

# HeForShe

Movimiento solidario de ONU Mujeres  
para la igualdad de género

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CONSEJO DE LA JUDICATURA FEDERAL

# Igualdad

⊕ Co-perpetration  
and the challenges  
of judging on a gender  
perspective: Equality in  
the administration  
of justice.

⊕ The inclusion of  
autistic children in  
education: equality  
of opportunity.

⊕ Gender parity,  
the pending issue  
in Mexico: Political,  
domestic, and labor  
inequality.

Symbolic violence, the subtle  
and almost invisible punishment  
that arbitrarily deprives women  
from their public and private  
freedoms. <sub>40</sub>

## A NEW INQUISITION

*"From this equality of ability ariseth equality of hope in the attaining of our ends."*

Thomas Hobbes/ English political philosopher and scholar.



⊕ Political violence  
behind the gender parity:  
The repeated practice of  
discrimination, disrespect,  
and mistrust against women.







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# Culture and Justice against discrimination

During the last decade, attention to vulnerable groups, also known as social groups in conditions of disadvantage, occupies an increasing space in the three governmental and public policy agendas.

It is defined as the concept of “vulnerability” in specific sectors or groups of the population due to age, sex, marital status, ethnic origin, extreme poverty, and disabilities, among others, that put them in risk, and disadvantage preventing them from having an adequate development and access to better conditions of well-being.

This is why recognizing these vulnerable groups is important, since through the implementation of public policies to raise awareness and sensitize the population on their existence, it is possible to fight against prejudices. Educational campaigns, information, and dissemination will support this fight against discrimination. In view of the foregoing, this 10th issue of Equality magazine, we have included an editorial on “The inclusion of autistic children in education”.

The States should introduce general prescriptive laws against discrimination, in order to remove the obstacles to equal participation of people with disabilities. It is vital that in the community overall, measures are taken to include information on the situation of people with disabilities; and in this way work in coordination to build an inclusive society, that, regardless of social, economic, ethnic, physical or any other disadvantages, guarantees their social rights and enjoy a life in dignity.



Illustration: Ángel Sánchez

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## To primarily guarantee the right to hearing, which at the very least must allow the use of their voice and provide evidence for their defense

The Superior Chamber revoked the ruling issued by the Regional Chamber of Xalapa, which in turn invalidated the ruling issued by the Electoral Tribunal of the State of Oaxaca, to nullify the Community Assembly that took place on the 28th day of April, 2016 as well as the remaining Acts linked to the dismissal of the members of the Municipal agency of San Felipe Zihualtepec, Municipality of San Juan Cotzocon Mixe, Oaxaca.

The former due to the fact that the Superior Chamber stated that during the Community Assembly, Agustina Castellanos Zaragoza, Cecilia Fermin Baptist, and Sofia Sixto Mendoza were dismissed from office, failing to guarantee their right to a public hearing, since they were not informed of the issues being addressed, nor was it stated in the Acts that during the Assembly they were not allowed to freely speak on their own behalf to defend themselves, nor to provide the evidence with regards to the accusations on which the intent of removing them from public office were grounded.

In that context, the Supreme Chamber considered that the right to a hearing should be protected substantially. In this specific case, following Article 7th of the Convention on the Elimination of All Forms of Discrimination against Women, created an environment of political gender violence, denigrating women in their exercise of office, not allowing them to defend themselves against the accusations made against them and not allowing them to provide leading evidence, it was clear that their right to a hearing was not respected.

Hence, the Superior Chamber established that, in order to protect, under an intercultural perspective the fundamental right to a public hearing, the members of the office should have been allowed to exercise the right to defend themselves, or establish a stand against an accusation, in a peaceful and respectful environment, in order to freely manifest a position against an accusation, is a minimum guarantee in favor of any



person which is to be removed from public office, even under a traditional system or internal community rules. Therefore, the Chamber stated that it was clear that the members of the referred body could not freely express what, to their convenience, was appropriate to defend themselves against the allegations of the use of the resources under their management.

In this way, the Chamber ruled that the facts cause of the trial, took place in a context of political gender violence and that therefore the dismissal of the municipal agents could not be in effect. The aforementioned, in accordance to Article 7th of the Convention on the Elimination of All Forms of Discrimination against Women, which states that it is the duty of the States to enforce all “appropriate measures to eliminate discrimination against women in the political and public life of the country”, as well as in compliance with the Inter-American Convention to Prevent Punishment and Eradicate Violence against Women (Convention of Belem do Para) drawing from the recognition that violence against women is a manifestation of the historically unequal power relations between women and men, therefore constitutes a violation.

Consequently, the ruling was revoked in order to modify the one issued by the Electoral Tribunal of the State of Oaxaca, urging the General Community Assembly or any other Municipal Community Authority, in such case, to act in accordance with the minimum of formalities that could be complied with and above all, to act with full respect and without violence over the municipal institutions. ■

## Duke V. Colombia

Sentence of February 26, 2016

### INTER-AMERICAN COURT OF HUMAN RIGHTS

Mr. Duke lived with his same-sex partner [J.O.J.G], until the latter died in September 2001, as a result of Acquired Immunodeficiency Syndrome (AIDS), his partner J.O.J.G, was affiliated to the Administrator of Pension Funds and Severance Colombian Company (Compañía Colombiana Administradora de Fondos de Pensiones y Cesantías, aka COLFONDOS S.A.). In March 2002, Mr. Duke asked for the requirements to obtain the survivorship annuity of his partner J.O.J.G., COLFONDOS answered that he did not hold the status of beneficiary under the law to access survivorship annuity. Facing the negative response by COLFONDOS, Mr. Duke filed a conservatorship action requesting for recognition and payment of the substitution of the pension in his favor as a transitional mechanism while promoting the judicial action.

**The Municipal Civil Court of Bogota denied the conservatorship promoted in June 2002, stating that Duke did not meet the qualities that are required by law for a transfer pension of the deceased in his favor, and that no legislation, or law had recognized any right for homosexual couples.**

The resolution was appealed by Mr. Duke and confirmed in its entirety on July 19, 2002. Colombian Law in force at the time these facts happened indicated, in particular, that the beneficiaries entitled to survivorship annuity, were “[i]n life, the spouse or the surviving partner or permanent partner” (Law 100 of December 23, 1993), and that: “[for] all civil effects, a de facto marital union is considered that formed between a man and a woman, who without being married, make a permanent and unique life together. In addition, [...] partner and permanent partners, are referred to as the men and women that are part of the de facto marital union” (Law 54 of December 28, 1990).

Since 2007, the Constitutional Court of Colombia recognized jurisprudentially the benefits of annuity, social security and property rights to same-sex couples. The Court ruled that the law 54 of 1990 (which regulates matters relating to the de facto marital union) also applies to same sex couples. The Court subsequently determined that the coverage of the social security system regarding health under the contributory legislation also admitted the coverage of same-sex couples. In 2008, through ruling C-336, it was concluded that permanent couples of the same sex with proof of such status, are entitled to a survivorship annuity. In 2010, this

Court considered in several rulings that, the fact that the death of one of the members of the same sex couple had occurred before the date of notification of the C-336 ruling, did not justify the denial of survivorship annuity to the surviving partner and, moreover, should be granted to those couples under the same

mechanisms that accredit their permanent union than those used for heterosexual couples.

Based on the foregoing, the Inter-American Court of Human Rights declared that the State was responsible for the violation of the right to equality and non-discrimination contained in the American Convention on Human Rights, to the detriment of Mr. Angel Duke, the entirety of the time, in which he was denied equal access to the survival pension under the existence of a domestic law enforced since 2002. This denial did not allow the payment of pension benefits to same-sex couples, difference in treatment, which violated the right to equality, and non-discrimination, which was actually an internationally wrongful act. The Court recalled that no rule, decision or practice of law, may reduce or restrict, in any way, the rights of a person on the basis of their sexual orientation.

On February 26, 2016, the Inter-American Court of Human Rights declared the State of Colombia internationally responsible for the violation of the right to equality and non-discrimination under the law to the detriment of Angel Alberto Duke, and ordered the State: (i) to publish the sentence; (ii) to ensure Mr. Duke the priority of a resolution in favor of a pension for survival, and (iii) to pay the amount set out in the Sentence for non-pecuniary damage and reimbursement of costs and expenses.

In addition, the Inter-American Court ruled that the State should reimburse the Legal Assistance Fund for Victims of the Court for the expenses they incurred in during the processing of the claimant’s case. ■



# Murder perpetrated by a woman subject of violence by the victim

I. DETERMINATION OF THE FACTS AND THE CONTEXT

IDENTIFICATION DATA

“xxx” was convicted and sentenced to 20 years of prison after being found guilty of aggravated murder. The event took place at approximately nineteen hours and forty-five minutes on March the ninth, two thousand thirteen, when the defendant, using a knife, took the life of a male victim, with whom she cohabited and who, at that time had taken a fall, and was not carrying any weapons. The defendant struck the victim in the chest with the knife, causing him death by hemorrhagic shock.

FACTS THAT DISCLOSE  
THE VULNERABILITY SITUATION

The impetrator of the “amparo” declared that she was a victim of physical violence, moral and sexual abuse by the now deceased, who, she claimed, had virtually kidnapped her, because he would not let her leave the house in which they were cohabiting, nor did he allow her to talk to anybody. Additionally, she declared that she met the deceased in a certain place, where he told her to come with him for a ride to a different city. He said he would bring her back. However, once they arrived to the other city, he no longer drove her back. She declared that they lived with the mother of the deceased for a week before he was given a house, where he took her to live in. In this house, he beat her, hurt her, forced her to have sexual inter, drank too much, and locked her in, locking the house with a padlock...

II. LEGAL ARGUMENT

MAJOR ARGUMENTS THAT DETERMINE  
THE MEANING OF THE SENTENCE

It was considered as necessary that the Court undertaking the trial, even diligently, provided justice based on a gender perspective, in order to verify whether there was a situation of violence or vulnerability that, biased by gender, prevented full and equal justice.

In the view of the Collegiate Court, the obligation to impart justice with a gender perspective must observe the guidelines exhibited, in the understanding that, where sexual violence is subsumed in an act of torture and, therefore, provide all possible assistance to the criminal process.

It is true, that a Judge from an Oral Proceedings Court does not have fact-finding capacities, however, in due protection of the rights of women victims of violence, when acknowledging the existence of acts of this nature, should immediately notify the public defenders. Public Defenders, in due exercise of their duties, should provide relevant evidence – such as that provided by medical, psychological and psychiatry experts – as well as and tests of various kinds. The former is intended to establish the exclusion of criminality or nonimputableness causes, which could prove and be related to the cruel, inhuman, or degrading treatment suffered by the imputed. These causes might prove the defendant susceptible to committing the crimes attributed due to suffering from “Battered Woman Syndrome” or “Effects of Abuse”, as the result of domestic gender biased violence against her as a woman.

The former needs to be settled in order to determine if, at the time of the perpetration of the facts, the perpetrator, in principle, has acted voluntarily and knowingly or in the assumption of determining if she presented the battered woman syndrome. This settlement of facts is required to establish if a clouding of consciousness did not allow her to partially or fully understand the scope and meaning of her actions.

<sup>1</sup> A battered woman is one that “is repeatedly subjected to episodes of physical or psychological abuse by a man with the purpose of enforcing her to do something that he wants her to do.” L. Walker, Battered Woman xv (1979).



III. SENTENCE

MEANING OF THE RULING

It was stated that:

- 1. The responsible Criminal Court determines the claimed sentence as void.
- 2. Another sentence is issued, in which:

**A)** Following the guidelines outlined in this executory ruling, the Court orders the refitting of the procedure from the stage in which the facts possibly violating the human rights were reported, and notify the Prosecutor; so that he can conduct the investigation regarding such acts in a diligent and immediate way, investigation that must be impartial, independent and thorough...

**B)** Additionally, notify the defendant’s attorney of the now complainant, so that, in due exercise of his duty, he provides relevant evidence – including medical evidence; as well as evidence from psychology or psychiatry experts – in order to determine, if at the time of the

perpetration of the facts, the defendant acted voluntarily and knowingly or whether she suffered from Battered Woman Syndrome, in which case her clouding of consciousness did not allow her to partially or fully understand the scope and meaning of her actions. The defendant’s witness declaration, being a victim of abuse and violence, must be taken, since the defendant can also be a prosecutor as a victim of violence against women. In this case, the defendant’s testimony should be predominant, given the secrecy in which these aggressions take place, and considering this secrecy limits the existence of graphic or documentary evidence; and any other evidence of various kinds aimed to demonstrate the exclusive responsibility, causes of nonimputableness or justification that could be related to the cruel, inhuman or degrading treatment suffered by the imputed righteousness. These facts could prove that the defendant perpetrated the crime while suffering from “Battered Woman Syndrome” or “Effects of Abuse”, as a result of a domestic violence against her person as a woman. ■

**C)** Once the former has been fulfilled, determine the ruling under the applicable laws.



# JUDGING WITH A GENDER PERSPECTIVE

Fifth National Congress

On September 1st and 2nd, the Federal Judiciary Council, through the Office of the Coordination of Human Rights, Gender Equality and International Affairs, organized the Fifth National Congress “Judging with a Gender Perspective” in Mexico City. Two hundred one judges, 62 women and 139 men providers of justice participated in this Congress. The objective of the Congress was to “consolidate on gender equality and non-discrimination through a constructive jurisdictional dialogue between federal judges, as well as to review, analyze, discuss, and socialize rulings that introduce the gender perspective and non-discrimination as means to guarantee the enforcement of rights in equal conditions”.

The presidium was conformed by the Chief Justice of the Mexican Supreme Court and the Head of the Federal Judiciary Council, Luis Maria Aguilar Morales, the Federal Judiciary Council Rosa Elena Gonzalez Tirado, the Federal Judiciary Council Manuel Ernesto Saloma y Vera, the General Director of the Federal Public Advocacy Institute Mario Alberto Torres Lopez, the Director of the Federal Judiciary Institute, Magistrate Salvador Mondragon Reyes, General Director for the General Directorate for Research, Development and Promotion of Human Rights of the Mexican Supreme Court Leticia Bonifaz Alfonzo and Magistrate Lilia Monica Lopez Benitez, Representative of the Mexican Association of Female Judges, C.A.

Counselor Rosa Elena Gonzalez, stressed the importance enforcing the implementation of women’s unbiased access to justice without gender, default or excess, for it is an important path that the female and male judges and justice impairers have to walk along together.

Finally, Chief Justice Luis Maria Aguilar highlighted the importance of organizing conventions in which justice impairers meet and share healthy judiciary procedures, as well as the importance and commitment that the Federal Judiciary Branch has on ruling with a gender and non-discrimination perspective.



The discussion panels of the Fifth National Congress “Judging with a Gender Perspective” consisted of five simultaneous discussion panels in which rulings on a gender perspective were analyzed. These rulings were previously selected and sent to participants for research and analysis prior to the event. The panels were as follows Panel I: Gender and Criminal Law, Panel II: Gender and Civil Law, Panel III: Gender and Family Law, Panel IV: Gender and Labor Law, and panel V: Gender and Administrative-Electoral Law. Each panel consisted of 40 federal judges. The discussion boards took place in four independent sessions, each one-presented a ruling with gender perspective. These rulings were commented, analyzed, and discussed by the judicial officials.

During the analysis and review of the rulings, a judge performed a Rapporteurship and, in collaboration with his/her judicial coworkers and colleagues, drafted a final document that was read at the closure of the Congress by Councilor Rosa Elena Gonzalez Tirado.

With these congresses, judges strengthen their knowledge on gender equality, and they visualize the differences between judicial work and enforcement interpretation of the legislation in favor of equality and non-discrimination.

## Discussion panels in the judicial area on issues involving indigenous women and girls in the cities of Oaxaca and Tuxtla Gutierrez

*First and second sessions*

Article 2 of the Political Constitution of the United Mexican States (CPEUM, after its Spanish initials), states that Mexico is a multicultural nation.

The Mexican population is integrated by various social groups of mestizo origin, indigenous and afro-descent who develop their own political, legal, linguistic, religious, and cultural practices in different areas of their lives. Additionally, these practices have a differential impact on collective dynamics, depending on whether they are carried out by men or women. Even though the multiculturalism and the right to equality between men and women, are formally recognized in the Federal Constitution (Articles 2 and 4), this has not been sufficient to ensure that persons belonging to indigenous peoples and communities are able to fully exercise their rights. This is due, among other reasons to racism and discrimination based on gender and cultural extraction.

As part of the actions of the Office of Coordination of Human Rights, Gender Equality and International Affairs, and in accordance with the last paragraph of Article 81 of the Federal Judiciary’s Organic Law, actions aimed at strengthening the mainstreaming of the gender perspective within the of the Federal Judiciary Council are carried out on a permanent basis.



During November, the first and the second session of the “Discussion panels in the judicial area on issues involving indigenous women and girls” took place in the cities of Oaxaca, and Tuxtla Gutierrez.

The panels were aimed at providing the legal operators and theoretical, conceptual, and practical tools that will allow the acknowledgment and understanding of the characteristics of indigenous peoples and communities, their regulatory systems, and their social dynamics (uses and practice), as well as the various roles by gender. This in order to provide the basic skills to implement an intercultural and gender perspective in the analysis and resolution of jurisdictional conflicts where they are indigenous peoples and communities, especially girls and women, involved through academic

experts on the issue of gender and interculturality.

During the second day of the roundtable discussions, the federal judges who participated in them, carried out the analysis, review and discussion of a ruling in which indigenous peoples were involved, as well as their uses and practices, in order to identify good practices and make methodological argumentation and interpretation proposals with gender and intercultural perspectives. In addition, it was possible to visualize the vulnerability situation in which the indigenous communities are, especially girls and women, as well as the legal perspective of operators when issuing their resolutions. In this same way, these roundtables seek to raise awareness of the above mentioned in the participants. ■





# Discussion panels on women involved in crimes in the cities of Hermosillo and Monterrey

## First and second sessions

The recognition of the women's rights to a life free of violence and discrimination as well as the equal access to justice requires that all the country's courts impart justice with a gender perspective. This requires a method that enables the identification and removal of all barriers and obstacles that discriminate against people based on sex or gender. That is, a method that involves a trial that considers the disadvantage situations that, on gender biases, discriminate and impede equality.

Therefore, the State must ensure that in any court dispute where a situation of violence, discrimination, or vulnerability on gender biases is acknowledged, this situation is taken into consideration, in order to clearly visualize the problem and ensure access to justice in an effective and egalitarian way, regardless of stereotypes and stigmatization.

To this ends, it is essential to draw from public policies that promote, mainstream and bind respect and enforcement of equal opportunities while exercising



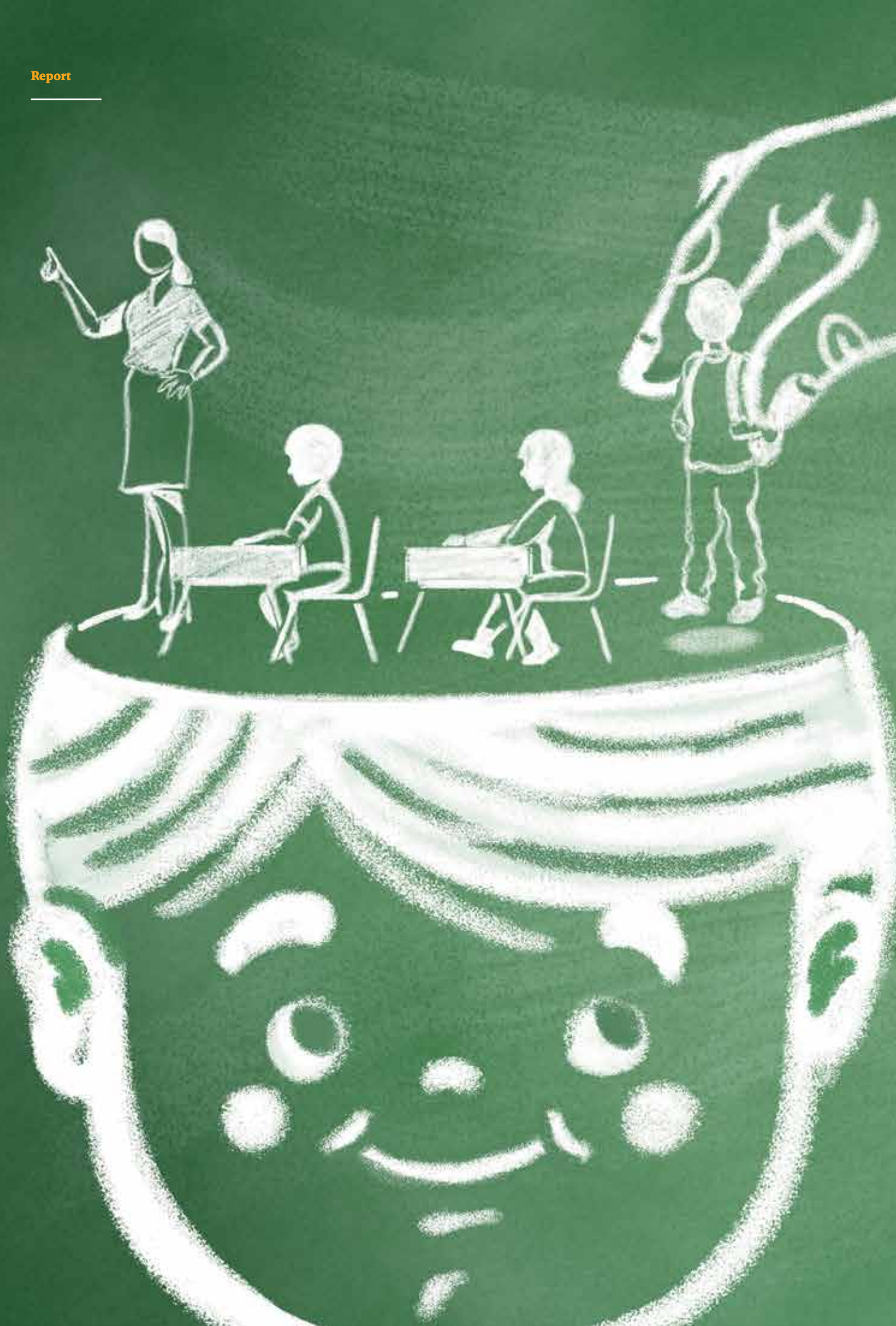
the rights for all. This task includes the daily duties of the Federal judges, who have in their hands the issuing of resolutions to which they are entitled, under national and international standards in the field of equality.

Hence, the importance of divulging and developing the topic in forums under discussion schemes, analysis and contribution of experiences that expand and strengthen the knowledge on the subject. For this reason, on November 10th and 11th, December 1st and 2nd, 2016, the Human Rights and Gender Equality Office of Foreign Affairs, conducted the first and second sessions of the "Debate on women involved in crimes", in the cities of Hermosillo, Sonora and Monterrey, Nuevo Leon, respectively. These sessions were aimed at the public office holders, the Fourth and Fifth Federal Judicial Circuits, as well as local judges.

The goal of these sessions is to consolidate policies on gender equality and non-discrimination through a constructive jurisdictional dialog between justice operators. They also have as a goal to review, analyze and discuss rulings that acknowledge gender perspectives and non-discrimination perspectives, in order to guarantee the exercise of the rights on equal terms; on one hand, and make visible the perspective of the judges and the public in general to rule with a gender perspective on the other hand.

The integration of the doctrine roundtables with the analysis of rulings with a gender perspective made possible the strengthening of the methodological knowledge on how to apply national and international norms in gender issues, making it possible to identify good practices in rulings. ■





# The Inclusion of AUTISTIC CHILDREN in Education

Equality in the hands  
of those who impart justice

By Liliana Espinosa García\*



“ ... screaming is heard in the classroom: a group of boys and girls are playing, submerged in full in their imagination and creativity chores. Some have been accidentally injured, sighing parents comfort them and dry their tears with handkerchiefs, as they take their hands, embrace them and say: hush now, some day this will change!”

In the last decades, different places and perspectives have called for varied legislative policies, concerning access to education as one of rights of boys and girls.

Education as a right issued by the United Nations Convention on the Rights of the Child (UNCRC), has enacted that boys and girls with Special Educational Needs (SEN) access education within the regular school system, on the basis of equal opportunities; also decreed in 2006, by the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

The proceedings in Mexico have tried to respond to this initiative of the the United Nations (UN), issuing data supporting the increase in cases of boys and girls with SEN included in regular schools in recent years. In spite of this, the continued efforts of parents, teachers, teaching aids, and even of the jurisdictional field, which are, through time, increasing steadily towards equality; for boys and girls with SEN, specially with autism, have not been designed for the monitoring of such schools, leaving them apparently included in one way or another.

UNICEF works tirelessly to ensure that all boys and girls - regardless of gender, disability, ethnicity, etc. - have access to quality education, because the goal to be achieved is to guarantee equality and eliminate disparities of all kinds. Constant concerns [drive national and international bodies] to innovate with programs and initiatives aimed at boys and girls in disadvantage: the vulnerable ones and those no one sees.

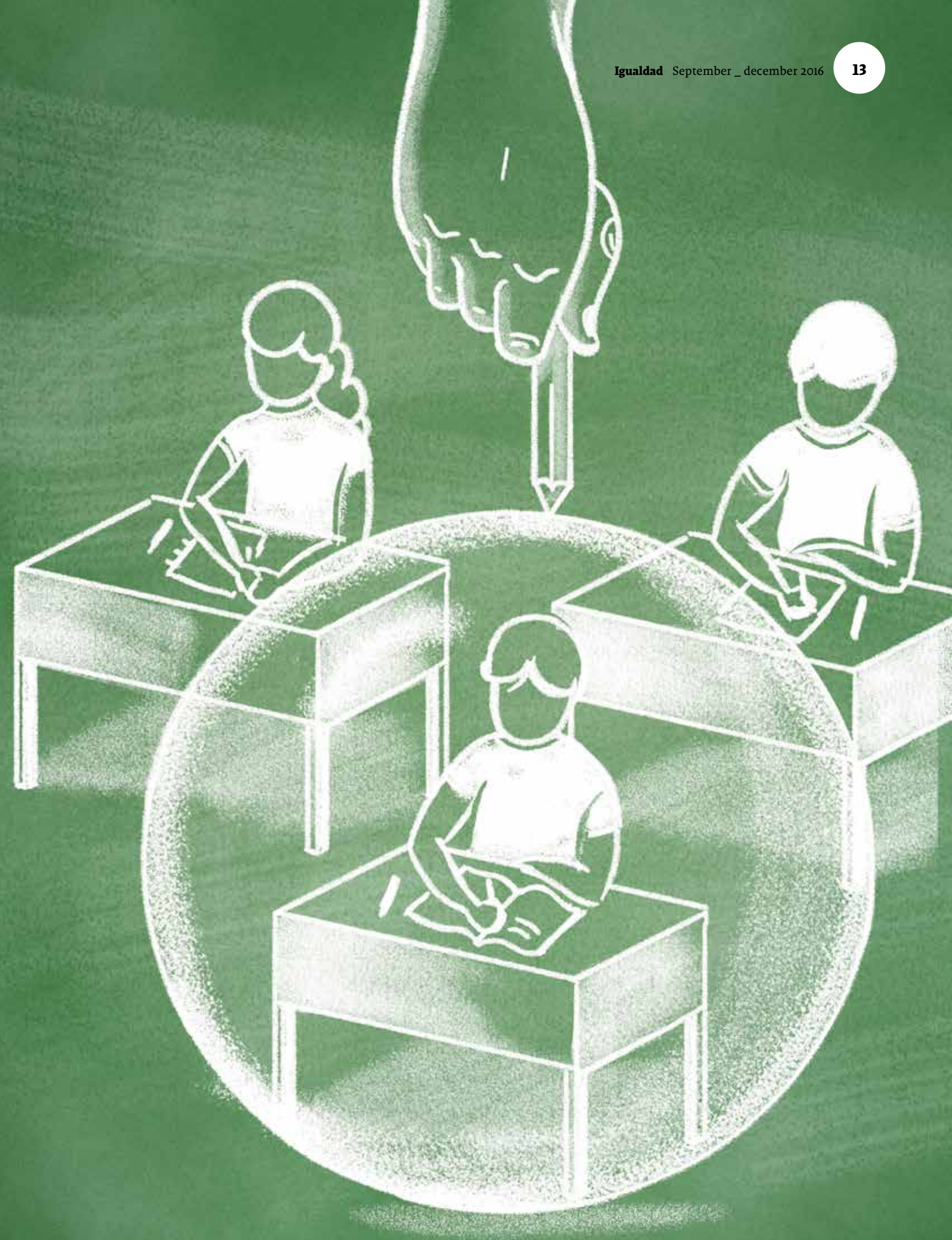
Mexican policies have tackled the issue of educational inclusion, because it is not enough to be thoughtful, inclusion needs to be executed in the day to day practice. Teachers involved in this exciting educational process of equality must receive initial training for the adequate performance of their jobs. It would thus be easier; however, there is also the need to weave friendly attitudes and values towards autism, without leaving behind the correct attitude of those involved in inclusion, and certainly the availability of the economic resources that may back emerging needs.

#### **MEXICO IN THE FACE OF EQUALITY OF SEN CHILDREN**

The issue of inclusion as addressed internationally

has tried to combine theory and practice, yet it poses a tremendous challenge, mostly in developing countries, as it happens in Mexico. Mexico has high poverty rates (Forlin, 2010), along with a growing demand for educational services. However, article 41 of the General Education Act (Ramos & Fletcher, 1998) expressed that services for SEN must provide education to any boy or girl who requires support for an optimal learning environment, and must provide the necessary resources for schools. Nevertheless, this is not happening as expected, resulting in an embedded complication to provide quality education for all.

**Boys and girls with Autism Spectrum Disorder (ASD), [defined as]: “a disorder in child development that lasts a lifetime, characterized by a difficulty to interact socially and to communicate with others, as well as tendency to undertake repetitive behaviors and restricted interests” (Frith & Hill, 2004:1). This definition in itself makes it clear that autism makes it difficult for children to achieve inclusion in regular school centers, due to different constraints such as infrastructure, cognitive [abilities], biological constraints, among others.**





In our country the so-called Multiple Attention Centers (CAM, after Centros de Atención Múltiple in Spanish), have been created as public entities that provide support to such [children with] disabilities. The Units of Service of Attention to Regular Schools (USAER, after Unidades de Servicio de Atención para Escuelas Regulares in Spanish), nowadays called Units of Special Education and Inclusive Education (UDEEI, after Unidad de Educación Especial y Educación Inclusiva, in Spanish), have the mission of supporting inclusion for boys and girls in schools, whether public or private.

Research on SEN in our country (Guajardo, 2010), is aimed to call on inclusion of ASD children in the Mexican context, to discern, learn and approach the field of justice facilitators for the successful inclusion and participation in favor of Mexican schools. Several countries have had the opportunity to sign international agreements and conventions in favor of the rights for the inclusion SEN children. I make reference to the World Education Forum in Dakar, Senegal (UNESCO, 2000), where they address the fact that all boys and girls regardless of their nationality, gender or disability, have the right to basic education; currently included in our country from preschool, through primary and secondary levels.

To delve into the world of autistic disorders with factors that complicate the inclusion in a regular school environment, [involve facing] difficulties that each of them have both in the emotional and in the behavioral context (Dyson & Roberts, 2002:19). The inclusion perspective “leads to the creation of a single type of school for everyone, that will serve a socially diverse community (...) with emphasis on the assimilation of those perceived as different in a homogeneous normality instead of a transformation through diversity” (Ainscow, 2008: 19). This definition focuses on developing countries, the general goal of the 2015-2016 of education for all boys and girls is the access to it with a perspective of “inclusive education”, increasing the equal participation in order to overcome barriers on access and participation, thus achieving benefits for all students.

The existence of a number of laws in reference to the universal rights in regard to the specific groups of the population (with disabilities), which are unable to fully implement those rights, apparently suggest that the present issues and challenges in inclusive education, derive mostly out of the difficulty of turning existing legislation into practice, instead of a lack of adequate legislation (Avilés, 2006:296).

Regarding inclusive education, Mexico stands in a continuous process. However, in reality, it has failed to move from integration to inclusion, as it is necessary and

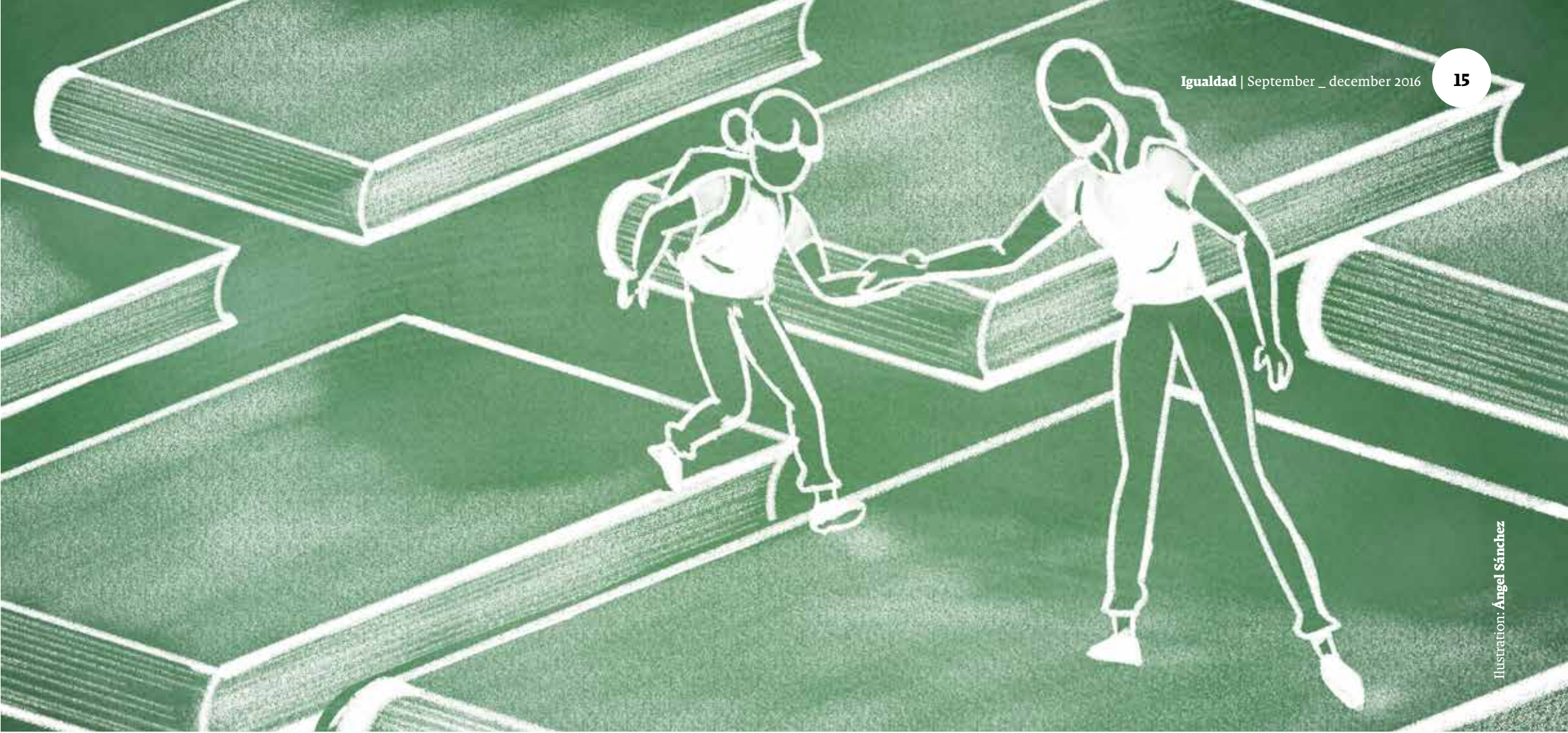


Illustration: Ángel Sánchez

urgent to raise social awareness on education for ASD. In order to change the attitudes, thoughts and culture need to change, from the outside to drive change into regular schools, in an appropriate and specialized way; until then, will we be able to be part of the country and embrace the flag of quality schools.

There have been many texts of previously reviewed literature, studies on autism, SEN and concepts among many others, which regard only regular schools. The key intention of this review and analysis is to show the figures of ASD boys and girls who can be included in regular schools. As well as to focus on the importance of the contribution of positive actions for such inclusion through the participation of parents, teachers, peers, etc.

The inclusion level in Mexico is limited, more so than in most countries. This fact is not unknown by public references, which broadcast information on the need for resources and training for undertaking and access to inclusion. There is a need to acknowledge the experiences of other countries such as the United Kingdom, Australia, the United States and Canada, to mention only a few, where inclusion has been substantiated in research because they have resources for its implementation in the school centers of each country.

The educational community must be jointly involved, to increase the necessary awareness in the society,

reporting on SEN. Autistic boys and girls require the collaboration of the entire stakeholders to learn about the many different social skills required for interaction in the environment in which they operate. ■

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# CO-PERPETRATORSHIP AND THE CHALLENGES OF JUDGING ON A GENDER PERSPECTIVE

By Vladimir Vejar Gómez\*

## 1. GENDER PERSPECTIVE IN INTERNATIONAL TREATIES

In the field of women's human rights, it was noted that national and international legislation was insufficient to guarantee them. This resulted, in the Mexican State, in a special vision of the international and domestic norms for human rights of women.

**Certainly, the Mexican State adopted mechanisms necessary to ensure to women the effective implementation of human rights, and stressed the importance of imparting justice with a gender perspective; the aforementioned, in order to eradicate discriminatory practices which are found precisely through the bodies of the State itself.**

## 2. THE PRINCIPLE OF GENDER EQUALITY AND THE CONSTITUTIONAL OBLIGATIONS FOR JUSTICE ADMINISTRATION

It is necessary to establish that the principle of gender equality is covered by article 4, first paragraph, of the Political Constitution of the United Mexican States; which has as its purpose the legal equality of female and male genders, and the aim of marking a pattern to modify or prevent the issue of secondary laws that may include any form of discrimination against women.

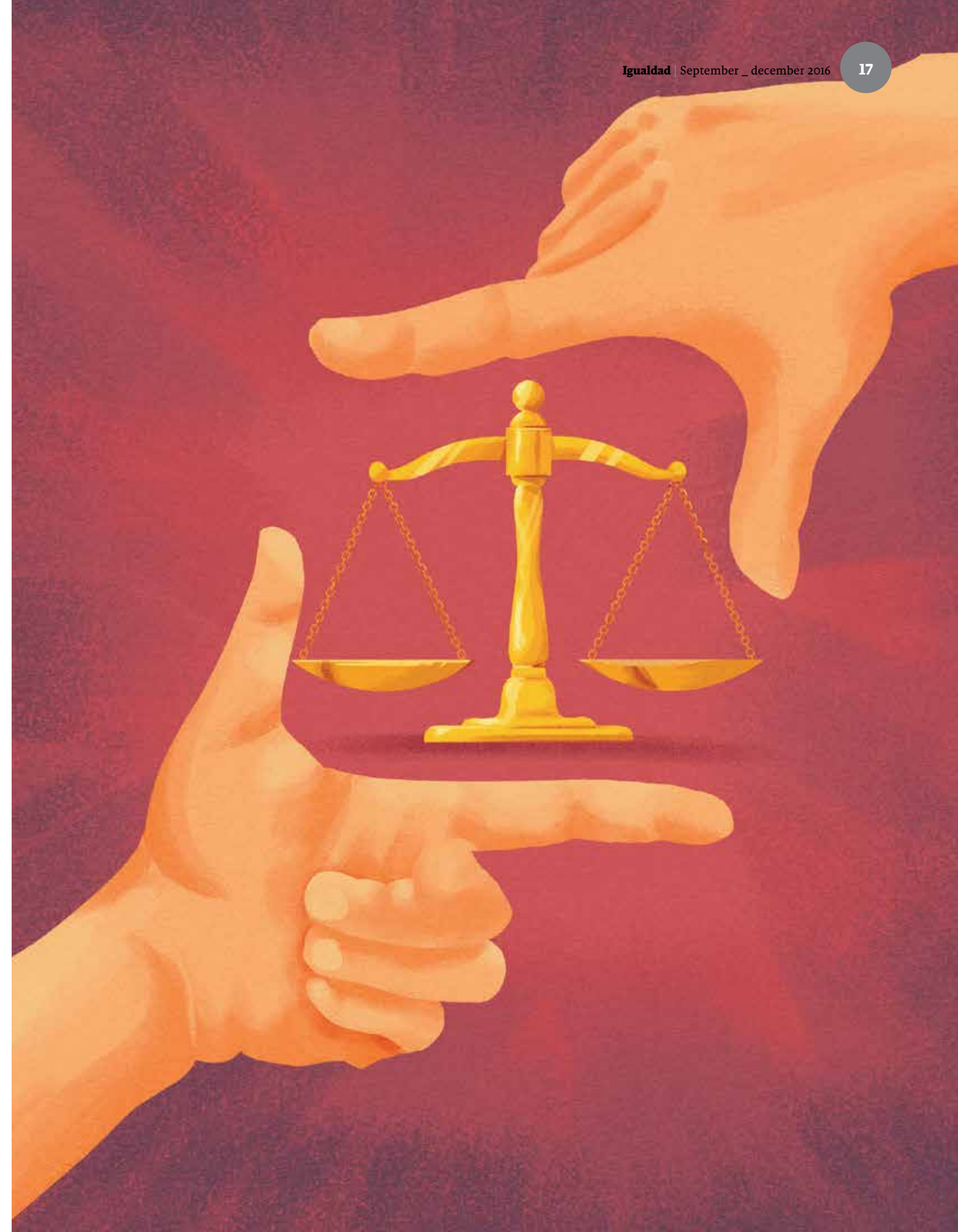
That is, the need to raise to a constitutional level the obligation of the legislator to equal treatment of men and women, derived from the discriminatory treatment that is given to women; therefore, the constitutional provision has two main edges: [I] to prevent the issuing of discriminatory laws, and [II] to serve as an interpretative criterion of those regulations in force in the Mexican State.

In this way, the gender perspective in the administration of justice requires, on one hand, to read and interpret a rule taking into account the ideological principles that sustain it, and the way in which

they affect, in a differentiated way, those who come to demand justice; on the other hand, departing from the facts exposed in a judicial conflict [Litis], understand the specific differences between men and women at the moment of facing concrete problems, and the differentiated effects these produce, both in males and females.

**Thus, this is how the judge finds a balance between genres, i.e., through an understanding of the specific differences between women and men, as well as to recognize the way in which, males and females face concrete problems, and the different effects they produce, in males and in females.**

That is to say, the justice administration should meet not only what is expressly established by the regulations to which is subject the controversy that the judge or the court will analyze, and ensure equal access to the administration of justice; but that, in addition, must weigh, at the moment of making a





legal interpretation, the differences and gaps of inequality that exist between men and women, in order to establish a compensatory mechanism that would allow the administration of justice from its very essence as envisaged by the legislator, and not from a literal interpretation that has permeated the institutions of the Judicial Branch.

### 3. IMPLICATIONS OF THE PRINCIPLE OF GENDER EQUALITY ON CO-PERPETRATORSHIP

The task of the Judiciary, has been established on two fundamental bases: [I] to ensure women the right to access to justice and, especially, in criminal matters, [II] in interpreting the legal framework governing criminal conflicts, from a specialized structure in human rights and, additionally, from a gender perspective, in order to mainstream the fundamental rights which, as victims or prosecuted, may assist women.

**Thus, when the judge is about to rule on the participation of a woman in the commission of an illegal act, he should use a gender perspective; not implying a lessening of the importance of the traditional way of understanding perpetration or the participation of active subjects involved in the commission of a crime, since the aim is to understand that legal instance from a perspective in accordance with the gender roles of men and women in our society.**

This implies that as judges, it should be borne in mind that since their birth, men and women have a clear differentiation from the biological point of view, and furthermore, there are behavioral, sentimental, and thought variants attributed to the influence of culture, and that, although it is assumed that males

and females share the same emotions and feelings, and potentially the same mental capacity; it is true that these cultural variants can affect the way in which they choose to behave before society, and consequently, the way in which these behaviors should be tried in criminal matters.

Regarding this, when playing roles of gender, important aspects of the human being are at stake, for they determine the manner in which individuals will behave in society, on the basis of their gender, which is considered essential to analysis, at the moment of ruling on the co-perpetratorship or joint enterprise of a woman [active subject], if the attributed conduct is related to a power relationship marked by gender; for it is clear that the criminal legislation that provides for this type of criminal participation cannot remain on the sidelines of an analysis based on a gender pers-

pective, on the grounds that there is a differential impact in terms of gender and specifically because it could be immersed in a power structure that is formed in partner relationships..

Castillo Trejo and Hamui Sutton (2012) have pointed out that “sexual, romantic or passionate love, by its conceptualization as by the education and love experiences that it promotes, is an intrinsic part of the social subordination of women”, i.e. the basic couple social structure is governed by hierarchy patterns, limits, roles and alliances, focused on functional demands, and qualified by gender roles; this constitutes a relevant factor when analyzing the set of beliefs, values, norms and standards that guide the behavior; and that are going to be precisely part of the judgment of reproach that the coercive power of the State will exercise.

In other words, under the gender perspective, the judge should not be dis-

regarded in determining whether the co-partnership or joint enterprise that is attributed to a woman, is framed in an act of obedience toward her male sentimental partner [active subject], in the commission of an offense; since a review of evidence in this regard would determine whether her conduct is illegal or not, i.e. if there is a judgment of reproach on the part of the State, or on the contrary, is facing an action derived directly out of a position of vulnerability imposed by her gender.

Therefore, it is clear that if it is determined that the woman whose attributed partnership, was, at the moment of the consummation of the illicit act, subordinated to her sentimental partner and on the basis of gender violence, was coerced to undertake the unlawful conduct of which she is accused, the judge could not, under the constitutional principle called gender equity, reproach her of such con-

duct, because it is clear that she was in a state of vulnerability and her act was constrained by a gender role.

That is, a conduct undertaken by a woman cannot be considered punishable, if it is carried out in a state of subordination by a gender issue, for this state of vulnerability relieves her of any criminal responsibility in the commission of the unlawful act, in regard to the relations of power and subordination between a man and a woman.

This is due to the fact that the functional act-domination theory requires, precisely, that the co-perpetrators in the commission of the offense may at any time decide the consummation of it, i.e. that they have the power to stop it; furthermore, if it can be proven that by reason of the subordination of those who are claimed to be co-perpetrators, is that their participation is being reproached, it is certain that they cannot, in turn, be

conceived as having control over the act, because those who obey orders by gender issues or act according to their assigned gender roles, obviously do not have direct control over the perpetration of the illegal action typified in the criminal substantive rule. ■

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Illustration: Ángel Sánchez





# The feminine side of the criminal process

By BA Aidee Denisse Briones Hernandez\*

During the time that I have worked at the Federal Institute of Public Advocacy, besides the legal issues that need to be addressed on a daily basis, it has always struck me that most of the people who come to our offices to request information regarding any processes in criminal matters are women. This is a phenomenon I have not only experienced in Guanajuato - my home state - but also where I currently live, in the North end of the country. Particularly in the state of Chihuahua, where I settled my temporary residence, this behavior from the female gender is constantly being repeated. The pain, subjugation and fear that women face day to day are obvious, along with their children and their families in general, as well as the anguish derived from both lack of employment and of educational opportunities.

It is troubling to notice the unconsciousness that prevails in our country on the moral and intellectual values of women, and not only coming from men but in women ourselves. A clear example is when they are asked about their civil status; with an obvious lack in knowledge, they reply, “I was dumped”, being this purely a social label, with the aim to disparage those women whose partners have abandoned them.

It is here that I find my passion on the matter of female empowerment. Since, despite the fact that women have a responsibility to care for their own children, in the majority of the cases, they are responsible for supporting them, as well as for the rest of the domestic expenses. Paired with this, they also take on the responsibility of the legal issue of their relative that is usually the father of their children or their significant other. This makes me think of the enormous capacity they have for meeting all these commitments, and it at the same time they bear with the emotional wear that a criminal process generates. It is important to outline that for them it is very difficult to acknowledge that, since such an effort is not socially recognized, for it is an acquired social obligation. Nevertheless, they are often very young women,

from whom it might be said, they comply with all the strength and energy to perform a radical change in the imminently difficult direction of the life and fate that awaits them and their children.

On the opposite side, when it comes to defended women, i.e. that they are the ones who are subject to a criminal process, it is difficult to find the same unconditional commitment on the part of their significant partner - either husband or boyfriend, the father of her children, or even their own sons. In those cases, where the mother is the one indicted, and for obvious reasons cannot care for her children, it is very common that juveniles are taken care of by their grandmother, instead of their father. As such, my conclusions are that we still live in a society where it is frowned upon that the man be attached or committed to the women of his home. We still live in a society where most of the times, the mother is blamed for the undue behavior of her children and they are the ones that, along with their offspring, must cope with such circumstances.

My concern goes beyond the impression caused by knowing the social environment and lack of opportunities that these women have to achieve a life free of physical and emotional violence. Since women are responsible for the education of future Mexican families, and therefore, if this issue is not properly addressed, it will be carried on from generation to generation: their children will be, in the future, unaware of a violent way of life.

They will not realize that there is no gender equity; that the visit to a court or to a prison is not something normal, that it should not be part of a routine or an activity that Mexican families should perform on a weekly basis.

Personally, I tried to provide them [these women] with some kind of help or guidance, or to advise them to attend an institution in order to find support; however, I am aware that in this regard, the need goes beyond a simple suggestion by their defender in a judicial process, since this is a strong social problem. I understand that for them, taking the first step is very difficult, because in them, traditions are deeply rooted, as well as acquired family backgrounds that are constantly repeated. A good example of this is that they remain unconditional to their intimate partners, as they themselves view it, they will remain categorically loyal to “the man who chose them”, no matter how this unconditional pattern continues to generate the profound dissatisfaction and anxiety to which, unfortunately, they are so used to.

What I just said, leads me to think about how urgent it is to address the subject of empowerment of the Mexican woman, in her relationship with others, both at a personal level and in their family environment, their education, work, and above all, in the raising of their children. It is important that women - through their own personal background - serve as a role model [for other women] proving that women are not condemned to

repeat the stories of their families or their environment. They need to prove, with their example, that because of their gender they are not destined to “be chosen” or to “be dumped”, as they themselves state.

I find it very discouraging, as a public official, to realize that not only the needs of the people who are subject to a judicial process are taken care of, since there is also a social prison in which women live that needs to be addressed. A social prison that has its grounds in wrongly established traditions and the lack of opportunities, this being the true cause of family disintegration and the real reason for which, one of its members remains in the hands of the justice system.

With these lines, I seek to create awareness, that many times, it is not enough to meet the legal needs of citizens by the courts or the people who, as me, are public officials. We cannot leave aside the obvious social problem that exists, in spite of the fact that plenty of programs are applied daily in order to achieve adequate gender equity. There is still a great lack of awareness in women concerning various forms of personal development and fulfillment. Women need to realize they should always be able to opt for a different lifestyle, in which discrimination and violence may be eradicated, both for themselves and for their children.

It is until now that I understand that this problem has existed from many years, and that today we are still in search for repairing this social failure or those incorrectly learnt traditions, hence, already addressed by the philosopher and French writer Simone de Beauvoir, when she stated that:

“On the day when it will be possible for woman to love not in her weakness but in her strength, not to escape herself but to find herself, not to abase herself but to assert herself - on that day love will become for her, as for man, a source of life and not of mortal danger.”

Finally, the instances I refer to represent 80% of the cases. Fortunately, there is at least a 20% left that proves that, in our country, a real empowerment of women can be achieved, and that not everything is lost. There are those that can prove that there are women, who despite their adversity and going through difficult situations, they remain strong and know how to properly relate to others, according to their own limitations, so as not to impair themselves or affect third parties. ■

<sup>1</sup> Beauvoir, S. (1969). *The Second Sex*. Buenos Aires: Twentieth Century Editions. Translation of Paul Palant. Taken from <http://users.dsic.upv.es/~pperis/EI%20segundo%20sexo.pdf>

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Mariana Lima Buendia Case

JUDGING WITH GENDER PERSPECTIVE

By Dr. Maria Guadalupe Ramos Ponce

Mariana was born on March 25th, 1981, in Chimalhuacan, State of Mexico, according to her mother Irinea Buendia. She managed to study Law at Mexico’s UNAM; in 2006 she got a job at Chimalhuacan Justice Center. In 2008 Mariana completed her degree; she dreamed of justice.

In her workplace, she met judicial police officer Julio Cesar Hernandez Ballinas. After a short relationship, they decided to marry on December 13th, 2008; he was forty-five and she, twenty-nine. One of the first decisions Ballina’s made was demanding Mariana quit her job to become, from one day to another, a full-time housewife that fulfilled her “obligations” and kept an impeccable household; every object must be placed in its proper place. Before the first month of marriage was over, on January 10th, 2009, Mariana spoke on the phone to her mother. Irinea had barely picked up the receiver when Mariana burst into tears: Ballinas had hit her and demanded she leave his house. From that moment on, Mariana’s life was spent amid constant violence, as her mother, Mrs. Irinea Buendia manifested in many interviews (Padgett, H., 2015.) Irinea herself recounts that on Monday, June 28th, 2010, Mariana went to her home to indicate that she had at last taken the decision to leave her husband. That day, she would go to the Justice Center to denounce the death threats and multiple aggressions to which she was subjected and immediately afterward would go home to pick up her suitcases and return to her mother’s home

[Irinea] never saw her alive again. She was twenty-nine years old. [Irinea] Remembers that the very next day, Tuesday June 29th, she received a phone call from her



son-in-law, who informed her that her daughter Mariana had committed suicide.

What followed for Irinea Buendia has been a long road to demand justice for the murder of her daughter. It was the start of the legal battle that Irinea would fight to find truth and justice around the murder of Mariana. She never gave up. She was never convinced by Mariana’s alleged suicide. She knew the constant story of violence that her husband had subjected her to, she knew Mariana’s life projects: [she] wanted to get away from a violent relationship, she was determined to leave Ballinas. That decision cost Mariana her life. And yes, Mariana loved life.

It was a long process and as Irinea correctly states, a process that demanded resistance, too. She was convinced that the truth had to come out. Her daughter had been murdered by her husband and that constitutes a femicide.

The National Citizen Observatory for Femicide (Observatorio Ciudadano Nacional del Femicidio, OCNF by

its acronym) accompanied and advised Irinea legally in her struggle to obtain justice for her murdered daughter. It is from the OCNF, in the voice of its representatives, lawyers Maria de la Luz Estrada, Yuriria Rodriguez and Rodolfo Dominguez, that I obtained the information necessary for this analysis (OCNF, 2015).

As noted by the OCNF, the following omissions, which determined that the Supreme Court would appeal the case, were observed:

» Since the start of investigations, some actions and omissions of the law enforcement officials involved (who worked under the orders of the Attorney General of the State of Mexico) were reported as inconsistent with the duty of due diligence to prevent, investigate and punish violence against women.

» The team formed by the Public Prosecutor’s Office Agent and Experts, acted in an uncoordinated manner to achieve clearly identified goals which apply to the

investigation of femicides. They were negligent in the search for key evidence, a search which should have been careful, methodical and thorough, focusing on three main areas of research: the context of violence, the location where the body was found and the criminal behavior itself. That is, this kind of interventions should not be limited solely to the investigation of the crime scene, but should also take into account the circumstances and social environment that led to criminal behavior according to the Action Protocol on Homicide Crime Investigation from the Perspective of Femicide, Criminology Techniques Applied to Researching Women’s Murers.

» Serious omissions attributable to ministerial authorities, upon inspection of the scene of the crime and corpse removal, resulted in the lack of preservation and documentation of key evidence elements, which could have proved from the outset the likely femicide Mariana Lima Buendía. None of the actions taken is conclusive to determine, according to law, the causes and circumstances in which Mariana Lima Buendia died.

» Despite the irregularities and due process violations during the investigation, dated September 9, 2011, the Public Prosecutor’s Office agent Assigned to the Specialized prosecutor’s Office for Homicide issued a Non-exercise of Criminal Action resolution in the preliminary investigation DGIPH / TLA / II / 258/2010 REL. CHIM / III / 3885/2010, for the crime of homicide committed against Mariana Lima Buendía. This resolution was authorized by an order dated October 6th, 2011, by the C. Public Prosecutor’s Office Auxiliary Agent.

» In this case, the ministerial authorities involved in the preliminary investigation, acted with negligence and omission in the performance of transcendental activities for the knowledge of the true facts, and were remiss in considering statements and witnesses which questioned the hypothesis of Mariana Lima Buendia’s suicide; they also failed to value other circumstantial evidence, clues and presumptions.

» The investigations were carried out by authorities who are not sensitized on gender, so there were delays and vacuums due to the loss of key evidence in these investigations, which negatively affected the future of the case.



» Most efforts to collect corroborating evidence in the case have focused on the botched physical evidence and testimony of Julio Cesar Hernandez Ballinas, to the detriment of other evidence that may be crucial to establish the facts, such as psychological and scientific tests.

» Lack of compliance with investigative protocols with a femicide perspective, protocols that describe in detail the minimum evidence that must be collected to provide an adequate evidentiary basis to determine the truth about the death of Mariana Lima Buendía, was observed.

» The case was presented before the Mexican Supreme Court on February 2013, and the exercise of its power of attraction was requested. On September 2013, the Mexican Supreme Court decided to exercise its power of attraction, as the case was eligible due to its interest and significance according to “amparo” 18/2013 of the Second Collegiate Tribunal on Criminal Matters index.

Thus, in March 2015 the Mexican Supreme Court (SCJN) decided to grant the “amparo” to Mrs. Irinea Buendia, mother of Mariana Lima, and ordered State of Mexico authorities to investigate the case as a femicide, in an unprecedented situation, since it was the first sentence in relation to the figure of femicide in the country.

In its sentence, the Mexican Supreme Court emphasized the obligations of the investigating bodies, to examine, with gender perspective and with no discrimination-any violent death of a woman, to determine whether or not it is a femicide.

The Mexican Supreme Court also noted -following international, national and even local standards, and based on the human rights to equality and non-discrimination-,that when investigating the violent death of a woman investigating bodies should effect their research with gender perspective, in order to determine whether the cause of death was gender-related, thus confirming or excluding the reasons for it-and, if necessary, determining in the investigation whether or not it was a femicide-; that is, it was noted that, in such cases, the investigating authorities should explore all possible lines of inquiry in order to determine the historical truth of the events in question.

Other important elements that the Mexican Supreme Court pointed out in the sentence were that specific evidence must be preserved to determine whether there was sexual violence and the appropriate expert investigations must be made to determine whether the victim was



Illustration: Ángel Sánchez

immersed in a context of violence. The Mexican Supreme Court also determined that possible discriminatory gender connotations in an act of violence perpetrated against a woman are to be investigated ex officio.

In Mariana’s case, the Court noted that there were irregularities, omissions and obstructions of justice, which have prevented the true facts from being known, in the investigation.

Therefore, the Mexican Supreme Court granted the “amparo” to the plaintiff (Mariana Lima’s-who was killed in violent circumstances- mother) compelling the Public Prosecutor’s Office to complete the investigation in a timely, immediate, serious and impartial manner; to carry out all necessary measures to investigate the case with gender perspective, and to remove all obstacles from the previous preliminary investigation.

After six years of impunity, on June 24th, 2016, Julio Cesar Hernandez Ballinas, allegedly responsible for the death of Mariana Lima, was arrested in the first case of femicide reviewed by the Mexican Supreme Court.

Hence the importance of this case for the Mexican justice system, which incorporates in this landmark judgment the arguments set out in the constitutional Human Rights reform of 2011 and the international standards on women’s Human Rights. The SCJN makes a comprehensive analysis of the obligation to judge with a gender perspective.

In recent years, the Inter-American Human Rights System and the Political Constitution of the United Mexican States, have recognized the need for standards on the scope of the rights to due process, effective judicial protection and access to justice for all victims, including [victims’] families and Human Rights defenders.

The possibility of effective access to justice is indeed one of the greatest needs of citizens. The extreme violence perpetrated against women, which has its highest expression in the commission of women’s murders, is a major challenge for the rule of law. Seeing violence against women as a natural phenomenon, based on a patriarchal and misogynistic culture, prevents male and female law enforcers from recognizing a femicide and a serious crime that should be investigated and judged in a timely fashion, in cases like Mariana Lima’s. And this femicide, like every one of these type of crimes, is immersed in a social, legal, political and economic system that by limiting access to justice and increasing impunity, promotes, enables and continues to generate violence against women. The resistance of both male and female law enforcers to investigate cases like Mariana’s with gender perspective prevents the consignment of femicide, [as biased investigators] prefer to see her murder as parricide and consign it as such, thus obscuring a social and criminal problem which particularly affects women.

The strong resistance of male and female law en-

forcers against incorporating gender perspective, the international Human Rights standards that are part of Mexican law and laws for the protection of women in addressing their processes and sentences, constitute a real obstacle to accessing justice.

Irinea Buendia will surely be looking forward to see the birth of a new criminal justice system that judges with gender perspective and that relies on full respect for people’s-especially women’s- Human Rights. And [she] will be able to tell future generations about her invaluable contribution to this struggle for truth and justice. ■

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# GENDER EQUALITY AND ACCESS TO JUSTICE

By Judge Clicerio Coello Garces\*

## 1. ACCESS TO JUSTICE IN CONDITIONS OF EQUALITY

Gender equality as a principle that radiates the judicial order as a whole, has as its starting point the acknowledgement of the need to generate the best conditions for equality between women and men, overcoming the factual and formal barriers that have historically existed for the full exercise of the rights of a relevant sector of society, implementing to this end, the necessary positive actions<sup>1</sup> and reasonable adjustments to compensate the gender based disadvantages<sup>2</sup>.

Thus, an integral concept for gender equality must include, according to Fraser (1996) both the dimension of formal equality in women and men basic rights and

material equality through the recognition of the historical differences<sup>3</sup>. Which, of course, is not absent in rights linked to the jurisdiction of the State, as would be the case of access to justice.

Access to justice is one of the civil rights par excellence, since the preservation of other rights and the repair of those that have been violated depends on its exercise. From this perspective, this right consists of the possibility that any person, regardless of conditions or gender, could use the legal system to defend his or herself and his/her interests<sup>4</sup>.

Nevertheless, as long as the system of justice can be a powerful tool to prevent and remedy rights violations, its complex structure can also obstruct people from entering it, when the help of a law professional is not available. Hence, one of the first duties of the State to guarantee access to justice in equality conditions is to provide

<sup>1</sup> Positive actions are special measures, of specific temporary duration, in favor of certain groups that are found objectively in disadvantage, to insure their effective participation in public life –from which, for different reasons, they have been excluded, in one way or another- and guarantee their human rights. See: Gargarella, R. (compiler)(1999). *Law and the disadvantaged groups*. Yale Law School, Barcelona: Gedisa, pp. 18 and ss.

<sup>2</sup> Ansolabehere, K., and Cerva, D. (2009) *Gender and Political rights. Jurisdictional protection of electoral political rights of women in Mexico*, Mexico: Electoral Tribunal of the Judicial Branch of the Mexican Federation, pp. 16 y 17.

<sup>3</sup> Fraser, N. "Gender Equity and the Welfare State: A Post-industrial Thought Experiment", in Benhabib, S. (comp.) (1996). *Democracy and Difference*. New Jersey: Princeton University Press, pp. 221 and ss.

<sup>4</sup> Access to justice is two dimensional per Cappeletti and Garth (1978), in their classic study on this theme: normative regulations, referring to the equal right of all people to resort to the instances of justice without discrimination. and the factual dimension, that refers to aspects linked to proceedings to ensure the exercise of the access to justice. See: Cappeletti, M., and Garth, B. (1978) *Access to justice. The tendency of the world's movement to implement the rights*. Mexico: Economical Cultural Fund, p. 127 and ss.







public defense council to people regardless of condition or genre, that are not able to hire an attorney<sup>5</sup> or find themselves in conditions of vulnerability<sup>6</sup>.

In addition, the access of women to the Courts on equality conditions should be guaranteed. In the Mexican case, according to *Varieties of Democracy* statistics, one of the databases whose aim is to measure democracy and fundamental rights all over the world, women's access to justice in all the country's jurisdictions had a global rating, in 2014, of 1.51 over 4, whereas the access to justice in men amounts to 1.91 over 4<sup>7</sup> during the same year. Which reflects a difference between both genders on the exercising of a fundamental right that is paramount for the Constitutional State of Law; and this requires important reflection in this field, in order to generate better equality conditions.

## 2. MECHANISMS FOR THE EFFECTIVE EXERCISE OF THE RIGHT TO ACCESS JUSTICE.

The recognition of the right of all people to access justice is a necessary condition for its exercise, but in order for it to be effective, it is required, in addition, that other institutional and procedural issues generate the best possible options for its practical implementation.

**First of all, the institutional mechanisms that guarantee access to justice on equality conditions are related to the knowledge the defendants have about the rights and legal resources available for their guarantee, an aspect that is not limited to the information and facilities granted prior to the proceedings, but also during the same period.**

On the other hand, the procedural mechanisms are linked to the diligence, professionalism, opportunity and completeness with which the competent authorities carry out the respective proceedings. Likewise, it implies the granting of a public defender or a translator, in the cases where it is required in order to guarantee the right

to counsel. In view of the above, we can say that the access to justice not only implies the formal possibility of operating the instruments of the administration of justice, but the substantive duty of the authorities is that all stages of the proceedings comply with national and international justice standards.

Indeed, these institutional and procedural instruments should favor, in all instances, the best conditions for the access of women to the Courts, in order to guarantee under equality parameters, the rights of all people as an essential element of the democratic system.

## 3. ACCESS TO JUSTICE AND GENDER EQUALITY, IN LIGHT OF THE INTERPRETATIVE CRITERION OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS: CASE "COTTON CAMP VS. MEXICO".

This judgement of the Inter-American Court of Human Rights dated November 16th, 2009<sup>8</sup>, is one of the paradigmatic decisions of our Regional System for the Protection of Rights about the prevention and eradication of violence against women and, especially of the access to justice in equality conditions and without gender-based discrimination.

On November 6th, 2001, in the place known as "Cotton Camp", in Ciudad Juarez, Chihuahua, the bodies of 8 women were found, showing signs of torture and sexual violence. The Inter-American Court considered that the Mexican State did not legally guarantee the free and full exercise of the human rights of the victims in Ciudad Juarez. As part of that obligation, the Court considered that the State should prevent, within reason, the violation of human rights and when necessary, if that violation is consummated, has the duty to investigate with due diligence.

Under these parameters, the Court determined that between the days of the disappearances and the discovery of the bodies, family members went to the authorities, but met with gender prejudice about the victims and the indifference of officials to start a concrete action aimed to finding them.

The duty of the State of investigating possible human



Illustration: Ángel Sánchez

rights violations must be assumed as its own responsibility and not as a formality destined to be unsuccessful, the Court concluded. In this respect, it was determined that the Mexican State has a direct responsibility for not guaranteeing the victims and their families access to justice due to the officials' gender prejudices and their negligence in the proceedings, investigation and conclusion of the case.

In the operatives of the judgment, the Court compels the Mexican State, among other aspects, to modify its protocols, manuals and ministerial criteria to be standard with the principles of international law, in order to guarantee the access to justice in conditions of equality. In addition, it should professionalize all the officials involved in the administration of justice system so they are diligent during all the stages of the process, especially when the people involved are part of a disadvantaged group, as is the case of women in a situation of vulnerability. Finally, it is expected that the authorities will receive continuous training on human rights and gender perspective.

The judgment "Cotton Camp vs. Mexico" shows that the access to justice not only has a formal dimension, which has to be guaranteed, but a substantive and procedural dimension that is also a direct responsibility of the State. This last implies, as the Court rightly asserts, the obligation of serving and investigating with diligence, opportunity, professionalism and thoroughness, any violation of the fundamental rights, especially when the people involved are in an objective situation of vulnerability, as was the case of the triple disadvantaged condition (women, people of limited resources and two of them underage). In addition, this judgment reveals the profound inter-relation of the fundamental right to access of justice together with the protection of other rights, i.e. equality and gender equity. ■

**\*Clicerio Coello Garces:** Presiding Judge of the Specialized Court of the Electoral Court of the Judicial Branch of the Federation.

<sup>5</sup> This guarantee that the State should provide is gathered, amongst other documents, in paragraphs 28 and 29 of the Brasilia Rules about Access to Justice of People in a Vulnerability Condition.

<sup>6</sup> Vulnerability could be understood as the series of aspects that entail potential adversities to the efficient exercise of rights. See: Coello, C. (2016). *Rethinking citizenship. Political rights of minorities and vulnerable groups*. Mexico: Tirant Lo Blanch, p.108.

<sup>7</sup> These figures were obtained from results issued for 2014, last year when the reference statistics were processed. Regarding the rating obtained, both for men and women, according to *Varieties of Democracy own definition*, that a safe and effective access to justice is not widely respected". Available at <https://www.v-dem.net/sen/analysis/CountryGraph/>

<sup>8</sup> Available in [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_205\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_205_esp.pdf)



# Gender parity, the pending issue in Mexico

By Dora Rodríguez Soriano\*

The progress that our country has experienced in the participation of women in the political arena is undeniable, this represents a significant advance in the process of democratization that Mexico is going through. However, it is essential to identify those aspects that are still pending to improve, not only the conditions in which women<sup>1</sup> can exercise such right, but that, from a more holistic view, to promote other affirmative actions to achieve gender equality in the congresses, in the executive branch, as well as in the judiciary.

Parting from the idea that legal bases are settled, gender parity is a constitutional principle and the greater part of the state electoral ruling provide for its compliance, in addition to the jurisprudence issued by the courts on this matter, thus enabling women to become present and participate in popular election positions; nevertheless, to strengthen the achieving equality mechanisms into the bodies of popular representation in our country is a must.

For Lamas (2012), comprehensive parity involves, in addition to political equality, parity in both educational and domestic spheres<sup>2</sup>. In this way, the need to generate changes in the latter two is evident, consequently on one hand arising the need for an educational policy that will form people in an inclusive and egalitarian culture, and on the other hand, to promote a redistribution of

domestic responsibilities and caring of family members.

Furthermore, one of the facts that have accompanied the increasing inclusion of women in the political sphere is the violence from which they are victims by various actors such as political parties themselves, the institutions, the media, et al. Studies in Mexico documented expressions of violence in this area: TEPJF (2016); Barrera-Bassols (2014); Cerva (2014); CEAMEG (2013); Dalton (2012); Vazquez (2011); De Barbieri (2006)<sup>3</sup>. In the Women's Access to a Life Free from Violence Act (LGAMVLV, after its Spanish acronym for Ley General de Acceso de las Mujeres a una Vida Libre de Violencia), it is not provided for as such, so it would be provided for as institutional violence, even so, our country has taken an important step forward, with the support of many institutions such as TEPJF, INE, FEPADE & INMUJERES, FEVIMTRA, et al, enforcing the "Protocol to Address Political Violence Against Women" (TEPJF, 2016),<sup>4</sup> nonetheless, the challenge now is to guarantee that this important instrument is adopted by the electoral and states jurisdictional bodies.

The present article aims to contribute to consideration on the progress and the pending issues that exist in our country regarding the achievement of equality in decision-making and place them in a more integral context that would allow to think in gender parity as means for the construction of an egalitarian society.

## PROGRESS SO FAR: THE MILLENNIUM DEVELOPMENT GOALS (MDGS) AND THE NEW INTERNATIONAL AGENDA TOWARDS 2030

Without a doubt, the fact that gender equality has been placed on the international agenda, has been of fundamental importance, to further advance in a larger women representation in decision-making bodies. According to the UN 2015 report in relation to the fulfillment of the MDGS, the:

**GOAL 3:** To promote gender equality and empowering of women, stresses that, in the past 20 years, women have had a greater parliamentary representation in the 90 per cent of the 174 countries that are members of the UN, however, there is still a significant gap, since only one in every five members of these bodies are women; it is also recognized that there is a greater presence of women in the parliaments at a global level, in 46 countries 30% of the Chambers are composed of women<sup>5</sup>.

<sup>1</sup> I am referring to the concept of "women", taken from Lagarde (2001), to state that there are various groups of women in our country, whose historical condition has been shared, but their life situations are different; women who had ventured in politics had been those with economic resources and with relatives with a career in politics, they made it easy for them and on the other hand, there are other groups of women that accumulate vulnerability factors such as poverty, and/or belonging to an ethnic group, which together with their status as women, represent a series of obstacles that limit their political participation. See: Lagarde and Ríos, M. (2001). The Captivity of women. Mother-wives, nuns, whores, preys and crazy ones (1th. Reprint). Mexico: UNAM.

<sup>2</sup> Lamas, M. (May 28, 2012). The gender quota and its levelling effect. Retrieved from <https://www.youtube.com/watch?v=YAd5y2RBQiE>

<sup>3</sup> TEPJF. (2016). Protocol to Address Political Violence Against Women. Mexico: Electoral Tribunal of the Federal Judiciary Branch; Barrera-Bassols. (2014). N/D; Cerva. (2014). N/D; CEAMEG. (2013). Retrieved from [Http://www3.diputados.gob.mx/camara/001\\_diputados/006\\_centros\\_de\\_estudio/05\\_centro\\_de\\_estudios\\_para\\_el\\_adelanto\\_de\\_las\\_mujeres\\_y\\_la\\_equidad\\_de\\_genero/01g\\_investigaciones\\_ceameg/07a\\_2016](http://www3.diputados.gob.mx/camara/001_diputados/006_centros_de_estudio/05_centro_de_estudios_para_el_adelanto_de_las_mujeres_y_la_equidad_de_genero/01g_investigaciones_ceameg/07a_2016); Dalton. (2012); Vazquez. (2011). N/D; Barbieri. (2006). N/D.

<sup>4</sup> Retrieved from [http://www.fepade.gob.mx/actividades\\_ins/2016/marzo/ProtocoloViolencia\\_140316.pdf](http://www.fepade.gob.mx/actividades_ins/2016/marzo/ProtocoloViolencia_140316.pdf)

<sup>5</sup> UN. (2015). Millennium Development Goals. 2015 Report. New York: United Nations. Retrieved from [http://www.un.org/es/millenniumgoals/pdf/2015/mdg-report-2015\\_spanish.pdf](http://www.un.org/es/millenniumgoals/pdf/2015/mdg-report-2015_spanish.pdf)







**90%**  
of the countries that make up the  
UN, have more women in parliament  
since 1995.



**30%**  
of Chambers is constituted by women  
in 46 countries at a global level.

The UN, with the purpose of follow-up the MDGS which were not entirely fulfilled, promoted in September 2015, the signing of “The Sustainable Development Goals (SDGs) of the 2030 Agenda” (UN, 2015), out of which goal number five specifically, proposes: “To achieve gender equality and empower all women and girls”<sup>6</sup>.

In Mexico, after the establishment of gender quotas and recently elevate to constitutional rank gender parity, as well as the intense work that has been done by the TEPJF, issuing judgments and jurisprudence to fully comply with these precepts, an increase in the presence of women in Mexico’s Congress has been observed, as shown in the following table.

**TABLE NO.1  
INCREASE OF WOMEN  
IN MEXICAN CONGRESS**

TERM OF OFFICE AND LEGISLATURE	WOMEN REPRESENTATIVES	WOMEN SENATORS
1997-2000/ LVII	71	16
2000-2003/ LVIII	80	20
2003-2006/ LIX	113	20
2006-2009/ LX	116	22
2009-2012/LXI	138	25
2012-2015/LXII	184	42
2015-2018/LXIII	287	46

**Source:** Data taken from Gonzalez O., et al. (2015), and from the official website of the Mexican Chamber of Deputies<sup>7</sup>. The table is of my own.<sup>7</sup>

For their part, Gonzalez et al (2015), indicate that, in the state congresses from 1953 to date, the presence of women was only 18.13%, just seven women have governed an entity and by 2002, only 79 (3.24%) of the 2,348 municipal governments were headed by women.<sup>8</sup>

#### **PENDING ISSUES: INEQUALITIES IN THE DOMESTIC AND WORKING SPHERE**

In the referred areas, the disparity between women and men is still significant and limits the participation of women into political activities. Also, women, even though they have been incorporated into the labor market, are limited to join such and perform remunerated productive activities, on the ground of domestic work overload and care of family members, so they lack the economic resources to facilitate their venture into the political sphere.

The following table shows some of the most important results of the National Survey of Time Use (ENUT, after its Spanish acronym for Encuesta Nacional de Uso del Tiempo) conducted by INEGI (after its Spanish acronym for Instituto Nacional de Estadística y Geografía, National Institute of Statistics and Geography) in 2014.<sup>9</sup>

**TABLE NO. 2.  
NUMBER OF HOURS A WEEK DEVOTED TO  
UNPAID DOMESTIC WORK AND TO PAID  
WORK IN THE LABOR MARKET BY GENDER**

TIME SPENT IN HOURS PER WEEK.	
<b>WOMEN</b>	
<b>70.6</b> Total hours of unpaid domestic work	<b>24.1</b> Paid activities in the labor market
<b>MEN</b>	
<b>28.3</b> Total hours of unpaid domestic work	<b>60.6</b> Paid activities in the labor market

**Source:** Data taken from the ENUT 2014, INEGI. The table is of my own.

Furthermore, the UN stressed that gender-based violence and political violence against women especially, is one of the most serious drawbacks for women<sup>10</sup> to have better opportunities to fill positions in the political sphere.

So, it is important to consider that the violence women face is structural, i.e. the economic political, social and cultural system, in our country, generates the violence expressed in discrimination in all areas: in poverty, lack of access to formal education and to the labor market. We live in a system that bases a large part of its economic activity on women’s unpaid work, and that at the same time discriminates to them. The system itself produces, obviates and justifies the use of violence against women, therefore it is necessary to generate structural changes in our country.

The violence that women face as candidates during electoral campaigns, represents one more obstacle for their triumph, because in some cases, they press charges before the Public Prosecutors Office, and the journalistic notes that emerge from these facts, affect the image and then the campaigns of the candidates (in some cases even reveal their name and physiognomy, though the LGAMVLV prohibits it). In this regard, in the protocol that has been designed for the attention of the political violence against women, this characteristic must be addressed. In this same sense, the actions to carry out in case of extreme violence should be anticipated

Without a doubt, the “Protocol to Address Political Violence Against Women” represents a significant step forward, however, it is necessary that this initiative be circumscribed into a broader strategy of a national public policy. For example, it is necessary that this protocol be adopted by the local electoral bodies, and this requires designing a mechanism for its implementation in all the entities of the country. In the same vein, it is important to provide a binding character to the Mexican Norm NMX-R-025-SCFI-2015 for Labor Force equality between Women and Men (STPS, 2015)<sup>11</sup>, an instrument that replaces the Model for Gender Equality (MEG, after its acronym in Spanish), promoted by the INMUJERES, to certify the institutions that encourage actions aimed at achieving gender equality, and provides for a series of activities, amongst which it emphasizes the shared responsibility of the family and labor spheres, as well as the prevention, attention and sanction of institutional violence.

As a conclusion, gender parity as a mechanism that drives a proportional representation of men and women in decision-making in our country has achieved significant results; as an affirmative measure, has

shown its effectiveness. It is still pending that these achievements are applied in the state and municipal spheres (in the presidencies of communities and auxiliary boards), and to achieve integral parity, it is necessary to enforce other affirmative measures in the domestic sphere, specifically aimed at the reduction of inequalities on unpaid work responsibilities, the household’s maintenance, and care of family members, also to generate better conditions for women to join the labor market.

Finally, along these public policies, it would be of vital importance in the educational sphere, to promote a national strategy on inclusive civic culture in all levels that promotes respect for human rights, personal dignity and equality in gender diversity. ■

<sup>6</sup> UN. (2015). 2030 Agenda for Sustainable Development. United Nations Organization. Retrieved from [Http://www.un.org/sustainabledevelopment/es/la-agenda-desarrollo-sostenible/](http://www.un.org/sustainabledevelopment/es/la-agenda-desarrollo-sostenible/)

<sup>7</sup> Gonzalez O., et al. (2015). Towards a parity democracy. Evolution of the political participation of women in Mexico and its federal entities. Mexico: TEPJF; Chamber of Deputies. LXIII Legislature. Retrieved on 08/09/2016 from [http://sitl.diputados.gob.mx/LXIII\\_leg/cuadro\\_genero](http://sitl.diputados.gob.mx/LXIII_leg/cuadro_genero).

<sup>8</sup> Gonzalez O., et al. , op. cit.

<sup>9</sup> Provides statistical information on the way in which people (women and men, 12 years old and over, in urban, rural, and native areas) distribute their time in various activities. See: INEGI-INMUJERES. (2014). The National Survey on the Use of Time (ENUT). Mexico. Retrieved from [Http://www.inegi.org.mx/est/contenidos/proyectos/encuestas/hogares/especiales/enut/default.aspx](http://www.inegi.org.mx/est/contenidos/proyectos/encuestas/hogares/especiales/enut/default.aspx)

<sup>10</sup> Political violence against women includes all those actions and omissions – tolerance included - that, based on gender and given in the framework of their exercise of political and electoral rights, have the effect or purpose of impairing or nullifying the recognition, enjoyment and/or exercise of political rights or the prerogatives inherent to public office (TEPJF, 2016).

<sup>11</sup> [Http://www.conapred.org.mx/index.php?contenido=pagina&id=543&id\\_opcion=686&op=686](http://www.conapred.org.mx/index.php?contenido=pagina&id=543&id_opcion=686&op=686)

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Tlaxcalteca of Elections.





# POLITICAL VIOLENCE

## BEHIND GENDER EQUITY

Women's political activity in community life is inequitable, discriminatory, looked at with disdain and mistrust, an example of this is the case of Chenalo, Chiapas.

By Marina Martha Lopez Santiago\*







### A REITERATED PRACTICE

In recent years, the political participation of women has developed in a very important way, as result of the impetus imbued by the civil society organizations (CSO) and the Electoral Tribunal of the Judicial Branch of the Federation.

At an international level, it has been noted that “...driven by local and global campaigns showing a larger gender equity in politics is linked to multiple positive results for democracy and society in general...”.

In México, representatives of popular election, activists, and citizens of both sexes, worried about the evident inequality and discrimination against women who want to access popular election positions and to responsibilities within the powers of the union, in local and federal areas, promoted important initiatives aimed at diminishing the evident existing exclusion and inequality gap between women and men rights.

This is so, because from the enactment of the Political Constitution of the United States of Mexico in 1917, the concept of political rights was established, i.e., the right of citizens to vote and run for office; in the case of women, this prerogative was not valid, since it was until 1953 that women of legal age became citizens and thus, with the right to vote and run for office, which meant an access gate to involvement in the institutions’ political life.

Many years went by, so that, progressively, women’s political involvement became equitable. “...During the last twenty years, the world has witnessed great transformations regarding a greater gender equality in popular election posts”.

In our country, it is at the beginning of this century, that the legal bases to reform legal instruments were laid, that have steadily allowed a more active political involvement of women. Parallel to this important advance, sentences from the Electoral Tribunal and the 2014 Constitutional Reform, have allowed a more active political involvement in the House of Representati-

ves and the Senate, in state congress and city council, focusing on gender equality on the mainstreaming of these collegiate bodies.

From the above, there is evidence of the evolution that has been obtained, however, regrettably in some areas of the country, and in certain population areas,

it is necessary to intensify the efforts to reduce these social remnants that lace-rate women rights.

Within this framework, one of the burdens that tarnish this advance is the political violence that is exercised against women, which infringes upon their political rights to participate in popular election positions and/or their right to exercise it when they have been constitutionally elected.

This hardship is not exclusive in our country, since “...violence against women in politics is increasingly recognized around the world, but especially in Latin America, as a new tactic to block women’s political participation...”; a phenomenon that finds, in a particular way, a fertile soil in the towns and native communities in our country, where in an evident way it makes visible this hindrance that is so harmful to Mexican democracy.

### WHAT IS THE MEANING OF GENDER-BASED POLITICAL VIOLENCE?

The Protocol to Deal with Political Violence against Women, whose concept (of political violence) is sustained by the spirit contained in the Belem do Para Convention, the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) and the General Law of Women’s Access to a Free of Violence Life (GLWAFVL) defined as:

“Political violence against women comprises all those actions and omissions –tolerance included- based on gender elements and given in the framework of the exercise of political-electoral rights, would aim to or result in undermining or overriding the recognition, the enjoyment and/or exercise of the political rights or the prerogatives inherent to a public office”.

### POLITICAL VIOLENCE AGAINST NATIVE WOMEN

In that framework, the political violence against native women is an issue that acquires a vital importance: it is a clear sign of concern, because of the restrictions imposed by male representatives of the native peoples, with degrading practices, in many cases, to prevent women to take on representative positions, from direct public election.

This poses a serious problem because “...violence against women in politics, as these actions are known, has increased the concern of organizations of the international civic societies (OCS) around the world...” ; a circumstance to which Mexico cannot remain indifferent, since, according to the principle of progressiveness that enforces article first of CPEUM, it is a commitment of the Mexican State before the States Parties of the Inter-American and United Nations systems to guarantee an effective exercise of women and men of the native peoples rights, to participate in their communities’ political life in conditions of equality.

In this regard, scholars of the theme have documented that the political violence exercised against woman in native

<sup>1</sup> **Krook, M. and Restrepo, J.** (2016). Gender and Political violence in Latin America. Concepts, debates and solutions. Politics and government. XXIII(1). Mexico: CIDE. Retrieved from <http://iknowpolitics.org/sites/default/files/genero-y-violencia-politica.pdf>

<sup>2</sup> **Idem**, N/D.

<sup>3</sup> **Ibidem**, N/D

<sup>4</sup> **TEPJF.** (2016). Protocol to deal with Political Violence against Women. Mexico: Electoral Tribunal of the Judicial Branch of the Federation. Pg. 19.

<sup>5</sup> **Krook, M.** and Restrepo, J. Op. Cit., N/D.





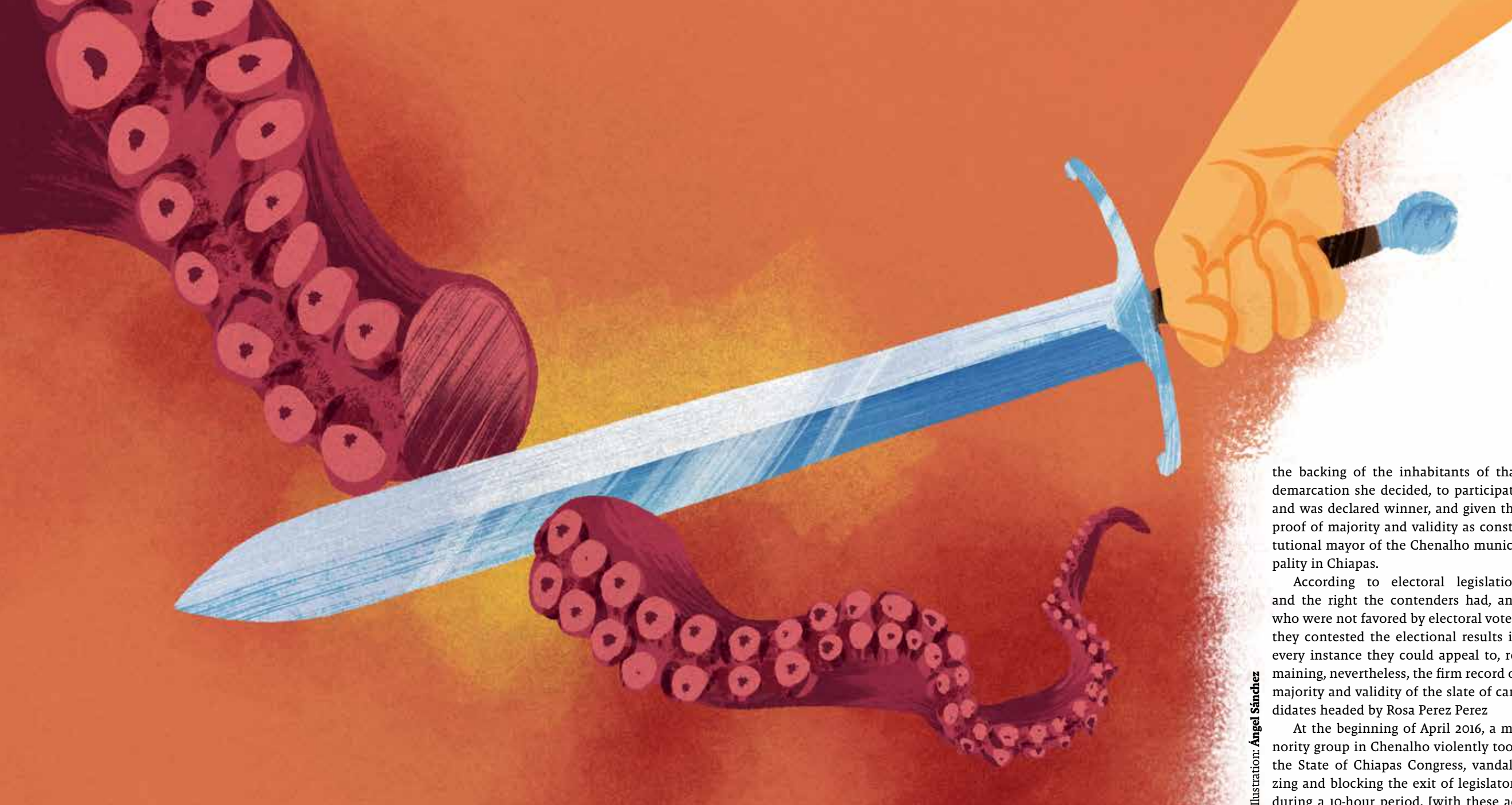


Illustration: Ángel Sánchez

towns and communities, is of androcentric origin, on the basis of gender roles marked by discrimination and inequality, whose epicenter comes from “the idea that the male point of view is the only possible and universal one, which is generalized for all mankind, be them men or women. favoring detrimental social scenes for women, in the public and private media, undermining their rights because of their female condition.

Political violence against native women in various regions of our country is a high impact issue that cannot be ignored. Even though, increasingly, every day public programs and policies are estab-

lished to end this abnormal conduct, they are insufficient or ineffectual to resolve this phenomenon that obstructs native women participation in the same conditions as the males to compete and equitably access to popular election posts.

Thus, political participation of native women is restricted within their communities because traditionally the political activity is carried out by men, since, in most cases, participation includes the management before authorities outside their territorial limits, which implies a periodic mobility of their representatives. This fact, apparently insignificant, limits women, who traditionally carry

out domestic work, take care of children, and deal with the children educational issues, amongst other things.

In addition, involvement of women in community life is not endorsed by men, who cannot conceive that a woman be involved in public activities and, thus, leave her community in order to carry out formalities. Under these conditions, women are marginalized to participate in the exercise of their rights and spaces at their places of origin.

#### CHENALHO CASE, CHIAPAS

A proof of the afore said is represented in the case of the constitutional mayor

of the backing of the inhabitants of that demarcation she decided, to participate and was declared winner, and given the proof of majority and validity as constitutional mayor of the Chenalho municipality in Chiapas.

According to electoral legislation and the right the contenders had, and who were not favored by electoral votes, they contested the electional results in every instance they could appeal to, remaining, nevertheless, the firm record of majority and validity of the slate of candidates headed by Rosa Perez Perez

At the beginning of April 2016, a minority group in Chenalho violently took the State of Chiapas Congress, vandalizing and blocking the exit of legislators during a 10-hour period, [with these actions] they requested Rosa Perez Perez resignation to her position as Mayor.

Nevertheless, it was on May 2016 when the dissenters group kidnapped and held two local representatives captive, who in a violent way and against their will, were transferred to the Chenalho municipality and threatened to be burned alive if Rosa Perez Perez did not renounce to her seat as Mayor. In view of this situation, and having no alternative she signed her resignation against her will.

In June 2016, Rosa Perez Perez filed a lawsuit for the protection of the citizen's political electoral rights, at the TEPJF Superior Court, where she asserted the

political gender violence as a grievance and, on August 17 of the same year, a sentence in her favor was issued, ordering, thus, her reintegration to the position for which she was democratically elected, as Mayor of Chenalho, Chiapas.

Nevertheless, the issue of gender political violence is persistent, not only at Chenalho, but in several towns and communities of our country. Since gender equity does not guarantee that more women could participate as candidates for popular election posts. In many cases this violence increases, since it is a strategy used recurrently so that women would decide not to participate out of fear of sustaining personal injury.

**Apart from this, advances to confront political violence against women are slow-moving. A normative framework is needed to guarantee women who could aspire to be candidates, or could exercise a post for which they have been elected, with the protection of a solid and respected legal environment.**

To sum up, gender political violence is a reality that cannot be hidden in our country, and additionally, needs a major legal surgery, to find possible solutions and stop it from happening again. The rules of the game should be changed in order to balance men and women rights, since at present the theme of “gender equity” has become a rhetorical statements matter that in practice slides through misleading and fragile legal tunnels and make gender equity unsubstantial to the detriment of women. ■

**\*Marina Martha Lopez Santiago**  
Electoral Public Defender for the Native  
Towns and Communities.



# A new Inquisition

By Mariana Favila Alcala\*

When we speak of violence against women it almost always come to mind raw images of female bodies beaten, bloodied, raped and murdered, i.e. you think of physical violence exerted mostly against middle class white women. However, the Declaration of the Fourth World Conference on Women notes that “violence against women is a manifestation of the historically unequal power relations between men and women that have led to the domination of women by men, discrimination against women and to the interposition of obstacles



preventing women’s full development”. In addition, the same Declaration mentions that violence against women is grounded out of “cultural patterns (...) that perpetuate the lower status accorded to women in the family, the workplace, the community and society” (Plaza Velasco, 2007:133). In a large part of western cultures, these patterns emerged at the end of the XI century, when Pope Gregory VII laid the groundwork to unify the catholic religion, especially with the goal of eradicating pagan traditions that remained heavily rooted among believers (Blanco Valdes, 2009).





**Based on the Gregorian Reform, the Catholic Church created a series of principles that should govern the behavior of practitioners, especially of women, since the medieval Catholic Church considered woman to be an inferior being devoid of morality, the cause of all evils, the main enemy of man, an entity that commits and incites to sin and source of perversity and temptation (Blanco Valdes, 2009; Diaz de Rabago, 1999).**

Thus, the catholic dogma ruled that the woman “is one of the main causes of the misfortunes of man because he, by feeling attracted to her, bypasses the precepts of duty, as that of not to covet your neighbor’s wife” (Blanco Valdes, 2009). For this reason, the Catholic Church determined that women, by being a source of temptation and perversity, should be guarded alway by the male, i.e. his father, husband, brother or some clergy (Blanco Valdes, 2009). Based on those conceptions, the medieval Catholic Church established three psychosocial models applicable to women, based on three important female figures in the catholic dogma: Eva, Mary and Mary Magdalene (Blanco Valdes, 2009; Diaz de Rabago, 1999; Osborne, 2009).

The medieval ideology is characterized by an understanding of the world on the grounds of ideal prototypes and their opponents, hence the model of Eva, considered an instrument of the devil and representative of sin and temptation, should have an opposite, embodied in Mary, virgin and perfect mother (Blanco Valdes, 2009; Osborne, 2009). The midpoint between these archetypes was Mary Magdalene, the redeemed and repentant sinner (Blanco Valdes, 2009). The prototype of the ideal woman, personified in Virgin Mary, dictated (and dictates even to this day) that women should be kept in the private sphere, dressing



with sobriety and never display her body, be demure and reluctant to speak, moderate in eating and drinking “because food and drinks can awake in women an uncontainable lust” (Blanco Valdes, 2009); silently listen to instructions and in complete submission, to cloister herself since puberty to maintain her honor, promise obedience to her husband and not take authority over him, but always be silent in his presence (Diaz de Rabago, 1999). The Gregorian Reform is thus the gradual establishment of a misogynistic ideology that has endured in the West up to this day (Blan-

co Valdes, 2009) and, in a certain way, found great support through the Inquisition.

Pope Lucius III instituted the Holy Inquisition around the year 1184, to prosecute and punish the heretics, i.e. people who thought, questioned or protested against the Catholic Church and its dogma. The independent women, i.e. without the protection of a man, raised suspicions and could face accusations of heresy (Diaz de Rabago, 1999:122), which case the Holy Office could prosecute them, torture them and ultimately kill them at the stake. In the year 1300,



for example, the Inquisition sentenced the Guglielmite, whom it believed to be “feminist heretics” since they thought that the female gender could renew the religion at that time (Diaz de Rabago, 1999:123). Freethinkers, intellectuals and interested in social protest women were seen as instruments of the devil by not complying with the models imposed by the Church. Therefore, they deserved to be victims of violence for which the Holy Inquisition is remembered , although it must be said that the behavioral guidelines that the Church imposed on women were already moral violence by themselves, sustained on symbolic violence.

This type of subtle and almost invisible violence, is not new, it is based on social beliefs, which represent the natural, the logical and the real. Such beliefs, however, are constructions that are made and acquired in the people’s process of socialization, who (mostly) are completely unaware of the existence of symbolic violence and unknowingly become their accomplices. In other words, the subjects do not detect “the violent part” of the symbolic or moral violence, therefore it goes unnoticed and, as a final result, legitimized. They are accepted as the natural order of things and it is thought that any difference or contradiction to that order constitutes a pathology or abnormality (Acosta Martin, 2013).

**THE UNITED NATIONS DEFINES VIOLENCE AGAINST WOMEN AS**

“any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of freedom, whether occurring in public or in private life.” (Fernandez Poncela, 2011). In article 6 of the General Law on Women’s Access to a Life Free of Violence it is noted that violence against women is “other forms [of violence] actually or potentially damaging the dignity, integrity or freedom of women” (Fernandez Poncela, 2011).

However, it would seem that especially in social networks, and the virtual world in general, they are immune and indifferent to what is established by the law. Proof of this are the recent and notorious cyber-attacks suffered by women (#LadyCuernos, Andrea N., American journalist, and women from Veracruz-Porkys), which had reported in social networks the sexual attacks (assault, abuse and harassment) that they were victims of and were received via the internet, offensive messages, death threats, criticism, objectification, and vilification, by both acquaintances and strangers. In these cases, society, through its discourse, attacked the victims (revictimization) and not the probable victimizers. It seems that the ultimate aim of this



**WE ARE A SOCIETY  
INCONGRUOUS PUNISHING  
TO THE WOMAN FOR BEING VICTIM  
OF VIOLENCE, THAT  
SAME SOCIETY CAUSES YOU.**





type of virtual behaviors is to silence the women who express themselves against the aggressions of which they are victims. Any resemblance with the ideas of the European Inquisition is no coincidence, but the materialization of a cultural heritage that began to take shape centuries ago.

Domination and symbolic violence are exercised through human communication and interaction that are developed in specific social worlds whose vision, rules, principles and behaviors are inserted automatically and unconsciously in the mental structure of those who interact and communicate in these worlds (Serrano-Barriquin and Ruiz-Serrano, 2013).

Social networks produced by globalization and technological and scientific advances are a social world that has resulted in forms of coexistence scenarios never seen before (Serrano-Barriquin and Ruiz-Serrano, 2013), they have changed the way in which people (especially the young) relate, communicate and express. The virtual reality of social networks is a parallel universe that intersects with not virtual reality given the ease of connection, immediacy and generalization of such social networks (Estebanez and Vazquez, 2013). Because of the above mentioned, social networks and the internet, in general, also serve as a means for “the perpetuation of stereotypes and gender roles [and the reinforcement] of male domination and women submission through the activities and images that circulate [there]” (Serrano-Barriquin and Ruiz-Serrano, 2013:130).

Jiménez-Bautista notes that “no animal, except for the human being, enjoys practicing cruelty on another of the same species, [so] torture practices are only known, universally, in the human species” (2012:21). The greater example of how cultural, moral and symbolic violence materialized in physical violence is the Holy Inquisition, whose practices were nothing but the violent and deadly materialization of intolerance and repression (Carrera, 2007).

It is not surprising that in a culture in its majority catholic, such as the Mexican, women that fit into the model of Eve are victims of all kinds of violence, especially verbal violence in social networks, which have become a means of expression and activism of social movements such as the feminist. It seems that, in this context, society is facing a New Inquisition, which takes place in the virtual world, where the anonymity gives free rein to the usage of comments loaded with insults as a new form of stoning women that are not subject to the rules of conduct imposed more than nine centuries ago. That a woman who is more Eve than Mary, for, in addition to having tasted the forbidden fruit of knowledge (which made her aware of her submissive imposed position), strives to make public this knowledge with the aim of achieving a change.

## Violence against Women, society is Victim, accomplice, judge and executioner.

In the field of violence against women, the society is a victim, accomplice, judge and executioner. It is the victim since their own agents (both men and women) are constantly under the yoke of the cultural violence that justifies and legitimizes physical violence which is also a part of its everyday life; it is an accomplice perpetuating such violence through its language, its actions and its norms,

which also converted it into a judge, one that is not objective, given that it ends up ruling on the victim and not on the perpetrator on the grounds of a conception of women as a submissive entity but at the same time the cause of all evils, including the one she suffers herself. Thus, society sentences the victim to humiliation, aggression, inequality, fear and silence. Finally, society is executioner since, on one hand, lapidates women both for being a rebel and for being submissive, and this is done by means of adjectives and insults that undermine the dignity of women and, in the worst of cases, threaten women's lives, since symbolic violence justifies physical and direct violence. On the other hand, by protecting the offender, the abuser, the perpetrator and the murderer, society also commits an outrage against the female victim and through revictimization washes its

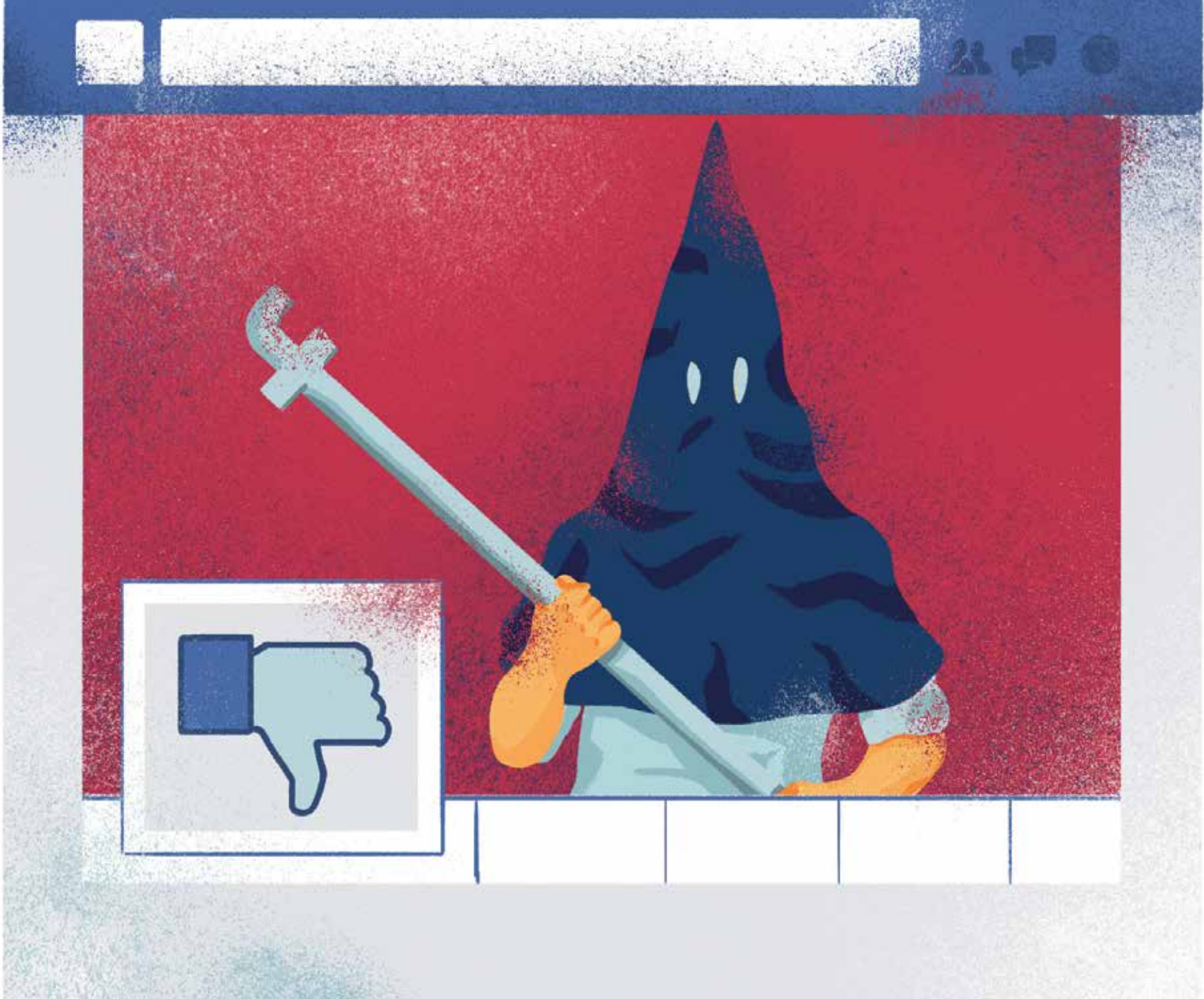


Illustration: Ángel Sánchez

hands, just as Pontius Pilate, and ignores and denies any responsibility for the violence that women suffer.

We are an incongruous society that punishes women for being victims of violence, which the same society causes through its institutions, customs, actions and political, artistic and media expressions, summing up, through its language and discourse. It is ironic how modern society defends and exalts freedoms, especially freedom of expression; nevertheless it questions, punishes and insults women who exercise their right to counteract the physical, formal structural, cultural, moral and symbolic violence that lurks them steadily. It is sad how society recognizes and exalts the power of women to harm themselves, however, it recriminates and censor women, who believes she has the power to raise her voice to demand to be respected and treated as a human being and not as an object. ■

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**Interview: Magistrate Elvia Rosa Diaz de Leon D'Hers**  
*Criminal Matters Judge in the Federal District Court*

# A TRUE VOCATION FOR JUSTICE

Judge Elvia Rosa Diaz de Leon D'Hers was born in Mexico City, she has a Bachelor's Degree in Law by the National Autonomous University of Mexico with specialty in Criminal Law at the Institute of the Mexican Supreme Court, has devoted more than four decades of her life to the service in the Federal Judiciary.

**S**he has earned awards such as the Ignacio L. Vallarta Medal for her 48-year career within the Federal Judiciary, the Alfonso X the Wise medal, awarded by the Universidad Panamericana. She earned an honorary doctorate degree by the Mexican National Institute of Criminal Sciences for more than 25 years in the Chair of Law and. She has specialized in diverse subjects, such as the update on the constitutional and legal reform in the field of organized crime, judicial argumentation and rhetoric, and Juris-

prudence, among others. Among her publications are "Brief reflections on the decree to reform various articles of the Constitution and the Federal Judiciary" and "Profile of a Public Prosecutor".

She has worked more than 20 years as a judge and has played many roles within the Federal Judiciary System. She started in 1968 as a Judicial Officer; she was Assistant Secretary in the Appellate Court in Criminal Matters of the First Circuit, Secretary of Study and Account of the Mexican Supreme Court, Magistrate of the Courts in Criminal Matters, and First and Sixth Circuits' Judge since





1984. She was appointed Counselor of the Federal Judiciary by the Plenary of the Mexican Supreme Court from 2004 to 2009. In a solemn public meeting of reception, Elvia Rosa Diaz de Leon D’Hers, mentioned that: “during my professional career I have always worked in the justice area. I get to this point in my career, one of the most important ones I have had so far, with honest modesty, and with the firm intention to be worthy of the trust you have placed on me”.

**The deeply embedded concepts of law and justice, the authentic vocation to provide justice and the personal empathy of Judge Elvia Rosa Diaz de Leon D’Hers with the Federal Judiciary, constitute the solid platform that has enabled her to consolidate a proven record of excellence.**

**A background of 48 years of service in an institution is easier said than done, it involves almost half a century of devoted work in the administration of justice. What can Judge Elvia Rosa Diaz de Leon tell us about her arrival in the Federal Judiciary, especially taking into consideration that it was during a crucial year in the political, economic, and social life for our country?**

In fact, 1968 was a year that marked the Federal Judiciary in a very meaningful way. The Collegiate Circuit Courts with jurisdiction of legality were newly created. Before the establishment of these Courts, resources were only in place where violations of procedures took place. You were only a child at the time, Margarita, but if you recall, it was then that both your brothers and myself started working in the Federal Judiciary, in these newly created courts. Courts were created one for each subject in criminal, civil, administrative, and labor matters.

I was lucky, since I had never worked before. As a coincidence, a colleague of mine, daughter to Judge Paulo Eugenio de la Rosa (who had just been appointed Judge in the Supreme Court of Justice, in the only collegiate court that had been founded so far), told me that her father needed someone who was studying law and who was interested in learning and starting a career in the Federal Judiciary System. When my friend told me about this, I immediately said yes since I had dreamt about this from a very young age. Since I was a child, I loved to read the police blotter in newspapers; I loved reading about murders, robberies, and assaults and had a passion for mystery novels. When all my friends were reading Corin Tellado, I was reading the Agatha Christie novels and similar novels. Those really caught my attention, and I tried hard to find out who the killer was. I was already inclined to this area. I remember I would use a foul word every now and then, and my father used to tell me “you have a foul mouth, just like a policeman’s mouth!” I wonder how he knew them since my father was a doctor, not a lawyer! This had a definite impact in me, and I remember I used to tell him “it was you who left this mark on me...” and so it was...

**What was the family, social and academic life status of Elvia Rosa Diaz de Leon when she started to work in the Judiciary?**

In 1968, my first two children had been born already, one is 51 now, the other 49 and my daughter Gabriela was a newborn, she is two years younger than her brother. I was in my fourth year at law school.

**Studying a career, with a newborn baby and two small children, what was it like for Elvia Rosa de Leon de D’Hers when she arrived for the first time in the Federal Judiciary with the responsibility of a Judicial Officer?**

I really felt a deep drive and I thought it was a wonderful opportunity. Those were the times when women hardly had any access to work in middle hierarchical positions; they did not even have access to the lower positions! Men in higher positions thought that you were not going to devote all your time to work, especially if you were married with children. This, in fact, is imperative to fulfilling the job goals. I told myself “Well, I can’t let this opportunity pass”, and that is how I started working in the Federal Judiciary.

I was studying my career and took advantage of the 1968 Movement, which allowed me to have a few days off work and was able to attend job interviews. As a matter of fact, Judge Lara took the time to teach me mostly everything, from sewing a dossier (task that seems very easy but is not in fact) to how to sort everything out. He had an extensive background in criminal matters and was extremely knowledgeable since he had already been Judge and Magistrate of the Supreme Court, and agent of the Public Prosecutor’s Office. He taught me and gave me the opportunity to start as a law-planning clerk, and that becomes your dream when you are starting your career. Actually, I have a lot to thank him. Then, when I graduated, an opportunity came up and he immediately appointed me as secretary, since I already had experience in law planning. Of course, from then on, my life changed dramatically. Those were times when we did not have as much work as we do now.

**Four decades ago, what were the legal matters like in our country?**

Clearly, the population in our country was less than it is nowadays. We did not really prosecute everything. The Collegiate Courts had fewer competencies, and we did not have the knowledge about direct amparo proceedings in all matters. Only a few years back, 5 year sentences were increased to 7 years. We finally had the opportunity of learning about everything and that, for certain types of felonies, could be taken to Court. Yet, I insist, it was a great opportunity because you could meet, up to a certain extent, with the supposed work schedules we had, which were established as nine to three. This situation, of course helped me a lot in meeting my obligations as a housewife, mother and wife, oh boy!

## A role model woman and mother, example of a strong character and integrity who combined her studies with a professional world in pursuit of a status defined by her life project.

ning about everything and that, for certain types of felonies, could be taken to Court. Yet, I insist, it was a great opportunity because you could meet, up to a certain extent, with the supposed work schedules we had, which were established as nine to three. This situation, of course helped me a lot in meeting my obligations as a housewife, mother and wife, oh boy!

**What can Elvia Rosa Diaz de Leon as law planner in the Appellate Court share with us, being a full-time mother on one hand, at a time of shortage in the Federal Judiciary, and, on the other hand, ruling sentences in one of the halls of the Supreme Court?**

I first started working as a law-planning clerk in a court of law and I also had the opportunity, although I was not the one to issued justice directly, but I did have the opportunity, to see how to carry out a judicial process. Furthermore, with great joy I recall that there was another colleague in court who was a law-planning clerk in another court of ordinary jurisdiction and together we would visit Lecumberri. At that time we did not have the prisons that we have today. We would arrive at Lecumberri, and ask the person in charge of the parking lot, whether we could park at such or such place, for parking places were always scarce, he kind of knew us already for we went

there every week. He would answer in a very serious voice “At the end of the day you come here for nothing more than signing in and then you leave, right?” I would answer: “Do we look like fraudsters, or thieves?” I think that he was under the impression that we were there to sign for parole.

**Studies, work, and beyond the professional vocation, the duties of a mother to fulfill. How did Elvia Rosa Diaz de Leon D’Hers get organized in order to comply with these three tasks? Were there daycare centers in the Judiciary already?**

In this regard, I could never have accomplished my career goals, especially in this field, without the help of my mother. She took care of my newborn daughter, Gaby, until she was old enough for daycare. Fortunately, the Judiciary, in the building where we were, established a daycare center on the ground floor. My daughter was one of its first attendants, which allowed me to take care of her needs at all times. Additionally, I no longer had the morning class schedule. Since this was so soon, my mom, although she had a profession she never worked in Mexico, because she was not a Mexican citizen, so she could help me drive the children to pre-kindergarten, as it was called in those days, then to school. She would help me with fixing meals, so

when I came home from work, we could eat dinner with my parents and this helped me a lot and allowed me to be able to combine my duties. Then I would take my children home, helped them with their homework and took care of all the pending chores, once I was free, I gave myself some time to do my law-planning for the Supreme Court.

**In the achieving of the judicial career of Judge Diaz de Leon D’Hers, integration and family support were very important, how did your parents influence you in your personal and professional development?**

I was lucky to have the wonderful parents I did, for they also had an outstanding vision not common at the time. Back then, women were expected to learn how to be good housewives. There even was a family and social institute where women would learn how to properly set the table, embroider and knit. My parents instilled in all their children the need to study a degree and I am the oldest of eight siblings. Especially my dad insisted on us studying a degree, stressing this specially on his three daughters. We were the older ones. Life then taught me an important personal lesson: I was already married and my firstborn, Carlos, was a newborn then. I took him to my parents’ house for them to teach me how to bathe him and learn about



all those special moments in life. I used to work at my father-in-law's business where my husband worked as well and it went on strike. It was an established business and a very buoyant one, my father-in-law baked wonderful donuts and sweet bread that was sold everywhere, but the strike led him to bankruptcy, and so my dad said to me: "Now you see why I always insisted in you having a career? I can give you fish every day, as long as I live, but the day I'm gone who is going to provide for you? So you needed to learn how to fish"; then he urged me to return to the university.

**What can Judge Elvia Rosa share with us about her return to the university?**

I had to take the admission exams again, as if I hadn't before, I was lucky for being in a pilot group, consisting of the best averages obtained in the admission exam, an excellence group.

The competitiveness level took required of a greater effort. Among my classmates I had people like Francisco Ruiz Massieu, current First Justice of the Supreme Court and three members of the Mario Melgar Barquin Judiciary, really a group that, in a professional way, also helped me a lot. I don't want it to sound like I am praising myself, but Francisco Ruiz Massieu and I were fighting, the entire five years of the degree, for the first place in the generation's honor roll. I earned second place, thanks to a teacher, because he said that A's were only for him, yet this really pushed me to a higher competitiveness level, I did not even realize it at the time. I was deeply anxious to graduate in order to be able to support my family. By then we already had three children and my husband had also gone back to school at the same time that I did. He was finishing his technical high school diploma in the Politecnico Nacional system. In this school system, high school was three years and the degree took another four years. Truth is that the two of us made a great effort to cope and deal with life as it needed

to be, but if my mother had not helped me... you know the double effort, not because men don't do it, but I believe that we women cannot detach from these two very important aspects of our lives...

**As part of our idiosyncrasy, it is considered that the role of women is aimed at taking care of the children and related jobs, while the role of men is free of these type of obligations, this should not be like that, I believe that both should be equal, but as of today, this is still a reality that only time will help us overcome.**

I met Elvia Diaz de Leon in 1984, when I was fortunate enough to find a job as the Secretary of Study and Account to the First Chamber at the Mexican Supreme Court, of which she was the star; everybody loved and admired her. There was only one other woman there, Edith Ramirez del Vidal; I was pleased to meet these two women who always offered their support, solidarity and above all, a great fellowship. When she was the Secretary of Study and Account, the decisions that were taken in relation to the appointments to be District and Circuit Judges, had to be borne by the Plenary of the Mexican Supreme Court, the Council of the Federal Judiciary did not exist yet. At the time, it was believed that women should not be appointed as judges, especially not on criminal matters, which was the area in which the Judge performed. It was customary to appoint women magistrates, because they were supposed to be under the wing of two men-judges within a collegiate court. Elvia Diaz de Leon was appointed Circuit Judge, along with two other amazing women, Maria Antonieta Azuela and Catalina Perez Barcenas, three prominent women who came from the Fourth, the Second and the

**First Chambers. How did the peers and mates treat Ellvia Rosa Diaz de Leon when she was first appointed Judge to the Colligate Court, and what is her experience as a judge during that time?**

Mixed experiences, since on one hand it was wonderful to have the opportunity to be a magistrate, I felt upmost honored. Appointments were made, and those who had nominations from the three chambers could make it to the final round for final appointment. At the time, Catalina was in the Fourth Chamber, Antonieta was in the Second Chamber and I was in the Criminal Chamber. The three ministers then agreed the three of them would vote for the three of us, which gave us a tremendous boost. I was the first woman to be appointed to the First Chamber and, for many years, I was the only one, because the ministers of the former First Chamber, did not like working with women. When Minister Pavon Vasconcelos, Minister Castellanos Tena, Minister Rivera Silva, Cuevas Mantecón and Fernandez Doblado arrived, it was really an extraordinary chamber composed of leading lawyers in criminal matters, each in their own field. But especially wholehearted criminalists, Don Fernando Delgado, Minister Pavon Vasconcelos and Minister Castellanos Tena, who had served as magistrates and single-judges in criminal matters, as well as being law authors, whose books still provide great guideline although we nowadays follow the finalistic theory. I had the fortune to learn directly from them, this is a precious gift for those who want to be in the Judiciary.

**I remember the last time I saw Judge Elvia Diaz de Leon, as the Secretary of Study and Account of the First Chamber, she made her last account in terms of the matters that were issued, and then several ministers referred to her with words of appreciation and praise, wishing her and forecasting a brilliant career as a judge, because she would now be responsible for the sentences to**



**be ruled and issued, as up to then she had been the law planner of the sentences that the ministers discussed in the Criminal Chamber. What were the given circumstances that contributed to being appointed as Judge of the First Circuit?**

At the time, we only had one Collegiate Court in Criminal Matters, obviously, the tribunal was already integrated, and my first appointment was in Mexicali. My children were 15, 17 and 19 and I no longer could take them with me because they were a very important school stage, I decided to talk to First Justice Jorge Iñárritu and tell him that if I had to choose between my family and my career, I had no choice, my family came first. Minister Iñárritu was a very generous man and very open-minded, he told me not to

give up and wait for an appointment at a nearer place; Puebla, was a possibility then. Fortunately, the Collegiate Tribunal in Administrative Matters was created out of need, and Dear God remembered me, because when they switched Judge Mendez Calderon to the Administrative Matters, I was appointed to the vacancy her left in the only Appellate Court on Criminal Matters that existed at that time, of course there had never been a woman in that court either, in a position other than office clerk.

I was really excited, actually it was a double excitement: to go back and get the chair of who for many years had been my boss, and it was a great honor to take the place of he who had been my teacher as well.

At that time, President De la Madrid created the Office of the Comptroller of

the Federation and began to process the first top senior officials, causing an amazing commotion. Since there was only one Court, we used to say that all the criminal history of the country stepped by that court for many years! From 1968 to 1986 it was the only criminal court, and we tried, for example, the Diaz Serrano case, that raised so much attention. This case had two parties, one of the parties was released on bail and the other was in the process but on parole. He came to see me because he had been in prison for many years, he told me that my name was significant in his life, for his two wives, whose names were Elvia and, in my case, his freedom was in my hands. We had cases like the Ramirez Limón; which was also very complicated; the Fausto Cantu Peña case; a case of an agrarian leader; the La Quina case, a very important case, both for him and for the country, because he had to serve many years in prison. He had been accused of aggravated homicide and in reality it was murder but not aggravated. We ruled the sentence as such and conceded him the amparo, leading to a very important reduction in his sentence.

One of the positions in which Elvia Rosa Diaz de Leon has developed her professional career was as Councilor of the Federal Judiciary. Recently, we met several colleagues from all parts of the Nation, who showed us the warmth, respect and gratitude they have for her by the way in which they address her.

**When she was Councilor of the Judiciary, she always put herself in the place of judges, because she has always been a judge and because she knew that in the hands of the Council of the Judiciary, to discipline, for the judicial career, for the changes in secondments, is precisely the judicial career of a partner what is at stake.**



**What can Elvia Diaz de Leon share with us about the time she served in the Council of the Federal Judiciary?**

In addition to the honor of having been in all the final rounds, so to speak, since the system of speculation shifted to direct election of the ministers, I made it to the final rounds, which caused me deep pride and satisfaction; but there was a very special one, that I competed as well with you Margarita, to be a counselor. You made it first and once you were appointed minister, I was lucky enough to fill my own position, then came Luis Maria Aguilar, the three of us in a hierarchical order. And I realized that judging criminal matters, means getting in contact and working all the time with the most awful passions of humanity, the things that a human is able to do when he gets angry, when he is needy, in the end, others do it for fun because it is their modus vivendi. But what is certain is that, to be in the Council helped me to realize many things that one did not believe or just not realized could happen. Minister Azuela, who always had this idea, split the nation in two, the First Justice did not like to travel by plane so they gave me all the north borders, because of my specialty, but Luis Maria, also did me the favor of handing me his, all south borders that present other kind of problems, but just as important, take Oaxaca, for example.

Really, I had been so lucky because I have always had such a wonderful staffs. The serious problems that we faced in the integration of the courts, was that sometimes I had three very aggressive peers or very arguing ones, just as you cannot put together three people too slow or too quiet, the courts must balance, the integrations should be complementary to those who carried out; of course, also to avoid putting people who would confront immediately, especially at that time.

Another thing I learned and that was very important to me, is that what is most difficult to judge in life, is to judge the parents themselves, it is terrible, it

is a huge responsibility, the most difficult work but also the most important a counselor faces.

A meaningful situation of which I feel very honored to have been involved in, was when together with First Justice we realized that they were sending judges to very hot spots where they were building high-security prisons, people who had no experience in criminal matters and it meant them a lot of effort to confront a joint contest, because they were devoted to the matter, shifts were 12 to 24 hours a day, this would not allow them to venture into other subjects in depth; then, we decided to do specialized contests in both criminal and administrative matters, which also present a huge problem because there are a multitude of laws, decrees, circulars, etc., in order to make those contests, specializing in criminal law, another of the serious problems we faced, was that a person sent to Ciudad Victoria, Matamoros or Ciudad Juarez would ask for removal a month later, because they were not used to the matter, nor to the type of litigants, nor the type of matters.

The litigants in criminal matters are very different than the litigants in the administrative or labor matters, at the end we were allowed to tell them, from the very first moment, that whoever comes to a contest of judge or magistrate in criminal matters may not request their removal within two years, because we could not be doing rotations in places as dangerous as the mentioned above and almost immediately be changing the judges. We succeeded in this, in the three or four judge contests that we made of judges and in two for magistrates, the grades and the examinations of all those who passed were above 9.5, an excellent level and already achieving such scenario with people who were already specialized, we could send with confidence all over the border and to the states of Sinaloa, Oaxaca and Michoacan, which already had a serious problem regarding organized crime; I think it was a great experience that gave us a lot of satisfaction in that regard.

**The recognition of Judge Elvia Diaz de Leon's judicial career, has always been in and out of the Judiciary, to the extent that, on two occasions she has been proposed for Minister of the Mexican Supreme Court.**

**She has been two lists of three candidates to be nominated as Minister of the Supreme Court, what were the experiences of this great recognition and the great work to her judicial career?**

More than the recognition, has been a great honor for me, I think that all of us who embrace this career ever dreamed, with or without recognition, having the possibility to reach our highest Court of Justice, already having been appointed by presidents Fox and Calderon, to integrate a list of three, has made me feel very proud. However, there are political issues involved here; you know that all political parties are involved and you have to be elected by qualified majority in the Senate, it is really an event that in addition to giving you a lot of satisfaction, it is very exhausting and very uncomfortable because it seems like you're selling yourself, the way you are proposing yourself. It is a task to which we are not used to, nor to the challenges that you have to pass, here all the senators, and you realize it is obvious, that the political parties that do not back you make some questions aimed to upset you or make you say something out of place and they hammer this on you all the time.

Of course, in the two events, on the two occasions I had this privilege, the lists did not pop, as we say colloquially, had not a good end, one of which I had with thee, I have to admit, that fortunately the two times that we have been in these situations to be both in a list of three, has never undermined our friendship, nor the affection that we shared for many years now.

It was moving and honorable, but

# 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 diez días naturales, 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.

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“God gave me a wonderful family, starting with my parents and my brothers and sisters, my children, my husband, gave me the opportunity to study, it was then when I realized that I was born under a lucky star, but had to work hard to earn it... it also gave me the opportunity to learn not to cry over anything that is not for me”.

very exhausting, so exhausting that if you remember, after the second list, I had a health issue, a stroke. I was in the office, on the phone, I felt sick and when I woke up, I was in intensive care. A very difficult time in my life indeed, but that allowed me to think, when I saw the appointment to substitute Chucho Gudiño, President Calderon called me, very kindly asked about my health condition. A lot of months passed before I could go out, I was in a wheelchair, could not walk, took me a great deal of effort, later I used a walker, until finally I was able to fully stand and walk, not very well though. Be in intensive care helped me to reflect on certain things, and the first was to realize that I have been very fortunate.

God gave me a wonderful family, starting with my parents and my brothers and sisters, my children, my husband, gave me the opportunity to study, it was then when I realized that

I was born under a lucky star, but had to work hard to earn it... it also gave me the opportunity to learn not to cry over anything that is not for me.

I understood at that time, that politically speaking opinions were very divided and it would be very difficult to convince the other party to give the qualified majority then, it was a very important way for me not to cry, not to suffer; I feel very honored to have been on the lists, but I feel yet more proud of having accomplished what I have today out of my own effort.

Also thanks to the generosity of the people who were my teachers, having worked directly with Fernando Castellanos Tena, it was a wonderful experience, a man who gave us the opportunity, no matter he did not really like working with women at all. I remember one occasion that my daughter was very sick, I told him and he answered: “it is not for sitting in a chair that we pay you, but

for planning law projects, if you can do that at home, go home; I have no inconvenience letting you go to take care of your daughter.” For me, the Judiciary has been my second home, my family and the people I work with are there, my best friends, the ones who have accompanied me throughout life, I am really grateful for that.

**Has been a fortune to share with Judge Elvia Rosa so many stages of our lives. Life made us rivals in some occasions, as she pointed out, it never undermined our friendship and our love for each other, on the contrary; it deepened the respect that we have always had at each one. But above all things, what we should learn from Elvia Rosa Diaz de Leon D’Hers is such a strength of will, that courage to overcome that only study and preparation give, and above all, the great moral and human quality that she has always shown. A woman who has taught us how to get ahead in each act of life, an admirable woman, worthy of been followed through her life’s path. What message do you want send on your experience working in the Judiciary?**

Work in the Judiciary is an adventure worth going through, is a place in which our individuality is respected, which gives us the opportunity to perform as individuals and allows us becoming everything we ever dreamed, because if one works hard, with all her knowledge and one embraces this career with the affection with which I have always embraced it, you break through, and although you don’t make it to the final place you would have liked arrive, you feel fulfilled in a wonderful way, because it is a place where you have the opportunity to fully devote yourself to your career and move forward.

*\*Interview with Judge Elvia Rosa Diaz de Leon D’Hers, for the program “More than a story”.*



## ATENTA INVITACIÓN UN PROYECTO CON IGUALDAD

A partir de 2013, la Coordinación de Derechos Humanos, Igualdad de Género y Asuntos Internacionales, tiene a su cargo la elaboración de la revista Igualdad, la cual, tiene como objetivo generar un espacio entre las y los juzgadores en el que puedan difundir y compartir información, ponencias, experiencias, así como, buenas prácticas en materia de igualdad de género en la impartición de justicia, y con ello contribuir para fortalecer y promover las condiciones de igualdad entre personas.

La Coordinación de Derechos Humanos, Igualdad de Género y Asuntos Internacionales, les hace una atenta y respetuosa invitación para que colaboren con esta coordinación, a efecto de compartimos sus artículos relacionados en materia de igualdad de género e impartición de justicia, para ser publicados en la revista Igualdad.

Los artículos no deben rebasar los 9,000 caracteres sin espacio, y el tema debe ser alguno de interés sobre el particular, con cita de las fuentes consultadas.

Favor de enviar el artículo al siguiente correo electrónico: [maria.garcia.raba@correo.cjf.gob.mx](mailto:maria.garcia.raba@correo.cjf.gob.mx) se enviará acuse electrónico.

Para mayores informes, favor de comunicarse al teléfono: 5449 9500, Ext. 4310 y 4355.

