

THE CONDITION OF WOMEN IN NUEVO LEÓN, MÉXICO CIVIL SOCIETY REPORT BEFORE CEDAW, OCTOBER 2011

1. Context in the State of Nuevo León

The state of Nuevo León is located in the northeast of Mexico. It has a population of 4.6 million people, roughly half of whom are women¹; 88% of the population lives within the metropolitan area² where most of the industrial, financial, and service business activities are concentrated. Its capital, Monterrey, is the third largest city in the country and significantly contributes to the national economy.

Monterrey benefits from an important economic contribution from women given that they constitute 37% of the labor market (720,000 employed women versus 1.2 million employed men), considerably above the national media. Despite their active involvement, working conditions and benefits for women often do not meet minimum standards mandated by the law.

Economic progress in Nuevo Leon, however, is not reflected in human development or gender equality. Public policy continues to focus on assistance rather than on advancing a progressive civil rights agenda.

Nuevo León is currently governed by the *Partido Revolucionario Institucional* (the Institutional Revolutionary Party – PRI) and has had only one term governed by another party, the *Partido Acción Nacional* (National Action Party – PAN). State congress currently has a PRI majority. Out of 54 members, only eleven (4.9%) are women, which is the highest percentage of female representation in the history of the state legislature.

Today, public safety is the dominant priority/concern amongst local residents, as the presence of organized crime and street violence has increased public fear. Rates of criminal activity have risen over the past 18 months. According to the State Attorney's Office, 1,388 people were murdered in Nuevo León from January to September 2011.

Nuevo León has been militarized since 2007. “*Operacion Nuevo León*” was implemented by federal and municipal police forces, which have been reinforced after the Casino Royal tragedy in August 2011 when 52 people died after the facility was set on fire. Forty-two of the victims were women.³

Non-governmental organizations have reported continuous human rights violations by military members. In the middle of violence perpetuated by organized crime, women have been seriously affected. Statistics show that crimes against women have increased since 2010, on top of an already elevated rate of family violence that 40% of *Neolonesas* suffer, according to INEGI.

2. The prevailing situation in the State according to the CEDAW

According to Article 1 of the CEDAW: “[D]iscrimination against women” shall mean any distinction, exclusion or restriction made on the basis of gender which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their

¹ INEGI, Censo de poblacion y vivienda 2010, Tomo I. Aguascalientes 2011.

² The municipalities that comprise Monterrey's metropolitan area are: Apodaca, García, General Escobedo, Guadalupe, Juárez, Monterey, San Nicolas de los Garza, San Pedro Garza García, Santa Catarina.

³ <http://www.terra.com.mx/noticias/articulo/1220804/Suben+132+crimenes+contra+mujeres+en+NL.htm>

marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural and civic arenas or any other field.

The current situation in Nuevo León is an obstacle to the application of Article 1 of the CEDAW, standing in contradiction to its structural basis for defending human rights and fundamental liberties for women.

The strategy that the federal government has used can be seen in its declaration of 'war against drug traffickers', which has resulted in more violence, a weak social safety net (if any) and impunity for those who violate the law. This has affected quality of life for women and mobility patterns in Nuevo León.

The violence has also had a major impact on economic conditions, resulting in higher unemployment rates and fewer opportunities for women, the poor and the marginalized while causing social and family disintegration. This dynamic, far from reinforcing society, has instead created optimal conditions for crime to continue to increase.

Thus, fundamental liberties and human rights for women have been seriously compromised. It is noteworthy that indigenous women are among the most affected demographic groups. The National Survey of Discrimination in Mexico of 2010 (ENADIS, 2010) points out that in Nuevo León 62.7% of people who belong to an ethnic minority do not have the same opportunities as others when it comes to finding a job.

According to Article 2 of the CEDAW: *The state parties will agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women... to embody the principle of the equality;... to institute sanctions where appropriate;... to establish legal protections;... to ensure through competent national tribunals and other public institutions the effective protection of rights;... to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with this obligation;... to eliminate discrimination against women by any person, organization or enterprise;... to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;...to repeal all national **penal provisions** which constitute discrimination against women.*

In Nuevo León there is no law that guarantees equality between men and women in spite of the fact that the General Law for Equality between Women and Men was approved at the national level in 2006. Furthermore, no national system exists to ensure equality and prevent discrimination. Given that punitive measures are not established by the applicable laws, effective protection for women against discrimination cannot be enforced.

Nuevo León's penal code does not recognize 'femicide' as a crime. Moreover, femicide is not contemplated in the Law for Access to a Life Free of Violence for Women in the State of Nuevo León. This has brought constant criticism from feminist organizations in the region who have demanded the recognition of the crime.

This legislative loophole has impacted the judiciary's power. Recently, the president of the Superior Tribunal of State Justice highlighted the urgency in establishing femicide as a crime to help investigate several deaths and also help identify and enforce violations of human rights committed against women.⁴

⁴ <http://www.elnorte.com/edicionimpresa/vista.asp?seccion=local&fecha=20111008&pagina=1&ext=pdf>

According to Article 2 and Article 6 of the CEDAW: *The state parties will agree to protect the enjoyment of human rights and fundamental freedoms, and suppress all forms of trafficking in women and exploitation or prostitution of women.*

When it comes to guaranteeing the exercise of human rights and fundamental liberties, inscribed in Article 3 of the CEDAW, it is of the utmost importance to note that violence against women has intensified in Nuevo León during the last few years.

Femicides have increased more than 40% between 2005 and 2009⁵, going from 2.45 to 3.52 femicides per 100,000 inhabitants. Sixty-seven of every 100 women have suffered some kind of violent act from their partner, a family member, or a person in their community, workplace, or school.⁶ A 2011 investigation into impunity in Nuevo León⁷ showed that while 1,095 homicides were committed over the previous two years (267 during 2009 and 828 during 2010), only 67 people were convicted and sentenced, showing the prevailing impunity in the state.

During 20 months of the current administration led by Gov. Rodrigo Medina De la Cruz (October 2009 to June 30, 2011), there have been 159 women murdered in Nuevo León: 89 attributed to organized crime, 5 to the Army, 2 to the Immediate Reaction Group (Grupo Reaccion Inmediata), and 1 to other military forces that support the State Public Security forces. The remaining crimes were committed by family members or acquaintances of the victims.⁸

According to hemerographic⁹ records from 2000 to 2008, there were on average 23 women murdered a year in Nuevo León. The murder rate increased from 40 in 2009, to 74 in 2010, and 174 in 2011 (Jan-Oct). The ages of women killed ranged from 1 to 84 years old; 58 of them haven't been identified. Of the crimes perpetrated in 2011, 94 murders were carried out within the city of Monterrey, including the deaths of 46 women (including two pregnant women) who were killed by two terrorist attacks.

When murdered women are found in the state, authorities immediately declare, without any investigation, that these women were linked to organized crime. This practice, against existing law, assumes victims are guilty rather than innocent. Authorities tend to justify the killings by saying that they occurred during confrontations between criminal gangs, implying that the women were not entitled to justice and that their murders did not deserve to be investigated and prosecuted.

In the most extreme cases attributed to organized crime, public displays of violence against women are used to "send a message" to rival gangs, spread fear among the population, and put pressure on local and federal authorities. Women are hanged, mutilated, quartered, raped (sometimes multitudinously), decapitated; their remains are burned or tossed into wastelands, streets, or even into residential areas or near schools. There is typically an excessive use of physical force, signs of sexual violence and an increasing use of firearms in the crimes. The first person to be hanged on a pedestrian bridge was a woman.¹⁰ The first reported victim whose remains were burned was also a woman¹¹, a situation never seen before in Nuevo León that reinforces the urgency to enforce femicide as a crime in the state. Making femicide a crime would help to raise awareness about the abuse of women by men in opposing gangs for the purpose of revenge.

⁵ Instituto Nacional de Estadística y Geografía (INEGI)

⁶ Idem

⁷ Milenio Diario de Monterrey, 9 de febrero de 2011.

⁸ Registro hemerográfico de Arthemisas por la Equidad, A.C.

⁹ Idem

¹⁰ El Norte, 31 de diciembre de 2010.

¹¹ El Norte, 29 de septiembre de 2001.

Facing this situation, civil organizations report that the issue has been minimized by the executive, legislative and judicial powers in the government. More decentralized agencies that should ensure the integrity and rights of women, such as the Women's Institute of the State, have not taken any action on this matter.

Civil organizations in the area¹² report there are many cases where crimes have not been reported to authorities. In many of these instances, women have disappeared for hours and even days. These crimes have become known as *levantones de placer* (pleasure kidnappings). The victims are women who have been taken out of their vehicles by armed men or have been intercepted on the street, adding another level of aggression to the actual rape.

It is clear to civil organizations that there is no real access to justice for victims. Cases are not resolved, there are no serious investigations from authorities and thus it is almost never known what happened to these women or who the offender was. This issue is only aggravated by corruption, abusive practices from authorities, and the lack of accountability from the government. Within this context, women and girls in Nuevo León make up the most vulnerable sector of the population in the unsafe and violent environment that prevails in the state.

It has been possible to substantiate the increasing disappearances of women in the last year¹³, whether the women were taken by force and/or through engagement with the kidnappers.¹⁴ Various cases indicate that many are victims of human trafficking.¹⁵ The trafficking of women and drugs are two major problems increasingly linked to one another. Women are often forced into prostitution or involvement with drug trafficking through coercion or skullduggery.¹⁶

Moreover, governmental structures do not guarantee protection against the threats that these criminal groups make against the families of the disappeared people. Corruption and impunity prevent finding the missing women and giving them access to justice.

Documented trafficking of women¹⁷ is aggravated in a situation where organized crime is presumed to control the state while it is also besieged by military forces, marines, and federal police.

Statistics in the country indicate that 74% of victims of sexual exploitation are younger than 14 years old and 81% of them are girls. Twenty percent contracted sexually transmitted diseases and 10% were pregnant. Sixty-five percent of cases involved abuse that continued for months if not years¹⁸.

In contrast to this reality, studies conducted by the Deputy Camera found that the government spent MXN \$255 billion on national security by the end of 2011, of which the National Defense Ministry and Secretary of the Navy received MXN \$174 billion to fight organized crime, drug

¹² Alternativas Pacíficas A. C. y Pro Salud Sexual y Reproductiva A. C. have attended women who are victims of this crime and, for their safety sake, have decided not to report these crimes.

¹³ In Ciudadanos en Apoyo a los Derechos Humanos, A.C. (Citizens supporting Human Rights – CADHAC) there are registrations until September's first week of 91 cases of disappeared people, from which at least 700 people are missing. 30% of the disappearings have been perpetrated by State agents. Within the total of the cases there are missing women included.

¹⁴ In CADHAC there are 5 registered cases of young women who were presumed to be disappeared by integrants of organized crime since February 2010.

¹⁵ Periódico El Norte, 27 de septiembre de 2009. The investigator of the Autonomous University of Nuevo León, Arun Kumar Acharya, affirmed that "Monterrey has turned into the second city with the most incidence in Human Trafficking after Cancún (...) he assured that every month between 300 and 400 women, mostly underage, arrive to the city under false pretenses of employment in illegal businesses".

¹⁶ Also consult: Diario la Jornada. Se apoderan los zetas de apodaca, nl; crece la trata de mujeres. (2011, August 14). *La Jornada*. Retrieved from <http://www.jornada.unam.mx/2011/08/14/politica/002n1pol>

¹⁷ Acharya, Arun Kumar "Tráfico de Mujeres hacia la Zona Metropolitana de Monterrey; una perspectiva analítica" en *Espacios Públicos* Vol. 12 No. 24, abril, 2009, Universidad Autónoma del Estado de México.

¹⁸ Infancia Común (2012). Retrieved from <http://www.infanciacomun.org.mx>

trafficking, guerrilla activity, terrorism, and border vulnerabilities.¹⁹ The budget dedicated to security in states and municipalities has never been higher in Mexico's history (MXN \$13.8 billion)²⁰, but this investment this is not reflected in improved security or reductions in rates of violence.

Article 11 and Article 13:

Article 11: 1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on the basis of equality between men and women, the same rights, in particular...(e) the right to social security, particularly for retired persons, the unemployed, the ill, the invalid, the elderly, and other persons who cannot work due to incapacitation, in addition to the right to paid vacations. (f) the right to the protection of workplace health and safety, including safeguards for reproduction.

2. In order to prevent discrimination against women on the basis of marriage or maternity and to ensure their right to work, state parties will take appropriate measures to: (a) prohibit, subject to sanctions, dismissal on the grounds of pregnancy or maternity and discrimination in dismissals on the basis of marital status; (b) establish maternity leave with pay or with comparable social benefits without loss of employment, seniority or benefits; (c) encourage the provision of necessary social services to enable parents to balance family obligations with work responsibilities and participation in public life, specifically through promoting the establishment and development of a network of child-care services.

Article 13: States parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:(a) The right to family benefits; (b) The right to bank loans, mortgages and other forms of financial credit; (c) The right to participate in recreational activities, sports and all aspects of cultural life.

In Mexico, 1,938,274 people are employed as domestic workers, of which 91.9% are women.²¹ Domestic work encompasses work for households other than the worker's own in exchange for a wage, with maximum hours prescribed by law.²² Nearly 47% of those employed to do domestic work in Mexico are paid less than the minimum wage.²³

Eight out of ten domestic workers do not receive medical insurance; six out of ten are not allowed paid vacations; almost half do not receive a Christmas bonus and a similar percentage report that they do not have a fixed working schedule.²⁴

In Nuevo León, a large percentage of indigenous women work as domestic employees, suffering the discrimination and violence that plagues the profession. This problem is reflected in the program 'De ti y por ti' ('From you and for you'), instituted by the San Pedro Garza García Municipal Authority. The program registers domestic workers in the township and provides their information to authorities who argue that 60% of home burglaries involve service personnel.

Mayor Mauricio Fernández Garza said the program fulfills two functions: to make domestic employees feel welcome in San Pedro (and have access to the services that the Municipality

¹⁹ Flores, N. (2011, May 09). Gasto por 255 mil mdp en "seguridad nacional". *Revista Contralínea*. Retrieved from <http://contralinea.info/archivo-revista/index.php/2011/05/29/gasto-por-255-mil-mdp-en-seguridad-nacional/>

²⁰ El Universal. (2010, December 16). Histórico, presupuesto para seguridad: Poiré. *El Universal*. Retrieved from <http://www.eluniversal.com.mx/notas/723973.html>

²¹ National Survey by occupation and employment, ENOE 2009. There are no available data for Nuevo León.

²² According to data from the the National Network of Household Employees.

²³ National Network of Household Employees.

²⁴ National Survey for Discrimination in Mexico, ENADIS 2010.

provides) and to allow authorities to supervise and locate them if they commit a major offense or crime.²⁵

But requiring workers to provide information so they can be located when crimes are committed in the homes where they work violates the most basic human rights. The discriminatory program presumes guilt before a crime has been committed and denies the presumption of innocence after a crime has occurred.

Another problem that women face as domestic employees is discriminatory federal labor law in Mexico.²⁶ This law does not require employers to provide domestic workers with the following benefits: free medical services, maternity leave, retirement pension, housing and participation in the Mexican Social Security Institute (IMSS) or the National Fund for Worker Housing (INFONAVIT).²⁷ Employers are exempted from making contributions and paying fees that are required for other kinds of employees.²⁸ This issue affects domestic workers across Mexico, including Nuevo Leon, and was cited as a pressing problem by the 2010 National Survey on Discrimination.

Given that employers are not obligated by law to provide these benefits to domestic employees, there is no judicial enforcement guaranteeing access to social security, protection against dismissal due to pregnancy and the right to retirement funding. Access to housing credits is also limited for such workers.

Federal labor law also fails to regulate the maximum number of hours that domestic employees can work. Article 333 states only that “domestic employees shall enjoy sufficient rest periods as to being able to take their meals and sleep at night” without prescribing the maximum length of a work day or defining what constitutes ‘sufficient rest periods’. The failure of regulation invites employers to determine for themselves what is sufficient.

Excluding domestic workers from the rights that others are entitled to is discriminatory and deprives such workers of a recognized relationship with their employers. The situation created results in a lack of regulation of workplace hygiene, security and safety to minimize risks and prevent accidents.²⁹

This is a national problem, and Nuevo León is not an exception to it. Women in the state who work as housemaids do not have social security. In the event of an illness or accident, their salary is not covered during a leave of absence. They have no right to maternity leave, and many are fired when the employer learns they are pregnant. They receive no day-care services for their children during working hours, and employers are not bound by any maximum number of hours in a workday (a reality known as ‘trabajo de planta’ where workers labor all day long). These situations violate the standards established in the CEDAW presented above, specifically Article 11, Subsection 1 (Parts e and f) and Subsection 2 (Parts a, b, and c).

3. Recommendations

Based on the preceding observations, the signatory organizations to this document request for Mexico to implement the following changes in accordance with the CEDAW:

²⁵ San Pedro Garza García. (2011, 04 07). *Lanzan programa de información y servicios al empleado doméstico*. Retrieved from http://www.sanpedro.gob.mx/Prensa/Detail_Noticia.asp?folio=2502

²⁶ See article 146 of the Federal Labor Law.

²⁷ Ibid.

²⁸ National Survey for Discrimination in Mexico, ENADIS 2010.

²⁹ Ibid.

- To include the crime of femicide in the Penal Code for the State of Nuevo León, within the Law for Access to a Life Free of Violence for Women in Nuevo Leon.
- To identify the victims of femicide who remain unidentified and thoroughly investigate and prosecute their cases.
- To include the crime of forced disappearance in the Penal Code for the State of Nuevo León in accordance with international legal standards and create public policy initiatives to assist victims.
- To guarantee the families of victims of forced disappearances assistance with education, social benefits, medical care and economic support through the passage of new laws or other mechanisms.
- To investigate the whereabouts of missing women while identifying and prosecuting the perpetrators.
- To analyze and modify the Law to Prevent, Address, Combat and Eradicate the Trafficking of Persons in the State of Nuevo Leon to increase its effectiveness and integrate social service organizations in addressing the public policy issues.
- To recognize the rights of domestic workers so that employers are mandated to provide benefits and workers receive established labor contracts that specify working hours, rest periods and duties to be performed.
- To design public policies that provide for: part-time work opportunities, social security for women who work by the hour, extended day-care, work licenses to help women gain access to services for their children, medical insurance for victims of violence, and skill development programs for workers.
- To create a trust fund to support female victims of violence, operated and managed by social service organizations with proven expertise and track records.
- To commit to enforcing laws that guarantee security and justice for the citizens of Nuevo León.
- To dedicate sufficient funding from the State Congress and to implement and enforce the Law for Access to a Life Free of Violence for Women in the State of Nuevo León.
- For financing and functioning of temporary shelters for former violence female victims and survivors.
- To develop, finance and implement training programs for public servants and establish procedures based on gender perspectives.
- To create transparency and accountability from those in public service who have not fulfilled their duty to prevent and punish violence against women.

Note: this document has been created based on the areas of expertise of the organizations that have signed it. The information contained is limited to that framework.

Signatory Organizations:

Alternativas Pacíficas A. C.

Arthemisas por la Equidad A. C.

Centro de Estudios de Género Simone de Beauvoir A. C.

Ciudadanos en Apoyo a los Derechos Humanos A. C.

Colectivo Plural de Mujeres

Comunicación e Información de la Mujer en Nuevo León A. C.

Pro Salud Sexual y Reproductiva A. C.

Zihuame Mochilla A. C.