020.
105 Colonia in the municipality of Tlalnepantla de Baz.

over there, you have to go there to see what the police there are doing'. 'Well, I'll go there', I said, and when I arrived, to top it all, they told me 'today is not the official's day on duty. He won't be in until Wednesday".

Despite the fact that Daniela disappeared in March, there are no proceedings recorded in the investigation case file until July. The authorities in charge of the search for Daniela did not immediately request the recordings of the video surveillance cameras at the place where she worked, where she was last seen. When they made the request, four months after her disappearance, the recordings no longer existed because they are only stored for between 15 and 20 days.

Likewise, it was not until September, six months later, that the authorities began to conduct interviews with people who knew Daniela. There was also no attempt to geolocate her phone, or that of one of her former partners, whom the family suspected of involvement in the disappearance. When Daniela's phone data was requested, after more than two years, they no longer existed. The inspection of the house where Daniela lived was done in a general way and the luminescence tests to detect traces of blood were carried out with years of delay. In 2019, the analysis of the IP addresses of Daniela's computer and one of the suspects was still in progress and in 2020 Daniela's tablet and laptop had not yet been examined.

Despite the indications and numerous requests from the family, in all these years the main line of investigation related to one of Daniela's former partners has not been thoroughly examined, taking into account the gender perspective. Likewise, other possible lines of inquiry have not been explored sufficiently.

Because the authorities failed to store evidence properly, some evidence was lost. A public servant told Amnesty International: "Daniela's things were lying on the ground in a cardboard box. The laptop needs repair, there are scratched discs and there is a suitcase that we've not been able to locate."

Members of Daniela's family have received numerous threats from the family of one of Daniela's former partners and have been forced to move house several times. The protection that Daniela's family has received from the authorities has been insufficient and disputed:

"When the policeman came, he told me 'why do we have to give you protection? Do you know how many [protection] orders I have? Why do you women do this?'"

Laura Curiel, mother of Daniela Sánchez Curiel, a victim of disappearance.

The failings in the investigation of Daniela's disappearance and the threats received have had a serious impact on the economic and health situation of Daniela's family. Initially, Laura Curiel was able to keep her job in a call centre because she worked nights, which allowed her to "take care of her daughter's case file" in the mornings. However, when the threats began, she began to have serious health problems and had to stop working. All the savings she had put aside for later in life were used up looking for her daughter, following up on the investigation and supporting her family. Since the disappearance, Laura has been caring of Daniela's son who was three years old at the time his mother went missing.

In 2017, Laura founded the Collective "Mariposas Destellando Buscando corazones y justicia", and currently devotes all her time to the search for her daughter, Daniela, and other missing persons in Mexico. She has not been able to return to her home and moves frequently as a precautionary measure.

To this day, Daniela remains missing, impunity in the case persists and the harm caused to the family has not been remedied

Like Laura Curiel, many members of the families of disappeared women and victims of feminicide lose or leave their jobs because they need the time to deal with the investigation. This is not a formal part of the process in Mexico, but rather a reality taken on by many families because of insufficient action by the authorities. For example, it is common for families to convey official documents from one office to another (for example, a document from an official in the Attorney General's Office requesting that another part of the justice system hand over copies of documents). Nadia Muciño's mother, María Antonia, lost her job because she was absent too much (in the first months she regularly went to the Public Prosecutor's Office to carry out various processes and continue the investigation) and was only able to survive financially thanks to the fact that she found a job that allowed her to work from home at night.

"Lots of days I would go and sit in the Public Prosecutor's Office so I could see the designated official, to get some information, but she gave me no information. I would get there early in order to be seen… We were able to carry on because I was able to get a job. Working from home, I could organize my own time, but many mothers, many family members abandon cases, because where are they going to get the money from to get by? The expenses continue, you have to carry on paying for all your work services, then you have to work, and there is no job where they allow you to be absent. I was able to survive because I managed to find work I could do from home."

María Antonia Márquez, mother of Nadia Muciño, a victim of feminicide

In addition, in the State of Mexico, journeys between municipalities by public transport – which most people use as they cannot afford the cost of private transport - are very long, which exacerbates the situation. For example, Diana Velázquez's family spends four hours on the outward journey and another four hours back on public transport from their home in Chimalhuacán to Tlalnepantla – where one of the two offices of the Special Prosecutor's Office for Feminicides is located. Similarly, from Ozumba, Julia Sosa's daughters take about three and a half hours each way to the same offices, and three hours each way to the Nezahualcóyotl offices. This means that, in addition to the time required for the proceedings, families must spend hours and hours travelling. The frequency of these journeys varies depending on each case and the stage the investigation has reached, but, in general, the families of the cases documented in this report made this type of journey at least twice a month.

"I started incurring expenses, expenses, expenses, expenses ... I was spending a lot travelling. When they moved my case to Toluca, it was an ordeal, right? Because my journey was: I would arrive at the State of Mexico Attorney General's Office early, two-three hours; I would go to the SEMEFO [Forensic Medical Service], to see what there was; from there I would go to the Federation, also to see the file; and from there I would go to another SEMEFO… I had established a routine. Two blocks away there was a little dining room where I would eat, and from there I would set off again. That's what I always did."

Laura Curiel, mother of Daniela Sánchez Curiel, a victim of disappearance.

The cost of the multiple journeys made by families for search of justice is a major problem for them. For example, every time Diana Velázquez' family must go to the Special Prosecutor's Office for Feminicides in Tlalnepantla, they must take four forms of transport on the outward journey and four on the return journey (a motorcycle taxi, a bus, the subway and a minibus), taking four hours each way. In

total, the trip, which they have made twice a month since July 2017, when Diana was killed, costs them 100 Mexican pesos per person. According to figures from CONEVAL, in the first quarter of 2021, the real national average wage of those in employment was US$4,456.58 per month, that is, US$148.30 per day.[106] Clearly, the travel costs have a particularly significant impact on families with fewer resources, who have additional difficulties in getting their cases to advance because of a lack of financial means.

The need to make these journeys exacerbates the economic situation of families, which is usually seriously worsened from the first moment the disappearance or feminicide occurs. First of all, because there are family members who lose their jobs because they need that time to investigat. Second, some families turn to lawyer for support and help in pursuing their cases and must pay for their own experts, sometimes because of failings in the work of the Attorney General's Office. Third, due to threats and possible retaliation, some families are forced to leave their homes and move into a new home. Finally, in cases in which the woman is disappeared and/or killed by her partner or ex-partner and both had children in common, as well as in cases where the disappeared or murdered woman was a single parent, it is common for the maternal family to take care of the children, as is the case in the families of Nadia Muciño and Daniela Sánchez. Similarly, Julia Sosa's older daughters had to take care of their younger brothers and sisters. The CEDAW Committee has expressed concern about institutional, structural obstacles and well-established practices that hinder women's access to justice in Mexico, among which are financial, linguistic and geographic barriers to gaining access to justice faced by low-income, rural and indigenous women and women with disabilities.[107]

Since 2004, Nadia Muciño's family has spent more than 33,000 Mexican pesos (US$1,650), the equivalent nine months' pay on the Mexican minimum wage, on journeys related to the search for justice.[108]

Since 2017, Diana Velázquez's family, has spent approximately 38,500 Mexican pesos (US$1,900).

Economic difficulties also have consequences on an emotional level, as in any other area, although in these cases in addition they have to contend with the fact that obtaining justice depends, in part, on the families' ability to continue paying for the investigation process, which brings additional stress and emotional burdens. All of this seriously affects the right to health of the families of victims of disappearance and feminicide.

106 CONEVAL, *El CONEVAL presenta información referente a la pobreza laboral al primer trimestre de 2021*, México, 2021.
107 CEDAW, Concluding observations on the ninth periodic report of Mexico, CEDAW/C/MEX/CO/9, 2018, 13.
108 According to the National Minimum Wage Commission, in 2020 the minimum daily wage was 123.22 pesos, about 3,700 pesos a month (approximately US$186).

EXHIBIT 2: PURSUING JUSTICE IS DANGEROUS

In addition to being costly and time consuming, seeking justice through the State of Mexico and national Mexican criminal justice systems is dangerous. Some families are threatened by those responsible for the feminicide of their daughters, mothers or sisters. Although there are families who ask the authorities for protection, this is usually inadequate. Sometimes threats and lack of protection reach such a point that families are forced to move to other parts of the State of Mexico or even to another state.

"The reality is that I have taken care of myself. I have changed house thousands of times, that's how I cope, when I detect danger, I move. I jump from place to place, because they have not given me adequate security."

Laura Curiel, mother of Daniela Sánchez Curiel, a victim of disappearance

These threats and temporary moves to other places for protection, in addition to the economic cost, discussed in the previous section, also exact a huge emotional and psychological cost on families, which in turn impacts on their physical and mental health:

"The threats caused me a lot of stress. My weight went down to 40 kilos. I suffered from anxiety, a terrible level of stress.María Antonia Márquez, mother of Nadia Muciño, a victim of feminicide

Laura Curiel, mother of Daniela Sánchez Curiel, a victim of disappearance

The families of the victims of disappearances and feminicides experience harassment and a lack of protection from the authorities, like other human rights defenders in Mexico. Thus, for example, one of the emblematic cases of human rights activists killed in the country is that of Marisela Escobedo, who was killed in Ciudad Juárez in 2008 while she was demanding justice for the feminicide of her daughter Rubí Marisol Frayre, which remained unpunished.[109] During his visit to Mexico in 2017, the Special Rapporteur on the situation of human rights defenders noted that in the context of widespread violence against women and feminicides, some women have become vocal in the search for truth, justice and reparation, often facing enormous risks in the process.[110] The situation of human rights defenders in the country is, therefore worrying. According to the Mechanism for the Protection of Human Rights Defenders and Journalists, in April 2021 there were a total of 1,455 beneficiaries of the Mechanism.[111] Of this total, 988 people are human rights defenders (that is, 67.9%) and the rest, journalists. According to the latest report by the international NGO Front Line Defenders, of the 331 defenders killed around the world documented by the organization in 2020, 20 were killed in Mexico which ranked third in the world together with Honduras and behind Colombia and the Philippines.[112]

The Mechanism has played a fundamental role in the implementation of measures to protect the life and integrity of human rights defenders, although it continues to face numerous challenges. In 2019, the Office of the United Nations High Commissioner for Human Rights (OHCHR), in its assessment of the operation of the Mechanism, pointed out, among other issues, that the Mechanism cannot be the only response to violence against human rights defenders, so its strengthening must be accompanied

109 Marisela Escobedo's case is detailed in the documentary, "Las tres muertes de Marisela Escobedo" (2020) directed by Carlos Pérez Osorio.
110 Human Rights Council, Special Rapporteur on the situation of human rights defenders regarding his mission to Mexico, A/HRC/37/51/Add.2, para. 12.
111 Ministry of the Interior, *Informe Estadístico abril 2021 Mecanismo para la Protección de Personas Defensoras de Derechos Humanos y Periodistas*, p.6, available at https://www.gob.mx/cms/uploads/attachment/file/644669/2021_04_Informe_estadistico.pdf
112 Front Line Defenders, *Global Analysis* 2020, 2021, p. 4.

by the creation of a comprehensive public policy aimed at realizing the obligation to respect efforts to defend human rights; adopt inter-institutional prevention strategies; and guarantee compliance with the duty to investigate, bring to justice and punish attacks against human rights defenders and journalists.[113]

On the other hand, seeking justice is dangerous and re-victimizing because the authorities themselves sometimes threaten and harass families. In the cases documented by Amnesty International in this report, which are not believed to involve public servants, the threats, take the form of "warnings" to "not make too much noise", that is, not to complain about the investigation or draw the attention of their superiors. Likewise, Amnesty International has learned that a relative of a victim of feminicide was sexually harassed by one of the officials at the Public Prosecutor's Office in charge of the case.

It should be noted that the threats and attacks by the authorities were only identified in one of the four cases documented by Amnesty International. However, in all cases, without exception, the families stated that they had been treated badly by some public servants, which indicates that the families are victims of institutional violence. All the families affirmed that some of the agents assigned to their cases show no empathy, do not care enough about the investigations, speak to them dismissively, use offensive language and when they turn up act "as if they were doing us a favour".

Several of the public servants interviewed by Amnesty International acknowledged that the treatment of families seeking justice is not always appropriate and they attribute this mainly to the excessive workload which does not allow them to devote the time necessary to each family and makes them work under stressful conditions (see the next section for more details).

> **"The official sometimes shows very little empathy, is insensitive. Sometimes, it's because of the workload, we have so much work that it's like 'ma'am, not right now'."**
>
> Official from the Gender Prosecutor's Office

At the same time, the rights-holders and civil society organizations interviewed claim that some poor conduct cannot be explained by stress, but rather is due to a general lack of empathy on the part of staff and a lack of oversight and disciplinary measures to deal with those who behave in this way.

All this indicates that the Mexico is failing to comply with its obligation to refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation and to adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property (Article 7 of the Belém do Para Convention). In this way, families face violations not only to their rights of access to justice, judicial protection and effective participation in the process but also their right to personal integrity.

> **"I am afraid, but I am more afraid of not finding my daughter.**
>
> Laura Curiel, mother of Daniela Sánchez Curiel, a victim of disappearance

113 Office of the United Nations High Commissioner for Human Rights-Mexico, *Diagnóstico sobre el funcionamiento del Mecanismo*, July 2019, p. 227.

4. FINAL VERDICT: THE SYSTEM MUST CHANGE

The previous sections have detailed how the investigation of feminicides preceded by disappearance in the State of Mexico documented in this report are flawed because evidence is lost, there is a failure to investigate and a gender perspective is not correctly applied. In addition, families are re-victimized and the victims of institutional violence because they have to spend their time and money investigating and putting pressure on the authorities to investigate. They are also frequently threatened and harassed, by both the suspected perpetrators of the crimes and by authorities. All of this hinders the judicial process and makes it easier for cases to go unpunished, violating the rights of access to justice and judicial protection of families and the right to obtain adequate reparation.

Faced with this situation, the only possible verdict is that the Mexican justice system must change. To do this, it is important to clarify some of the factors that contribute to the failures detailed.

4.1 COMMITMENT AND ACCOUNTABILITY

To ensure that investigations of feminicides and disappearances are carried out diligently, there must be a real commitment on the part of all public servants, from the highest authorities in Mexico to operational personnel, at all levels of government. However, the country has witnessed official statements that call into question the legitimacy of efforts to eradicate feminicides and that contain misinformation about violence against women.[114] This lack of commitment can also be seen in the allocation of insufficient budgets to address violence against women.[115]

It is crucial to ensure that all public servants fulfil their obligations. This requires that those who exercise coordination and supervisory roles ensure that monitoring is carried out to identify public servants who are not fulfilling their functions, as well as to guarantee the proper functioning of the disciplinary system as mechanism for accountability. According to information provided by the Gender Prosecutor's Office, the creation of the Specialized Monitoring Unit on Gender Issues (Unidad Especializada de Seguimiento a los Asuntos de Género) is being established which will be responsible for reviewing, monitoring and following up on a quarterly basis investigations of cases related to the disappearance of women, children and adolescents, to ensure that those responsible

114 Examples include the statements by President Andrés Manuel López Obrador in the framework of the International Day for the Elimination of Violence against Women in 2020 in which he asserted that the causes of homicides and feminicides are the same. *Animal Político*, "loAMLO asegura que las causas del feminicidio y homicidio son las mismas; Sánchez Cordero lo contradice, Animal Político, 25 November 2020.

115 See, for example, communications from Amnesty International in requesting that representatives call for Treasury Secretary to appear to address cuts to budgets for women (22 July 2020) and Equis Justicia "#AccionesNoRecortes" (17 July 2020).

for the investigation do not stop their inquiries, and, where appropriate, to determine or delineate administrative and/or criminal responsibilities in the actions of public servants responsible for investigation case files.[116] At present, according to the State of Mexico Public Prosecutor's Office, since the creation of the Gender Prosecutor's Office, nine criminal proceedings for the crime of abuse of authority have been initiated against officials from the Public Prosecutor's Office and three against investigative police officers, although to date none of the proceedings has resulted in a conviction.[117] Likewise, three proceedings have been initiated to determine the possible responsibility of Public Prosecutor's Office officials, two of them ending in the imposition of a disciplinary sanction.[118]

The system must be able to identify negligence and omissions that are not the direct result of the lack of adequate conditions and take the necessary measures to prevent these incidents from being repeated and going unpunished. In any case, in accordance with international standards, disciplinary processes must guarantee and respect the principles of competence, independence and impartiality by the authorities that carry them out and respect the principle of legality and cannot have as their objective provisions or resolutions or legal rulings, judicial errors or criticisms of the courts or legal criteria other than those upheld by their hierarchical superiors.[119]

116 Information provided directly by the Gender Prosecutor to Amnesty International in May 2021.
117 Letter from the State of Mexico Attorney General's Office, ref: No. 0538/MAIP/FGJ/IP/2021.
118 Letter from the State of Mexico Attorney General's Office, ref: No. 0536/MAIP/FGJ/IP/2021.
119 See a compilation of international standards in this regard in Fundación para la Justicia y el Estado Democrático de Derecho, *Estándares internacionales sobre la autonomía de los fiscales y las fiscalías*, Mexico City, 2017.

4.2. MORE AND BETTER SPECIALIZED TRAINING

In interviews conducted by Amnesty International, several Public Prosecutor's Office officials acknowledged that they lack the necessary technical knowledge on some aspects, such as analysing georeferences and telephone calls.[120] In addition to improving their own investigations and securing the chain of custody, some officers believe that greater expertise in this area would help them better defend this evidence in court. It was pointed out that some technical reports made by specialized units are not sufficiently clear and comprehensible for professionals who are not experts on the issue, especially judges.

"We struggle to understand them. Understanding call logs, mapping, etc. Calls, departures, movements, transferred calls, coordinates ... We are learning, and this can lead to omissions. We don't know everything yet. If we do not know how to explain things to the judge, the judge does not make the connections and this leads to impunity."

Official from the Gender Prosecutor's Office

Regarding training on gender, some officials attribute the lack of empathy and harassment of victims, in part, to a lack of training on gender, which would contribute to the lack of a good understanding of the problem of violence against women (especially intimate partner violence) and, therefore, victim blaming.

According to information provided by the Gender Prosecutor's Office, in 2020 there were 292 trainings on technical issues, 164 on gender, 22 on feminicide and five on disappearance for public servants in the Gender Prosecutor's Office.[121] Although courses are provided, according to the authorities interviewed, excessive workload is a challenge, because the training constitutes additional work that it is difficult for staff to take on. In other words, according to the authorities, there is no problem in getting the training to all workers, but rather the problem is that excessive workload means that staff do not attend the trainings in full. Thus, this could have the effect that the objective of some public servants when they attend the courses is limited to tick the box confirming their attendance in order to comply with the formal work requirements rather than to really explore the content. In addition, some of the public servants interviewed by Amnesty International think that the courses on gender and human rights are too general and do not contain sufficient technical knowledge on how to carry out investigations from a gender perspective.

A report by the NGO Equis Justicia highlights that, due to restricted access to public versions of rulings and the lack of public mechanisms to monitor and evaluate the effectiveness of training, it is difficult to know if the training strategy frequently adopted in Mexico over the last decade has contributed to incorporating a gender perspective in the work of criminal justice institutions.[122]

4.3. BETTER WORKING CONDITIONS

With regard to working conditions, three issues stand out in the interviews conducted with authorities, the literature review and the public information requests.

120 Interviews conducted with members of the Gender Prosecutor's Office on 11 and 12 March 2021.
121 Information provided directly by the Gender Prosecutor to Amnesty International in May 2021
122 Equis Justicia, *Violencia contra las mujeres e impunidad: ¿Más allá del punitivismo?,* December 2019, p. 26.

4.3.1. STAFFING AND WORKLOAD

As mentioned above, the people who work in the Attorney General's Unit for Crimes linked to Gender-Based Violence have an excessive work overload, which has been further increased by the COVID-19 pandemic. Prosecutors in the Special Prosecutor's Office for Feminicides interviewed each had between 60 and 70 investigation case files assigned to them, and stated that, in their opinion, each official should have no more than 20 case files in order to be able to devote sufficient time to each case.[123] Likewise, officials in the Special Prosecutor's Office for Disappearances interviewed each had between 100 and 200 cases each. Although not all lead to prolonged investigations because some people are found quickly, officials said that they are allocated more cases than they can handle. Similarly, experts are also overloaded with work and generally the requests from officials at the Public Prosecutor's Office experience considerable delays.

This means that, for example, the Public Prosecutor's Office officials do not examine to the extent necessary each of the cases assigned to them and that the treatment of families sometimes inadequate. Likewise, procedures that require collaboration with other professionals, such as experts, take longer than expected, causing excessive delays in investigations.

"Our time is crammed full and we don't give victims the level of attention we would like. The workload we have is harmful for us and also for the victims."

Official from the Gender Prosecutor's Office

All of this suggests that the failings pointed out throughout this report are the result, in large part, of the structural characteristics of the State of Mexico Attorney General's Office rather than of a few "bad apples". A study by the Universidad de las Américas Puebla highlighted that state public prosecutor's offices in Mexico are experiencing a decline both structurally and in human capacity in the face of a rise in crime and an increasing population nationally.[124] Three indicators serve to demonstrate this decline in performance standards: 1) the number of staff in public prosecutors' offices has fallen from 33.9 to 31.19 per 100,000 inhabitants; 2) the number of officials has fallen from 7.6 to 6.27 per 100,000 inhabitants; and 3) the number of officials compared to the crime rate has also fallen – for every 1,000 registered crimes, the proportion of agents has gone from 5.31 to 4.97.[125] The study also shows that the state with the lowest number of public prosecution agencies per 100,000 inhabitants is the State of Mexico (1.01). The CEDAW Committee has referred on numerous occasions to the insufficient financial and human resources allocated to criminal justice system institutions (among them, prosecutor's offices) and other related bodies as one of its concerns regarding the approach to violence against women in Mexico.[126]

4.3.2. HOURS OF WORK AND PAY

The excessive workload means that public servants work longer hours than those stipulated. Thus, although their working hours are from 9 in the morning until 7 at night, several of those interviewed stated: "we know the time we arrive, but not when we will leave" and that this situation gets worse when they have to guard someone who is detained, which requires a series of urgent procedures to be carried out.

123 See Amnesty International, *Como anillo al dedo*, op. cit.
124 Universidad de las Américas Puebla, IGI-MEX, *Global Impunity Index, México 2018* Mexico, 2018.
125 The calculations do not solely relate to the Gender Prosecutor's Office.
126 CEDAW, Concluding observations on the ninth periodic report of Mexico, CEDAW/C/MEX/CO/9, 2018, 15; and Concluding observations on the ninth periodic report of Mexico CEDAW/C./MEX/CO/6, 2006, para 15;

"The real, real working day is indefinite. We arrive at 9 but we leave sometimes at 8, 9 or 12 at night, from Monday to Friday, but sometimes also at weekends. We are used to it, we know that working here involves this. It is impossible to keep to the set hours because we have a lot of work."

Official from the Gender Prosecutor's Office

All the public servants interviewed said they thought that salaries were too low. Specifically, the Public Prosecutor's Office officials earn approximately 16,000 pesos per month (about US$650), but it is important to note that, according to several of the public servants interviewed, part of their salary has to go on carrying out certain procedures as part of the investigations that they are in charge of and that this is not reimbursed by the Attorney General's Office, as will be seen below.[127] According to the coordinating personnel interviewed, the fact that the salaries are low, together with the working conditions, makes it difficult for them to find professionals who want to work in the Attorney General's Office.

4.3.3. TECHNICAL RESOURCES

In general, all the public servants interviewed for this report agreed that they lacked sufficient technical resources to carry out investigations into disappearances and feminicides. Specifically, three shortcomings stand out:

- ***Official cars.*** Several of the public servants interviewed by Amnesty International stated that the Public Prosecutor's Office officials, experts and the investigative police of the Gender Prosecutor's Office do not have sufficient transport. For example, one Public Prosecutor's Office official interviewed works in a unit with six officials from the Public Prosecutor's Office and five investigative police officers and have only one patrol vehicle, which also "is not in a state to travel very far".[128] This means that they must travel in their own vehicles – if they have them – or by public transport, but according to the public servants interviewed, the cost of all journeys is not reimbursed. Using public transport is especially problematic because public servants face a logistical problem in some ways similar to the one victims families face described earlier: the amount of time and money involved in travelling through the State of Mexico is unsustainable. This affects investigations because the longer they take to go to the scene, the more likely it is that the scene will be contaminated and evidence will be lost. However, this is a difficult issue to solve because due to the size of the State of Mexico, in the words of an Public Prosecutor's Office official, "no matter how fast we go, crossing the city will always be difficult.
- ***Their own expert services.*** As noted above, currently there is a small group of experts assigned to the Gender Prosecutor's Office but, in general, they do not carry out the initial steps, but rather support the subsequent steps. As a result, the Gender Prosecutor's Office is dependent on the availability of experts assigned to the different Regional Prosecutor's Offices and this is problematic because "information comes to them from everywhere and they are extremely overworked" and because the experts who carry out the first steps lack the required gender perspective.[129] According to experts interviewed by Amnesty International, this means that, for example, sometimes insufficient samples are collected from a crime scene where a woman's death has been made to look like a suicide, incomplete descriptions are given of the injuries presented by the victim or samples from gynaecological and proctological examinations are not properly collected for examination.

127 According to the National Minimum Wage Commission, in 2020, the monthly minimum wage was about 3,700 pesos per month (approximately US$186).

128 According to the State of Mexico Attorney General's Office, the Special Prosecutor's Office for Feminicides has use of a total of nine vehicles for members of the Public Prosecutor's Office and 12 for investigative police officers, and the Special Prosecutor's Office for Disappearances, has three vehicles for members of the Public Prosecutor's Office and 12 for investigative police officers. Letters from the State of Mexico Attorney General's Office, ref: 00947/MAIP/FGS/IP/2021 and 00948/MAIP/FGJ/IP/2021, 22 April 2021.

129 Interview with experts and members of the Gender Prosecutor's Office.

- ***Adequate space and resources.*** In general, the public servants interviewed agreed that they lacked the material resources needed to work and, specifically, to carry out investigations. In the first place, some of the supplies needed to carry out the investigations have to be provided by the public servants themselves and these expenses are not reimbursed. Thus, for example, experts must pay for some the supplies they need to collect samples and perform tests. There is a danger that some public servants are unwilling or unable to carry out some tasks or wait a fortnight so that they have the money to pay for them, and there is also the risk of giving rise to irregular practices by people who offer money in order to progress their cases.

"We have a problem with supplies. Covering the costs cannot be down to us, because sometimes that means that we do not do some things because we do not want to spend our money or we hope to do it in a fortnight. That generates corruption, because if my salary is not very good and I also have to subsidize tasks, it means that families give us the money to perform those tasks or want to drive us there. Thus, whoever can pay will see their case progress, and whoever cannot, will not."

Official from the Public Prosecutor's Office, Gender Prosecutor's Office

Second, there were Public Prosecutor's Office officials who asserted that their office does not have enough desks for each of the officials, so they have to share with colleagues. Apart from the inconvenience of not having their own space, this means that when one of the officials has a meeting with a victim, the other partner must leave the office. Similarly, when they go to work in the offices of other municipalities, some officials said that they do not have their own spaces and depend on the colleagues assigned to that municipality to lend them a desk and a computer.

Lastly, both the Prosecutor's Offices for Femicides and for Disappearances lack an appropriate place to store evidence securely in their offices.[130] This is especially serious, because it leads to evidence being lost.

"We do not have a small room to store things. Each official keeps their evidence as best they can. Sometimes we even store it in our homes to prevent anyone from touching the evidence."

Official from the Public Prosecutor's Office, Gender Prosecutor's Office

130 Interview conducted with a public servant from the Prosecutor's Office for Feminicide (located at the Tlalnepantla headquarters) on 11 March 2021 and a member of the Prosecutor's Office for Disappearances on 12 March 2021.

5. CONCLUSIONS AND RECOMMENDATIONS

Amnesty International's research documenting four cases of feminicide preceded by disappearance in the State of Mexico, conducting interviews and reviewing judicial case files has found that investigations of these crimes are flawed because evidence is lost, there is a failure to investigate and a gender perspective is not applied correctly. In addition, families are re-victimized because they have to spend time and money investigating cases themselves or putting pressure on the authorities to investigate. They are also re-victimized because they frequently face threats and harassment by the perpetrators and sometimes also by the authorities. The failings identified hamper the judicial process and facilitate impunity, affecting families' access to truth, justice and reparation.

Amnesty International's research highlights how ***failings in the investigation of disappearances and feminicides make it easier for these crimes to go unpunished.*** The loss of evidence makes it difficult to locate the missing women (as in the case of Daniela Sánchez) and to identify those responsible (as in the case of Diana Velázquez). In addition, it means that the cases are not solid legally and, therefore, there is a greater chance that cases will end in acquittal (as in the case of Nadia Muciño).

The lack of investigation also in itself leads to evidence being lost, as often happens with video recordings from security cameras and call logs which are especially important for locating missing persons, and it is common for officials from the Public Prosecutor's Office to delay too long in requesting information and the camera footage and telephone data are therefore lost (as in the case of Daniela Sánchez). Additionally, the lack of investigation means cases grind to a halt when all possible lines of inquiry have not been pursued, and that, in itself, leads to impunity (as in the case of Julia Sosa, where the authorities have never investigated the participation of the third person indicated by the family).

Finally, the failure to correctly apply a gender perspective also results in the loss of evidence, for example, because nail scrapings are not taken. In the case of feminicides, this is especially important because in order for the crime to be categorized as feminicide, the circumstances set out in law, such as sexual assault prior to death or the public exposure of the body, need to be present.

The re-victimization of the relatives of victims of feminicide and disappearance, in addition to being a concern in itself that causes additional harm to those seeking justice, encourages impunity, because it deprives families of opportunities to continue the investigation and damages their financial situation and their physical and mental health.

The analysis carried out for this report, which highlights the failings in the investigation of feminicides preceded by disappearance in the State of Mexico, is consistent with the findings of a 2003 report by Amnesty International on the killings of women in Ciudad Juárez, which found similar shortcomings, including the mismanagement of crime scenes and evidence, casting doubt on victims and failing to

follow up on certain lines of investigation. All of this suggests that ***feminicidal violence and the failings in investigation and prevention in northern Mexico are not anecdotal, but are part of a broader reality in the country.*** Thus, what happened in Ciudad Juárez more than 20 years ago is happening today in other parts of Mexico.[131] Some of the observations and conclusions of the Inter-American Court remain relevant and one conclude that Mexico continues to fail to fulfil its obligation to investigate and, therefore, its duty to guarantee the rights to life and personal integrity and to prevent violence against women. Likewise, ***Mexico continues to violate the rights of access to justice and judicial protection of the families of the victims of feminicide and disappearance, of non-discrimination and of personal integrity because of the distress and harassment suffered by victims' families.***

Amnesty International, taking into consideration the views expressed by all those who participated in the research for this report – including those working in the criminal justice system who were interviewed in confidence, other public authorities, Mexican civil society organizations and other experts – as well as Mexico's obligations under international human rights law, makes the following recommendations:

TO THE PRESIDENT OF THE REPUBLIC

- Comply with article 39 of the General Law on Women's Access to a Life Free of Violence (which states that the Federal Executive will propose in the Draft Expenditure Budget for the Federation that funds be allocated to ensure compliance with the objectives of the System and the Programme set out in this law.

TO THE FEDERAL AUTHORITIES

- Publicly acknowledge the scale of the problem of feminicides and disappearances in Mexico, as well as the failings in the investigations into these crimes, and send a clear message that these crimes will no longer be tolerated or go unpunished.
- Publish in the Official Gazette of the Federation the Comprehensive Programme to Prevent, Address, Punish and Eradicate Violence against Women 2020-2024, in accordance with the provisions of the General Law on Women's Access to a Life Free of Violence.

TO THE MINISTRY OF THE INTERIOR:

- Design and implement a comprehensive public policy for the protection of human rights defenders and journalists. This policy should take into account that in those states where alerts on gender-based have been issued, such as the State of Mexico, affected families face a double danger in their search for truth, justice and reparation: the gender-based violence was the reason for the alert being issued and attacks aimed at making them give up their fight.

TO THE NATIONAL SYSTEM TO PREVENT, ADDRESS, PUNISH AND ERADICATE VIOLENCE AGAINST WOMEN:

- Undertake joint efforts and actions in the various inter-institutional government orders to prevent, address, punish and eradicate violence against women in the State of Mexico.

TO CONGRESS

- Allocate budget to strengthen the National System to Prevent, Address, Punish and Eradicate Violence against Women, specifically to address violence against women in relation to the justice system.

131 See, for example, General Recommendation 43/2020 of the National Human Rights Commission "Sobre violación al acceso a la justicia e insuficiencia en la aplicación de políticas públicas en la prevención, atención, sanción y reparación integral del daño a personas victimas directas e indirectas de feminicidios y otras violencias",
Mexico City, 27 November 2020.

TO THE NATIONAL COMMISSION TO PREVENT AND ERADICATE VIOLENCE AGAINST WOMEN:

- Promote the entry into force and application of the Comprehensive Programme to Prevent, Address, Punish and Eradicate Violence against Women 2020-2024.
- Analyse the progress and challenges of the two gender alerts implemented in the State of Mexico in light of the content of this report.

TO THE ATTORNEY GENERAL OF THE STATE OF MEXICO

- Ensure that the Central Attorney General's Office on Crimes Linked to Gender-Based Violence has the human and financial resources necessary to carry out its function efficiently and with decent working conditions. Specifically:
  - Increase the team of experts assigned to the Gender Prosecutor's Office so that they have the capacity to take on the initial investigation stages in cases of disappearances and feminicides.
  - Increase the team of officials in the Public Prosecutor's Office and investigative police in the units of the Attorney General's Office specializing in Feminicide and Disappearances.
  - Ensure that justice is accessible and available to victims. Assess the possibility of creating new agencies (headquarters/offices) of the Special Prosecutors' Offices for Feminicides and Disappearances so that they can cover most of State of Mexico, so as to reduce the amount of travel that that public servants must undertake. The Belém do Pará Convention Follow-up Mechanism (MESECVI) recommends increasing the number of entities that can receive complaints.
  - Create an analysis unit (or reinforce another existing unit) with professionals specialized in data analysis (georeference analysis, video analysis, etc) that reports to the Central Prosecutor's Office on Crimes Linked to Gender-Based Violence and with which officials from the Public Prosecutor's Office and investigative police officers can have direct contact.
- Strengthen the teamwork of the different members involved in the investigations of disappearances and feminicides. For example, it is suggested that periodic and frequent multidisciplinary meetings be held between members of the Public Prosecutor's Office, the investigative police, Expert Services and the Context Analysis Unit to jointly analyse the direction of the investigation of each case. In these meetings, considerations should also be given to the participation of rights holders and legal advisers. Similarly, various experts from Expert Services and the Forensic Medical Services should strengthen their teamworking and joint analysis of cases.
- Ensure that the Central Attorney General's Office on Crimes Linked to Gender-Based Violence has the necessary infrastructure to carry out its function efficiently and with decent working conditions. Specifically, and as a priority:
  - Increase the number of official vehicles for investigative police, members of the Public Prosecutor's Office and expert services in all the different headquarters in the state.
  - Create a storage unit for evidence in all the prosecution offices that is large enough and enables evidence to be registered and protected so that its contamination and destruction can be prevented.
  - Ensure that all members of the Public Prosecutor's Office and the investigative police have their own desks and computer equipment.

- Provide all the necessary supplies to the expert services to carry out examinations and tests without the public servants having to pay for them out of their own resources The allocation of supplies should take into account the area of expert services assigned to the Central Prosecutor's Office on Crimes Linked to Gender-Based Violence.

- Design and implement training programmes focused on the technical aspects of investigations with a gender perspective into disappearances and killings of women. These training programmes must be specific and differentiated according to professional roles (for example, investigative police, prosecutor and experts) and area of investigation or specialization (for example disappearances, feminicides and scientists specializing in chemistry, criminology, forensic medicine).
- Ensure that all public servants involved in investigating feminicides are aware of the State of Mexico Protocol on Investigations of the Crime of Feminicide. In particular, disseminate and supervise the application of this protocol in the Regional Attorney Generals' Offices, the Expert Services and Forensic Medical Services, and the Municipal Police.
- Monitor that in all cases of disappearances of women urgent search procedures are carried out immediately, especially those related to the geolocation of cell phones and requests for video surveillance camera recordings. It is essential to strengthen the implementation of the approved Protocol on searching for missing persons, the AMBER Alert Programme and the Alba Protocol, with special emphasis on not waiting for 72 hours to elapse before accepting a report of a disappearance and initiating search procedures.
- Monitor that the expert reports contain detailed and accurate information and can be understood by non-experts. Specifically, take into account that information should be useful for the prosecution of cases and presentation to judges. If necessary, a review of the design of the reports is recommended to ensure they provide what is needed for the prosecution of cases.
- Investigate public servants responsible for misconduct or crimes against the victims' families and impose adequate disciplinary measures when appropriate.
- Ensure the correct digitization of law enforcement services, through mandatory measures such as the digitization of all files, the provision of the necessary equipment to those working in the administration of justice so that they can carry out their functions remotely, and technical training for personnel that require it in digital communications. This is especially important in the context of the COVID-19 pandemic and also to reinforce remote working in a normal context as this could help reduce the problem of travel in the State of Mexico.
- Strengthen the studies carried out by the Context Analysis Unit so that they are more complete and specific. In addition, the Context Analysis Unit should carry out a more in-depth analysis of cases of feminicides preceded by disappearance in the State of Mexico.
- Establish coordination between the Special Prosecutor's Office for Disappearances and the Special Prosecutor's Office for Feminicides in cases in which a feminicide has been preceded by a disappearance, with the aim of strengthening the investigation of feminicide with the procedures carried out at the stage in which the woman was missing.
- Improve the training of officials in the Special Prosecutor's Office for Disappearances regarding the prosecution of cases of disappearance.

CONGRESS OF THE STATE OF MEXICO

- Ensure that the State of Mexico Attorney General's Office, especially the Central Attorney General's Office on Crimes Linked to Gender-Based Violence, has the human and financial

resources and the infrastructure needed to carry out its function efficiently and with decent working conditions.

- Ensure that the Attorney General's Office of the State of Mexico, especially the Central Attorney General's Office on Crimes Linked to Gender-Based Violence, has the necessary infrastructure to carry out its function efficiently and in decent working conditions.
- Assign appropriate and adequate budgets for the functions entrusted to the State of Mexico Attorney General's Office. In particular, ensure that the Attorney General's Office has the necessary resources to apply the State of Mexico Protocol on Investigations of the Crime of Feminicide, the Protocol approved for the search of missing persons, the AMBER Alert Programme and the Alba Protocol.
- Formally request the appearance of the State of Mexico Attorney General before the State of Mexico Legislature to demand accountability and information on the quality of investigations into feminicides and disappearances.

STATE OF MEXICO HUMAN RIGHTS COMMISSION

- Investigate the problem of failures in criminal investigations of crimes of violence against women, especially feminicides and disappearances and issue recommendations that address the aspects highlighted in this report, such as excessive workloads, failure to investigate, the application of a gender perspective, the collection and safeguarding of evidence and the need for training of public servants in Public Prosecutors' Offices.

TO ALL AUTHORITIES AT THE STATE AND NATIONAL LEVELS

- Ensure that all those working in the administration of justice, including those working in state-level institutions, especially police officers and public defenders, receive decent wages and have appropriate working conditions and social benefits for the work they perform and dignity at work.
- Guarantee that those working in the administration of justice assigned to Attorney Generals' Offices are provided with the material resources necessary to carry out their functions efficiently and in accordance with the law and human rights.

Include in the budget request for the next fiscal year to the Congress of the Union the resources necessary to strengthen Public Prosecutor's Offices that deal with complaints of violence against women and feminicides.

- Adopt and implement effective measures to protect and assist women complainants and witnesses of gender-based violence before, during and after legal proceedings, (CEDAW General Recommendation 35).[132]

  i) protecting their privacy and safety, including through gender-sensitive court procedures and measures, bearing in mind the victim/survivor's, witnesses' and defendant's due process rights.

  ii) providing appropriate and accessible protection mechanisms to prevent further or potential violence, without the precondition for victims/survivors to initiate legal actions. This should include immediate risk assessment and protection, comprising a wide range of effective measures and, where appropriate, the issuance and monitoring of eviction, protection, restraining or emergency barring orders against alleged perpetrators, including adequate sanctions for non-compliance Protection measures should avoid

132 Convention on the Elimination of All Forms of Discrimination against Women, *General recommendation 35 on gender-based violence against women, updating general recommendation No. 19*, CEDAW/C/GC/35, 26 July 2017.

imposing an undue financial, bureaucratic or personal burden on women victims/survivors.

- Provide effective reparation to women victims of gender-based violence. Reparation should include different measures, such as monetary compensation and the provision of legal, social and health services including sexual, reproductive and mental health for a complete recovery, and satisfaction and guarantees of non-repetition. Such reparations should be adequate, promptly attributed, holistic and proportionate to the gravity of the harm suffered. (CEDAW General Recommendation 35).

AMNESTY INTERNATIONAL IS A GLOBAL HUMAN RIGHTS MOVEMENT. WHEN INJUSTICE HAPPENS TO ONE PERSON IT MATTERS TO US ALL.

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JUSTICE ON TRIAL

FAILINGS IN THE INVESTIGATION OF FEMINICIDES PRECEDED BY DISAPPEARANCE IN THE STATE OF MEXICO

Amnesty International's research has found that investigations into feminicides preceded by disappearance in the State of Mexico are failing because evidence is lost, the level of investigation is inadequate and a gender perspective is not applied correctly. In addition, families are re-victimized because they have to spend time and money investigating cases themselves or putting pressure on the authorities to investigate. They are also re-victimized by the frequent threats and harassment they face from the perpetrators and sometimes also from the authorities.

Failings in criminal investigations and re-victimization hamper the judicial process and increase the chances that cases will go unpunished, seriously affecting families' access to truth, justice and reparation.

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