

**Shadow Report to the
Committee on the Elimination of Discrimination
Against Women, CEDAW**

Mexico

**“Discrimination and Lack of Access to
Justice for the Women in Chiapas,
Mexico”**

(*special emphasis on rural and indigenous women)



Centro de Derechos de la Mujer de Chiapas, A.C. (CDMCH)
[Center for Women's Rights in Chiapas]



Grupo de Mujeres de San Cristóbal de Las Casas A.C. (COLEM)
[Women's Group San Cristóbal de Las Casas]

San Cristóbal de Las Casas,
Chiapas, May 2012

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Executive summary

This shadow report aims to provide useful information to CEDAW's Committee (hereafter referred to as "Committee") on the "7th and 8th consolidated reports provided by the state of Mexico regarding the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women - CEDAW. This shadow report deals with issues of women's access to justice in Chiapas, Mexico, with special emphasis on rural and indigenous women.

This shadow reports points out several factors such as gender, ethnicity and class that play a role in limiting women's access to legal justice. It is within this context that the problems of poverty and lack of economic independence are framed. Factors related to economic disadvantage create real obstacles for women seeking legal justice - from the inability to pay for qualified defense lawyers to being unable to afford for the costs associated with legal cases. This is of great importance in a state like Chiapas where 88 per cent of the population is considered to live under mid-level to very high levels of economic marginalization or poverty. These circumstances disproportionately impact indigenous and rural women's lives particularly as 94% of these women do not work outside the home.

Educational Factors:

Other factors addressed in this shadow report that have a detrimental effects on women's awareness or knowledge of their rights include: monolingualism, illiteracy and low levels of schooling. In Chiapas, approximately 6.4% of women are illiterate but in some indigenous communities this rate is 50% or more. In rural and indigenous regions, husbands' and fathers' wishes predominate and influence women's ability to exercise their rights. And, in rural areas land ownership determines access to exercising one's rights. In Chiapas however, only 5 to 8 per cent of women have collective property rights. Lack of knowledge regarding substantive rights could mean that victims do not seek justice when these are violated.

Lack of justice for women in Chiapas is also linked to the situation of insecurity and impunity in the region that promotes continued violence and that inhibits women from seeking justice. After the armed uprising of the Ejército Zapatista de Liberación Nacional, EZLN (the Zapatista National Liberation Army), the Mexican State implemented a politics of counterinsurgency that has favoured militarization and increased paramilitary and violent groups ("*grupos de choque*") presence in Chiapas. All these actions form part of a policy of "low intensity warfare" with the objective of controlling the population and even generating psychological terror among them. In some places, for example within indigenous communities, women are disproportionately impacted and report being sexually harassed by the military. In more serious cases of gender violence, women have experienced sexual violence, torture and killing at the hands of the military or paramilitary armies. In this report we provide examples of two important cases that illustrate this situation: the case of the "Tzeltales Sisters" (1997) who were beaten, tortured and raped by the military; and, the case of the Acteal Massacre (1997) where paramilitaries committed sexual violence and killed women and

girls. In both of these instances, no justice nor any form of reparations have been made to the victims of these violations.

Neoliberal Policies:

This shadow report points out that both the federal and state governments generate situations that expose women to human rights violations. The Mexican state for example, promotes neoliberal policies that have resulted in increased economic marginalization and poverty for women. On the other hand, both federal and local governments continue to support policies that fail to address or engage in the transformation of the relationship of domination and subordination that exist between men and women in society. The shadow report also shows how governments are able to use mechanisms of state for public policies that normalize and help reproduce discrimination against women that in many cases socially and politically immobilizes women. As examples, this report includes the *Programa de Oportunidades (Opportunities Program)* and the *Seguro Popular* [a kind of public health insurance option for uninsured citizens] referenced by the Mexican government several times in their own report to the CEDAW Committee.

Legal Systems:

When addressing the different systems of legal justice extant in Chiapas, the report looks at two systems formally recognized and practiced - the Mexican positive system and the indigenous system. Both systems are based on patriarchal conceptions that underlie their formulation, interpretation and application which result in the discrimination and exclusion of women. Several examples of the Mexican positive rights system are discussed showing how women are disproportionately impacted by these practices (discrimination through effects or impacts). Similarly, current indigenous justice practices are looked at as they are applied solely to women (direct discrimination). Both justice systems base themselves on the application of traditional gender roles. In relation to this, we point out that the Mexican state has not adopted the necessary measures to alter social and cultural factors that contribute to the continuation of circumstances that negatively impact women.

Femicide:

Lastly, we present two very important cases from the state of Chiapas that, given their seriousness, require the immediate attention of the CEDAW Committee: first, the case of gender violence and femicide in Chiapas and, secondly, the lack of access to land by indigenous and rural women in the region. These two cases are exemplary of how the Mexican state fails to exercise due diligence, prevent and respond to the severe violations of women's rights. In this sense the state violates the right to provide access to justice for women victims of violence and discrimination.

It is important to mention that in terms of gender violence and femicide, the state of Chiapas currently finds itself in a very critical situation. In just this year, there have been extraordinary incidences of gender violence with a record number of women disappeared and murdered. In many of these cases extreme violence has been used including torture and mutilation.

Of much concern to us are the mechanisms in place in Chiapas, used to administer and provide justice that do not have multidisciplinary teams for the investigation of crimes nor are there protocols utilized to monitor adherence to international standards. Precise data on the number of women murdered or disappeared is also missing. Hierarchical and unequal relations based on social and ethnic origin are also ignored in the provision and administration of justice. In some instances, the lack of proper training and insensitivity of government functionaries result in the re-victimization of victims and survivors of violence, generating yet more violence and dissuading further prosecution of justice by victims and survivors.

Land Access and ownership:

When it comes to land access, legislation dealing with rural matters does not deny access to land ownership and property to women. However, the Mexican state does not penalize those responsible for communal lands' administration that exclude women through the use of exclusionary internal mechanisms in the administration of land distribution, title and certification. Linked to this problem are those cases where indigenous women have been forced out of their communities and have had their lands taken away using these same customary and discriminatory mechanisms.

As will be demonstrated in this shadow report, for victims and their families in Chiapas, the factors presented and addressed here result in the denial of legal justice rights for women. The extant political and legal systems do not guarantee equal access to justice for women on the same terms as men and, as a general rule, remain ignorant of women's particular needs within a discriminatory context.

Introduction

This shadow report aims to provide useful information to the Committee on the Elimination of Discrimination against Women, CEDAW, (hereafter referred to as "Committee") for consideration of the "7th and 8th consolidated reports from Mexico on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW "(hereafter referred to as the Mexican State or State's report").

The CEDAW Committee requested from Mexico in its *List of issues and questions for consideration of periodic reports* (November 2011), detailed information about the strategies put in place to guarantee indigenous women's access to justice. To this end, the Centro de Derechos de la Mujer A.C. (CDMCH) and the Grupo de Mujeres de San Cristóbal de las Casas A.C. (COLEM), organizations comprised of feminist and women's rights advocates in Chiapas drafted this shadow report **on the topic of women's access to justice in Chiapas, with a special emphasis on rural and indigenous women.**

Our objective is for the Committee to issue specific recommendations to the Mexican State regarding its obligation to implement effective programs, policies and legal measures that are sensitive to gender, ethnicity and the social status of women and provide them with effective and guaranteed access to justice. These measures should aim for the transformation of economic, social and political conditions in the country and within indigenous communities that favour equality and eliminate discrimination against women.

We provide information on Chiapas' general social context focusing on the case of the so-called "low intensity war" which creates conditions of insecurity and impunity that inhibit women victims from seeking justice. We discuss the material limitations faced by women when seeking justice given their levels of poverty and marginalization. Information on the federal (Mexico) and local state's (Chiapas) policies and programs for women during the period under review is discussed. In general, we emphasize how these programs and policies fail to address the real causes and consequences of discrimination and violence against women and thus prove ineffective and contributing to their perpetuation.

The report also looks at the lack of justice for women within the two legal systems in the state of Chiapas: the Mexican state's positive legal system and the indigenous legal system. A couple of critical situations faced by women in Chiapas are looked at: violence against women and femicide and the lack of women's access to land as a key right enjoyed by others in rural areas. Both of these situations represent particularly critical conditions that require CEDAW's immediate attention.

We acknowledge that in recent years there has been some progress in terms of women's human rights through the enactment of laws and federal and local programs as the report presented by the Mexican State to the Committee explains. However,

through this shadow report we want to let the Committee know that the information presented by the Mexican State's report is rather partial and lacking in accuracy.

As it is later discussed in this shadow report, the Federal and state governments generate situations that expose women to human rights violations through the promotion of neoliberal policies that contrary to what was promised, have led to increased poverty and marginalization for women and rural and indigenous communities in Chiapas. As a result of these policies, women are exposed to greater risks that their rights will be violated limiting the exercise of their human rights, especially the right to have access to justice. The Mexican State on the other hand, tolerates and contributes to discrimination and gender violence when it fails to adopt effective measures that respond with due diligence to prevent, prosecute, punish and provide reparations for women's rights violations caused by either individuals or state agents. The fact that the Mexican State rarely prosecutes and punishes violence and discrimination against women is an important factor in the continuation of these discriminatory practices.

It is within this context that we denounce before this Committee Mexico's failure to comply with its obligations to CEDAW by acting in a manner that contradicts the recommendations made in the *Sixth Periodic Report to Mexico (CEDAW/C/MEX/6)* to the Mexican State; also has not addressed the conclusions and recommendations under article 8 of the Protocol, into the abduction, rape and murder of women in Ciudad Juárez, State of Chihuahua, Mexico; as well as the different general recommendations and declarations issued by the Committee.

While recognizing the important role of many public officials who are individually committed to the eradication of discrimination and violence against women, we consider that federal and local governments currently implement what we refer to as a "policy of simulation," with appearances replacing substance, that have extremely harmful effects for women. We would like to highlight for example, the national and international campaigns promoting supposed gains and the image of both the federal and Chiapas' governments that hide the critical situation experienced by many women in Mexico.

The organizations involved in this shadow report assert that the State adopts measures that do not have as their objective the elimination of the root causes of the problem. Worthy of note in this regard, is the absence of not only legal but also social, political and economic measures that aim to transform and modify the relations of domination-subordination between men and women as well as the structural discrimination that the majority of women confront.

On the other hand, we also would warn CEDAW's Committee about the approach used in the Mexican State's report, dealing with problems in a fragmented manner, rendering invisible the complex relationships among the different types of problems faced by women in Mexico. In this manner, ignoring the link that exists between the lack of justice for women and structural and historical discrimination and, the poverty caused (or aggravated) by neoliberal policies promoted by the Mexican State.

Most of the measures presented by the Mexican State's report as progress, are federal in nature. This ignores that a great part of the violations against women's human rights are committed by private actors and by local agents, making these crimes and violations not only federal in nature. As indicated by the Committee in its General Recommendation 28, the Federal government's delegation of power to the states does not in any way reduce the Mexican State's direct responsibility for all women under its jurisdiction. For this reason, Mexico has the obligation and is accountable for the acts and omissions of its states vis-à-vis the legal rights of all women.

The Mexican State's report ignores the lived reality of poor, rural, indigenous¹ and migrant women² who look for access to justice. The Committee therefore counts with very little "official" information with which to evaluate the fulfillment of obligations toward social sectors where different types of discrimination merge to keep them marginalized and socially excluded. Regardless of the Mexican State, the Committee states in its General Recommendation 28, "intersectionality" is a key concept to be used in understanding the scope of States' general obligations under Article 2.

The following information in this shadow report presents the main causes and obstacles faced by women seeking justice in Chiapas. Analysis will be done within the framework of CEDAW's Articles 1 & 2 and interpreted through Articles 14 (rural women), 15 (equality before the law) and, the CEDAW's Committee General Recommendations, particularly 19 and 28. In terms of our analysis, we also took into account the General Declaration on the situation of rural women adopted by the Committee during the 50th Period of Sessions (October 2011). To illustrate the situation addressed, we include representative case studies documented by our organizations.

It is our hope that the information provided here is of interest to the Committee. Should additional information or further clarifications be required please do not hesitate to contact us.

We remain sincerely yours,

*Centro de Derechos de la Mujer de Chiapas, A.C. (CDMCH)
(Center for Women's Rights in Chiapas) &*

*Grupo de Mujeres de San Cristóbal de Las Casas A.C. (COLEM)
(Women's Group San Cristóbal de Las Casas)*

San Cristóbal de Las Casas, Chiapas, June 2012.

¹ Along with Chiapas, Oaxaca and Guerrero concentrate the highest number of indigenous population, which have the lowest human development index (HDI) (CONAPO 2010). Within this sector of the population, which in Mexico represents more than 10% of the total, indigenous women are those with the highest rates of poverty, marginalization, illiteracy and monolingualism.

² Unfortunately, this report does not sufficiently address the situation of women migrants in an irregular migratory situation in Chiapas whose legal status puts them in a highly vulnerable position. Especially in the case of transit migrants who, according to the available information, suffer several abuses when transiting through Chiapas, including crimes such as rape, beatings, thefts, abduction, trafficking and so on, perpetrated by private or public agents.

Discrimination and Lack of Access to Justice for the Women in Chiapas, Mexico”

In this report, we inform the Committee about the situation of discrimination and lack of access to justice for women in Chiapas, Mexico, which is analyzed under Articles 1 and 2, which establish the general framework of the obligation of States parties to take appropriate legislative and other measures to ensure the exercise and enjoyment of the human right of women. These articles were jointly interpreted with Articles 14 and 15 of CEDAW and the Committee's general recommendations 19 and 28.

1. Background

Chiapas is located in southeast Mexico. It has a multiethnic and multicultural composition. The state has 4,796,580 inhabitants. Women represent 50.9% (2443.773), of which 25% are indigenous women³ and 75% non –indigenous women⁴.

Although the federal and local states implemented policies and programs to reduce poverty and promote participation of women, Chiapas is still one of the three poorest and most marginalized states of the country⁵.

In Chiapas, 88 per cent of the population is considered to live under mid-level to very high levels of economic marginalization or poverty concentrated in rural areas, mainly in the indigenous regions of Altos, Norte and Selva⁶, but also in the peripheral areas of cities⁷. Poverty is the key factor in economic marginalization in Chiapas: 45.5% of the population lives in poverty and 32.5% in extreme poverty, meaning that 78% of the population does not have the necessary resources for living⁸. While the government boasts that between 2008 and 2010 extreme poverty decreased 2.8% (71.900 people), actually the poor people index rose by 1.4%. In absolute numbers, this figure is almost three times the first number (204.300 people).

Poverty within the prevailing neoliberal dynamics is associated with social polarization.

³ The ethnic population in the state is made up of Tzeltal (37.9%), Tzotzil (33.5%), Chol (16.9%); Zoques (4.6%), Tojolabales (4.5%). Mame groups, Chuj, Kanjobal, Jacalteco, Lacandon, Kakchikel, Mocho, Quiché and Ixil comprise 2.7% of the total indigenous population in Chiapas.

⁴ Instituto Nacional de Estadística y Geografía (INEGI) Encuesta General de Población (INEGI) 2010 [National Institute of Statistics and Geography, General Population Census 2010].

⁵ OPAS-1969, "Conflict prevention, development of agreements and peace building in communities of internally displaced persons in Chiapas, Mexico (2009-2012)" [Original in Spanish]. Available at: http://www.mdgfund.org/sites/default/files/Signed_JP_Mexico_CPPB.pdf

⁶ Consejo Nacional de Población (CONAPO) 2011 [National Population Council 2011]. Also see INEGI. General Population Census 2010.

⁷ Tuxtla, San Cristobal, Tapachula and Ocosingo. Consejo Nacional de Evaluación de la Política de Desarrollo Social (CONEVAL) 2011, Medición de la Pobreza [National Council for Evaluation of Social Development Policy, Measurement of Poverty].

⁸ CONEVAL 2011.

According to the OECD (2011), at the national level in 2008 the poorest segment earned an average per capita of about \$30 per month, while the richest earned approximately \$ 980 in the same period⁹.

One of the main causes of poverty in Chiapas has been the trade liberalization to foreign markets within the framework of neoliberal policies, especially after the entrance into force of the North-American Free Trade Agreement with the U.S. and Canada in 1994. These policies are designed to guarantee profits for entrepreneurs while the State promotes a model of subsistence farming which does not allow agricultural surpluses as income for peasants¹⁰.

Neoliberal structural reforms and the abandonment of social policies for the protection of local farming in Chiapas are factors that largely contribute to increased insecurity and the poverty of rural and indigenous families in Chiapas. For women, this is particularly the case as they are placed in a much worst and vulnerable position for overcoming poverty. Factors like the penetration of agribusiness contributes substantially to the feminization of poverty in Chiapas.

In this context, poor rural families acquire loans with very high interest rates¹¹. When men from rural areas migrate to the United States or to other states in Mexico, it is their wives who are forced to bear the burden of these debts. In addition to this, women also fulfill their historical role as housewives taking care of all domestic work. There are also many other obligations carried out by women in rural areas such as their work in the communities they live in and importantly, in the farming of lands - all work that does not lead to the acquiring or recognition of their rights.

2. Lack of access to justice and the intersectional discrimination faced by women in Chiapas

The precarious economic, political and social situation that are, largely the result of the implementation of neoliberal policies as well as the subordinate position of women are

⁹ In Chiapas, according to a recent study, women expend every day in food for their family \$ 1 dollar per person, but in indigenous regions, the average is just \$ 0.50 cents.

¹⁰ This dynamic of neoliberal policies led to the privatization of land, the dispossession of indigenous lands and the disintegration of rural economy. Peasants became the most excluded sector and their lands do not produce enough to support their families. Families have a wretched family expenditure and to survive they have to buy everything they need. However, the high prices of what they buy are not related to the low income they earn from selling their products, making peasants, especially women, poorer, more dependent on the market and in a more difficult position to survive.

¹¹ There are interest that rise to 200% per year. Olivera, Castro, Ramos, *Incidencia de la Crisis Global en la Situación, Condición y Participación de las Mujeres Marginadas en Chiapas* [Impact of Global Crisis in Financial Condition and Participation of Marginalized Women in Chiapas], Centro de Estudios Superiores de México y Centroamérica (CESMECA) y Centro de Derechos de la Mujer de Chiapas, CONACYT, 2010. Causes include the acquisition of loans to migrate to the United States and other federative states and to pay for medical treatment and health care issues. They also acquire bank debts to buy land or to avoid losing them, to pay other debts and to cover their daily need.

structural elements exclude women in Mexico from development and the full enjoyment of their human rights.

The reasons why in Chiapas women and especially indigenous, rural and poor women remain in a subordinate position are manifold. These sectors of the population face high costs in terms of their social, economic, family and community situations which are all impacted by women's experience of intersectional discrimination. This concept of intersectional discrimination helps us to see that rural, indigenous and poor women in Chiapas are subjected to diverse forms of discrimination such as gender discrimination, social and economic discrimination, ethnic discrimination, legal discrimination, age discrimination, health discrimination and other forms of discrimination that all intersect or work together to create negative effects in terms of women's access to justice.

In terms of access to justice for example, economic poverty has a serious impact as women living under conditions of socio-economic marginalization are unable to avail themselves of the services provided by qualified legal counsel or defense lawyers which they cannot afford. In addition, many rural and indigenous women live in remote places which implies that they have to travel in order to obtain access to legal resources (offices, lawyers, etc.) so that these remain outside their reach. And, even though according to the law legal processes are free, the existence at times of corrupt officials and processes where money is required in order to speed things up means that those who cannot afford to pay have to wait for years for their cases to be taken up and/or solved.

In Chiapas approximately 94% of women have housework and the care of children as their main occupation with very few women working outside the home¹². And even for those who do work outside the home, the demands of working the land or of within their communities also means that they have little time left over to engage in lengthy legal processes. Depending on the nature of the activity, women working outside their home could also be exposed to greater discrimination and violence¹³. In addition, as it is women who are solely responsible for domestic work and the care of children, it is difficult for them to follow up with the requirements of legal processes which are time consuming¹⁴.

Another factor that limits rural and indigenous women's right to have access to justice that is linked to socio-economic marginalization and poverty, is the high degree of illiteracy and monolingual condition of indigenous women, the latter is particularly

¹² It is also estimated that 15% of women work outside their homes for their and their family's survival, but this work is not considered as their main activity.

¹³ With regard to indigenous women, available information indicates most of them are devoted to domestic work, craft work, assembling industries (*"maquilador"*), or preparation of food that they produce. Often, their low training makes them victims of labor flexibility; consequently, for 10 or 12 hours a day they will earn about \$ 60 dollars a month. Olivera, Castro, Ramos. *Incidencia de la Crisis Global en la Situación, Condición y participación de las mujeres marginales de Chiapas*. Cesmeca-Unicach. Chiapas. 2011. (*The original figure is in pesos and was converted to dollars for this report).

¹⁴ This situation is more complicated for single women who have a responsibility for their family subsistence after their partners abandoned them or migrated to other federative states or countries.

relevant in a country where Spanish is the official language and where legal proceedings are held in Spanish¹⁵. Statewide in Chiapas, 6.4% of women are illiterate¹⁶, but in some indigenous communities this rate reaches almost 50% or more of the population¹⁷. Illiteracy, monolingual condition and poor education are correlated with a lack of awareness for women of their human rights; there are several cases of monolingual indigenous women as well as illiterate non-indigenous women who have been convicted after signing confessions they did not understand due to illiteracy and/or unfamiliarity with the official language.

Case 1: "Margarita López Gómez". She is a monolingual indigenous woman from the municipality of San Miguel Mitontic, Chiapas, who was a victim along with her children, of physical, sexual and psychological violence perpetrated by her husband. One day, after many years of suffering, Margarita's daughter killed her father during a fight. Margarita was charged with murder and was subjected to a trial riddled with irregularities, most relevant the lack of an interpreter during a trial and qualified legal defense with knowledge of her language and culture.

As explained in detail in the last section of this report, in a context where enjoying the right to land ownership is an important aspect (legal, social, economic) of rural life in a rural regions, the lack of access to land plays an important role in limiting access to and the exercise of other rights. Not having access to land ownership makes women dependent and subordinate to men who use their dominant position to serve as the mediators of women's rights¹⁸. Most women do not consider this as a violation of their rights but, rather as a 'natural' situation -in the sense of a historical given condition for women - that is linked to their gender.¹⁹. The fact that this is the case in Chiapas should be considered an important concern given that the state remains largely engaged and dependent upon agricultural production and activities. This despite the impact of neoliberal market reforms in the country.²⁰.

¹⁵ The total indigenous language speakers in Chiapas is 1.209 057. Of these, 611 770 are women (50.5%): Tzotzil 213,858 (35%), Tseltal 232,798 (38%), Chol 96 586 (16%), Tojolabal 27,036 (4%), Zoque 26,712 (4. %) and other languages (3%). General Population Census, INEGI 2010.

¹⁶ In Chiapas there a total of 550 884 people are illiterate (over 15 years old), accounting for 18% of the total population. Of these 349 944 are women (63.5%). As explained below, the State does not grant interpreters or translators in all legal proceedings where an indigenous person or community is involved.

¹⁷ For example, in the municipality of Mitontic, the illiteracy reaches 41.5% and for women is more than twice, coinciding with the rates of female monolingualism. INEGI 2010.

¹⁸ Women face more obstacles when the person that generates violence is her father, husband or any other man they depend on.

¹⁹ Olivera y Rasgado. La Propiedad de la tierra entre las mujeres de Chiapas [Women's land property in Chiapas], CDMCH. 2005.

²⁰ 57% of the population depends on the field production, but lately the contribution of this sector to Gross Domestic Product (GDP) has decreased significantly. Daniel Villafuerte Solís, La Tierra en Chiapas, viejos problemas nuevos [Land in Chiapas: Old problems, new problems], UNICACH 2000.

We request that the CEDAW Committee make the following recommendations to the Mexican state:

1. Design and implement policies that effectively eradicate poverty, marginalization and structural discrimination of women in Chiapas and in the country.
2. Renounce economic policies that place women in vulnerable positions and urgently address the negative effects of neoliberal policies on women and their families²¹.
3. Ensure public policies take into account the economic, social and cultural obstacles that urban, rural, and indigenous women in Chiapas face in a differentiated manner to guarantee the right to have justice²².
4. Ensure the participation of rural and indigenous women in the planning, implementation and evaluation of economic and social programs.
5. Design and implement public policies and measures to ensure that all women know their rights, and effectively enjoy them.

3. “Low-intensity warfare” in Chiapas: Militarization and Counterinsurgency and its effect on women

The CEDAW Committee requested from Mexico in its List of issues and questions for consideration of periodic reports (November 2011), detailed information about the strategies put in place to guarantee indigenous women’s access to justice. This request included information on how the climate of impunity and insecurity in the State party has affected women in the enjoyment of their rights. In this regard, we must refer to the climate of violence and insecurity lived in Chiapas since 1994, after the armed uprising of the Zapatista Army of National Liberation (EZLN)²³. The Mexican state responded to the rebellion by militarizing the state and subsequently, implementing an ongoing "low intensity warfare" in Chiapas.

²¹These include dispossession of land, privatization and the advance of consumerism.

²²For example the adoption of concrete measures to facilitate access to instances of enforcement and administration of justice especially in the case of communities located far away from the municipality; measures to ensure access to free and qualified legal defense and interpreters who are trained and sensitized on gender issues; measures to effectively punish corruption. Finally, it requires alternatives for women seeking justice but who are in charge of household chores and care, and / or survival of family members and do not have enough time or money to adequately participate in legal proceedings.

²³The EZLN promotes a new model of nation based on democracy, freedom, justice and against neoliberalism.

The Mexican Federal government deployed the Mexican army along Chiapas to suppress the EZLN. While it is difficult to ascertain the exact number of soldiers deployed by the Mexican state, according to news sources the number of soldiers deployed reached was over 40,000. Today, we still find military bases located in strategic points in Chiapas charged with the task of counterinsurgency. In addition, since 2006 Mexico's national security strategy has been primarily based on the fight against drug trafficking, on the militarization of its public security policy and, on the deployment of thousands of soldiers throughout the country which have led to increased violations of human rights. In Chiapas, this strategy also entails an increased military presence along the Southern border with Guatemala and throughout the state²⁴.

Military presence in the indigenous communities is used to control the population through checkpoints, physical and home searches, arbitrary arrests, and the criminalization of social protest. At the same time, soldiers have perpetrated not only in Chiapas but along the country, other serious violations of women's and men's human rights including, among others, extrajudicial executions, torture, rape, illegal detention²⁵. Under military jurisdiction, which has been in effect since 2011²⁶, none of these crimes have been tried by civilian authorities²⁷ and almost never have perpetrators been punished according to international standards²⁸.

For women in Chiapas, the mere presence of soldiers in communities limits their right to freedom of movement and the right to privacy -women are harassed on the streets²⁹

²⁴The Secretary of National Defense (SEDENA) established the Seventh Military Region in Chiapas and Tabasco, with about 12 000 soldiers, in five military zones and three air bases. <http://www.oem.com.mx/elsoldehidalgo/notas/n1535313.htm>

²⁵ Since 2006, there has been an important increase of human rights violations perpetrated by the Army. This has been documented by diverse information sources: Country Reports on Human Rights Practices Mexico, State of the Department of the United States 2010, Observatorio Ciudadano Nacional de Femicidio, Una Mirada al Femicidio 2007-2008, México 2009; Centro de Derechos Humanos de las Mujeres y Justicia para Nuestras Hijas A.C. "Information for the Covenant violations of women in the context of militarization and narco-violence" 2010; Mexico New Reports of Human Rights Violations by the Military, Amnesty International 2010; "Uniform Impunity Mexico's Misuse of Military Justice to Prosecute Abuses in Counternarcotics and Public Security Operations" (Human Rights Watch 2009); "Neither Rights Nor Security Killings, Torture, and Disappearances in Mexico's 'War on Drugs'" (Human Rights Watch, 2011. See also: Turati Marcela, Fuego Cruzado Las Víctimas Atrapadas en la Guerra del Narco, Grijalbo, México 2010; Ronquillo Víctor, Saldos de Guerra, México 2011.

²⁶In July 2012, the Mexican Supreme Court ruled in the case Rosendo Radilla (SCJN 912/2010) that "Judges of the Mexican State must replicate in future cases, the criterion of restriction of military jurisdiction, pursuant to case Radilla and pursuant to Article 1 of the Mexican Constitution". See: http://www.equidad.scjn.gob.mx/spip.php?page=ficha_biblioteca&id_article=1246

²⁷ The American Court of Human Rights has ruled that member states violate the American Convention on Human Rights by the use of military justice to investigate and prosecute human rights violations committed against civilians. In 2010 the Court ruled on the case of two indigenous women raped by soldiers occurred in Guerrero in 2002. See Valentina Rosendo Cantú vs. Mexico; and Inés Fernández Ortega vs. México.

²⁸ See Human Rights Watch ("HRW"), Uniform Impunity Mexico's Misuse of Military Justice to Prosecute Abuses in Counternarcotics and Public Security Operations.

²⁹ For example, see the speech delivered by Las Abejas civil society group: "The presence of the army in our communities, [and] towns, affect us, women, a lot; they [soldiers] do not respect us, they whistle at us; they cut trees and plant marijuana on our lands; this is not good for our children "... [Mujeres de las

and also within their homes during military searches³⁰. The case of the González Pérez Sisters (known as "Case of the Tzeltal sisters"), who were raped and tortured by soldiers, represents a clear example of the serious violations committed against indigenous women. Despite the 18 years that have passed since this incident occurred, the victims are still seeking justice³¹.

Case 2: “Ana, Beatriz and Celia González Pérez”. In 1994, members of the Mexican Army, arbitrarily detained at a military checkpoint in the municipality of Altamirano, Chiapas, the sisters Ana, Beatriz and Celia González Pérez and their mother Delia Pérez de González, all of them indigenous Tzeltal women. They were interrogated to make them confess they belonged to the Zapatista army (EZLN). The sisters were repeatedly beaten and raped by soldiers and threatened with death to force them to abstain from placing a criminal complaint. The González Pérez sisters reported the events to the civil authorities who declined jurisdiction to the military jurisdiction. The perpetrators of the violations were never punished. The case was taken to the Inter-American Commission on Human Rights (IACHR) who recommended to Mexico to 1) conduct a thorough, impartial and effective investigation in the ordinary criminal courts in order to prosecute and punish the perpetrators and 2) to repair the harm caused to the victims. To this date none of the recommendations made to the Mexican State have been implemented.

As part of its counterinsurgency policy, the Mexican State has favored the presence of paramilitary and other groups whose aim is to cause violence. These actions, coupled with the presence of the military within rural and indigenous communities in Chiapas, form part of the so-called "low intensity warfare" which generates psychological terror and aims to control the population.

In Chiapas, this “low intensity warfare” has been heavily waged on the bodies of indigenous and rural women. Women have become both the objects and purpose of this war. A paradigmatic instance of this situation was the slaughter that took place in the Tzotzil indigenous community in Acteal, Chenalhó, Chiapas in 1997 by paramilitary groups acting under the Mexican state’s silent acquiescence. To date, regrettably, the Mexican state has refused to publicly acknowledge the slaughter in Acteal as an act of femicide and reparations, either collective or individual, have never been made to the victims of this heinous crime. Moreover, the Mexican state has failed to adopt measures designed with a gender perspective to proactively prevent these acts from occurring again.

Abejas] “Nos afecta mucho la presencia de los militares” (“*It affects a lot to us the presence of the army*”) March 8, 2012. http://www.komanilel.org/2012/03/mujeres-abejas-nos-afecta-mucho-la_08.html

³⁰“Military besiege towns of Chiapas when women are alone” <http://www.jornada.unam.mx/2009/11/17/politica/014n2pol>

³¹ The case remains unsolved despite the Inter-American Commission on Human Rights (IACHR, 2000) issued a merits report where it recommended the Mexican state to conduct a thorough, impartial and effective investigation in ordinary criminal courts, and to grant reparations to the victims.

Case 3: “Slaughter in Acteal, Chenalhó, Chiapas”. In this case, paramilitaries killed 33 women and 12 men in the indigenous community of Acteal, few years after the Zapatista uprising (1994). The “femicide character” was evident through the specific intent to kill women who were the majority population in the village at the time of the incident, as the paramilitaries knew. Women suffered attacks against their life, physical, psychological and sexual integrity based on their gender. Likewise, perpetrators attacked women’s motherhood as a method of preventive counterinsurgency - e.g., a woman’s belly was cut by a paramilitary to "destroy the seed" according to a witness. Some of the women were killed after their vaginas had been penetrated with sticks or mutilated.

The Inter-American Commission on Human Rights issued an admissibility report on December 2010.

We also consider that the "low intensity warfare" and impunity of human rights violations in Chiapas, especially of gender victims, lead to the perpetuation of discrimination and violence against women, and contribute to the current climate of insecurity in which the women of Chiapas live.

We request that the CEDAW Committee make the following recommendations to the Mexican state:

1. Withdraw the Mexican army from Chiapas in the short term, and to replace the national military-based strategy against drug trafficking by a civil police-based strategy consistent with international standards.
2. To immediately adopt appropriate measures to ensure respect for human rights and particularly women’s rights while the presence of the army continues in the region, including the proper implementation of a code of conduct and protocols that regulate soldier’s behavior and the use of force according to international standards and that strictly prohibits the perpetration of sexual violence, gender-based crimes and any other action that harms women;
3. To urgently adopt appropriate measures to avoid soldiers use their position of power to intimidate, harass, or get involved into sexual, affective or labor relationships with women;
4. Take steps to prevent the increase of prostitution in areas near the military camps, checkpoints and roadblocks, including access for women to well-paid jobs; measures to empower women as gender-sensitive campaigns; and awareness measures addressed to soldiers to strengthen their knowledge and respect on human rights, particularly women’s rights.
5. Ensure that the Attorney General's Office and civil tribunals and courts attract to their legal competence, in the short term, cases which remain

under military jurisdiction, and investigate, prosecute and punish crimes committed by soldiers against civilians.

6. Investigate, prosecute, and punish in civil tribunals, soldiers and paramilitaries responsible of perpetrating sexual violence and gender-based crimes. The State must guarantee a gender perspective throughout the judicial process and also measures to incorporate the specific needs of indigenous women.
7. Grant reparations to women who have been victims of violence perpetrated by soldiers and the military. These reparations must be designed and implemented using a gender perspective, and with the goal of seeking to transform the situation that makes women's victims.
8. Grant reparations to the victims of the slaughter in Acteal according to international standards.
9. To fully implement the recommendations of the Inter-American Commission on Human Rights in the case of the González Pérez Sisters.

4. Failure of public policies to transform root causes of discrimination and violence against women

Public policies and programs implemented by the federal and local government in Chiapas encumber the right of women to have justice for several reasons which are connected to its design and implementation.

First, none of the public policies or programs in effect during the period under review contributed to the transformation of root conditions that discriminate against women because they are not designed to address the causes and consequences of violence against women. Moreover, these programs and policies do not guarantee women's access to justice, women's control of basic material resources for their survival³² nor women's access to the intellectual resources necessary to enjoy a dignified and secure life³³. All of these resources, both intellectual and material, are in fact required in order to create the adequate conditions for women and, particularly for those who have been victimized, to access and demand justice when their human rights have been violated.

Most programs developed during the period under review failed to promote the active participation of women in decision-making processes that directly affect their lives. On the contrary, programs in place tend to make women dependent on a welfare system that immobilizes them, both politically and socially, and, makes them unaware of their status as rights holders who as such have the ability and right to be agents in their life.

³² Including food, clothing, housing, water, earth.

³³ For example, education, training, use of information and communication technologies.

Federal and local programs that address issues of poverty and violence against women (VAW) have failed to meet the objectives for which they were supposedly created. IN addition to the problems of inappropriate design and approach of these programs, most of them lack adequate funding required for their effective implementation.

In Chiapas, programs that effectively involve women in the planning, implementation, and evaluation of social policies that directly impact their lives have never been put in place. Likewise, during the period under review, the Mexican state did not ensure the availability of judicial remedies - either individual or collective - that would challenge the non-fulfillment of social rights.

Below we provide information on the two public programs that Mexico addresses in its report: Programa de Desarrollo Humano-Oportunidades (Human Development Program – Opportunities), and Seguro Popular (Popular Insurance Program). As is pointed out, neither one of these programs fulfill women’s social rights. Instead, these programs favour women’s subordination and naturalize, foster and reproduce discrimination and violence against women.

Programa Oportunidades [Human Development Programme]³⁴ – The Mexican state refers to this program in the report submitted to the Committee (paragraphs 57, 177, 180 and 185).

This program, which completely lacks of gender and intercultural perspective, does not guarantee citizens their civil and social rights, particularly women. It is a welfare program that perpetuates poverty, reducing the State monetary spending that otherwise would have to be allocated to fulfill citizens’ social rights including the right to education, the right to the highest attainable level of health, the right to food. The program operates through direct transfers of resources to mothers for the education, health and nutrition of their children.

While the State refers to this program and its supposed achievements several times in the report submitted to the Committee, the governmental specialized institutions has reported poor results of his program, mainly in regions populated by indigenous people³⁵. Moreover, Programa Oportunidades reproduces the traditional ways of being female: subordinate and dependent on man -and now dependent on the State- and exclusively devoted to their reproductive functions and care duties. Women lose their autonomy and decision-making capacity, and self-limit their freedom of expression to

³⁴ We analyze this program based on our own field work experience and in academic researches, including different external evaluations of the impact of Oportunidades: Bernardo Hernández Prado et al., Evaluación externa del impacto del Programa Oportunidades 2003, Centro de Investigaciones y Estudios Superiores en Antropología Social, Instituto Nacional de Salud Pública, México 2003, pág. 332; Mauricio Hernández Ávila, et. Al., Evaluación externa de impacto del Programa Oportunidades 2006, Instituto Nacional de Salud Pública, 2006, México 2006; Evaluación externa del Programa Oportunidades 2008: a diez años de intervención en zonas rurales (1997-2007), Secretaría de Desarrollo Social, Sedesol, 2008; De la Paz López, El Programa Oportunidades examinado desde el género, Programa de Desarrollo Humano de Oportunidades UNIFEM, El Colegio de México, 2006, pág. 192.

³⁵ Evaluación de desempeño del Programa Oportunidades 2010-2011 (*Performance evaluation of Oportunidades 2010-2011*). CONEVAL 2011.

comment critically on the program, its operation or inefficiency, to the risk of losing the “benefit”. Consequently, women do not exercise of demand the fulfillment of their own human rights. As the State itself recognizes in the report submitted to the Committee (parr. 185 page 46), there is information in other countries that proves that the duties and tasks requested, as well as the time needed to complete the steps, compromise the time of women”. Thus, women must attend to weekly meetings, during the morning. If they fail to attend these meetings, they could lose the “support”. If they have a job, they have to decide whether they must continue working or quit their job to properly comply with the imposed duties.

Several testimonies collected by the CDMCH, note that the beneficiaries of Oportunidades have been subject to more violence for failing to attend meetings before mentioned, or for not giving the money (the monetary transfers) to their husbands. Other women warned that the money became source to finance their husbands’ addiction to alcohol; and in some cases, they stopped working. Furthermore, Mexico highlights in its report to the Committee "monetary transfers may discourage women’s insertion to the labor market as they might lose the benefits of Oportunidades if they get another source of income" (parr. 185 page 46).

Seguro Popular – [Public health insurance]. The Mexican state refers to this program in the report presented to the Committee (paragraph 153)

Through this program, the State offers a health insurance in exchange of a sum of money, to expand coverage of public health services insured citizens. Regrettably, the “public” insurance is far of complying with the right to social security, leaving poor, rural and indigenous women in vulnerable positions.

As some legislators and civil society organizations have reported, the Seguro Popular program does not guarantee that clinics have enough qualified doctors and medical personnel; adequate infrastructure and quality medicines³⁶. On the top of that, this insurance does not cover serious diseases at an adult age as cancer. In Chiapas, for example, while most women are registered to this program, each year many women, especially indigenous women, die from causes related to pregnancy and childbirth³⁷. Our organizations have documented cases where rural women have died outside of a public hospital due to the lack of physical space for women. In other case, an indigenous woman that presented an emergency situation, but was not able to prove she was beneficiary of the "Seguro Popular", and was not opportunely assisted. Soon after the service was denied, she died.

Despite the particularly negative impact of these kind of social programs during the period under review - especially on poor, rural and indigenous women - the Mexican

³⁶ See: “Fraude del Seguro Popular” (“Seguro Popular fraud”): http://contralinea.com.mx/archivo/2006/febrero/hm/estafa_seg_popular.htm;

“Legisladores critican al Seguro Popular” (“Legislator criticizes the Seguro Popular”) <http://www.criteriohidalgo.com/notas.asp?id=24970>.

³⁷ “El Seguro Popular no garantiza el acceso a servicios médicos requeridos: Ong” [“The Seguro Popular does not guarantee access to medical services required: NGO”]. <http://www.jornada.unam.mx/2010/09/30/sociedad/046n2soc>

state did not grant judicial remedies to challenge the faulty design or implementation of social programs and to demand the full compliance of social rights.

We request that the CEDAW Committee make the following recommendations to the Mexican state:

1. To adopt intercultural campaigns, to disseminate knowledge of human rights of women, especially their right to live free from violence and all forms of discrimination, and to promote formative processes for the awareness and accomplishment of the rights of women.
2. Design and implement policies and programs with a gender perspective and intercultural approach, with the goal of changing the context that reproduces the problem of discrimination and violence against women.
3. Ensure that programs and policies for women be designed to provide the material and intellectual elements and resources that will enable women to fully enjoy their rights and to allocate adequate funds in terms of targeted budgets for their fulfillment.
4. Ensure the existence of channels of participation for women in the planning, implementation and evaluation of social programs, and training processes and drive to the exercise of the rights of women and self-determination.
5. Ensuring that women have access to effective channels and judicial remedies for the enforcement of all human rights, including social rights.

5. Lack of gender, class and/or ethnicity perspective within the different systems of justice in Chiapas

Currently, in Chiapas there are three legal systems in force in different territorial spaces: the Mexican positive system, with application throughout the state; the indigenous normative systems, with application in indigenous communities, and the Zapatista legal system³⁸, which is only enforced within the municipalities the EZLN declared autonomous.

³⁸ In August 2003, the General Command of the Zapatista Army of National Liberation (EZLN) announced through various communications, the creation of the Good Government Juntas (Juntas de Buen Gobierno), a new ground of self-government. The de facto autonomy were endorsed as the main instrument of the Zapatista rebellion and as a resource to implement their own policies to address the backlog and exclusion. Burguete Cal y Mayor, Araceli (2004a) "Chiapas: nuevos municipios para espantar municipios autónomos", en Rosalva Aída Hernández, Sarela Paz y María Teresa Sierra (coord.) (2004) *El Estado y los indígenas en tiempos del PAN. Neoindigenismo, legalidad e identidad*. México. CIESAS/H. Cámara de Diputados/Miguel Ángel Porrúa, pp. 137-169.

All three legal systems have patriarchal underpinnings that harm the rights of women through the formulation, apparent neutrality and interpretation and application of norms that result in women's discrimination and exclusion. We will examine here some of the provisions of the Mexican positive system and some norms of the indigenous legal systems that do not respect or protect the rights of women and that require the CEDAW Committee's immediate attention.

5.1 Mexican positive system

CEDAW as one of UN's core human rights treaties ratified by the Mexican state mandates the responsibility of the ratifying state to ensure all women within its territory to a life free of discrimination and of violence. This means that all legislation (civil, criminal, administrative, etc.) in force within the territory of Mexico, which includes its states like Chiapas, are subject to the legal obligations under CEDAW and Mexican State is responsible for their enforcement. The available information on Chiapas, however, shows that the state has failed to comply with the treaty obligations in the period under review.

Incomprehensible situations exist in the state's legislature where behaviour like the theft of cattle is punished more severely and seriously than family violence offenses. For example, the theft of livestock, of two or more cattle, carry minimum and maximum penalties that are more punitive than family violence offenses³⁹. This sends a wrong message about the value of either crime in our society.

Looking at the category of family violence also serve to exemplify how women are often left unprotected from certain criminal behaviour by the rules in place. Currently, under domestic violence legislation in Chiapas a woman's boyfriend cannot be charged with the crime of domestic violence despite the fact that it is frequently boyfriends who are the perpetrators of such crimes against women. The prohibition of application of a criminal sanction by analogy prevents judges from using this criminal category of family violence to punish boyfriends who commit violence against women. This can result in the application of sanctions that are much less severe and that do not fit the crime.

Similarly, there are norms that supposedly were formulated in a neutral manner but have a discriminatory effect to the detriment of women. We refer in this shadow report to two offenses in force in Chiapas, which are similarly described in criminal codes in other states, which fall within this case:

a) *Kidnapping with a sexual purpose*⁴⁰; and *intercourse with a minor (under 18) using "seduction"*⁴¹. The Criminal Code in Chiapas provides for the termination of the

³⁹ The Criminal Code provides that the judge will impose besides other penalties, a penalty ranging from three up to seven years imprisonment to the person who is found guilty of domestic violence (Article 199). Instead, the person found guilty of the crime of cattle rustling, in the case that he/she steals from two to ten heads, can receive a sanction ranging from six years, as a minimum sentence, to eight years' imprisonment, as the maximum sentence.

⁴⁰ Article 159 of the Penal Code defines the offense of "rapto" which addresses the kidnap of a person through physical or moral violence, seduction and deception to satisfy a sexual or erotic desire or to

respective sanction if the perpetrator marries the victim⁴². Although both types of crimes are built in neutral terms, the legislator ignores the fact that most victims of these crimes are women and girls. On the other hand, the legislator considers that this type of behavior only attempts against the "honor" of a person. Therefore, he considers that the perpetrator is making just reparations to the victim if he marries her. Naturally, this norm does not take into account violations to the right of physical, psychological and sexual integrity; sexual rights; the right to personal liberty, the right to enjoy special protection for children, among others. These provisions completely eliminate any possibility of adequate redress for the victims.

b) *The crime of homicide aggravated by kinship*. The current criminal code in Chiapas states that the crime of murder will receive an aggravated sanction if there is a family relationship between the perpetrator and the victim. In practice, this category has been frequently used to prosecute women, many of them indigenous or living in marginalized conditions, who were pregnant and lost the fetus for any reason, including an accident or because something went wrong during the delivery, among others reasons. This situation is the result of an amendment to the local constitution in Chiapas which aims to "protect life since conception". Accordingly, legislators have granted the unborn fetus the same rights as person to the detriment of the rights of women⁴³.

5.2 Indigenous legal systems:

In Chiapas there are several different cultural practices that form part of indigenous legal systems and that are built from traditional roles of individuals, many of which limit the rights of women.

Gender inequality extends to all areas of life: access to economic and financial resources, paid work, social and political participation and the right to choose with whom and when they will marry or how many children they will have⁴⁴. Gender inequality also passes through the system of social relations, habits, values, interests, ideologies and ways of seeing, feeling and thinking, etc., on those who build the collective imagination and identity of being male or female⁴⁵. Gender inequality

marry the person.

⁴¹ On the other hand, Article 239 of the Penal Code refers to the offense of "estupro" which is the case of a person that have intercourse with a person aged twelve and under eighteen, regardless of their sex, obtaining consent by deception.

⁴² Specifically, Article 160 of the Code indicates that the perpetrator will not be prosecuted if the person marries the victim. Article 240 provides that a criminal action is extinguished if the perpetrator marries the victim.

⁴³ "De la marginación a la cárcel" ["From marginalization to prison"]: <http://www.infochiapas.com/2012/01/de-la-marginacion-a-la-carcel-mujeres-choles-procesadas-por-malos-partos/>

⁴⁴ Among indigenous women marriage and motherhood, including a number of related tasks, are still considered as the natural, and almost only, destiny, so that marriage has a great symbolic value, which need the commitment between the families involved and before the community to keep the tradition (custom). Olivera 2005.

⁴⁵ Mercedes Olivera, et al, "Exclusion of Indigenous and Peasant Women in Land Ownership," Centre for Women's Rights in Chiapas, Forum "Women and land in Chiapas: Discussion on the theoretical, legal

crystallized in social norms are a source of violations of women's rights and also impede access to justice linked to the lack of autonomy or the social position and economic dependence they have in society. For example:

The commitment of marriage is legitimized through a ritual where the groom's family pays the "price" that her parents considered fair according to age, virginity and qualities of the girl. Before, the compromise was part of a ritual that strengthened the relationship. Today it has a commercial meaning with the delivery of money and alcohol⁴⁶.

After the marriage rite, the bride becomes part of her husband's family, with the obligation to serve her husband and mother. The family has a control over the woman to meet traditional standards. If the bride -wife- does not comply with her duties, man can bring her back to her parents and they have to return the money received.

When a married woman is beaten, higher authorities (elders of the community) get involved. Often they advise women "to assume her responsibility and to take good care of her husband and children." Indigenous women victims of domestic violence cannot separate from her husband unless it is authorized by these authorities. Similarly, families have to return the money or gifts received to the husband.

Lack of access to land, which traditionally is almost exclusively grant to men, limits other rights. For example, women cannot take positions in the community and only exceptionally by not owning land.

In this context, many indigenous women of Chiapas face a dilemma since the two claims could be contradictory and mutually exclusive: they have to support indigenous group's fights for political and cultural self-determination and sovereignty. At the same time, they fight within the indigenous movement against essentialist visions and static culture and tradition. Thus, many indigenous women also quest for more egalitarian relations within their communities.

Unfortunately, in situations that affect indigenous women, the State rarely intervenes alleging respect to indigenous' customs or traditions; or alleging that the problem does not exist⁴⁷. This shows a lack of interest in preventing and addressing structural

and gender" Chiapas 2005.

⁴⁶ See examples: "Compra de Mujeres Indígenas en Chiapas" ("Purchase of indigenous women in Chiapas") <http://www.cimacnoticias.com.mx/noticias/05sep/05090506.html>. According to the note: "Marriage at a young age and not knowing the couple causes family violence, mainly against women. In addition, girls and teenagers become pregnant at a young age, which is a health risk. Women in indigenous areas of Chiapas could have as many as 12 children". http://sdpnoticias.com/nota/181973/Afirman_que_persiste_compra_venta_de_mujeres_indigenas_en_Chiapas. "Compra y venta de mujeres en Chiapas" ("Buying and selling of women in Chiapas") <http://www.esmas.com/noticierostelevisa/investigaciones/468726.html>.

This situation also occurs in other states such as Guerrero and Oaxaca.

⁴⁷ See for example: : "Descarta la Secretaria de Pueblos Indígenas venta de mujeres indígenas" ("The Secretary of Indigenous People and Culture discards women selling") <http://www.oem.com.mx/elheraldodechiapas/notas/n2396217.htm> "The purchase of the right to marry in indigenous communities is an idea that results from the analysis –with a Western view- of the practices

violence and discrimination faced by women, particularly indigenous women. This conduct is the breach of the country's obligations under CEDAW and the Mexican Constitution itself, which recognizes the autonomy of indigenous peoples and communities to apply their own normative systems while respecting individual guarantees, human rights and, importantly, the dignity and integrity of women⁴⁸.

We recognize that indigenous peoples have the right to preserve their own culture and to exercise their collective rights. However, collective rights cannot be placed above the human rights of women. Mexico has an obligation to adopt measures that could effectively contribute to modify cultural patterns of conduct of men and women, including within indigenous communities, with a view to achieving the elimination of unequal relations in accordance with Article 1, 2, 5 and 14 of CEDAW and Recommendation General 19.

We request that the CEDAW Committee make the following recommendations to the Mexican state:

1. To respect the right of self-determination of indigenous peoples to apply their own normative legal system as long as they protect individual rights and human rights of indigenous women as granted by international treaties and the Mexican Constitution.
2. Contribute to the transformation of discriminatory practices against women in indigenous communities through various measures, including the adoption of targeted campaigns to these communities on the specific problems faced by indigenous women in order to generate commitments for action with community involvement to find solutions.
3. Take temporary special measures in favor of indigenous women, including measures to speed up access to land and other economic resources, access to political power, health services and quality education and well-paid jobs that offer women better living conditions to be able to have access to justice.

6. Situations that require the CEDAW Committee's urgent attention.

6.1. Victims of domestic violence and femicide in Chiapas

In Chiapas, as in other states in Mexico, violence against women has a high incidence. Just to mention the case of domestic violence in this state, the latest statistics available

and customs... there is not such practice"; "Women in Guerrero, commodity exchange <http://www.sipse.com/noticias/26174-mujeres-guerrero-mercancia-cambio.html>

⁴⁸ View Mexican Constitution (Constitución Política de los Estados Unidos Mexicanos) Article 2, paragraph A.2.

indicate that the percentage of women of 15 and older, who suffered at least one incident of violence by an intimate partner, was 28.2%. In the case of indigenous women, 25% reported some type of violence by their partner in the last year, however in some regions like Los Altos in Chiapas, this figure rose to 41.4%⁴⁹.

In Chiapas, the government is not complying with its obligation to fully prevent and respond with due diligence to violence against women. Public programs that are supposedly aimed at ensuring women's rights to live a life free of violence, do not offer women victims comprehensive and appropriate responses. This is the case of PAIMEF: Program for the Support of Women Instances of the Federative States (states), (par. 7, 25 and 45 of the Mexican State's report). Despite this, Mexico affirms this program is fundamental to combat violence against women in the states, in Chiapas it only operates in 20 out of 118 municipalities. It is temporary with limited funds, human resources and infrastructure. The limited budget also translates into a poorly trained staff whose monthly salary is around \$400 maximum. Furthermore, PAIMEF was neither designed nor implemented with an intercultural perspective therefore the service it provides in Chiapas is inadequate and frequently ends up victimizing victims once more.

Generally in Chiapas, federal and local state officials participating in judicial processes (police, prosecutors, judges, public defenders) have not undergone gender awareness training that would help them assess the special/different needs of women involved in judicial processes. We documented several cases where women victims reported a crime and their statements were questioned or rejected. As a rule, and due to the lack of a victim perspective, women have to deliver their statement many times to different authorities.

In addition, State officers do not take into account cultural differences of indigenous people during court proceedings. They do not guarantee the presence of a translator or interpreter throughout the legal process. Although the government developed a program for "training and accreditation of interpreters in indigenous languages", as referred to the Committee in the List of issues and questions for consideration of periodic reports: Mexico (November 1, 2011 p. 20), in practice the program did not have funds even to pay a salary to the officers that were trained. Therefore, very often interpreters participating in legal proceedings are not adequately qualified to translate the variety of indigenous languages into legally accurate language. It is also common that victims end up being assisted by their relatives. This situation is problematic given the high rates of monolingualism in the state of Chiapas.

On the other hand, we also documented that if a woman is a suspected perpetrator of a crime, even if it is a case of self-defense, it is very likely that the justice system will go

⁴⁹ National Survey of the Dynamics of Household Relationships (Encuesta Nacional de la Dinámica de las Relaciones en los Hogares (ENDIREH 2006); Survey of Health and Indigenous Women's Rights (Encuesta de Salud y Derechos de las Mujeres Indígenas (ENSADEMI 2008). "More than a third of indigenous women have experienced some form of violence."; National Survey of the Dynamics of Household Relationships (ENDIREH 2006).

against her⁵⁰. We represent several cases of poor or indigenous women who were prosecuted and sentenced for murder (including cases of abortion). When telling their own stories, we can see how all of these women were victims of gender violence before the incident took place, and how they faced further violence through biased processes based on their gender, social status and especially on their ethnic identity.

Femicide

As the experts of this Committee know, the most dramatic result of violence against women is the killing of a woman, which is known as femicide (feminicidio).

Unfortunately, this phenomenon has increased in Chiapas in the last years⁵¹. Accurate figures about femicides corresponding to the period of the report before this Committee are unknown because there is not a database that disaggregates figures on femicide by gender, age and ethnicity of the victim. Moreover, there is a tendency to deny or limit access to information and manipulate data and statistics related to gender violence and especially to femicides⁵². We consider that this lack of information hinders the adoption of appropriate measures to address women's murders, especially when there is a wider context of violence and discrimination against women and girls. As it is well known, inappropriate measures to prevent and respond to the crime of femicide contributes to its repetition.

According to the information we collected in the last years, Chiapas has not ensured the right to have access to justice for victims due to different reasons. Chiapas failed to put in place multi-disciplinary teams to investigate gender-based crimes. State officers do not have special training on gender-violence crimes and internal rotation schemes prevent personnel to specialize. Also, there is no technical staff or equipment needed for chemical and forensic testing. Many of these tests have to be sent out of state to be analyzed in Mexico City. Finally, there are no special research protocols of the crime of femicide in line with international human rights standards. Finally, another common practice in Chiapas is that prosecutors require victims to provide more evidence to continue the investigation, instead of assuming investigation responsibilities themselves.

⁵⁰ It has been documented that women are more vulnerable to abuse, corruption and abuse after being accused of committing a crime. Azaola G., Elena. "Las mujeres en el sistema de justicia penal y la antropología a la que adhiero", Cuadernos de Antropología Social N° 22, 2005, p. 16.

⁵¹ According to press reports, in 2012 more than 20 women in Chiapas have been violently killed on the basis of their gender. Thus, we refer to some recent cases: In Tapachula, border with Guatemala, was brutally murdered a Honduran woman, possibly trans-migrants. In the same city, a Mexican Army active military killed with a shot gun to his wife. In San Cristobal de Las Casas, a student (17 years old) was killed and her body, which showed signs of rape and torture, was abandoned in a vacant lot. In early May in Tuxtla Gutierrez, another student was killed allegedly related to her gender. Also in May, a young women in Tuxtla was violently killed by her former partner, who mutilated the body to dispose it. In early June, a woman from Suchiapa, who was missing, appeared death. Finally two more women from Motozintla were also killed in early June.

⁵² Revista Proceso, Hallan cadáver de mujer desaparecida: <http://www.proceso.com.mx/?p=309760>

We request that the CEDAW Committee make the following recommendations to the Mexican state:

1. To adopt measures to improve the institutional response of prosecution and police offices, courts, and forensic medicine, among others.
2. To adopt and implement with due diligence, legal and other measures to ensure the effective implementation of legislation that aims to prevent, respond and punish violence against women, including the recently passed crime of femicide in the local stage.
3. To effectively implement protection measures for victims, legal and any other special measures, to ensure access to justice for women who are in a particularly vulnerable situation including girls and indigenous women, rural, poor or no economic independence, migrants in Chiapas, among others.
4. To design and implement research protocols, especially for the investigation of femicides, that takes a multidisciplinary approach to gender and ethnicity. To grant continuous training for personnel on the use of such protocols.
5. To apply administrative or criminal penalties for officials who discriminate and exert institutional violence against women and their families who are in search of justice.
6. To constitute a single database for femicide which includes social-demographic and geo-referenced crime. Such a database should be made public and easily accessible.
7. To ensure the presence of technical personnel and equipment necessary for chemical and forensic testing and all evidence that is required to clarify the facts investigated.
8. To ensure the existence of qualified translation/interpretation services for all indigenous people, especially women, involved in legal proceedings. Officials must have technical training and training on gender issues.
9. To take immediate steps to ensure officers in charge to prevent and address violence against women, and all those involved in the justice process have technical training and training on genders issues.
10. To apply administrative or criminal penalties to officials who discriminate and exert institutional violence against women and their families in search of justice.

6.2 Women and Land in Chiapas:

Despite the fact that Mexican legislation recognizes women's rights to property to be equal to that of men, the reality in Chiapas belies this⁵³. In practice, women in Chiapas count with a small percentage of access to property and oftentimes only temporarily and under conditions of great vulnerability - only 13% of women own land and of these women the majority are urban mestizas⁵⁴.

The exclusion of women from land ownership reflects the patriarchal nature of the Mexican state. Property rights are organized around parameters that privilege male land ownership over women's, mestizo ownership over indigenous land ownership and private property rights over collective rights. Males, historically considered in their traditional roles as heads of households and breadwinners have been granted ownership over the family's wealth. For rural populations, it is usually land that makes up this wealth where the land is worked by all members of the family to ensure their vital sustenance and livelihood.

For this reason, processes propelled by the Mexican state have never sought to guarantee for women the access to land ownership. The agrarian reform ended without providing the majority of women land to work for their survival and livelihood. Programs like the, *Programa de Certificación de Derechos Ejidales y Titulación de Solares Urbanos (Procede)* (*Program for the Certification of Rights to Common Lands and Titles to building sites*⁵⁵), with the official aim of "providing security in terms of common land ownership, plots of land and building sites," has caused conflict and divisions within communities. Women have benefitted the least from the granting of title rights and rural certificates.

Women have also been disproportionately affected by economic policies and by the barriers and obstacles caused by globalization⁵⁶. The latter favours large scale commercial agriculture to the detriment of small scale farmers who produce for personal consumption⁵⁷. These small scale farmers are usually rural families where women represent the poorest sector.

⁵³ Mercedes Olivera, et al, "Exclusión de las Mujeres Indígenas y Campesinas de la Propiedad de la Tierra" Centro de Derechos de la Mujer de Chiapas, Foro "Mujeres y tierra en Chiapas: Discusión sobre los fundamentos teóricos, jurídicos y de género". ("Exclusion of Indigenous and Peasant Women in Land Ownership," Centre for Women's Rights in Chiapas. Forum "Women and land in Chiapas: Discussion on the theoretical, legal and gender" 8 and 9 July 2005).

⁵⁴ According to data from the Registro Agrario Nacional [National Agrarian Registry], women hold only 5% of the farmers and 8% of the commoners. Information contained in the publication Olivera and Torn. The Land ownership among women in Chiapas. CDMCH. 2005.

⁵⁵ Now called Fondo de Apoyo para Núcleos Agrarios sin Regularizar (FANAR) [Support Fund for Agricultural cores without Regularize FANAR].

⁵⁶ Comisión Económica para América Latina (CEPAL), La crisis económica y financiera. Su impacto sobre la pobreza, el trabajo y el tiempo de las mujeres, [The economic and financial crisis. Its impact on poverty, labor and women's time]. Sonia Montano y Vivian Milosavljevic, CEPAL - Serie Mujer y Desarrollo No. 98, Santiago de Chile.

⁵⁷ Fondo de las Naciones Unidas para la Agricultura y la Alimentación, Plan de Acción sobre Género y desarrollo (Género, la clave para el desarrollo sostenible y la seguridad alimentaria) [Action Plan on

In the state of Chiapas, some variation exists in terms how land is passed on through inheritance however, it is generally men who inherit land. Traditionally, the one who is to inherit the land is named as the person responsible for the wellbeing of the whole family and is expected to take care of the mother and single daughters should the father pass on. In practice, this has been changing as sons who are often the ones who inherit the land, fail to take care of their mothers and single sisters assuming instead a more individualized stance that treats the inheritance as their private property⁵⁸.

Another important factor is that despite the current rural legislation containing regulations that provide for women's access to land ownership, in reality these are nullified by the common practices and customs within rural groups. This is especially the case when there is little incentive on the part of rural institutions like Procuraduria Agraria (*Federal Rural Office*) and the Registro Agrario Nacional (*National Rural Registry*) to enforce compliance of these rights particularly when it comes to women. In this regard, our organizations have documented different cases where rural authorities in application of discriminatory norms, forced women to leave their lands or evicted them from their community.

Case 4: "Women of Ejido Bellavista". On the 29th of August 2001, the ejido⁵⁹ members of Bellavista del Norte, in the township of Frontera Comalapa, Chiapas passed an internal ruling on their communal land agreement. Approval of this internal ruling was followed by its formal registration at the National Rural Registry. The internal ruling passed by the Bellavista del Norte members says that, "Women from the farming cooperative that marry or live outside the formal bonds of marriage, with men that are not members of the ejido have to live outside the bounds of the [cooperative's] communal lands ... Those who fail to adhere to this regulation will be evicted."

The passing of this ruling enabled the eviction of several women from the farming cooperative community lands. A group of women challenged the internal ruling before the rural tribunal which annulled it. Despite the annulment by the tribunal, its decision has not been implemented and the ruling continues to be applied against more women. Many women, therefore, continue to be forced via threats of eviction or, by depriving them of access to basic services like access to water, to leave their land.

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Gender and Development], Italy 2003, page. 7. <http://www.fao.org/docrep/005/y3969s/y3969s02.htm>.

⁵⁸ Pozas, Ricardo: Chamula. INI. México 1962. Guiteras, Calixta: Los Peligros del Alma. INI 1957. Alfredo Rasgado: "Sistema de cargos, herencia y propiedad en Chanal" en Olivera Mercedes (coord.) De subordinaciones y Rebeldías. Las Mujeres Indígenas de Chiapas. UNICACH- UNACH-CONACYT 2004. Reyes Ramos Ma. Eugenia La propiedad de la Tierra en Chiapas. UAM- UNAM 2008. Olivera Mercedes y Gabriela Ortiz. Exclusión de las mujeres de la propiedad en Chiapas. en Olivera, Mercedes Violencia Femicida en Chiapas. p. 327- 394 CESMECA- UNICACH 2008. Eugenia Bayona Escat, Mujeres marginales de Chiapas: Situación, Condición y Participación Marginal [Women in Chiapas: Location, Condition and Participation] UNICACH 2011, page. 56.

⁵⁹ In Mexico "ejidos" are lands inalienable, imprescriptible which were granted by the government to a group of people for their use and common use.

has not been implemented and the ruling continues to be applied against more women. Many women, therefore, continue to be forced via threats of eviction or, by depriving them of access to basic services like access to water, to leave their lands.

The consequences of the lack of access to land for rural women are extremely dire. Not only make them to be economically dependent, which usually leaves them in vulnerable positions to suffer gender violence. It also limits their political participation. In rural communities, only landowners have the right to voice opinions and freely participate in community assemblies or gatherings, therefore their husbands and fathers mediated their rights as rural women almost never take part in the communally decisions taking processes.

We request that the CEDAW Committee make the following recommendations to the Mexican state:

1. Design and implement a rural policy based on a gender perspective that guarantees all women full access to land property and the rights derived from this policy.
2. Review the extant rural framework in order to eliminate decisions within it that favour gender discrimination, in order to meet international human rights guidelines.
3. Carry out the necessary legal reforms at the constitutional level, in order to guarantee the existence of “family property” within the ejidos or farming cooperatives and communities, as a mechanism that would enable equality between women and men.
4. To adopt the necessary measures to transform socio-cultural standards of behaviour between men and women, with the aim of eliminating discriminatory practices and customs for women in ejidos or farming cooperatives and communities.