

VIOLENCE AGAINST WOMEN IN THE FAMILY IN MEXICO

“In May 2006, after he attacked me with a knife, I went back to the local public prosecutor’s office... I remember exactly what they said: ‘When you have got one foot in the grave and the other still out, then come back here.’”

NEOMI, IN HERMOSILLO WOMEN’S SHELTER, SONORA STATE, MEXICO, NOVEMBER 2006

All forms of violence against women remain widespread in Mexico, including violence in the family. A 2006 national survey revealed that almost one in four women in Mexico had suffered physical and/or sexual violence at the hands of an intimate partner.

Several of the women who spoke to Amnesty International said that they had suffered miscarriages as a result of physical abuse during their pregnancies. Violence in the family takes an enormous toll on women’s health and the longer-term consequences, both physical and psychological, can be debilitating and seriously affect their ability to enjoy a whole range of human rights. Domestic violence also has serious economic and social consequences; its repercussions within families can reach down through generations and it can disfigure the political and cultural life of communities.

The women’s movement in Mexico has been at the forefront of efforts to raise awareness of the high levels



Demonstration in Cuernavaca, Morelos state, to remember women victims of violence and demand justice, November 2006.



This summary is based on *Women's struggle for safety and justice – violence in the family in Mexico* (Index: AMR 41/021/2008).



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Demonstration in Cuernavaca, Morelos state, to remember women victims of violence and demand justice, November 2006.

of all forms of gender-based violence and discrimination against women. It has been instrumental in bringing the issue to the attention of the government and getting the authorities to acknowledge that they have a responsibility to take action.

The Mexican authorities, at different levels, have been active in recent years in raising public awareness about violence against women. There has also been progress in introducing legislation and setting up a number of institutions to meet

the needs of victims of violence in the family. For example, domestic violence has been made a criminal offence in most Mexican states, more women's shelters have been set up in various states, and national and state women's institutes have been created which have co-ordinated a wide range of training and awareness programmes.

However, Amnesty International's research has shown that although there have been improvements in the legal framework in most states, these are often not adequately enforced and as a result do not translate into effective protection for women. Violence against women in the home is one of the forms of gender violence where this is most apparent. An underlying reason for this is the continuing widespread belief among officials responsible for implementing the law that domestic violence is a private problem and should be resolved within the family, rather than through state action.

Mexico is a state party to the UN Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará"). The Mexican government has committed itself to implement the recommendations of various international human rights bodies and to meet its obligations under international human rights law regarding women's rights.

MARCELA BLUMENKRON ROMERO

On 31 August 2005, Marcela Blumenkron Romero's former husband broke into her home in Hermosillo, Sonora state, and stabbed her. The attack left her paralyzed for four months and with serious long-term nerve damage and limited mobility.

On numerous occasions over the years, she had made emergency calls to the police, reporting threats and harassment by her former husband. She told Amnesty International that she filed more than 10 complaints at the public prosecutor's office. On every occasion she was refused protection. Despite being divorced for 13 years, prosecutors advised her to resolve the issue directly with her former husband as it was an issue for couples.

Between June and August 2005, Marcela Blumenkron filed six complaints with the public prosecutor's office for sexual harassment, intimidation and death threats. On one occasion, she says she was told: "When you come with a bruise, we'll do something". When she asked why her former husband had not at least been interviewed, she was told they could not find him.

Two weeks before the August 2005 attack, prosecutors ordered the former husband's arrest after Marcela

Blumenkron refused to leave their office unless they took action. She told Amnesty International that when he was taken into custody, she saw the local police chief joking with him and she was later told: "Don't be afraid, he's not going to do anything to you". He was released shortly after she left the office.

After the stabbing, the former husband was arrested and prosecuted for attempted murder; no charges were brought for years of threats and sexual harassment. He was sentenced to 10 years in prison and ordered to pay damages and Marcela Blumenkron's hospital bills. However, he was declared insolvent and she has not received any compensation from her former husband or the state. Marcela Blumenkron, a 49-year-old mother of three, receives a small incapacity benefit. Her former husband has filed an appeal against the length of his sentence; this was pending before the courts at the time of writing.

Marcela Blumenkron told Amnesty International that she fears for her safety when he is released from prison as she believes he will try to kill her. The authorities have not yet made a commitment to ensure her protection once he is released.

2007 GENERAL LAW

In 2006 a congressional special commission catalogued the levels of violence against women throughout Mexico and the institutional measures adopted by each state government to combat it. The commission was successful in highlighting widespread patterns of violence against women, promoting legislative reform and public debate, and collating disparate information.

One of the measures promoted by the commission, following consultation with women's groups, was the General Law on Women's Access to a Life Free from Violence. The General Law was enacted in 2007 and establishes the legal basis for the authorities to assume their responsibilities in relation to the different types of gender-based violence.

The real test of the effectiveness of the new legislation in combating violence against women will be its impact at the state and municipal level. In the vast majority of cases, it is the 32 state governments that have the primary responsibility for ensuring that women who experience violence have access to justice, security and reparations. By February 2008, 18 state governments had approved laws on women's access to a life free from violence. However, many of these new laws do not identify the specific responsibilities of state and municipal institutions and agents or ensure that adequate funding will be provided to implement them.

Amnesty International welcomes the 2007 General Law and accompanying legislation as a positive advance. It is now vital that this is backed up with political commitment, resources, training and accountability to ensure gender perspectives are effectively integrated into the policies and activities of key institutions.

REPORTING

Official complaints relating to violence against women remain low compared to the actual levels of violence revealed in nationwide surveys. Many factors can combine to deter women from reporting, including fear of reprisals from their abuser and entrenched social attitudes towards violence against women and women's role in the family. However, an additional significant factor is that women fear they will not be listened to and taken seriously by state officials. Several women interviewed in Sonora and Oaxaca states said that when they tried to report cases of physical violence to the public prosecutor's office, they were told that their cases were not serious enough to be criminal offences or that officials did not have time to deal with violence in the family.

In response, many women turn to social services for assistance. Amnesty International's research found that social services, and in some instances the public prosecutor's office, often promote conciliation and arbitration between victim and aggressor despite provisions in the law that these should not be a substitute for

investigation and prosecution. As part of these flawed processes, many women who spoke to Amnesty International said that they had to deliver summonses to their aggressors personally. Many women do not deliver the letters for fear of retaliation and the process is never pursued. Even when a conciliation agreement is secured between the victim and the aggressor, there is little follow up to ensure compliance and the violence may continue. Amnesty International found that by promoting conciliation processes, without adequately prioritizing the protection of women and their children, can increase the dangers they face.

Even when women overcome these initial hurdles and succeed in making an official complaint, there is no guarantee that medical evidence, including psychological evidence, will be gathered adequately or that their cases will be presented to the courts. All too often, survivors of violence in the family have the primary burden of providing evidence and insisting the authorities take action.

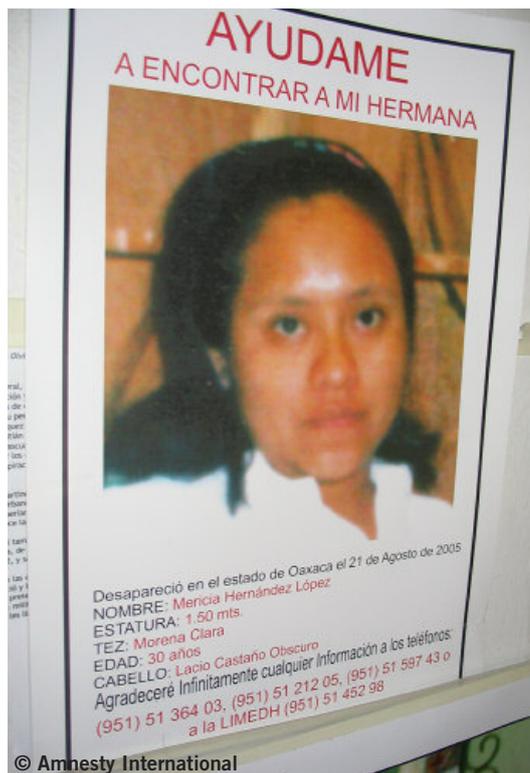
PROTECTION ORDERS AND SHELTERS

Women's organizations, survivors and several officials told Amnesty International that protection or restraining orders were rarely used or enforced. Representatives of the Attorney General's Offices in Chiapas, Oaxaca and Morelos states noted that protection orders were rarely sought or used and argued that, as there were no police resources available to enforce the measures, there was no value in issuing them. Amnesty International's research found that even in cases where restraining orders are issued on abusive partners, usually by civil court judges, there are no dedicated police resources to enforce the orders. The only option women have if the order is breached is to ring the police emergency number or complain to the court. Despite these severe limitations, several women stressed that the official restraining order was one of the few means of protection available to them.

In recent years there has been an increase in the number of shelters for survivors. These play an important role in providing women and their children with temporary safety, medical and psychological treatment, legal advice, professional training and information on the options available to them in order to avoid returning to a violent situation. There are now 60 shelters throughout Mexico, 36 of which are run by civil society organizations and the rest by state or municipal authorities. However, there remains an urgent need for more to be established in line with best practices recommended by the National Shelters Network (Red Nacional de Refugios).

“At first they were little problems. Then he began to hit me. On one occasion I had to go to hospital... The doctor in the hospital didn't report the injuries. On various occasions I went to the social services... They told me to take the summons letter to my husband, but I was afraid to even leave the house.”

Cecilia, Oaxaca state, June 2006



Poster prepared by the family of Mericia Hernández López asking for help in finding her. The lack of effective investigation by the authorities means that families are often left to organize the search for their missing loved ones themselves. November 2006.

INVESTIGATION AND PROSECUTION

Many cases that reach the public prosecutor's office are deemed not serious enough to merit a criminal investigation. Prosecutions are also undermined by inadequate, even negligent, investigations. One of the barriers to improving official responses has been the absence of effective means for victims and families to pursue complaints against the authorities and receive restitution. One of the most notorious failures to do this has been in Ciudad Juárez, where despite two National Human Rights Commission recommendations and a federal inquiry concluding that more than 177 officials may have been responsible for criminal or administrative acts of negligence in the scores of bungled investigations of murders of women, virtually none has ever been held to account. Amnesty International found that many local State Human Rights Commissions are reluctant to evaluate official measures to prevent and punish violence against women because they view their role to be confined to providing education or advice. This leaves women little opportunity to challenge the way their cases are handled.

Amnesty International was told that in many cases local prosecutors rely on their own appraisal of physical injuries because medical examiners

are not available. Prosecutors tend to rely on clearly visible signs of injuries, often ignoring important issues such as psychological trauma sustained over many years. The psychological impact of violence against women in the family means that victims may not necessarily come forward until the most visible signs of the violence have faded. The failure to take psychological trauma into account, even by some medical professionals, effectively discriminates against women and often means only the most glaring cases of domestic violence are pursued.

Amnesty International found that there are no consistent, gender-specific procedures for official medical forensic examiners working with the public prosecutors' offices and social services staff to use when they document the psychological and physical evidence of violence, including sexual violence, against women. There are no specific protocols that female staff should be available to carry out interviews and no guidelines on maintaining confidentiality or conducting interviews to gather detailed information on the context and history of the violence. The only protocol available is a national directive to health workers dealing with victims of domestic violence. According to some women interviewed, this directive is not routinely followed. A replacement directive has still to be published

despite three years of discussion and, as a result, there is a lack of specific procedures for medical professionals and others on how to advise women on the choices available to them, including the possibility of filing a criminal complaint with the public prosecutor's office.

Several survivors living in Oaxaca and Sonora states told Amnesty International that they had been informed that prosecutors would not take an active interest in or even register a case unless they or their families produced two witnesses to corroborate their statement. This practice has no legal basis and in both states the authorities denied that prosecutors ever required complainants to produce two witnesses as a precondition for opening an investigation. However, both also argued that without such evidence it was difficult for a prosecutor to bring charges. It is often difficult for survivors to provide

two corroborating witnesses. Most violence against women in the family occurs behind closed doors. This means that women must consider asking their children to testify against their father. Faced with such a choice, many women would rather withdraw their complaint or pardon the aggressor. The lack of police guarantees for their protection also exposes witnesses to the risk of intimidation. Several survivors and witnesses of violence in the family told Amnesty International that potential witnesses had been threatened by the alleged aggressor and had moved away to avoid further harassment or involvement in the case.

Delays by prosecutors in gathering evidence and in ensuring that witnesses can come forward without fear of reprisal seriously hamper prosecutions. Prosecutors also often fail to give survivors or their families access to case files or to update them on the progress of the investigation. Victims and relatives said to Amnesty International they were often told not to worry as the investigation was progressing and to return sometime in the future. One family interviewed by Amnesty International received no official documentation; the only written record they had was one press cutting relating to their daughter's murder.

Office of the Special Prosecutor for crimes against women for Oaxaca state, November 2006. Even when cases of abuse reach public prosecutors' offices, they are often not considered serious enough to be acted upon.



SUSANA

Susana, a 24-year-old mother of two, told Amnesty International that the women's shelter in Hermosillo, Sonora state, was the only institution that offered her protection from a partner who had subjected her to 10 years of physical and psychological violence. She described how she had been imprisoned in her own home for long periods and how her children had been abducted. Her physical injuries included broken bones in her hand, a fractured nose and a dislocated collarbone. Susana made numerous complaints to the local public prosecutor's office, but each time she was told that it was not a crime and they could do nothing. Although Susana asked for protection, no restriction order was ever placed on her partner.

On 15 September 2006, Susana filed another complaint with the local public prosecutor's office. A case was opened and her husband charged. He was detained but released one day later on bail. The public prosecutor's office did not inform her that he had been released and she only found out accidentally. Susana and her children remained in hiding with relatives until 25 September, when the prosecutor's office referred her to the women's shelter.

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Index: AMR 41/022/2008
August 2008

CONCLUSION

Amnesty International believes that Mexico has made some important advances in recent years in defending women's right to freedom from violence. In particular, human rights protections have gradually been incorporated into federal and many state laws. In June 2008, wholesale reform of the criminal justice system began. Amnesty International hopes

this will also lead to strengthened investigation and prosecution of those responsible for violence against women. The challenge that faces all levels of government in Mexico is to ensure that new legislation to protect women's rights and accompanying measures are implemented and that the barriers women currently face in accessing safety, justice and reparations are removed.

RECOMMENDATIONS

Amnesty International calls on the Mexican federal, state and municipal authorities to:

- Make a public commitment to implement the new laws guaranteeing women's right to safety and justice and to make sure that there is sufficient funding to put the laws into practice effectively.
- Ensure that legislation and regulations on women's access to a life free from violence clearly identify responsibilities.
- Fund and extend the coverage of temporary shelters for women survivors of domestic violence and develop effective emergency response measures to reports of violence against women and reports of women going missing.
- Fund and implement training programmes for officials – including police, prosecutors, lawyers, judges, forensic and medical personnel, social workers, immigration officials and teachers – and develop standard gender-sensitive procedures on how to identify cases of violence against women in the family, ensure survivors' safety, and deal appropriately with evidence.
- Investigate and publish findings on why reporting, prosecution and conviction rates for violence against women remain so low, and take specific measures to tackle obstacles and shortcomings identified by these investigations. Officials found to have failed to act with due diligence to prevent and punish violence against women should be held to account.

For more information, including Amnesty International's recommendations to the Mexican government on eradicating domestic violence, see *Women's struggle for safety and justice – violence in the family in Mexico* (Index: AMR 41/021/2008).

