

*"Fighting for women's rights is for many synonymous to hating men.  
This has to end."*

Emma Watson/Actress and Goodwill Ambassador for UN Women.



FEDERAL JUDICIARY COUNCIL

# Igualdad

## DO WE BELONG TO MEN?

Submission is incompatible with the full exercise of our dignity and the consequences that derive from it. \_04

⊕ Equality as an element of human right: mankind's inalienable objective.

⊕ Beatriz Pages Rebollar: a strong-willed journalist with firm convictions

⊕ Gender stereotypes in crime. Vulnerability and social gaps.

⊕ More equality, less asymmetries: every Judge's perspective



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# The importance of law

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is significantly important not only in the reaffirmation of those universal rights and principles but also in the broadening of their interpretation, recognizing the social and cultural patterns that have limited women’s effective enjoyment of their rights. Deriving from the examination of its sixth periodic report to Mexico on August 25, 2006, the Committee for the Elimination of Discrimination against Women issued Recommendation number 19, which points out the following:

19. The Committee asks the State party to take note that the terms “equity” and “equality” convey different messages and their simultaneous use can lead to conceptual confusion. The Convention aims to eliminate discrimination against women and ensure the right to equality in fact and law (in form and substance) between men and women.

While the term “equity” seems to allude to a matter of justice, it actually refers to the fair distribution of resources and social power in society; to justice in the treatment of men and women according to their respective needs.

In the workplace the goal of gender equality usually incorporates measures designed to compensate for women’s disadvantages. Thus, gender equality can give women and men the same opportunities, conditions and treatment without leaving aside the peculiarities of each of them, in order to ensure access to their rights as citizens.

“Gender equality” is a constitutional principle which stipulates that men and women are equal before the law, which means that every person -without any distinction- has equal rights and duties before the State and society.

Because of this, on April 13th of this year, the Federal Judiciary Council’s Plenary Session authorized the General Directorate of Human Rights, Gender Equality and International Affairs (now a Coordinating Office) to substitute the term “equity” for that of “equality”, as “equality” is a legal principle that derives from the idea that all persons are equal in their rights and obligations. **Equality, then, is a goal to strive for.**

**General Directorate of Human Rights, Gender Equality and International Affairs of the Federal Judiciary Council**



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Illustrated by Ángel Sánchez

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## Electoral propaganda must not contain messages that affect the gender parity principle

*SUP-JDC-1619/2016 AND ITS ADDITIONS*

The Superior Chamber of the Electoral Tribunal of the Federal Judiciary (TEPJF) determined the withdrawal of Electoral Institute of the State of Puebla propaganda aimed at promoting the vote contained in twelve billboards, four LED screens located in the metropolitan area of said federative entity, and the website of the authority involved (CHOOSE YOUR NEXT GOVERNOR), since it contravened the principles of equality, gender equality and equality in the election.

To do so, the TEPJF's Superior Chamber ruled that an imbalance caused by gender developed in this case due to the use of phrases with stereotypes that prevent the materialization of the principle of equality. This criterion stems from a systematic and functional interpretation of the constitutional block, the legal scope and the jurisprudential criteria of Mexico's High Court to fulfill the optimization mandates set out in the Political Constitution of the United Mexican States, which states that Puebla's state electoral institute has the obligation to ensure the principle of equality between women and men.

This, stated the TEPJF's Superior Chamber, should have been done through the use of a consubstantial element to address the general public, i.e., inclusive language, as this is a key element of gender perspective in achieving the inclusion of women into democratic life.

## Political parties must favor women's participation in their roster of candidates for elected office

*SUP-REC-77/2016*

The TEPJF's Superior Chamber revoked the sentence issued by the Toluca Regional Chamber, that confirmed the agreement of the Electoral Institute of the State of Hidalgo's General Council regarding the request to register the candidate roster to contest the ordinary election of Town Halls, presented by the National Action Party (PAN) for the 2015-2016 local elections.

The TEPJF's Superior Chamber estimated that the Toluca Regional Chamber departed from Articles 41 and 35 of the Political Constitution of the United Mexican States, which favor the political participation of citizens, as well as the right to vote and be voted for, respectively, in line with the provisions of Constitutional Article 1, which guarantees the protection of Human Rights, including the right to vote and be voted for, equality and gender parity, considering that for the sake of the principles of political parties' self-determination and self-organization, it was not possible to ask the political party to replace the roster in Apan township.

It also stated that the liable authority should favor the fundamental right to be elected, which is recognized in various international instruments on the matter to which the Mexican State is party, such as Article 21, paragraph 1 of the Universal Declaration of Human Rights, Article 23, paragraph 1 a) and b) of the American Convention on Human Rights and Article 25, paragraph b) of the International Covenant on Civil and Political rights, in line with

the pro persona principle that should prevail when human or fundamental rights are involved in order to ensure their maximization at all times, instead of their restriction and even less, their elimination or cancellation.

Upon the resignation of the candidate roster originally registered by the National Action Party, the aforementioned political entity should have requested the local electoral administrative body to register the roster integrated by the individuals who participated in the internal candidate selection for the Apan township, which was initiated by said party.

Hence, before the request made by the Electoral Institute of the State of Hidalgo's General Council for the aforementioned political party to move forward with the substitution of male candidate for female aspirants, an action which in principle tended to preserve and give full force to the parity principle in the nomination of candidates, this political institution, rather than to carry out the relevant substitutions and registration of female candidate formulas, determined to cancel the necessary applications to achieve a de facto parity in the nomination of candidates for elected office.

In this regard, it is clear that in this act of deregistration substantially affects the right of members of said political party to be elected for office. It also violates the right of township citizens to vote, because they were not allowed to opt for various political options.

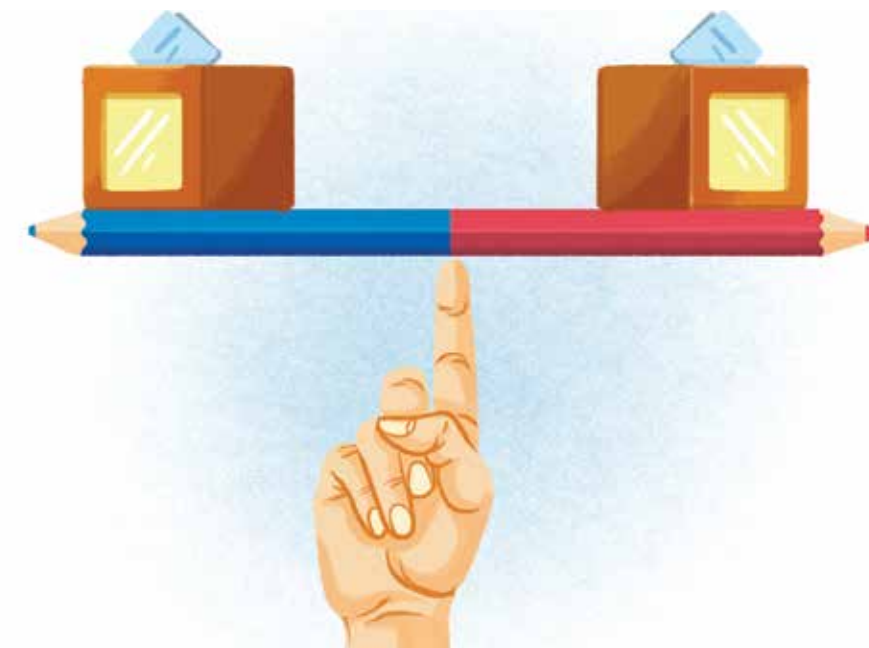
## The duty of political parties to nominate candidates for elected office must be harmonized with the principle of gender parity and the right to be voted for

*SUP-REC-68/2016 AND SUP-REC-69/2016*

The TEPJF's Superior Chamber revoked the sentence issued by the Mexico City Regional Chamber, that confirmed the agreement of the Tlaxcala Election Institute's General Council. The aforementioned entity had resolved the registration of Town Hall candidates presented by the Citizen Movement (Movimiento Ciudadano) party for the ordinary 2015-2016 election, an action which cancelled the nomination of the entire roster for the Nanacamilpa de Mariano de Arista township in Tlaxcala.

**This, on the grounds that the TEPJF's Superior Chamber considered it improper, for the liable Regional Court to confirm the performance of the General Council of Tlaxcala's local electoral institute regarding the cancellation of township candidate registration submitted by the political party Citizen Movement, in an action contrary to political institutions' legal duty to nominate candidates for elected office, and detrimental to the principle of gender equality and the right to be voted for.**

Indeed, if political parties perform an entire procedure to nominate candidates and its members have participated in it, they are obliged to nominate candidates without it being possible that, citing the principle of self-determination, they omit to perform the respective nomination, on the understanding that, at all times,



political parties must comply with the applicable principle of horizontal and vertical parity.

This is due to the fact that it is not lawful for political parties, under the pretext of complying with the principle of gender parity, to proceed to the cancellation of nominations, since this action violates the constitutional purpose for which political parties were created, which is to allow citizens to access the exercise of public authority. In addition, it is contrary to citizens' right to be elected, provided in Article 35, Section II, of the Political Constitution of the United Mexican States, and breaches Constitutional Article 41, base I, second paragraph. Consequently, it also affects the principle of parity, since it is unacceptable that, in order to comply with it, the participation

of candidates exceeding this principle be prevented.

In this context, the TEPJF's Superior Chamber considered it necessary to harmonize the duty of political parties to nominate candidates for elected office with the principle of gender equality and the right to be voted for of individuals whom, at the time, were selected by a political party to participate as candidates. This, in order to avoid situations like those presented in the case, arising from the improper behavior of the local electoral administrative authority to cancel candidatures to the effect that, in the exercise of the right of political parties to self-determination, the principle of gender parity be complied with, to the detriment of the right to be elected of those who were selected as candidates. ■



Submission to someone else's power is incompatible with the full exercise of our dignity and the consequences that derive from it.

# DO WE BELONG TO THEM?

By Magistrate Adriana Leticia Campuzano Gallegos \*

**H**ow many times have we heard the words "you are mine," from a person to their significant other? How many times have we said the same words to someone to whom we feel intimately close?

The other is my good and my knowledge: only I know him, only I make him exist in his truth. Whoever is not me is ignorant of the other. "Sometimes I cannot understand how another can, how he dare love her, since I alone love her completely and devotedly, knowing only her, and having nothing in the world but her!" Conversely, the other establishes me in truth: it is only with the other that I feel I am "myself." I know more about myself than all those who simply do not know this about me: that I am in love. (Love is blind. The proverb is false. Love opens eyes wide. Love produces clear-sightedness: "I have, about you, of you, absolute knowledge." Report of the wise man to the master: You have every mastery of me, but I have every knowledge of you.)<sup>2</sup>

It might be the expression of an erotic rapture, a literary license embedded in our manifestation of passion, or simply a phrase with a strong symbolic meaning.

Unfortunately, these words often reflect reality and are a product of the dominant patrimonial vision in many marital relations in Mexican society.



Illustrated by Angel Sanchez





The effects of this vision largely transcend the sentimental discourse and become a life model that greatly affects decision-making in several aspects of our personal lives, i.e., they hamper our self-determination rights and the free development of our personality.

The Mexican Supreme Court has explained the substance and scope of these rights in the thesis titled “THE RIGHT TO THE FREE DEVELOPMENT OF PERSONALITY. ISSUES IT COMPRISES ” and “THE RIGHTS TO PRIVACY, SELF-IMAGE, SEXUAL AND PERSONAL IDENTITY CONSTITUTE RIGHTS OF DEFENSE AND ESSENTIAL GUARANTEES FOR THE HUMAN CONDITION. ”

These rights cannot be exercised freely when one of the members in the relationship believes he owns, or is owned, by their partner. This belief objectifies, limits and turns them submissive and dependent, whether or not this happens with the free or flawed acquiescence of the other.

Feminism explains the patrimonial vision of individuals as a form of sexism that creates a pattern of inequality and discrimination.

Historically, women have been considered men's property:

Violence against women has evolved in part from a system of gender relations, which posits that men are superior to women. The idea of male dominance -even male ownership of women- is present in most societies and reflects in their laws and customs. Thus, violence should not be considered an aberration, but an extension of a continuum of beliefs that grants men the right to control women's behavior.<sup>5</sup>

Although the most intense degree of objectification can lead to modern forms of slavery<sup>6</sup>, there are other manifestations that, even if less extreme, are harmful. As it happens with children, women or spouses are supposed to be looked after, watched over, monitored, and neutralized. These practices are so deeply ingrained in certain sectors of society that not only do they seem acceptable, but necessary for a good family life.

In modern times we find new manifestations of this phenomenon: in a family dispute resolved by the country's highest court a few years ago, they discussed the admissibility of reliable evidence of the extraction of personal data from a cell phone without the knowledge of its owner. Then, attending to the stated defense, the visible criterion was set forth in the thesis titled “RIGHT TO THE INVIOABILITY OF PRIVATE COMMUNICATIONS WITHIN THE FAMILY CONTEXT.”

I have heard voices claiming that pronouncements like this are radical, that it is common and acceptable that one of the members of a couple has access to the other's information since... there is nothing to hide, or the bond of marriage allows this, or that it does not breach privacy as both live together. Could this be so?

In other contexts, this same power over the other has less “trivial” manifestations. When sexual infidelity triggers murder, usually the perpetrator believes it is justified because their partner is “theirs or no one else's.”

Adultery as a cause for homicide: the individual who finds their spouse or concubine in the sexual act, or close to its consummation, and takes the life of either offender or both commits homicide because of marital infidelity. So-called “homicides triggered by marital infidelity,” which in international law are referred to as “murders of honor” still persist in Mexican Criminal Legislation.<sup>8</sup>

In a family dispute, the plaintiff demanding alimony or estate division, who leaves the counterpart penniless may do it for revenge, but may also wrongly believe they own their partner and by extension, their property as well.

Certainly, it is perfectly legitimate to be invaded by love and passion, and the reading from the epistle of Ocampo might have seemed beautiful in our wedding ceremony, despite the Mexican Supreme Court First Chamber's resolution, stating that it embodies sexual stereotypes by imposing certain roles.<sup>9</sup>

We would be lying should we deny that once we believed we could not survive without the other person, who becomes the object of our fascination.

The mechanics of amorous vassalage require a fathomless futility. For, in order that dependency be manifest in all its purity, it must burst forth in the most trivial circumstances and become inadmissible by dint of cowardice: waiting for a phone call is somehow too crude a dependency; I must improve upon it, without limits: hence I shall exasperate myself with the chatter of the women in the drugstore who are delaying my return to the instrument to which I am subjugated; and since this call, which I don't want to miss, will bring me some new occasion for subjugation, it is as if I were energetically behaving in order to preserve the very space of dependency, in order to permit this dependency to function: I am distracted by dependency, but even more -a further complication- I am humiliated.



ed by this distraction. (If I acknowledge my dependency, I do so because for me it is a means of signifying my demand: in the realm of love, futility is not a ‘weakness’ or an ‘absurdity’ : it is a strong sign: the more futile, the more it signifies and the more it asserts itself as strength.)<sup>10</sup>

However, beyond those fleeting feelings or thoughts, it is our responsibility to live by the conditions that define the human being and his dignity: will, reason, and freedom.

## Submission to the power of another person, voluntarily accepted or imposed by any form of violence, is incompatible with the full exercise of our dignity, and the consequences derived from it.

The rights to self-determination and the free development of our personality and other givens we enjoy in some certain cases —to choose the number of children, to engage in the work or activity that best fits us, to freely choose the religion we want to profess, to freely express our political preferences, to choose with whom and under what conditions we want sexual intimacy, to be treated as equals and not be discriminated, to have a life free of violence, to choose the kind of family we want,<sup>11</sup> to name a few—, as well as our obligations in matters of child care and education, family composition, elderly care, creation of a democratic society, the fight against discrimination and violence, can only be exercised and fulfilled, respectively, if we dismiss the patrimonial view and stop believing that the other belongs to us, or refuse to believe they control us and are responsible for our lives since they own us.

Most likely we have accepted these beliefs and are not willing to change since the result is worthy, or the price to pay would be very high (breaking the fence could collapse the family structure and harm its members). This decision is respectable, but what will happen to our sons and daughters? Do we want them to belong to others? ■

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<sup>2</sup> Barthes, R. (1982) *A lover’s discourse*. Mexico: Siglo XXI Editores, first edition. Pg. 186 (A lover’s discourse – Fragments. Translated by Richard Howard).

<sup>3</sup> S.J.F. P. LXVI/2009. Reg. 165822

<sup>4</sup> S.J.F. P. LXVII/2009. Reg. 165821

<sup>5</sup> Heise, Pitanguy and Germain. (1994) “Violence against woman. The Hidden Health Burden”. *World Bank Discussion Papers*. Washington, D.C. Pg. 2.

<sup>6</sup> V. “EXPLOITATION OF MAN BY MAN. CONCEPT.) 1st. CXCI/2015 (10.a.). Reg. 2009281

<sup>7</sup> Ninth Epoch; First Chamber; S.J.F. and its Gazette; Book XXXIV, August 2011; Pg. 176. 1st. CLXI/2011. Reg. 161342

<sup>8</sup> National Institute of Statistics and Geography. (2011) *Crimes against women 2011. Analysis of the statistical classification of offences*. Mexico: INEGI. Pg.17

<sup>9</sup> A.R. 615/2013 resolved on June 4rd, 2013

<sup>10</sup> Barthes, op. cit. Pg. 69

<sup>11</sup> V. “ MARRIAGE. THE POLITICAL CONSTITUTION OF THE UNITED MEXICAN STATES DOES NOT MENTION THIS CIVIL INSTITUTION OR REFER TO IT AS A SPECIFIC TYPE OF FAMILY, ACCORDING TO WHICH IT COULD BE SAID THAT IT IS SOLELY CONSTITUTED BY THE MARRIAGE OF A MAN AND A WOMAN ...” P. XXI/2011. Reg. 161267

**\*Adriana Leticia Campuzano Gallegos:** Second Collegiate Court in Administrative Matters Specialized in Economic Competence, Broadcasting And Telecommunications (AMJAC) Magistrate.





# WOMEN AND UNPAID LABOR WITHIN THE HOUSEHOLD

**The situation of women's vulnerability and discrimination when doing unpaid labor at home is determined by cultural patterns that stereotype them by their gender and feminine identity.**

**Magistrate  
Carolina Isabel Alcalá Valenzuela\***

**A**rticle 123 of the Political Constitution of the Mexican United States, in its first paragraph, foresees the following: Everyone has the right to decent and socially useful work; for that purpose, job creation and social organization of labor shall be promoted in accordance with the law.

General Recommendation 16 ([Tenth Session Period], 1991) of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), states that unremunerated feminine labor constitutes a form of exploitation.

According to the National Council to Prevent Discrimination (CONAPRED), [in its latest reform to the Federal Law to Prevent and Eliminate Discrimination,

issued in] 2014, it is women who are mainly entrusted, without financial remuneration, with all activities related to labor done within the home, such as the care and attention of offspring, elderly, sick and disabled persons integrated into the household, household management, cleaning of goods and utensils (for personal and family use, such as clothing, footwear, accessories, home appliances), assisting offspring with homework and "dation of food", which comprises the acquisition, washing up and preparation of food, and / or in some environments, the action of carrying or storing water, raising animals, collecting flora and fauna, sewing, mending or knitting clothes for family members, making furniture, ornaments or crafts, or repairing household goods and objects, and collaborating in the construction of housing and / or transport, as services to household members.

Such activities are seen and perceived through stereotypes based on social and cultural patterns; women should engage in housework (in the private sphere), because that corresponds to their gender and because, according to their female identity, they are bound by love and dedication to perform these tasks.

The National Institute of Statistics and Geography (INEGI) points out in the "Satellite Account of Unremunerated Household Labor in Mexico, 2014" that, on a macroeconomic scale, the total value of unpaid labor in households reached an economic value of 4.2 trillion pesos, equivalent to 24.2% of national GDP for activities related to housework, while 0.8% of GDP comprises labor aimed at the production of goods for personal consumption. Four-fifths of such wealth, according to CONAPRED, is generated by women, who contribute to the national economy. On the one hand, this situation allows more people, who do not attend to housework, to incorporate into the formal labor market, and on the other hand, [women] engage in activities that would import large costs to the State, which would be obliged to provide care and direct medical assistance and home care services to every person unable to care for him/herself due to their circumstances.

**Women who perform unpaid housework lack State protection on a normative basis (that is, legal and legislative protection), since their right to remuneration and the benefits of welfare and social security have not been guaranteed.**





**4.2 trillion pesos**  
is the economic value of  
activities related to housework

**24.2%**  
of national GDP is generated  
by activities related  
to housework

**July 22nd**  
International Day  
of Domestic Labor

The Civil Code for the (former) Federal District regulates the rights and obligations arising from marriage and / or the conjugal union, whether in formal couples, or in those cohabiting or living together. The Code states that both spouses are obligated to contribute financially to the household, to provide nourishment and care for its children, as well as contributing to the education of offspring; it also states that the household workload can be distributed in the form and proportion agreed to by both spouses. In particular, the performance of housework or childcare is deemed as an economic contribution to sustaining the household. The Code also allows that, as agreed, goods, utilities and the product of the labor of each spouse belong to whomever obtains them. Furthermore, in marriages under a separate estates regime, the Code specifically states that wages, salaries, emoluments and profits obtained from personal services, for the performance of a job or the exercise a profession, trade or industry are specific to each of the spouses.

This shows that in such legal work importance was given to household and offspring care, in that in its performance the respective spouse meets his or her

marital obligations. It also gives an economic nature to such contributions. However, in the legal system regarding labor it was not taken into account that whom-ever devotes all his or her time to performing such activities has no possibility of accessing social security and the exercise of the Human Rights (described above) that must be protected, since the person devoted to household labor cannot enter the formal labor market to perform a paid job or profession that allows him or her to generate an income that would grant him or her independence and social security benefits.

The corresponding judicial interpretation in Mexico emphasizes civil compensation in cases of separation, divorce and even marital gains, but does not analyze the perspective of economic work, which must be paid and protected to generate direct and effective access to social security benefits.

Mexican law should acknowledge the right to a monetary income and to effective access to prevention and social security for people devoted to unpaid domestic economic labor. If this becomes a reality, we can improve the living conditions of women dedicated either exclusively, or in addition to paid employment,

to the aforementioned activities. This, in turn, would create the possibility of analyzing the justiciability of these rights, which would produce a progressive legal platform regarding the guarantee and protection of Human Rights, especially as applied to women.

In addition to commemorating July 22nd as the “International Day of Domestic Labor”, democratization of domestic labor should be promoted in general.

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Illustrated by Angel Sanchez

# RECOGNITION OF INNOCENCE

## An extraordinary procedure

By Maria Teresa Perez Cruz \*

In criminal law, there is a procedure (also called incident) known as the recognition of innocence. This follows from Article 560 of the Federal Code of Criminal Procedure still in force, for criminal cases under the traditional system and Article 486 of the National Code of Criminal Procedure for matters pertaining to the new criminal accusatory system. The immediately preceding legislative figure was the well-known necessary pardon.

The recognition of innocence takes place after a criminal conviction, against which no appeal proceeds, and even the “amparo” was promoted and denied in substance. It is based on new indubitable evidence submitted at a later time, proving that the individual did not commit the crime for which he was indicted, or did not participate in it. This is not a legal process since it does not analyze or review previous actions, but simply the res judicata against elements that arose later.

The Federal Institute of Public Advocates provides nationwide legal assistance through public defenders in criminal matters at any stage of the proceedings, including the execution, which is when the recognition of innocence can be filed whether or not the defendant was previously represented by a private attorney in the first and second instances, as well as the direct “amparo”. The Institute provides free service on request, whenever it has to do with the execution of a sentence for a crime under federal law.

In 2015, two people (mother and brother) appeared in the Institute, declaring that their relative was detained since May 2009 and sentenced to 25 years in prison for organized crime; he had been sponsored by a private lawyer who took the case up to the promotion of the direct “amparo,” which was denied.

It was striking that the defendant’s relatives mentioned that the other two respondents were free. In view of this, a federal public defender assigned to the Federal Institute of Public Advocates took the case and gathered evidence: in this case, public documents related to the co-defendants’ freedom.

Since the cause was initiated in 2009, there was another individual in prison and an arrest warrant was in process, the aforementioned detainee filed a motion for the severance of parties as he had no relation to the co-defendants and there was no new evidence to submit. The sentence was 25 years’ imprisonment for organized crime, which became final in 2012. However, the co-processed continued the criminal case and in 2014 gained an acquittal, an acquittal confirmed by a Unitary Circuit Court, and which led to liberation. The background is that the order of arrest for the third defendant was effective in 2013 and he was issued formal arrest, later revoked by the Unitary Circuit Court, which failed to find incriminating elements.

In this vein, we had a person in prison serving a sentence of 25 years for a criminal offense involving plurality in the active subject (in this case, three individuals).

With extreme diligence, the Federal Public Defender filed a motion for the recognition of innocence, which, after the due proceedings, reached the competent Circuit Collegiate Court; she asserted that the defendant’s conduct was atypical; therefore, it had never been criminal, and there was no such group that could be considered as organized crime. She attached certified copies of the co-defendants’ acquittal sentences and also filed a brief asserting the 1st jurisprudence/J.115/2012 on the inviolability of private communications regarding data stored on a mobile phone, and the thesis CCXXXV/2015 related to the ministerial declaration of the prosecution witness when he retracted before the Judge.

Finally, in February 2016, the then sentenced man showed up with his family at the headquarters of the Federal Institute of Public Advocates, to thank the institution for its intervention. He had been released by the positive decision of the Collegiate Court.

In this case, the wise, sharp and fine legal standard of a Federal Public Defender, in addition to her service vocation, allowed a family to welcome back a freed member, who was previously in prison, and would have had to wait until May 2034 without her intervention.

<sup>1</sup> Supervisory Director, also responsible for gender issues at the Federal Institute of Public Advocates.

<sup>2</sup> “RIGHT TO THE PRIVATE INVIOABILITY OF COMMUNICATIONS. ITS PROTECTION SCOPE EXTENDS TO DATA STORED ON THE MOBILE PHONE OF AN IMPRISONED INDIVIDUAL SUBJECT TO INVESTIGATION FOR THE PROBABLE COMMISSION OF A CRIME.”

<sup>3</sup> “MINISTERIAL STATEMENT BY A PROSECUTION WITNESS. IT IS INVALID WHEN THE WITNESS RETRACTS IN COURT.”

**\*Maria Teresa Perez Cruz:** Supervising Director, also in charge of the Federal Institute of Public Advocate’s gender issues.



Beatriz Pages Rebollar, daughter of the famous journalist Jose Pages Llergo, born in Tabasco and founder of the weeklies *Hoy*, *Mañana* and *Siempre*— like her father, has excelled in the media for her bold and deep interviews with leading figures in the political and cultural arenas, as well as her national and international journalistic work for different media. Likewise, she has managed to keep tradition alive in the magazine *Siempre*, which she leads today.

A restless and non-conformist woman, she also served as a member of Congress and is now Secretary of Culture of the Institutional Revolutionary Party (PRI). An example of will and unwavering character, constant development and positive achievements, she was featured this March on the TV show “Mas que una historia,”<sup>1</sup> (More than a story), conducted by Supreme Court Justice Margarita Beatriz Luna Ramos and broadcast by the Judicial Channel.

Her struggle to overcome obstacles and grow in an environment long considered prominently “masculine,” led her to face several challenges throughout her personal and professional life, beginning at an early age when she concealed from her own parents that she was studying Journalism, a profession they opposed for not being “suitable for a woman.”

BEATRIZ  
PÁGES REBOLLAR  
FEMALE  
JOURNALIST  
CHARACTER AND  
FIRM CONVICTIONS







The experiences shared by the journalist about her permanent life struggles, highlight the dramatic contrasts between the wide world her father’s journalism career opened to her, and the narrow circle to which her gender limited her:

One is the result of one’s history and origin and, of course, I could not recount my life without mentioning my father, Jose Pages Llergo, who was one of the most prominent Mexican journalists of the twentieth century for several reasons. Besides, of course, since my childhood I was surrounded by the great personalities of the time... from politicians to bullfighters, actresses, singers, actors, sculptors, painters. They were many and very good, unlike now, when there are few and not very good... It was a Mexico in which women had a very well-defined and specific role, very cloister-like, very homely, and you could not do other things.

The journalist emphasizes the personality she had to develop in order to fight the gender stereotypes that stood against her since childhood, so as to gain a place in the Mexican journalistic arena and, particularly, the recognition of her own father:

You grow by dint of punishment since women – although probably not all of us— face this; it depends mostly on your personality and your desire to be, to exist... If you behave like a different woman in a world of men, that worries your parents, who were great parents but very conservative. As you say, Margarita, they were a product of their time, they worried and said: “Well, girl, but you have to marry; you are not going to give alphabet soup to your husband.” They teach you, and you have to learn things that are “womanly,” and this made me feel offended. I said, “Why are my brothers the only ones entitled to do a number of things, like talking to politicians?” Besides, let me tell you that in those big luncheon parties, those large gatherings at my house with politicians, I had to be on the sidelines. A girl could not live in that men’s world and much less in the world of politics, “because politics are aggressive, politics are violent, men curse and there are things that girls and women should not hear.” I was indignant.

Particularly, regarding her journalistic calling, Beatriz Pages said:

Since elementary school, I already had this restlessness; I wanted to write and I wrote stories in my notebooks. He (her father) had already realized this and

said: “Maybe this one is going into Journalism.” Once, he handed me an Olivetti typewriter and told me: “You have to be a writer like Agatha Christie. Journalism is for males, it is for men.”

**That was why Beatriz did not inform her parents of her decision to study Journalism, or anything related to her studies for that matter, while pursuing her career in Mexico’s UNAM (National Autonomous University of Mexico). “It was only when I invited him to my graduation that he (her father) learned that I was studying Social Communication Sciences.”**

There were other significant challenges in her professional life, as her condition of being a young woman was reason enough to impose limits on her, produced by traditional cultural and social structures, starting with the situation and the opposition she had to face in the magazine *Siempre*. Her father, recognizing his daughter’s merits, she had been able to make her way in other media, appointed her to lead the magazine shortly before his death. Her father’s staff, all men, did not make the same concession; they did not concede her any value or journalistic authority, and much less acknowledged her leadership. Consequently, taking over the management involved strength and the decision to break the ingrained “journalism rules” of the time:

When I arrived as Director at the magazine *Siempre*, I found a permissive environment in which men went to a bar at midday to play dominoes. It was necessary to transform that world, at least to find and create a space for me there.

They were many and very ‘macho’, so we had to start from scratch; they were all men, we even had to repaint the premises, it was a disaster and it had to be cleaned up. Of course, they did not accept my arrival, they did not like it; just imagine, Margarita, those men, dedicated to other kinds of things, believed that I could not run the magazine.

Around the corner of the magazine was a very famous bar called La Latino. At that time, women were forbidden to go into bars; so the male staff, to avoid being pressured to do their job, went to La Latino, and since midday, you could not count on them. So, at some point I made the decision to go and look for

them, to force them to meet their schedules, their work and, especially, to forbid them arriving at work with booze on their breath.

Their obvious reaction, said Beatriz, was of surprise and annoyance because how could a girl, whom they had known since she was a child and was also “a woman” tell them how to practice Journalism, when “news without the smell of alcohol, was not news”?

**In addition to this transformative effort, she had to face the greatest challenge of getting her journalistic work recognized by those she wrote about. Beatriz reflected on this: “I often say that perhaps the trickiest part for a woman, especially in political journalism, is gaining the acknowledgment and respect of male readers.”**

This evident inequality remained present throughout her professional life, and she had to overcome several obstacles to assert her position not only as a woman of character and firm decisions but fundamentally, as knowledgeable in her field. This allowed her to achieve remarkable accomplishments in her journalistic career, such as her well-known interview with Fidel Castro, of whom she has a special memory:

It was a splendid experience because, as you might expect, he spoke extensively about the North American Free Trade Agreement; he, as a great visionary, foresaw what was going to happen to Mexico due to the issue of trade inequality. But not only that, the interview allowed me to get to know the human being and the statesman, because Fidel is not just a politician, he is a statesman and a man who could talk about politics with first-class information, as well as about wines, cheeses, or films, of which he said: “look, the films I like most are those dealing with war, but I’d rather make war myself.”

Her work as a legislator was also very rewarding and formative; it not only allowed her to dabble in politics, but to experience firsthand the struggle of women from other trenches, and in her particular case, also as a critical journalist, facing a number of difficulties:

The moment I arrived in Congress and expressed my interest in participating, I was told the same thing they told other representatives: ‘Yes, of course, with great

pleasure, go to the Commission for Gender Equality’, where all women went since they considered us inept and incapable of being part of a Commission, I’m not saying a more important Commission –because they are all important- but one with greater relevance, with greater political impact. Then, of course, the Commission on Constitutional Issues or the Committee on Health and Social Development were intended for men and, especially, their presidencies. It was a very formative experience, very hard because I was no one’s favorite, but it was still very decisive, and that was the way to break into a militancy in the Institutional Revolutionary Party, where I am currently Secretary of Culture, which has also been interesting.

In her final message, Beatriz Pages Rebollar keeps her focus on women and, especially, on the work that still remains to be done to increase their participation in the public life of the country:

I think that we (women) must have a more solid preparation; we need to have the courage to be, to exist, and this does not mean we become dictators, but simply that through knowledge we must learn to defend our ideas, our rights, to defend the right of women to think, because it is believed that women do not think. We do think.

She emphasizes that equality should be understood not only in terms of women, but also of men and that their participation and understanding of the situation is crucial to reach actual equality. She wraps up the interview by saying:

I want to say that I do not believe in women’s superiority. I believe in equality and I also believe that many public policies should be aimed, in that regard, towards men, because there are not enough public policies for them to learn about gender equality. It is very important to teach them that they must not be afraid or feel distressed or displaced by the incursion of women into different spaces. ■

<sup>1</sup> The show can be watched at the following link: <https://vimeo.com/163046063>. The show “Mas que una historia” (More than a story) premiers Tuesdays at 7 p. m. on the Judicial Channel. Encore presentations on Fridays at 11:00 a.m. and Sundays at 8:00 p.m.



# MEXICO IN THE IAWJ JUSTICE LUNA RAMOS BECOMES REGIONAL DIRECTOR

**For the first time, Mexico is a member of the International Association of Women Judges (IAWJ) Bar of Directors. Justice Margarita Beatriz Luna is elected as Regional Director for Latin America and the Caribbean**

**D**uring the recent International Association of Women Judges (IAWJ) 13th Biennial Conference, held in May 2016 in Washington, D. C., with the attendance of about nine hundred judges worldwide, Justice Margarita Beatriz Luna, president of the Federal Judiciary Gender Equality Inter-Institutional Committee, after an extensive regional vote, was elected to the Bar of Directors, as one of the two Latin America and the Caribbean representatives.

The IAWJ is a non-governmental organization comprising judges of all levels and competencies from five different regions: 1) Africa; 2) Asia and South Pacific; 3) Latin America and the Caribbean; 4) Europe and the Middle East, and 5) North America; it currently totals nearly 5,000 judges from over 80 countries, who share the goal of equitable justice and the full observance

of the rule of law. The IAWJ has a special status as a consultant to the United Nations Economic and Social Council.

Created in 1991, this year (2016) the IAWJ celebrated its 25th anniversary, [it] being the first time that Mexico was present with a national delegation headed by Justice Luna Ramos. On previous occasions, Mexican judges participated on their own initiative or as members of the Mexican Association of Women Judges and Magistrates, A. C., a member of the IAWJ; this is also the first time that Mexico achieved a position in the IAWJ's Bar of Directors.

The IAWJ is integrated by an Executive Council and a Bar of Directors, renewed biannually during the Conference. The new members of both collegiate bodies were elected last May 29, during the regional meetings that took place at the 13th Biennial Conference.

The 2016-2018 Executive Board now includes the following people: President, Susana Medina de Rizzo from Argentina; President-Elect, Vanessa Ruiz from USA; Vice-President, Binta Nyako from Nigeria; Vice-President, Susan Glazebrook from New Zealand; Secretary/Treasurer, Joan Charles from Trinidad and Tobago; Former President (ex-officio), Teresita Leonardo de Castro from the Philippines; Executive Director (ex-officio), Lisa Davis from the United States of America (USA).

The Bar of Directors, comprised of representatives from the five regions, is now as follows: Asia and South Pacific, Estela Perlas-Bernabe from the Philippines and Robyn Tupman from Australia; Africa, Imani Daud Aboud from Tanzania and Helen Moronkeji Ogumwumi-ju from Nigeria; Latin America and the Caribbean, Margarita Beatriz Luna from Mexico and Graciela Medina from Argentina; North America, Petra Newton from Canada and Lisette Shirdan-Harris from the USA; Europe and the Middle East, Anisa Dhanji from the UK and Mina Sougrati from Morocco.

The members of both governing bodies participate in general and regional meetings to learn about issues pertaining to the judicial systems in general and, particularly, to those issues that female judges and women face in gaining access to justice with a gender perspective. Likewise, they share experiences and explore alternatives in common problems such as discrimination, trafficking, violence against women and immigration, among others, and promote affirmative actions for the advancement of justice in conditions of equality and non-discrimination.



Thus, the IAWJ focuses its efforts in two basic areas that act as communicating vessels: support for women in the jurisdictional scope and access to justice.

In this regard, the IAWJ's specific actions include educational programs on Human Rights and the strengthening of a gender perspective in the member countries' judicial systems; the development of a global network of judges and the creation of opportunities for jurisdictional exchange through international conferences, training courses, the newsletter, the IAWJ website and online community, as well as online discussion forums.

Likewise, it collaborates with other organizations in matters related to equal access to justice, in building support and dialogue networks for women judges around the world, [it] endorses the participation, selection and promotion of women in the jurisdictional arena, understanding that women should be represented at all three levels, national, regional and international, of the jurisdictional scope; [it] informs its mem-

bers of opportunities in international forums, and provides legal experts' support in a wide range of topics, when required to do so.

**With regards to the promotion of Human Rights and the pursuit of equal justice for all, the IAWJ works alongside the different member countries' judges' associations, to develop and implement education on issues concerning discrimination and violence against women, human trafficking, property rights, and abuse of power through sex ("sextortion" or corruption through sex), among others.**

Some of the founders of the IAWJ participated in the 13th Biennial Conference, whose theme was Women Judges and the Rule of Law. Evaluating the past and anticipating the future, and judges from different countries addressed in

their lectures issues relating to inequality by gender, new developments in international Human Rights and humanitarian laws; barriers and obstacles in accessing justice, and the advancement of women in the judicial system, among others.

During the 2016-2018 period, Justice Margarita Beatriz Luna Ramos will participate in meetings aimed at supporting initiatives promoting the advancement of women in the judicial field by sharing, encouraging and facilitating the exchange of positive experiences and the promotion of training and professionalization, as well as to the introduction and strengthening of gender perspective in justice administration. The creation of networks of judges will be an important aspect to facilitate and broaden the relations of national judges with their colleagues in other countries, particularly those of Latin America and the Caribbean. ■



**DIRECT “AMPARO”  
IN REVIEW 4909/2014<sup>1</sup>**

# The Mexican Supreme Court determines modalities of housework to establish the amount of compensation in Mexico City

This case involves the analysis of the constitutionality of article 267, section VI, in Mexico City’s Civil Code, which, although studied by the Mexican Supreme Court’s First Chamber in light of the non-retroactive principle, has not been considered under the arguments proposed by the appellant, that is, in light of the rights to equality and non-discrimination on the basis of gender.

Hence the decision and the criteria adopted in the present case have a major impact on litigation in which the compensatory mechanism established in that article is requested.

## RESOLUTION

In resolving the matter, the First Chamber noted that the purpose of compensation under the controversial article was to compensate the economic loss suffered by the spouse who, in the interest of making a marriage work, assumed certain domestic and family responsibilities without receiving financial remuneration for them. The First Chamber also indicat-

ed that this figure should be understood as the legislative measure to ensure the equal rights and responsibilities of both spouses during the marriage and in case of its dissolution, and that the study of compensation should stick to a central point: the constitutionality of the disputed clause, considered in light of the rights of equality and non-discrimination.

The First Chamber itself, in a previous resolution, established that the common and indispensable element for the applicability of such compensation is that:

The applicant spouse has been dedicated to domestic and care tasks to the detriment of dedicating equal time, intensity and diligence to opportunities for professional development in the conventional labor market. Thus, upon the dissolution of a marriage celebrated under the regime of separation of property, the applicant spouse shall be entitled to demand compensation of up to 50% of the assets of his/her counterpart, as the spouse who has been dedicated to housework and, where appropriate, to the care of children, has thereby suffered a loss of property such

that, accordingly, 1) he/she has not acquired property, or 2) he/she has acquired markedly fewer assets than the spouse involved in a remunerative activity. It will be up to the Judge in each case, according to alleged and proven elements, to estimate the amount of compensation needed in order to make up for the economic damage caused.

The Chamber’s sentence specifies a number of issues and conditions that the Judge must consider in determining the amount of compensation under Article 267, section VI, of Mexico City’s Civil Code and resolves that said article does not contravene the Political Constitution of the United Mexican States in terms of equality and non-discrimination.

## BACKGROUND

As part of a divorce in Mexico City, the wife promoted an incident compensation against her spouse, consisting of 50% of the assets acquired during the marriage. This [action was] based on Article 267, section VI, of Mexico City’s Civil Code, which foresees compensation for the spouse who has been mainly dedicated to housework and, where appropriate, to the care of children.

After filing several lawsuits and resources: an indirect “amparo”, an application for review, three direct “amparo” trials and their respective resolutions, the matter arrived at the Mexican Supreme Court, via petition for review; it was assigned to the First Chamber.

This Collegiate Body decided to carry out the analysis of the constitutionality of this provision in Mexico City’s Civil Code, which, although it had already been studied by the First Chamber in light of the principle of non-retroactivity, had not been considered under the arguments put forward by the appellant, that is, the rights to equality and non-discrimination on grounds of gender.



## RELEVANT GENDER ELEMENTS

Initially, the First Chamber determines that Article 267 is not unconstitutional because, while it is true that any provision relating to housework will impact women more strongly, this in itself does not result in indirect discrimination to their detriment. Specifically, from a gender perspective, both a man and a woman have the same opportunities and chances of getting a positive result in relation to the normative assumption, so an adverse impact stemming from procedural burdens is not seen in the exercise of the rights of one or another.

In another vein, with this resolution the First Chamber issues two important isolated criteria in the assessment of domestic work. [The First Chamber] establishes that Judges must take into account the diversity of terms, conditions and circumstances in which such domestic work is provided, allowing them to determine which portion of the petitioning spouse’s available time is used to perform household chores, thus determining the amount of compensation.

Among different housework modalities, it is possible to distinguish the following:

- a) material execution of housework, which may include activities such as sweeping, ironing, washing, preparing food, cleaning and tidying the house according to family and home needs;
- b) material execution of work outside the home, but related to home organization and the procurement of goods and services for the family, which may consist of errands in public offices, banks or service providers, as well as the purchase of furniture, household appliances and health products or clothing for the family;
- c) performing household management and household economy functions, comprising the assignation of tasks and daily supervision of domestic staff as well as making arrangements for the repair, maintenance and refurbishment of the home;
- d) care, upbringing and education of children as well as caring for relatives who inhabit the marital home. This includes material and moral support for minors and on occasion, elderly inhabitants, involving their care, nutrition and physical accompaniment in their daily activities.

The First Chamber considers it important to note that Judges are not exempt from the obligation to provide justice with a gender perspective, whenever a ruling regarding the origin and amount of compensation is requested. The First Chamber also notes that the spirit of legislators upon incorporating the figure of compensation and, its early predecessor, alimony, was “the protection of gender”, in order to achieve a balance between men and women, on the basis of the roles assigned within the home.

In this tenor, Judges should also consider that, in many cases, the distribution of tasks is a private agreement accessible only to spouses; they should seek to avoid the invisibility of domestic work and, when in doubt of how domestic and care burdens were distributed, must take an active role in the process, using the tools that the system grants them to the effect of providing an adequate solution.

## ISOLATED CRITERIA ISSUED

HOUSEWORK. TO ESTABLISH THE AMOUNT OF COMPENSATION FORSEEN IN ARTICLE 267, SECTION VI, OF MEXICO CITY’S CIVIL CODE, THE JUDGE MUST CONSIDER WHAT PORTION OF THE APPLICANT SPOUSES AVAILABLE TIME IS SPENT IN THE EXECUTION OF HOUSEWORK. Thesis: 1st. CCLXXI/2015 (10a.). Register: 2009931, First Chamber, Isolated Thesis, Weekly Federal Judiciary Gazette, Book 22, September 2015, Volume I.

HOUSEWORK. TO ESTABLISH THE AMOUNT OF COMPENSATION FORSEEN IN ARTICLE 267, SECTION VI, OF MEXICO CITY’S CIVIL CODE, THE JUDGE MUST CONSIDER ITS DIFFERENT MODALITIES. Thesis: 1a. CCLXX/2015 (10a.). Register: 2009932, First Chamber, Isolated Thesis, Weekly Federal Judiciary Gazette, Book 22, September 2015, Volume I. ■

<sup>1</sup> Mexican Supreme Court. (2014). Direct “amparo” in review 4909/2014. First Chamber. Mexico: SCJN. Retrieved from <http://www2.scjn.gob.mx/ConsultaTematica/PaginasPub/DetallePub.aspx?AsuntoID=172100>

<sup>2</sup> See thesis contradiction 490/2011, ruled on by the Mexican Supreme Court’s First Chamber on February 29th, 2012.

<sup>3</sup> *Ibidem*.





# MORE EQUALITY, LESS ASYMMETRIES

**Equality versus unjustified asymmetries and the limitation of rights is the context of every judge's perspective in deciding matters within his or her competence.**

**By Attorney Claudia Valle Aguilascho\***

**A**ffirmative actions and parity in politics and, in the case of the Judiciary, gender equality perspective when judging a case, have not been easy spaces to transit. Expressions such as the widening gap between women and men, their rights and their options to access areas of power and decision making, were attributed to affirmative actions themselves, when their actual purpose has been to reduce these gaps in order to alleviate the situation of disadvantage to women in development contexts.

Objectively we can say that equality is largely absent. Until new guidelines for installing equality are marked in the conventional context, in constitutional order, in the framework of citizenship rights (Article 41, page 3), asymmetries yield little ground to equilibria.

If we agree that the right to petition court action is a human right, as are the rights to access justice on equal terms, to due process and to a sentence that adjudicates fully and in a timely manner the Litis in question, we can validly argue that imparting justice with a perspective of equality and no gender-based discrimination is a Judiciary duty, as we are committed to protecting and guaranteeing fundamental rights.

Equality as a goal and inequality as a reason that justifies actions to ensure this equality require, firstly, that we become aware of disparities and examine their impact against Law, in the context of court cases.

The following fragment from the book *Perspectives on gender equality* is an effective guide to address the magnitude of gender discrimination:

*There was once a world where members of the black race could not ride on the same buses that white people rode, nor study in the same schools; there was once a world where women could not attend universities or vote for the next president; there was once a world where women could not earn the same salary a man earned for the same work and where women did not have the same representation in parliaments and in State Secretariats as men; there was once a world which forced women to dress a certain way in order to please men or keep their jobs; there was once a world where women were admitted to the operating room without knowing if they were to be sterilized; there was once a world in which a woman had to ask her husband's permission to sell her own home. There was once a time in which gender inequality was not even part of the international catalog of prohibited discrimination; in which equality was understood between blacks and whites, between free men and slaves, rich and poor. Is it true that today we inhabit an egalitarian world? That each and every one of us has the same political and employment opportunities? That being poor or being blind does not lead to discrimination? Is it true that, when applying for a job, being a pregnant woman makes no difference?*

Both in public and in private, discrimination, poverty and violence in their many forms of expression, limit the space corresponding to equality.

When we owe young and adult women safe spaces that allow them to walk freely without being victims of abuse or harassment, sexual violence or sterilization without consent; when political representation, that space for the most advanced affirmative actions and the existence of a constitutional mandate to maintain parity progress in many countries (including Mexico) [to only have managed], in the overall framework of women's presence in parliaments, to reach 10.7%, a figure that took two decades (1995 to 2015), to grow from 11.3 % to a historic 22 %, a number which does not even ensure a solid rate of growth, since taking individual national history into account leads us to conclude that some moments of progress have been followed by continued regressions.

Global reality [shows that], although 154 out of 195 countries in the world recognize equal rights for women and men, only 10 women are heads of State and barely 10% of the individual chambers and lower chambers in bicameral congresses are made up of female parliamentarians.

In countries such as Mexico, the national proportion of female members of Congress finally surpassed a critical mass of 30% in 2012, as a result of a court ordained mandate of nomination addressing the then current fees



for 60-40 per cent for persons of the same gender, and the conformation of candidate and alternate formulas belonging to the same gender. In 2015, the presence of female members rose to 34.38 and 34.60% in the Mexican Congress, motivated by a constitutional mandate of 50-50 gender parity, while in other relevant spaces, for example, the federal government, we have only three Secretariats of State (Secretariat for Social Development-Sedesol- Secretariat for Foreign Relations-SRE-, formerly the Secretariat for Public Safety-SSP-, and in a similar range nowadays, the Attorney General's Office), representing 15.78 % of Secretariats headed by a woman, in a scenario where 84.22 % of State Secretariats are led by a man.

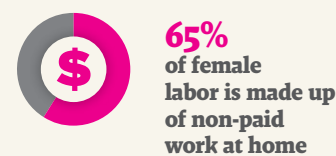
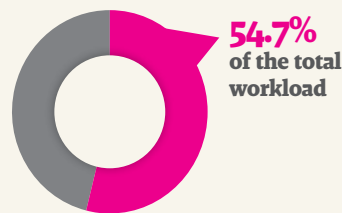
The situation is no fairer in the public or private sectors. In productive employment, regarding both the private and government sectors, [we can] globally identify that, out of a population of 29 and 22 million employees, respectively, 56.2% and 58.8 are men, while 43.8% and 41.2% are women.

Stratification of such data, taking into account salaries and decision-making powers, does not in any way reach 50%. In the twenty-first century, with a growing and historic female presence, that (it must be stated clearly) leaves out an important figure when discounting the absence of basic, secondary and higher education for the young female population- which is related to a limited family economic condition-, [the facts are] complemented by an insignificant number of women in leadership and decision making roles, [a number that] rises slightly in mid-level positions and significantly expands at lower hierarchical levels and in "support" roles.

If stratification by role is considered insufficiently eloquent, it would be worth adding other aspects that point out important differences: workload and economic perceptions of women and men. Women toiled 20.6% more hours than men, and only 32.3% of those hours were remunerated, which shows that 65% of the total working time of women does not generate economic gain.

## WOMEN'S TOTAL WORKLOAD, 2014

**2930**  
million workhours a week



**Source: INEGI.** Mexican System of National Accounts. Satellite account of non-paid labor in Mexican homes. Preliminary. Base year, 2008. Mexico. 2015.

In the case of female-headed households, poverty is a circle that traps them in a perverse combination; responsible for countless duties and family responsibilities, they lack a steady income and ac-



Illustrated by Angel Sanchez

cess to health services and housing.

Ownership is virtually inaccessible to them. Only 24.7% of single mothers who live in the countryside and work as peasants own their plots; in the city only 5.9% of females own their own house or, in other cases, co-own their dwelling.

Laws and programs that impose an intersectional approach to gender equality, that call for co-responsibility in family care, freedom, the right to education and decent employment, fail to deconstruct the main barriers imposed by an ancestral culture based on stereotypes and gender roles, which promotes violence, poverty and discrimination towards women of all ages.

How to interpret that unfortunately common phrase, which argues that

affirmative action and tasks related to gender equality are "female" things, which through affirmative actions benefit women regardless of their abilities, [this phrase that also states] that conceptions about gender discrimination cause further rejection, widening gaps and distances, and, even, that they discriminate against the rights of men?

What greater reasons than inequality and discrimination may be given when the importance of judicial decision-makers gaining gender perspective and finding balance in relation to rights when faced with asymmetries is questioned?

Judging with gender perspective imposes, as does the right to equality itself, an awareness of inequalities, an effort to understand them in the context of the

structural barriers that generate them and a further effort to promote rights with a perspective that guarantees the "equality" that is so often absent.

The role of Judges before longed-for equality as a principle and fundamental right, is not an isolated mandate on Human Rights; instead it calls on them to observe the facts from the condition of the people before them and ask sufficiently if a rule imposes larger barriers to some of them. Seeing these angles breaks paradigms, adds to equality and reduces discrimination.

Let us respond with full objectivity if today, as Alma Luz Beltran y Puga states in her oeuvre, we inhabit an egalitarian world, if each and every one of us has the same political and employment oppor-

tunities, if there is no discrimination towards the poor or the disabled, if indeed it makes no difference to be a pregnant woman when applying for a job. Let us add more to equality, and subtract from asymmetries. ■

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1900 – 2016

# THE ROAD TO GENDER EQUALITY

By Attorney Gabriela del Valle Perez \*

## PREFACE

This article is a brief chronology of actions that place us in a favorable scenario regarding the right to gender equality, with a greater emphasis on what happened in the last decade, during which this topic was more strongly positioned in our country's political and judicial arenas.

This brief account contemplates the need to materialize the principle of equality, since concentrating only on its formal aspect has not managed to ensure that women exercise their rights in the same way men do.

Particularly, this article mentions what has happened in electoral matters, since rules and resolutions thereof allow us to notice more tangible progress.

## EQUITY DOES NOT MEAN EQUALITY

To avoid confusion, it is important to note that there are differences between these two terms. Thus, in this article we refer to the principle of equality, even when norms sometimes refer to equity, since, as Sandra Serrano warns, these are concepts that our legislation uses indistinctly, as if they were synonyms.

On the one hand, equality aims to ensure that people enjoy the same rights, while equity does not have the same scope as it only adapts a legal rule to a specific case.

As Karla Perez Portilla points out: "Equity is a limited grant of authority to the court so it can weigh in when resolving a dispute submitted to it," while equality "is a dynamic principle that offers multiple interpretation possibilities".

Such differentiation must lead beyond the conceptualization made by the legislature in the standard; materially, actions should be directed towards equality between men and women, as equity alone is insufficient to include the legal protection required.



Illustrated by Ángel Sánchez

Equality has two meanings: a formal one, involving its being foreseen in laws, and a substantial meaning, which implies recognition of the specificities and differences between men and women (hence develop State obligations to achieve such equality; i.e. it should not aim to homogenize, seeking instead to use differences as building blocks and ensure that, despite these differences, all persons enjoy the same rights and have the same opportunities to exercise them. Hence, sometimes individuals must be treated differently and sometimes equally.

## A BRIEF HISTORY

Moving towards gender equality in Mexico has been a task of more than a century, since Columba Rivera obtained her degree as a surgeon in 1900, the efforts of So-

fia Villa Buentello in publishing Women and the Law in 1921, denouncing the inequality of men and women before Law; two years later, in 1923, the election in Yucatán of the first female councilor and the first four female Congresswomen in Mexico, the granting of the female right to vote in 1953, and the movements that arose in the 1960's in search of equality, produced the 1974 reform of Article 4 of the Mexican Constitution, which sought to formally acknowledge women and men's equality before the Law.

However, although this reform was very important, it only dealt with formal equality. It was not until the Human Rights reform of 2011 that the obligation of the Mexican State to promote, respect, protect and guarantee rights, with the further obligation to analyze and make a pro persona interpretation of the standard, were established. This

constituted a turning point in the effective advance of the protection of Human Rights and consequently the right to equality between women and men, a right that was forgotten for many years.

In legislative terms, the State evolved slowly but steadily, and although we cannot assure that we have achieved substantive equality, evident progress was achieved, which was also a result of Mexico's accession to various international instruments.

## ACCELERATED PROGRESS DURING THE LAST DECADE

In order to achieve the principle of equality, one of the key elements has been to include women in political participation. To this end, measures have been taken- such as the "gender quotas" stemming from the political-electoral reform of 2007-, measures which have evolved to achieve parity in candidacies.

Regarding the Human Rights reform of 2011 and in relation to gender quotas, a clear example is embodied in judicial ruling SUP-JDC-12624/2011, in which political parties were forced to respect the 60%-40% percent gender proportion in the nomination of candidates for Mexico's lower house of Congress. In addition to the quotas themselves, the formulas were to be composed of the same gender, thus achieving the protection of women's participation as candidates and ensuring their access to elected office.

Subsequently, following the constitutional reform of 2014, gender parity in nominations to federal and local legislatures was introduced into Article 41 of the Mexican Constitution, expanding opportunities for women to occupy a seat in federal and local congresses.

Such was the importance of these reforms, that they were immediately reflected positively in a quantitative way: for example, the integration of women into Mexico's House of Representatives (lower house of Congress) rose from 12.4% in 1990 to 42.6% in 2015.

At a local level, progress was slower; the constitutional reform of 2014 did not establish horizontal parity in the nomination of candidates for Town Hall positions, but it did manage to include gender parity through rulings issued by courts.

As an example, we can quote the sentence of the SDF-JRC-17/2015 trial, caused by a determination of Morelos' Institute of Electoral Processes and Citizen Participation, which led to the interpretation of local legislation in its broadest sense upon issuance of opinions stating that political parties must register all of their candidacies in equal percentages, including those related to the posts of Mayor and Town Hall trustees. Thus, the Mexico City Chamber extended the scope of what had been done by local authorities.



The Superior Chamber confirmed that ruling (SUP-REC-46/2015), and issued two jurisprudences titled “GENDER PARITY. IT MUST BE OBSERVED IN THE NOMINATION OF CANDIDACIES FOR THE INTEGRATION OF POPULAR REPRESENTATION BODIES AT THE FEDERAL, STATE AND LOCAL LEVELS” and “GENDER PARITY. SCOPE OF ITS CONTENTS IN LOCAL ORDER” .

From these jurisprudences political parties’ obligation to nominate all of their candidacies under the principle of vertical and horizontal parity can be inferred ; furthermore, the criterion set forth have been adopted in subsequent sentences.

Regulatory progress through legal reforms and “garantist” criteria adopted by the courts are not the only tools to combat the lack of recognition for women’s rights. The Mexican Supreme Court and various other authorities have developed other instruments that help safeguard the rights of women, such as protocols to judge with gender perspective (2013) and to address political violence against women (2016) , which are novel ways of preventing the violation of rights and ensuring legal protection and access to electoral contests on equal terms, particularly in the case of the second protocol mentioned.

#### WHAT’S NEXT?

In practice, women are still discriminated against, and the provision of these rights in a standard is insufficient, so we should continue looking for real protection of women’s rights; one way to achieve this is the jurisdictional route.

We have observed that over the past decade Mexico has strengthened the principle of equality, which historically was awarded bit by bit, but that through the opening up of public office for women, the strengthening of Human Rights and the growing awareness in women and men that equal treatment benefits everyone, has gradually achieved consolidation.

Substantive equality goes beyond formal equality, so it is important that those who judge, in every aspect of the Law, understand that rigid sentences - [which should] always [be] in line with procedural requirements, as these provide legal certainty- are not justified when they affect vulnerable groups. As law enforcers, we are responsible for the construction of democracy through untrammelled respect for Human Rights.

Therefore, judicial bodies have a historic responsibility to continue the work done so far, in which, through judicial rulings, we have changed the paradigm on the stereotyped way to understand gender roles, a stereotype that has hampered the right to equality for many years.

The important work of judging should be exercised with a renewed understanding of the rights of women, so

that it has become mandatory to issue stereotype-free sentences, excluding inequitable rules and, where justified, applying differential treatment in order to vindicate rights and eradicate discrimination against women. ■

<sup>1</sup> Magistrate President of the TEPJ’s Guadalajara Regional Chamber.

<sup>2</sup> Serrano, S. (2014) *Women’s political rights. A road to equality. Mexico: TEPJ.* N/A.

<sup>3</sup> Perez, K. (2007) *Principle of equality. Scope and perspectives.* Mexico: Porrúa. N/A.

<sup>4</sup> Rosa Torre Gonzalez (councilor), Elvia Carrillo Puerto, Beatriz Peniche, Raquel Dzib and Guadalupe Lara Congresswomen whom, after the death of Felipe Carrillo Puerto, were forced to resign their posts.

<sup>5</sup> Gonzalez, M., Gilas, K., Baez, C. (2016). *Toward a parity democracy. The evolution of women’s political participation in Mexico and its states.* Mexico: TEPJF. N/A.

<sup>6</sup> Such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, etc.

<sup>7</sup> Gonzalez, et al., op cit.

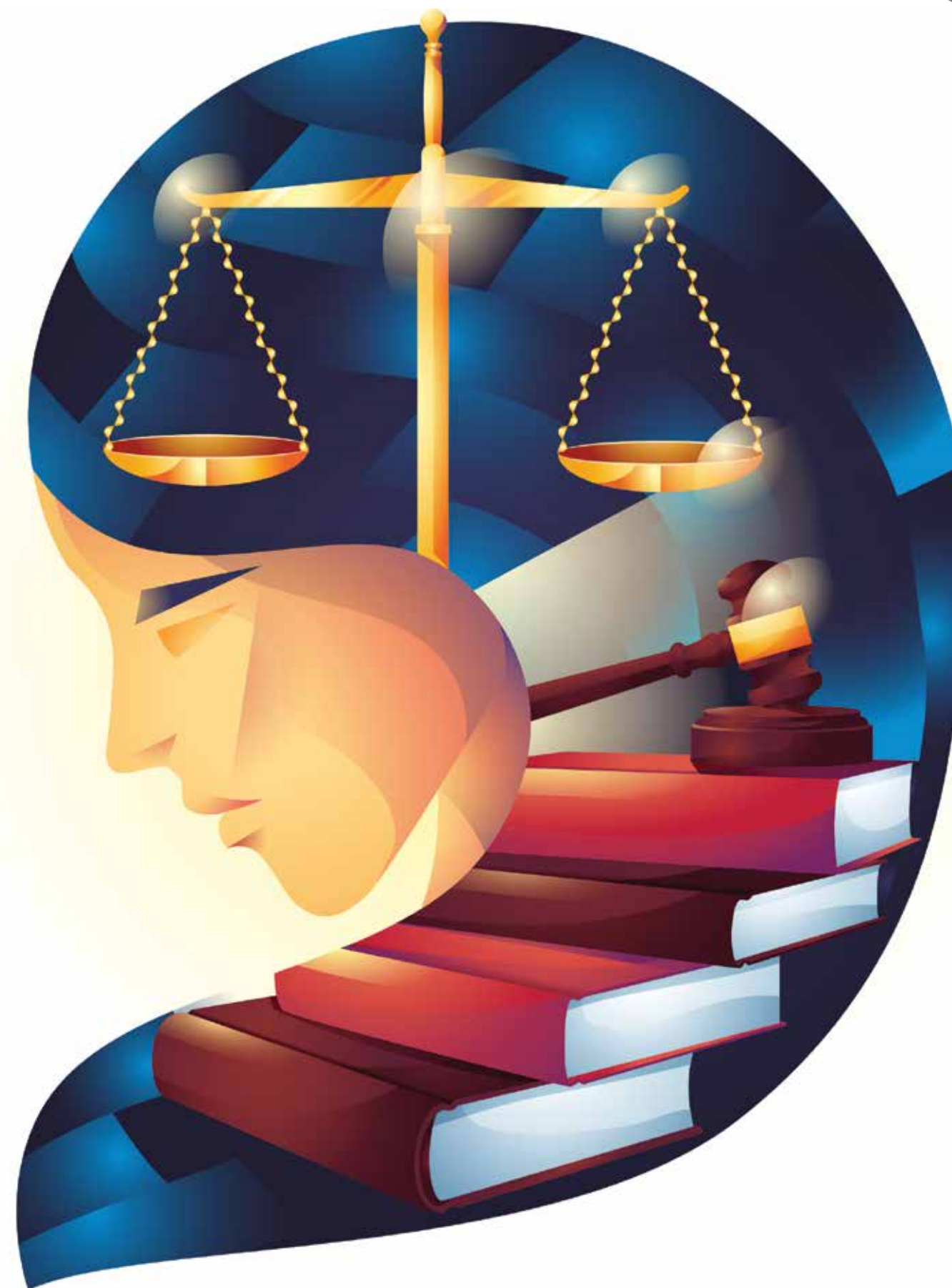
<sup>8</sup> Jurisprudence 6/2015 and 7/2015.

<sup>9</sup> Previously, in 2013, the Mexico City Chamber issued the first resolution on horizontal parity in the state of Tlaxcala.

<sup>10</sup> Issued by the Mexican Supreme Court.

<sup>11</sup> Issued by TEPJF, INE, FEPADE; Assistant Secretariat for Human Rights, Secretariat of the Interior; Executive Commission for Victims, National Commission to Prevent and Eradicate Violence against Women, National Institute for Women and the Special Prosecutor’s Office for Violent Crimes against Women and Human Trafficking.

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# The Morelos case

## Gender parity in electoral affairs

By Hector Romero Bolaños \*

### BACKGROUND

On January 16th, 2015, the Electoral State Council of Morelos' Institute of Electoral Processes and Citizen Participation (hereinafter State Council) issued an agreement which established the criteria for the application of gender parity in the registration of male and female candidacies for Mayor and Town Hall Trustees which political parties would present in the local elections to be held that year in the state of Morelos.

Dissatisfied with its content, on January 20th of the same year, the National Action Party (PAN), the Party of the Democratic Revolution (PRD) and the Social Democratic Party (PSD) of Morelos promoted appeals to the Electoral Tribunal for the State of Morelos (hereinafter local Tribunal or liable Tribunal).

On February 14th of the same year, the local Tribunal ruled on the aforementioned appeals, determining the confirmation of the disputed agreement.

Against this resolution, on February 18th, 2015, those same political parties filed Constitutional Electoral Review Trial lawsuits, which the Regional Chamber of the Electoral Tribunal of the Federal Judiciary Branch (hereinafter TEPJF) corresponding to the Fourth Judicial District, was responsible for resolving.

### CONTROVERSY APPROACH

Although the three recurrent political parties formulated various grievances, their inconformity was mainly based on: a) the liable Tribunal exceeded its powers to interpret the concept of "horizontal" parity, which is not covered by local laws and lacks enforcement and interpretation mechanisms, and b) local authorities overreached in trying to impose rules of application in late stages of electoral process preparations.

### CASE RESOLUTION

#### Horizontal Parity

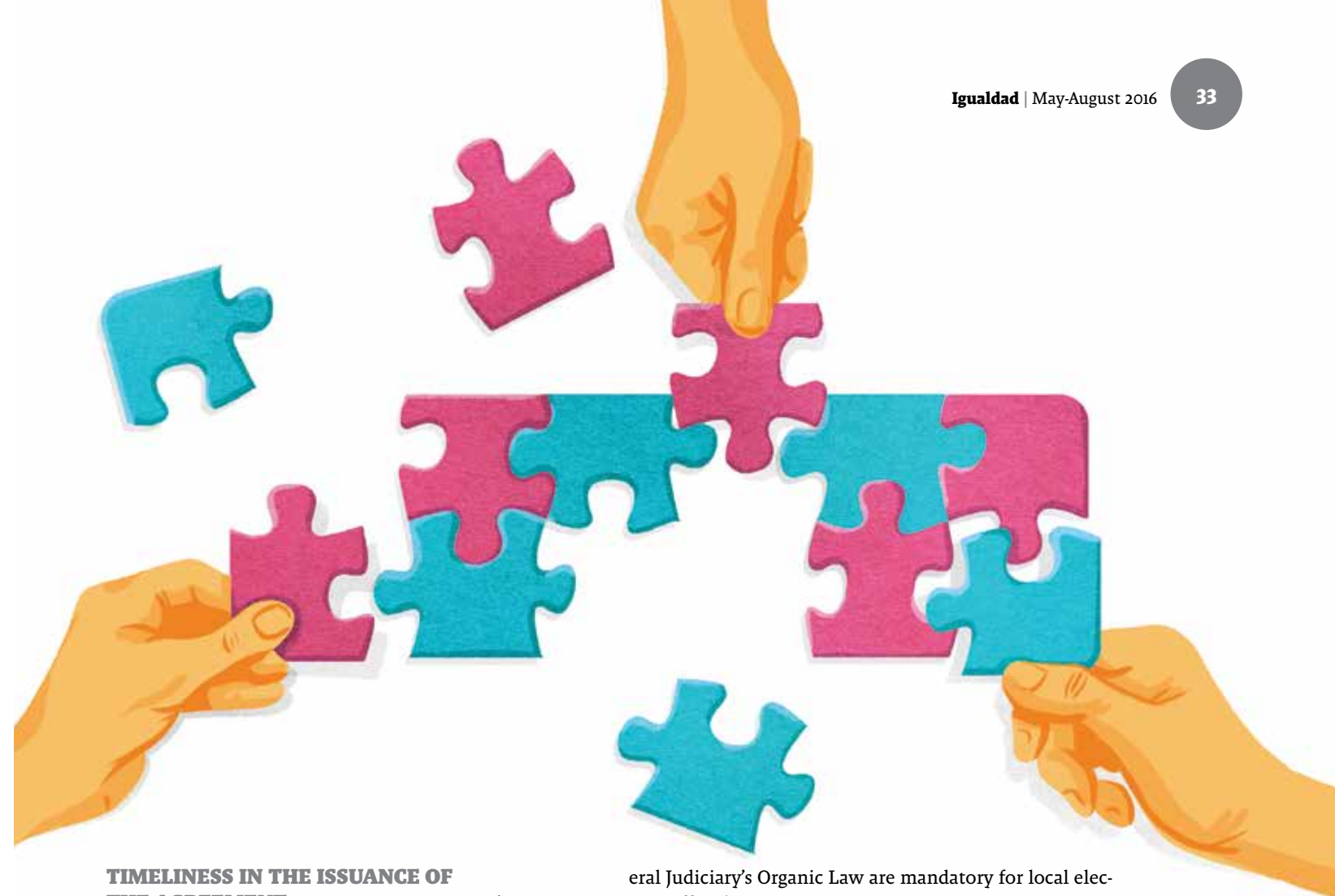
The agreement subject to controversy established that, in accordance with the obligation to create conditions of equal access to government positions and in seeking to comply with the principle of gender parity in the thirty-three municipalities of Morelos, the registration of Town Hall candidacies required the nomination of sixteen women and seventeen men, or seventeen women and sixteen men.

That is, it established political parties' obligation to meet horizontal parity criteria in the nomination of their candidates (any candidates to be registered by political parties for these posts in the state were required to follow a 50-50 gender ratio as closely as possible).

The ratio decidendi (conclusions of law) of the agreement itself acknowledge the fact that the legal provisions governing gender parity at the national and state level, relate to the obligation to comply with that parity in the nominations to the federal and local legislatures rather than to any other nominations.

Notwithstanding these conclusions, the State Council decided to carry out a systematic and functional interpretation of various constitutional, conventional and legal items, from which it emerged that it is the political parties' duty to comply with horizontal parity in candidate nomination.

The agreement in question was confirmed by the local Tribunal and later, by the TEPJ's Regional Chamber, which shared its opinion on the essential correctness of its interpretation, as it is consistent with the purpose of reversing the historical scenarios and de facto inequality that certain human groups face in exercising their rights, and thus guarantees them a level of substantial equality. In this specific case, [it allows them to] access the same opportunities to hold important elected office positions, such as the posts of Mayor and Town Hall Trustee.



### TIMELINESS IN THE ISSUANCE OF THE AGREEMENT

Another issue that was raised by the acting political parties as a grievance and dismissed by the TEPJ's Regional Chamber is related to the claim that the agreement was issued at a late stage of the electoral preparation process, and therefore it affected its institutional organization (since agreements had been issued already and certain acts aimed at the election of pre-candidates had taken place).

On this point, it was estimated that although the criterion were established in the period in which the political parties' internal process of candidate selection was ongoing, no specific legal provision was transgressed against.

### CONCLUSIONS

The Superior Chamber and the TEPJ's Regional Chambers have issued important criterion aimed at guaranteeing gender parity in the nomination of candidates for elected office. Some of these criterion have become relevant theses and even Superior Chamber jurisprudence, which in terms of article 233 of the Fed-

eral Judiciary's Organic Law are mandatory for local election officials.

However, the criteria presented is paradigmatic because, on the date the controverted agreement was approved by the electoral administrative authority in Morelos, there was no jurisprudence that forced it to establish horizontal parity in the nomination of candidates for Mayor and Town Hall Trustees.

**Thus, the State Council itself determined a systematic and functional interpretation, veering away from a simple grammatical interpretation that at first glance, could lead to the conclusion that the laws governing gender parity at national and state level refer only to the requirement that such parity be fulfilled in the nominations to the local legislature.**

However, notwithstanding the importance of the criteria and the relevance of the fact that interpretations that promote the establishment of measures with the socially valid policy objective of promoting equal opportunities for accessing and exercising the posts that make up Town Halls, the case under study also evidences political parties' concerns on the subject, concerns which are worthy of being taken into account.



Regarding the timeliness of the agreement's issuance, the TEPJ Regional Chamber's resolution partially agreed with the political parties, since it considered that it would have been best if the rules had been issued before the pre-campaign period, thus enabling political parties to generate rules and compliance measures in accordance with them from the very inception of the process.

This is a matter of the utmost importance, lest it be forgotten that political parties, in terms of what is mandated by Article 1, Basis 1 of the Political Constitution of the United Mexican States, are public interest entities that, as citizen organizations, have the aim of granting said citizens access to elected office. In turn, this implies that they must possess steadfast rules that enable them to establish their political strategies.

This implies, of course, having enough time to pick and choose among its members (or, where appropriate, external candidates if so empowered by their Statutes), women and men with suitable profiles that allow them, on the one hand, to postulate them in conditions of equality, but also, the achievement of the purpose conferred to political parties by the Political Constitution of the United Mexican States, which is to make access to the exercise of public power possible.

In fact, this itself is a pending task for political parties themselves through their respective parliamentary factions in legislatures, because ideally clear legal rules would be established, so that authorities and political actors possess clarity, in a timely fashion, on what they must comply with on gender parity matters.

A separate issue is the effectiveness of these measures to ensure gender parity in the nomination of candidates, because reality has led to some political parties, in order to comply with gender parity rules, not postulating the appropriate profiles, preferring in many cases, to choose the sisters, wives or daughters of the male candidates whom they had originally intended to nominate.

Similarly, the gender parity compliant nomination of candidates does not guarantee access to the respective posts on equal terms, because that depends on voters also voting for female candidates, something which in many cases does not occur.

This is where it is also important to establish public policies for the inclusion of the female gender on equal terms in the political and public spheres. It is not only a matter of political parties complying with the obligation imposed on them to nominate candidates of both genders equally, [the crux also] lies in convincing voters that the female gender is a real option to represent and govern them. Public policies that, for example, eliminate negative stereotypes in mass media about the role the female gender should play in our society and that, in education and classrooms themselves, promote a vision of equality between genders. ■

<sup>1</sup> Electoral Magistrate, member of the Mexico City Regional Chamber Full Court, corresponding to the Fourth Judicial District of the TEPJF

<sup>2</sup> The file codes SDF file-JRC-17/2015, SDF-JRC-18/2015 and SDF-JRC-19/2015 were assigned to the aforementioned trials, which were resolved jointly on March 5th, 2015.

<sup>3</sup> For example, article 232, paragraph 3 of the General Law on Electoral Institutions and Procedures, which is quoted in the agreement, that mandates political parties' obligation to promote and guarantee gender parity in the nomination of candidates to elected office in Mexico's Congress, as well as State Congresses and Mexico City's Legislative Assembly.

<sup>4</sup> In the sentence pronounced in civil proceedings on files TEE/RAP/012/2015-1 and their additions TEE/RAP/014/2015-1 and TEE/RAP/015/2015-1.

<sup>5</sup> It was even noted that since April 16th, 2013, the Regional Chamber of the Electoral Tribunal, upon resolving the SDF-JRC-3/2013 file held that, regarding the State of Tlaxcala, there was an obligation to ensure "horizontal or transversal" gender parity in the entire state.

**\*Hector Romero Bolaños:**

*Electoral Magistrate, member of the Mexico City Regional Chamber Full Court, corresponding to the Fourth TEPJ Judicial District.*

# Licencia de Paternidad

Porque será de los momentos más importantes de tu vida... El Consejo piensa en ti.

- ✓ Los servidores públicos tienen derecho a que se les otorgue una licencia de paternidad con goce de sueldo, por el periodo de cinco días hábiles, contados a partir del día del nacimiento de su hijo o hija.
- ✓ El servidor público adscrito a cualquier órgano jurisdiccional federal o área administrativa del CJF, deberá presentar por escrito ante el titular de su adscripción, la petición respectiva, a la que tendrá que adjuntar el certificado médico de nacimiento del niño o niña, expedida por un centro de salud público o privado que acredite su paternidad, a fin de que el titular expida el aviso de licencia respectivo.
- ✓ En un plazo que no exceda de treinta días naturales, deberá presentar al área de adscripción, el acta de nacimiento correspondiente; los documentos mencionados quedarán bajo el resguardo del órgano jurisdiccional respectivo.

Dirección General de Derechos Humanos, Equidad de Género y Asuntos Internacionales  
Dirección General de Comunicación Social





# EQUALITY AS A HUMAN RIGHT ELEMENT

The effort to accomplish equality is a human right's objective

By Leopoldo Burruel Huerta\*

The proposal contained in this text is meant to ensure the observation of the fact that equality is the origin and purpose of Human Rights.

The isolated condemnation that caused the helplessness of humanity can be perceived from Apartheid to American racism, the exploitation of indigenous peoples, racial genocide, slavery and the denigration of women and children. With the Holocaust and the Iniquidad regia, it would reach its worst point in history.

Once tragedies stopped being local to go global and in the context of international trade, [respecting Human Rights] became a condition for, firstly diplomatic and then commercial relationships and consequently [aided] in the abolishment of evils around social differences. Governments fell, Human Rights movements were begun to generate ideas, condemning the attitudes of States and noting widespread violations. Those ideas seeped imperceptibly into the will of governments.

Formerly, the State as an entity had been superior to individuals, but from that point on, if a politician believed that Apartheid had to be respected as an internal system, that politician would never win an election. Nations isolated States that did not respect Human Rights. Respecting Human Rights became a worldwide economic problem and from that sprang the reality we experience today.

The new tendency, then, is to put aside domestic legislation to base oneself on generic but obvious abstractions,

on elements of human dignity that determine human beings as worthy of Human Rights. But this noble aspiration has created enormous confusion. For the sake of a human right, the greatest contradictions can be invoked.

## INEQUALITY AS THE PROBLEM

Inequality manifests itself for various reasons that have a natural foundation based on the different skills, resources and aptitudes of human beings, and covers all areas of social life. [As Roman emperor ] Justinian put it, the main division of people's right is this: that all men are free or slaves.

But slavery is not the only inequality, it is just the most obvious one. Human beings have always endeavored to distinguish ourselves from others, in order to isolate or segregate our being from the rest [of society]. Inequality is a question of power and self-affirmation, the possibility of denying others the condition of having the same rights.

<sup>1</sup> Echo of a forgotten historical fact, which explains how Andalusia was colonized by Central European citizens in the eighteenth century under the reign of Carlos III. Of the six thousand settlers who arrived in Spanish lands, in a few months only a thousand survived.

<sup>2</sup> South Africa and Cuba are clear examples of this.

<sup>3</sup> N/A. Retrieved from <http://www.cedt.org/romano.htm>

<sup>4</sup> N/A. Original phrase in Spanish retrieved from [http://www.diputados.gob.mx/biblioteca/bibdig/const\\_mex/decla\\_1776.pdf](http://www.diputados.gob.mx/biblioteca/bibdig/const_mex/decla_1776.pdf)



Illustrated by Angel Sanchez

## THE DECLARATION ON THE RIGHTS OF MAN AND CITIZEN OF 1789, STATES [THE FOLLOWING]:

**Article 1.º** - Men are born and remain equal in rights. Social distinctions can only be based on common usefulness.

That clarification in the impressive phrase including "in rights", becomes an obsession with perfectionism that conceals a still extant discrimination battle.

The United States of America's Declaration of Independence of 1776, which in essence is deeply respectful of mankind's liberties and rights, goes even further:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

Human equality, states this Declaration, comes from the rights given by the same common Creator. Such a

statement is revealing, as it mentions the inalienability of rights under such equality, and establishes that the government emanates from the free choice of the governed.

For differences in religious or non-religious beliefs to exist, the right to equality must be linked with the right to be different while remaining equal, so that everyone can exercise their differences. Thus, tolerance to differences is elemental for even the smallest communication and co-existence.

Therefore, in order to be able to share ideas on Human Rights, their language must be devoid of any religious or anti-religious connotation. Otherwise, a false statement can be presumed from the idea. If something is true in your design, it will not be so in a different conception, hence the falsity. The generality in expressions must be such that they fit into every conception, without approaching dogma. Therefore, "Human Rights" is an expression that has been globally accepted because everyone understands the concept of right and human.





However, Human Rights were always a lot of philosophy and little reality. This lasted, I think, until Nelson Mandela was able to end the Apartheid regime, an attempt made successful only by the empathy of other nations. The argument was the same: We are all equal.

**FREEDOM, EQUALITY AND DIGNITY**

In Alfonso X the Wise’s “Las Siete Partidas”, society was clearly divided and inequality was set forth from Heaven itself. This [Spanish king from the Middle Ages] also held that kings had a divine plan, and even called them vicars of God.

Law 5: Vicars of God are kings, each in his own kingdom, placed over their peoples to keep them in justice and truth in worldly matters, as well as the emperor in his empire... .

These “Partidas” also regulated knights, vassalage, squires, serfs, Moors and Jews, making it very clear that not all men were considered equal.

<sup>5</sup> (Nelson Rolihlahla Mandela; Mvezo, Transkei, 1918 - Johannesburg, 2013) Activista y político sudafricano que lideró los movimientos contra el *Apartheid* y que, tras una larga lucha y veintisiete años de cárcel, presidió en 1994 el primer gobierno que ponía fin al régimen racista. N/D. *Biografías y Vidas. La enciclopedia biográfica en línea.* N/D. Recuperado de <http://www.biografiasyvidas.com/biografia/m/mandela.htm>

<sup>6</sup> N/A. “Alfonso X the Wise. Las Siete Partidas” in *Universal Virtual Library*, pg.22. Retrieved from <http://www.biblioteca.org.ar/libros/130949.pdf>

Alfonso X and his “Las Siete Partidas” open the road to understanding that dignity laid in society’s conscience. This becomes crystal clear in the Fourth “Partida”, Title Five, that states the following about servitude:

Servitude is the vilest and most despicable thing that may happen amongst men, since man, who is the noblest and freest creature among creatures, becomes by it beholden to another’s power, in a way that another can do upon him as [he] will, either alive or dead .

Even so, it was allowed; however, it was regulated. Clearly, then, equality, freedom and dignity were not a passing fad and they have always been hard work to obtain.

For a while inequality had both legal and religious bases, due to mandatory papal bulls in Catholic realms. Pope Nicholas V issued the papal bull *Dum Diversas* in 1452, which allowed Portugal to submit all non-Catholics to hereditary slavery . And, since all non-Catholics that could be submitted were natives of Africa, thus began a great evil that would remain for centuries in human minds.

**Pius II, writing in 1462 to a missionary bishop who went to Guinea, described the slave trade as an “enormous crime” (magnum scelus) . But still the practice remained, though it was contradicted in 1537 by Pope Paul III, who in his papal bull Sublimis Deus clearly condemned slavery:**

... we determine and declare by these letters that said Indians, and all nations in the future arrived to the knowledge of Christians, even if they live outside the Christian faith, can use, possess and enjoy freely and legally their freedom and the domain of their properties, that they should not be reduced to servitude and that everything that had been done differently is null and void ... .

However, the *Sublimis Deus* papal bull did not refer to the release of the already submitted slaves or their descendants, or specifically African slaves. Given this gap, [the] tragedy [of slavery] remained.

**INTER-AMERICAN COURT OF HUMAN RIGHTS JUDGE MAXIMO PACHECO STATES:**

Throughout history there have been various expressions to refer to that reality we call “Human Rights” (such as: natural rights, inherent rights, individual rights, Human Rights, citizen rights, fundamental rights, individual rights, subjective rights, fundamental freedoms, civil liberties, etc.) [which] manifests that every human person has rights by virtue of existing and [that] these should be recognized and guaranteed by the State without any social, economic, legal, political, ideological, cultural or sexual discrimination. But at the same time, I want to emphasize that these rights are fundamental, i.e., that they are linked to the idea of the dignity of the human person .

Human Rights have two connotations, the naturalness of human rights, as inherent to and possessed by humans, and their relativity “to all conditions of existence-thus considered vital-” (this rights are called “acquired rights”. In this regard Gomez Robledo argues the following:

In this way Human Rights become not only indeterminate in abstract and therefore “infinite”, but grow to an extension that allows, in reality, the largest multiple variations. The term “Human Rights” is so vague that any proposed definition is not satisfactory .

This lawyer also accurately and clearly distinguishes social rights from Human Rights and even illuminates the fact that there is a contradiction between them, by declaring:

Historical experience shows that as social rights increase, individual freedoms diminish, to extreme limits in regimes such as the former Soviet Union, where the experiment of making social rights a reality coincided with the greatest suppression of individual rights .

Certainly there is a difference among social, political and other collective rights, but this difference stems from

the initial point of view. For in social or political rights, this original perspective will always be something alien to the individual human being, since its basis lies in legislation or social evolution.

It is something like this: I give everybody the right to housing, therefore, you, as an individual human being, cannot have your own property. Another example: we must all be protected; therefore, you have no right to defend yourself or to a fair trial. For the sake of security, you have no right to privacy or to move. The whole is worth more than a part. This should not be so, as we can see nowadays; social rights can be constructed from the sum of the Human Rights of each individual. A social right becomes a general mandate, which creates for each individual his own rights.

But always, the effort to achieve equality has been the goal of a human right. Starting with slavery and evolving into anything that might be mine or another’s. Dignity is a novel concept, an idea that could be wrongly stated as something close to honor or pride... nothing could be more mistaken. Worthy is he that deserves. Dignity is therefore the capacity of being worthy, [it is a] vessel containing rights. And we deserve to be equal because we are all human. ■

<sup>7</sup> N/A

<sup>8</sup> N/A

<sup>9</sup> Pope Paul III. (1537). *Sublimis Deus Papal Bull*. N/A. Retrieved from [webs.advance.com.ar/pfernando/DocsIglIA/Paulo3\\_sublimis.html](http://webs.advance.com.ar/pfernando/DocsIglIA/Paulo3_sublimis.html)

<sup>10</sup> N/A. Pacheco Gomez, M. *Liber Amicorum*. (Book I). N/A, pg. 45

<sup>11</sup> N/A

<sup>12</sup> (N/A). “Nature of Human Rights and their Validity in Customary International Law” in Gomez-Robledo, A. *Liber Amicorum* (Book II). N/A, pg. 787

**\*Attorney Leopoldo Burruel Huerta**



# GENDER STEREOTYPES IN CRIME

**Organized crime does have a “gender perspective”; criminal groups know how to take advantage of cultural interstices and social voids and channel them in their favor.**

**By Magistrate Ricardo Paredes Calderon\***

**G**ender stereotypes may have originated in such remote times that no written records exist, although there are cultural accounts through oral tradition. Hence, they may have initiated in the early days of human settlements, when their biological reproductive function could have forced women to abandon the nomadic life for the convenience of a sedentary lifestyle.

The problem does not lie in recognizing the difference between women and men's biological functions but

arises in that it conditions their possibilities for development, the exercise of their rights and, finally, their access to happiness. Therefore, it may be merely informative and harmless to assume the differentiation of clothing and biological functions between genders, or the relatively generalized attribution of greater physical strength to men versus women. However, even if these are stereotypes, they are not harmful unless they pose real limits, obstacles, and insurmountable conditions. Likewise, in another instance, when they are justified as power

sources within social organizations and create clear discriminatory rules that tend to be institutionalized, i.e., a cultural trait that becomes usual, later conventional rule and finally, a mandatory norm.

Obviously, stereotypes are not necessarily negative. However, as an indication of a self-destructive tendency in society, the different qualities of men and women are often overlooked and tend to be negatively stressed. Hence, men are considered fierce, inflexible, insensitive, rude, impulsive, and women are stigmatized as hyper-

sensitive, manipulative, thoughtless, chaotic, irrational, hysterical.

In this regard, the problem arises when not only is this differentiation made in a mere cultural sense, but when it transcends to power structures and becomes a part of their regulation. For example, if women are irrational and oversensitive, we could consider they tend to squander wealth and, therefore, are unable to manage their own finances. The same happens if we consider she has some kind of disability that forces her to be under a





60 percent of female inmates are indicted for crimes against health and among these, 60 percent were found responsible for transporting drugs and trying to introduce them into prisons, according to Inmujeres.

man's (father or spouse) tutelage for other decisions related to her marital status, property, or family relations, not to mention that she is considered inept as to political decisions.

Thus, gender stereotypes ascribed in a discriminatory manner against women historically placed them below men in all areas and, concurrently, caused the gradual loss of their participation and rights, giving way to abuse, which, in time, was also assumed as culturally valid and permeated into regulatory structures.

A protocol implemented to generate awareness about the subject, presented by Jalisco Women's Institute , refers to these gender stereotypes pointing out that if a woman is a wife and mother, among other things, she is expected to:

Dedicate herself exclusively to her home. Keep her house neat. Not go to places intended for single women. Be tender and loving with her family. Adjust to her husband's budget. Be faithful .

**STEREOTYPES CONSIDER WOMEN AS:** Housewives. Dependent. Weak. Unimportant. Sentimental. Fragile. Fickle. Shy. Homely. Passive. Mediocre. Subjective. Secretaries. Overprotective. Patient. Caretakers. Cooperative. Loving. Tender. Self-sacrificing. Asexual .

As regards to crime, gender stereotypes play an important role in women's involvement and often result in a greater reprimand or a more serious penalty.

Thus, the Diagnosis on the incidence of crimes committed by imprisoned, processed and sentenced women , establishes that the prevalent gender stereotype in our country still favors that women be educated in obedience, modesty, and subordination to men. They are subject to a man's destiny by their emotional connection and become accessories in his life with very few prospects of escaping when he commits crimes. They cannot, or are not allowed to, refuse when their partner forces, threatens or blackmails them into helping him commit a crime. The feminization of poverty has also become clear: if usually the poor in our country are prone to commit crimes for economic purposes, the situation worsens since the woman is deemed responsible for the home and parenting, precisely owing to this gender differentiation, her biological reproductive role.

<sup>1</sup> Gonzalez Ramirez, M. A. (2008). *Handbook to Raise Awareness on gender perspective. Women and Men: How Different Are We?* Mexico: Jalisco Women's Institute. Third edition. Retrieved from <http://cedoc.inmujeres.gob.mx/ftpg/Jalisco/jalo4.pdf>

<sup>2</sup> N/A

<sup>3</sup> N/A

<sup>4</sup> Hernandez Abarca, N. G. (2010). *Diagnosis on the incidence of crimes committed by imprisoned, processed and sentenced women.* Mexico: Centre of Studies for the Advancement of Women and Gender Equity, House of Deputies (lower house of Congress), United Mexican States Congress (CEAMEG), LXI Legislature, Pg. 63.

**AS TO THE PREDISPOSING CAUSES THAT DRIVE WOMEN TO COMMIT CRIMES, THE DIAGNOSIS CONCLUDES:**

- (a)** Gender-based violence as a causal link for the offense attributed to women.
- (b)** Feminization of poverty.
- (c)** Addictions or alcoholism in women facing a criminal indictment.

- (d)** A family environment integrated by offenders, i.e., criminals in her primary family, which are usually men (father, brother, uncle).
- (e)** Her partner involves her in the alleged crimes. Generally, a man engages her in crime for multiple reasons, a factor linked to women's condition and position in society.
- (f)** A woman commits crimes on behalf of others: she assumes the blame to protect a child or partner, among other reasons.



Illustrated by Angel Sanchez



**On gender stereotypes,  
Martha Lamas has considered:**

Gender role is configured with the set of standards and requirements that society and culture dictate on female and male behaviors. Although there are variants according to culture, social class, ethnicity and even generational strata, we can sustain a basic division that corresponds to the most primitive sexual division of labor: women give birth and, therefore, take care of their children, i.e. the female role is maternal, domestic, while the male role is public. The male-female dichotomy, with its cultural variations (as in yin and yang), sets (mostly) rigid stereotypes that condition their roles and limit human potential, by stimulating or suppressing behaviors depending on gender appropriateness .

It is worth noting that these gender stereotypes contribute to vulnerability traits that weigh on women and are not perceived by governmental legislative and executive (law enforcement authorities) and judiciary bodies (justice administration), with a few exceptions; but is duly noted, analyzed, systematized and effectively exploited within the networks of organized crime, to the extent that it is said that organized crime itself possesses gender perspective, as Corina Giacomello has pointed out:

**With regards to drug trafficking, we can claim with a hint of irony (required by the magnitude of the claim) that orga-**



**nized crime has a gender perspective and monopolizes it as it sees fit.**

-She states that women tend to engage in those offenses in compliance with their traditional roles (mother and wife) or due to exceptional conditions (single mothers).

Criminal groups know how to take advantage of cultural interstices and social voids and channel them in their favor. They recruit the most economically vulnerable women, choosing them for their lack of social capital, and propensity or experience to become body - objects.

According to Inmujeres (National Institute for Women), 60 percent of female inmates are accused of crimes against health and of these, 60 percent were found responsible for transporting drugs and trying to introduce them into prisons.

Most women who engage in drug trafficking act mainly as retailers, national or international carriers (known as mules, who transport drug in suitcases, attached to the body or ingested in the form of capsules) and introduce them into detention centers (so-called aguacateras in police jargon...)

Half of the inmates suffered sexual abuse, 40 percent have lived part of their life on the streets and 96 percent are mothers .

**Teresa Gonzalez, of UNAM'S National School of Social Work, agrees:**

**A large number of women imprisoned in Mexico purged convictions for crimes committed by their husbands, sons or brothers, and are declared "accessories, at times unaware of what others do," i.e. they are convicted twice .**

This should encourage reflection. We cannot remain ignorant of the problem of women linked to criminality while organized crime leverages their vulnerability to enroll them. Nor can we allow the vicious circle in criminal groups "vulnerability - engagement - more vulnerability - more engagement" to break the chain by the weakest link, criminalizing the woman.

For not only women should worry about issues that concern women. Much less when what they complain about is the complicity established by a patriarchal sys-

tem, traditionally masculine. The claim is directed towards the opposite sex; then, it is a task in which all society (both women and men) should be involved.

Finally, we must conclude that if women have the burden of parenting and, increasingly, child support and, especially and more importantly, the responsibility for education —not at school, but the first education, within the family— and for ensuring family stability, we should ponder: if women are held accountable for that upbringing, then, what kind of people and citizens can a mother raise in economic hardship, in vulnerable situations, and worse yet, while imprisoned? ■

<sup>5</sup> Lamas, M. (2002). "Feminist anthropology and gender category" in *Body, Sexual Difference and Gender*. Mexico: Taurus. Retrieved on 16/10/2014 from <http://www.editorialtaurus.com/uploads/ficheros/libro/primeras-paginas/201201/primeras-paginas-cuerpo-diferencia-sexual-genero.pdf>.

<sup>6</sup> Diaz, A. (2011). *Criminals recruit vulnerable women for drug trafficking, researcher says*. Mexico: La Jornada, N/A, Pg. 8. Retrieved on 16/10/2014 from <http://www.jornada.unam.mx/2011/01/11/politica/008nlpol>.

<sup>7</sup> Torres Ruiz, G. (2010). *More than 60 percent of imprisoned women serve sentences for crimes committed by others*. Mexico: CIMAC Noticias. Retrieved on 16/10/2014 from <http://www.cimacnoticias.com.mx/node/42174>.

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# Thoughts on femicide in Mexico

By Dr. Laura Ruiz Garcia\*

## FEMICIDE AT THE FEDERAL LEVEL

When the Women's Access to a Life Free from Violence Act, (General Law) was published, we missed a great opportunity to incorporate femicide as a crime, and the obligation to create a unique specialized group of operators in the law enforcement and justice systems, to see to this illicit that lacerates women in Mexico.

At the Federal level, this crime is typified in the Federal Criminal Code, Nineteenth Title, Crimes against Life and Physical Integrity, Fifth Chapter, Article 325, whose typical description states that the individual takes a woman's life on the grounds of gender and, referring to the latter, makes a description fundamentally linked to intimate, family, sexual, work and/or school related femicide. Similarly, the deprivation of life is considered femicide when the victim has been held in confinement, regardless of the duration of such confinement before death, suggesting a connection with abduction, kidnapping, and even human trafficking.

It is worth noting that the National Code of Criminal Procedure does not specify femicide as such among crimes that warrant preventive custody, while it accounts for voluntary manslaughter or an intentional crime associated with rape, or a theft committed by the active offender, as well as homicide by reason of kinship or relationship.

In the punitive design of this crime, the perpetrator offends by reason of gender, but not by hatred or contempt for the female gender.

## FIRST CHAMBER OF THE SUPREME COURT RESOLUTION 554/2013, CURRENTLY UNDER APPEAL

The Mexican Supreme Court's resolution clearly showed that the investigation of the events in relation to Mariana Lima Buendia's death was flawed since from the beginning it was not considered as femicide but as a suicide, misleading the authorities.

This resolution is the best example that the Mexican State should promote a comprehensive regulatory framework for



women's Human Rights, alongside a training plan to promote a change in the way this crime is fought against. Here are some important elements of the resolution:

**a)** In the case of Mariana's death, despite it being the result of strangulation, the investigator at the crime scene was not specialized in femicide; therefore, in the early hours of the inquest he did not collect the appropriate evidence, and the lines of inquiry were not properly pursued.

**b)** On the date of the events resulting in Mariana Lima Buendia's death, the State Attorney General's office had a Protocol for dealing with the Investigation of Homicide from the perspective of Femicide in the State of Mexico, recently published in the Official Gazette.

**c)** The Protocol pointed out the procedures for the collection of the necessary expert evidence to determine the different lines of inquiry, analyze each of the signs of chronic abuse before the victim's death, and differentiate them from those that caused it.

**d)** It is important that the expert evidence verify sexual violence, [it must also be] held in reserve to be analyzed at a later time, thus supporting the gathering of further evidence.

**e)** By not respecting the Protocol, the investigator at the crime scene failed to collect the appropriate evidence during early phases. Consequently, the ministerial investigation may have overlooked possible acts of negligence.

**f)** Since the investigation did not meet the Protocol, it allowed for potential acts of corruption, which are evident, considering that the expert opinions and the autopsy were incompatible and that even the probable alteration of the scene was not taken into account at the time.



**g)** Negligence, corruption, and ineptitude are very thin lines, which allow criminal inquiries that do not lead to the truth, becoming instead clear obstacles to the clarification of the facts and a means for the obstruction of justice.

**h)** The proof of femicide requires the submission of specific expert evidence; otherwise, the offense cannot even be credited and the deaths of female victims remain unpunished.

**A Gender Violence Alert Against Women for the State of Mexico was issued and deemed valid on July 31, 2015. This Alert comprised the municipalities of Chalco, Chimalhuacan, Cuautitlan Izcalli, Ecatepec de Morelos, Ixtapaluca, Naucalpan, Nezahualcoyotl, Tlalnepantla de Baz, Toluca, Tultitlan and Valle de Chalco, State of Mexico, and aims to ensure women’s safety and stop violence against them, as well as eliminate the inequalities created by the current legal framework.**

The regulatory framework, grounds for the Alert, has been severely challenged by civil organizations such as the Observatorio Ciudadano Nacional del Femicidio (National Citizens’ Observatory on Femicide), for its bureaucracy, bias, and lack of transparency.

The Gender Alert demands the prompt action of official bodies in the three governmental existing levels of governance; however, what about the Town Hall, that first point of contact with society, which generates about 2.9% of total revenues in the country while investing more than



8.3% just in operative expenses? In this context, municipalities subsist with the contributions and resources coming from specific programs, including the Comprehensive Program to Prevent, Attend to, Punish and Eradicate Violence against Women; therefore, this governmental political organization is not able to act effectively and preventively to combat this crime.

**FINAL THOUGHTS**

Mexico’s population is over 11’8395,054 people; about 65.1% are individuals 15 to 64 years old; 28.4% are 0 to 14 years old, while 6.4% of the population are 65 years old or over. Women constitute about 51.2% of this population group and have a longer life expectancy than men, 77 years versus 71.1. These figures show how important it is for the Mexican State to generate an adequate policy to combat femicide and all manifestations of gender violence. Therefore, we propose the following measures:

**a)** To issue a Dedicated Act specifically for Female Victims of Crime, which should typify specific offenses that violate women’s healthy development. This Act should include a special chapter providing guidelines for the investigators of criminal acts against women; therefore, it should be applied nationwide and provide preventive imprisonment in cases of femicide. It should also include substantive and procedural provisions at both Federal and State levels, in order to create specialized

bodies to address the prevention, criminal investigation and administration of justice in any act that involves a transgression of women’s rights.

**b)** To establish a unique database accounting for the number of crimes against women at the State and Federal level.

**c)** Gender Alerts and protective measures should be issued within a period not exceeding 30 days and allow the involvement of non-governmental organizations in the procedures prior to the issuance of said Alerts, in a transparent and inclusive process.

**d)** Policies aimed to reduce discrimination and inequality gaps should not be limited to a greater participation of women in labor, but to the unrestricted and responsible exercise of their freedom to decide on their full development. For this purpose, it is necessary to redesign the curricula from kindergarten to university, so that women and men grow up in an environment of equality and respect.

**e)** It is essential to create a culture of respect for the law and promote adequate training to strengthen both technical and operational capabilities, in order to dignify security system, law enforcement and justice administration operator’s actions.

**f)** That security and law enforcement agencies attend to the victims of these crimes with dignity and ethics. To do this, it is necessary to train and reorganize the law enforcement system, so that specialized bodies gather the evidence of criminal acts from the very beginning of the investigation, and discuss the appropriate lines of inquiry for the timely combat of such behaviors. ■

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# Repeated speech?

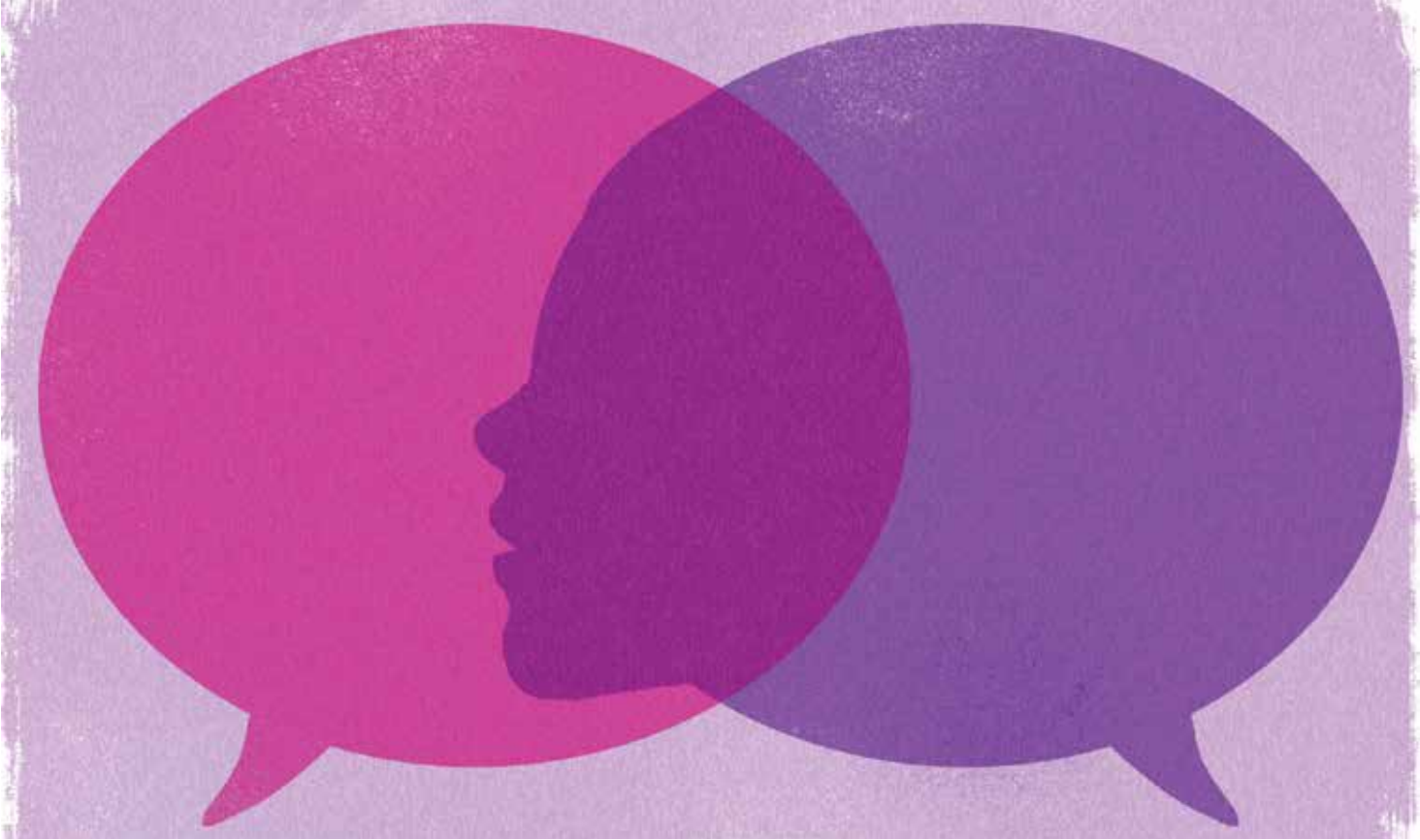
By Judge Josseline Bejar\*

Laura Berenice Ramos Monarrez, a 17-year-old student, disappeared on September 22nd, 2001. Claudia Ivette Gonzalez, a 20-year-old maquiladora worker, disappeared on October 10th, 2001. Esmeralda Herrera Monreal, 15-year-old housemaid, disappeared on Monday October 29th, 2001. Their families filed missing person reports, however, the authorities did not initiate investigations, limiting themselves to registering the disappearances, issuing wanted posters and public declarations and notifying the then extant Judicial Police.

On November 6th, 2001, the bodies of Laura Berenice, Claudia Ivette and Esmeralda were found. The corpses showed signs of sexual violence; it was concluded that the three victims were deprived of freedom before their deaths. Despite everything done by their families, there was no investigation or prompt punishment for those responsible.

Yes, we are referring to the “Cotton Field” (Campo Algodonero) case, which internationally declared the

<sup>1</sup> Inter-American Court of Human Rights. (2009). Gonzalez and others case (Cotton Field [Campo Algodonero]) vs. Mexico. Sentence issued November 16, 2009. N/A: Inter-American Court of Human Rights. <sup>2</sup>The Inter-American Court of Human Rights confirms that it will use the term “female homicide due to gender, also known as femicide”. See Inter-American Court of Human Rights, Cotton Field (Campo Algodonero) case, paragraph 231. <sup>3</sup> National Citizen Observatory for Femicide. (2012-2013). A study on the implementation of the basic criminal definition of femicide in Mexico. Causes and consequences. Mexico: OCNF, pg. 22. <sup>4</sup> National Citizen Observatory for Femicide. (2012-2013) A study on the implementation of the basic criminal definition of femicide in Mexico. Causes and consequences. Mexico: OCNF, pg. 26-27. <sup>5</sup> Ramos Ponce, M. (2015). A Study on Femicide in Jalisco. Mexico: Editorial STAUdeG I ACADEMIC LETTERS, pg. 15.



Mexican State responsible for its lack of diligence in the investigations related to the disappearance and death of Laura Berenice, Claudia Ivette and Esmeralda.

Quoting this case can never be considered repeated discourse; it is instead an obligation when the issue is violence against girls and women who we know by their full names - without there being any restriction thereof by the relatives of the victims-. No matter how repetitious it might seem to some, it cannot and should not be forgotten, their names represent the cases that were not brought before the Inter-American Court, the cases which are still under investigation, the cases which unfortunately keep happening; the Cotton Field case became a paradigmatic precedent in the development of the jurisprudence of the Inter-American Human Rights System since it was the first case to take into account a structural gender-based situation of violence against women, certainly a great lesson for the Mexican State in its full context, a guarantor pronouncement of judgment with a gender perspective.

In its resolution, the Inter-American Court of Human Rights concluded, among other important points, that the young women had been victims of violence against women, according to the

American and Belém do Pará Conventions, considering that their “homicides” were gender-based and framed within the acknowledged context of violence against women in Ciudad Juarez.

This ruling was a major impetus for the classification of the crime of femicide in Mexico, however it was not until 2011 when it began to be considered a distinct and separate offense .

The symbolic function of classifying femicide in Mexico reflects the purpose of punishing criminal behavior with discriminatory roots, through a clear message about defending life, integrity and non-discrimination against women, as well as their right to be treated as individuals with fully recognized dignity. This classification is one more action with the primary objective of attending a complex problem in a specialized manner and is one of the actions to eradicate it .

In the section on reparations, the Inter-American Court of Human Rights ordered concrete measures, some of which are:

1. The mainstreaming of gender in the development of protocols, manuals, ministerial criteria, expert services and justice administration in order to investigate crimes related to disappearances, sexual violence and the murder of women.

2. The implementation of a program to search for missing women, improving Operation Alba and the respective Protocol.

3. Updating a nationwide record of missing women and girls as well as a database with genetic information.

4. The continuation of programs and training courses on Human Rights, gender and gender perspective to ensure due diligence in preliminary investigations and judicial processes related to discrimination, violence, gender-motivated female murder and overcoming stereotypes on women’s social role.

Pursuant to the ruling, actions were carried out by the Mexican government, and the progress made on this issue should be acknowledged, but as long as a single woman loses her life in these circumstances the debt remains open, as National Citizen Observatory for Femicide experts do well in asserting: eradicating violence against women is the goal.

The normalization of violence in general and violence against women in particular, is inadmissible. It is a Human Rights issue. The recognition of violence against women has been the subject of a major transition, as has the concept that defines it, having gone from “domestic violence” to “gender violence” .

Therefore, regardless of the function appropriate to female and male Judges, we are all obligated to work on its causes in conjunction with society, activists, academics or any other person performing positive actions that contribute to ending violence against girls and women; there is no conflict of interest between this commitment and a position in the Judiciary, no statement that compromises cases to be judged.

Judicial experience should not remain stored solely in the contents of resolutions. Although this is in itself an accomplishment, obviously, because it also contributes significantly to special prevention, general prevention is an open space to prevent criminal behavior, and that space corresponds to everyone, regardless of the work they perform. ■

**\*Josseline Bejar:** Criminal Judge for the State of Jalisco, Mexican Association of Female Judges and Magistrates Secretary  
VV LEAD FELLOW 2015



Interview | **Magistrate Alfonsina Bertha Navarro**  
*Mexican Supreme Court Circuit Magistrate*

# COMMITMENT, DEVOTION AND HARD WORK

After serving for more than 45 years in the Federal Judiciary, Magistrate Navarro Hidalgo's name is now synonymous with iron clad commitment, devotion and hard work

A graduate of Jalisco's Teacher's Training College and the University of Guadalajara's Law School, Magistrate Navarro has taught Grade and High School, given courses and lectures on "amparo" proceedings and electoral matters and participated as an official observer in elections. In 2008 the Federal Judiciary Council awarded her the Ignacio L. Vallarta medal to judicial merit. She was the first woman appointed District Judge by the Mexican Supreme Court. She has also worked as Circuit Magistrate and has been attached to various collegiate courts. She held the post of Electoral Magistrate for 10 years.

**What was the professional future that you glimpsed from an early age, considering that your father and grandfather were two persons who had a decisive influence on Education in your home state, Jalisco?**

**Magistrate Alfonsina Bertha Navarro Hidalgo:** I think I was born under a very good star, within an integrated family. My father, mother and grandfather were all granted State of Jalisco Literature awards and my mother was a writer.

Your grandfather directed Guadalajara's Teatro Degollado. Additionally, your father had a magazine... and it is my understanding that he also owned a bookstore.

**Magistrate Alfonsina Bertha Navarro Hidalgo:** [My family has quite a bit of history with Teatro Degollado; they even lived on the premises and met numerous celebrities]. My father was the creator and founder of the longest-running Mexican magazine in intellectual matters, Etcetera. He also owned the Periquillo bookstore, where literati interacted with young people. I developed in that environment and I was fortunate in having had a great education.

**What made you interested in Law School?**

**Magistrate Alfonsina Bertha Navarro Hidalgo:** I wanted to keep educating myself and [I realized I could] help people, liberate innocent inmates... that's what motivated me. [I had the support of my father] ... and was very dear to my classmates and my teachers. [There were] very few of us women, only eight or ten in the University of Guadalajara's Law School.

We were always very much taken into account, and as a student I had many wonderful teachers, especially Manuel Gutierrez de Velasco, who invited me to join the Federal Judiciary. But times were very lean at the Federal Judiciary, and I was earning three times more as teacher... and I had to help out my family.

How [positive] that women were treated that way. In addition, you were telling us about that teacher of yours, that extraordinary Supreme Court Justice, Manuel Gutierrez de Velasco.



Illustrated by **Angel Sanchez**



**Magistrate Alfonsina Bertha Navarro Hidalgo:** Manuel Gutierrez de Velasco told me, “since you won’t become a judicial officer, [as soon as an opportunity presents itself] I will appoint you Study and Account Clerk.” Manuel Gutierrez worked closely with Jose Alfonso Abitia Arzapalo, and then one of Abitia Arzapalo’s Clerks was promoted to a political post and a vacancy opened up... [Fortunately] I performed satisfactorily.

**How did Alfonsina Bertha arrive to the Mexican Supreme Court, at a time when there were very few female Study and Account clerks?**

**Magistrate Alfonsina Berta Navarro Hidalgo:** Manuel Ruiz Yanez recommended me to the then new District Judge Jose Antonio Llano Duarte. [I was offered the vacancy and I wanted to speak to the Magistrate I was working under, since I didn’t feel mature enough to assume that new position. But “my” Magistrate assured me that I was ready]. In less than a week I had become a Study and Account Clerk in the Mexican Supreme Court with Manuel Ruiz Yanez.

At the time there were only four female Study and Account Clerks, we met every fortnight to have breakfast together. There were [Supreme Court] Chambers where the motto was to avoid the presence of any female colleagues. One of us women used to say that we were the pioneers.

Our thanks to you and to all of them, who opened up this path to us [women]. [And that reflection leads us to consider] the relevance that being the first female District Judge in the Federal Judiciary involves.

**How did your appointment come about?**

**Magistrate Alfonsina Berta Navarro Hidalgo:** I would like to digress... let us remember that Judiciary appointments were made via lottery. It fell on Justice Cristina Salmoran to propose a District Judge and she suggested her best candidate. They rejected that candidate on account of her female gender, [because it was felt that] she would not be strong enough, nor have the qualities needed to be District Judge. Justice Salmoran, her candidate and myself cried together over that.

[As for my appointment] Magistrate Abitia Arzapalo, who was a feminist, became a Supreme Court Justice. On account of the lottery, it fell on him to make appointments. He then told me, “I will propose you as a candidate.” He and Justice Salmoran started lobbying all the other Supreme Court Justices in order to convince them that I would do a good job. Subsequently, I was appointed District Judge in Toluca.

The female Justice who had been considered weak was quite the opposite: she was a very hard woman. She used to say she wore the skirts well in lieu of the classic “I wear the trousers around here” macho statement. [She] was tough, but very supportive of other women. [For in-

stance,] when I was a District Judge she showed up at District Court, first weekly and the once a fortnight, to check how many cases I was handling and how many sentences I had issued.

**Was there a case that somehow marked your life or that seemed very interesting to you during your time as Judge?**

**Magistrate Alfonsina Bertha Navarro Hidalgo:** I tried to be a good District Judge, because I had the great responsibility of opening or closing doors to women on my shoulders. Now that there has been so much interest around gender equality and gender perspective, I can quote two cases that struck me particularly...

**There was a woman with twelve children who had an imprisoned, drug-addicted husband. He demanded she get drugs for him. She was not a drug dealer, but she contrived a way to get the drugs to her husband: she made delicious chiles relenos. The chiles were so good that the prison guards decided to eat them themselves. Boy, were they surprised when they cut into the chiles and discovered [that the stuffing] was marijuana rather than meat. The prison guards immediately consigned that woman, so I went to Pedro Ceja Torres, who was the Unitary Magistrate involved, and told him, “This woman is not a drug dealer, she just loves her husband very much. I’ll write this down as a mere attempt to get the drugs to him, with a three-day sentence that is nearing completion, so that she can go back to her twelve children.” That poor woman had to take in laundry in order to support her children... Pedro Ceja agreed and confirmed my ruling.**

On another case, there was a railroad crossing in Ciudad Nezahualcoyotl where many people tried to outrun the train. A woman in her Volkswagen Beetle [tried to do so]. As a public and notorious fact, it was said that railroad tracks were magnetized whenever a train approached a crossing. This poor woman tried to outrun the train and the railroad ran over her car, killing her son. I thought to myself that there is no worse tragedy for a mother than losing a child. I acquitted that woman of [negligent manslaughter], arguing that there was no negligence, since the tracks were magnetized. That’s judging with gender perspective! Especially if there are items in the case that allow us to reach a verdict of that nature...



**Magistrate Alfonsina Bertha Navarro Hidalgo:** Of course, you’re not going to make anything up. The important thing is to use a strong argument to support your ruling. [In the first case], I said to myself, “No, there was no malice here; this woman is not a drug dealer. “ That had been proven. [In the second case quoted], it was a public and notorious fact that the tracks were magnetized at railroad crossings.

In 1980 you were designated Circuit Magistrate, also as one of the first women to hold that post. Tell us about your experience.

**Magistrate Alfonsina Bertha Navarro Hidalgo:** I had been [suggested as a candidate earlier], but I didn’t fulfill the age requirement at that point. Then it was Justice Abitia’s turn to propose an appointment again, and he selected me. I was one of the members of the only Collegiate Court in Oaxaca, where Justice Salmoran also made her appearance. The Federal Judiciary was given the importance it deserved...

**Magistrate Alfonsina Bertha Navarro Hidalgo:** Yes, it was given its due, because at that time, a person felt honored to be appointed District Judge or Magistrate. He or she was highly respected by the Mexican population.

**Who were your colleagues in the Collegiate Courts you were part of?**

**Magistrate Alfonsina Bertha Navarro Hidalgo:** In Oaxaca, Marco Antonio Borrego and Martin Arrollo were very good colleagues. When I finally managed to go back to Guadalajara after several attempts, Rafael Garcia Valle, a Judiciary institution, was at the city’s only Collegiate Court. Rafael Garcia Valle [did not want women in his team, he feared he would not get along with them], but eventually we became very good friends and he also acknowledged that women can hold high ranking positions.

We want to talk about a very important part of your career, your arrival at the Electoral Tribunal of the Federal Judiciary Branch’s Superior Chamber.

**Magistrate Alfonsina Bertha Navarro Hidalgo:** The Justices were kind enough to invite me to participate. They issued a summons, but I never thought I’d get all the way to the Superior Chamber, because I’m not a political person. However, I was nominated. [I tried] as I have always done, to perform satisfactorily. I met wonderful colleagues as the only woman there. They were as fond of me as I was of them, with admiration, respect and deep affection on both sides.

**What was the most important issue you ruled on during your tenure in the Electoral Tribunal?**

**Magistrate Alfonsina Bertha Navarro Hidalgo:** I was one of those responsible for formulating this Tribunal’s ruling on the election of Felipe Calderon Hinojosa as President. As the whole country knew, it was very close election, there had never been such a close contest in Mexico. We were cloistered inside the Tribunal that was created specifically for that purpose.

**[During this period of time], did Magistrate Alfonsina Bertha live in the Electoral Tribunal [?]**

**Magistrate Alfonsina Bertha Navarro Hidalgo:** Yes, and I mean that quite literally. It wasn’t just me, either, some Clerks lived there too. I remember Felipe de la Mata, whom I believe is now a Specialized Chamber Magistrate; he lived near Santa Fe and his wife came over every eight days to bring him clean clothes for the week ahead. I had my wardrobe and sent my driver to fetch me something to change into. [The building] was equipped with showers, [and I] had a small room with a cot, where I slept.

**How did you build this very successful career, why are you so respected and dear to everyone who knows you? What would be the message you would like to share?**

**Magistrate Alfonsina Bertha Navarro Hidalgo:** If I’m liked and respected, that’s due to people’s goodness. The message I can send is that I fell in love with the Federal Judiciary Branch because it was a fertile environment for the development of someone who loved Law from a position of rectitude, of daily learning, of growth. [My message is] to love the Federal Judiciary, to become passionately devoted to it with a self-sacrificing spirit. Formerly, the Judiciary faced lean times; we went into the Judiciary not for the big salaries or the great benefits, but because there you could really become worthy as a person. The message I can send is that we should love the Federal Judiciary because it is the means by which we are ennobling our country: we are a Branch of the Union and our mission is to fulfill the duty that the country has imposed on us, the distinction bestowed upon us.



# A brief history of the Mexican association of Women Judges



The First Latin America and the Caribbean Convention of the International Association of Women Judges (IAWJ) and the twentieth Convention of the Association of Women Judges of Argentina (AMJA) were held in early 2013 in Iguazu, Argentina; Mexico assisted in order to understand the purpose of their activities. On that occasion the Covenant of Women Judges of Latin America and the Caribbean was signed, on behalf of Human Rights, of affection between men and women and the defense of Mother Earth. During those events, Mexico was invited to form a partnership between Mexican women judges at a federal and state level, and to integrate this new body into the work being done at an international level.

In August 2013 the Mexican Association of Women Judges and Magistrates, A. C. (AMMJUM) was established, in Guadalajara, Jalisco, Mexico. In early 2014, the AMMJUM was incorporated into the International Association of Women Judges (IAWJ).

The Second International Conference on Gender Perspective in Law Enforcement took place in August 2014. This time, Mexican Supreme Court Justice Margarita Beatriz Luna Ramos was welcomed as First Honorary Member.

AMMJUM has worked with universities and associations, Women's Institutes and NGOs at the invitation of the State Human Rights Commission of Jalisco. We have collaborated with the Jalisco State Congress Gender Commission in drafting the reform and harmonization of Jalisco legislation.

We have concluded cooperation agreements with the AMJA (Association of Women Judges of Argentina), the National Human Rights Commission and the State Human Rights Commission of Jalisco, to engage in training, education, research and dissemination of Human Rights.

As of June 2015, we have become permanent participants in Gender Equality Inter-institutional Committee



Illustrated by Angel Sanchez

Sessions, as well as in Committee for Monitoring and Evaluating the Covenant to Introduce Gender Perspective into Mexican Law Enforcement Bodies Sessions.

In May 2016, our Association attended the thirteenth International Biennial Conference of the International Association of Women Judges in Washington D.C., where an award for its twenty-five years of existence was received.

## THE ASSOCIATION'S PURPOSES ARE AS FOLLOWS

» To inform, raise awareness and sensitize individuals, particularly among law enforcers but also among the general public, to the need for the observance of Human Rights for all, but especially for women, in order to help improve women's living standards through law enforcement.

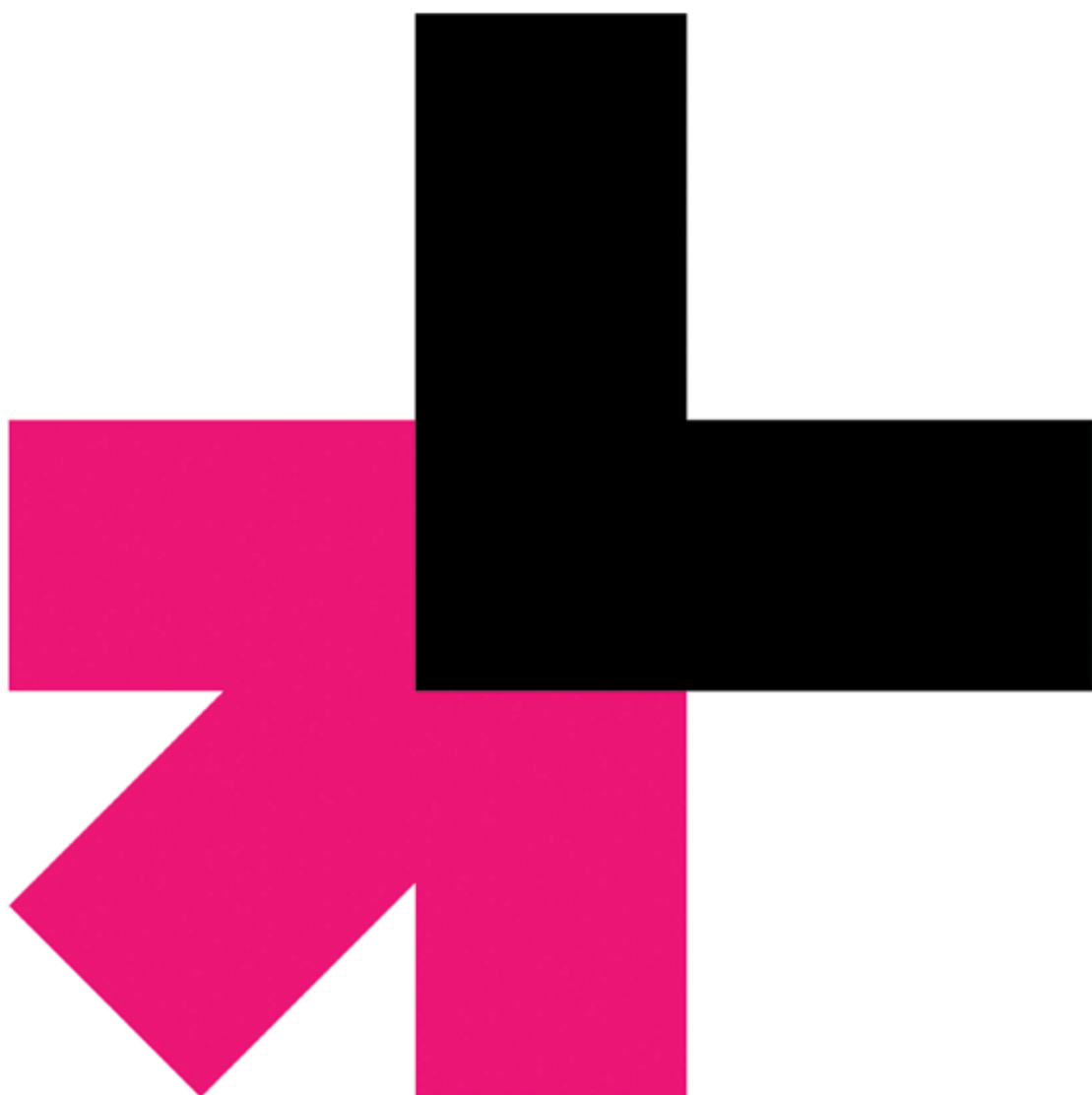
- » Build an outreach and resources center to distribute information that relates to female Judges and Magistrates.
- » Conduct research, conferences, judicial exchanges and orientation programs that contribute to understanding and resolving critical issues that women face at the regional, national and international level.
- » Encourage cooperation and participation of female Judges and Magistrates nationwide.
- » Ensure that the legal system facilitates and protects the rights and interests of women and that it reflects the equal role of women in society.
- » Address other important issues related to the advancement and improvement of women in the legal system.
- » Join national or international law enforcers' federations, confederations or associations.

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para la igualdad de género