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Supreme Court Landmark Decision Could Transform Investigations of Violence Against Women

by Carlos Navarro

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Mexico's high court (Suprema Corte de Justicia de la Nación, SCJN) handed down a decision in March that could transform the way Mexico's legal system prosecutes violence against women. The branch of the court that handles appeals (Primera Sala) unanimously ruled in favor of Irinea Buendía, who was pushing law-enforcement authorities to reopen the investigation of the 2010 death of her daughter Mariana Lima Buendía and consider the case a femicide instead of the original verdict of a suicide. Irinea Buendía said her daughter was murdered by her husband and did not take her own life, a conclusion that authorities in México state reached based on testimony from Lima Buendía's husband Julio Cesar Hernández Ballinas, a judicial police officer.

The case, which the SCJN agreed to consider in September 2013, carries broader implications than just a resolution in the death of Lima Buendía. The SCJN's ruling not only requires México state authorities to reopen the case but also to conduct the investigation "from the perspective" of femicide, or the murder of a woman by a man for reasons related to her gender.

On the day of her death, Lima Buendía told her parents that she was leaving her husband and went home to retrieve her belongings. She did not return. The following morning, Irinea Buendía received a phone call from Hernández Ballinas. "Ma'am, Mariana hanged herself," were the first words he told her. State police investigators went to the home and uncovered evidence that suggested that a suicide by hanging was physically impossible under the circumstances. Nevertheless, investigators believed Hernández Ballinas.

After examining the case, some SCJN ministers acknowledged the need to change law-enforcement practices in Mexico. Justice Olga Sánchez Cordero described the ruling as having "great significance" because of its intended goal to penalize the culture of violence against women. The measure, she said, emphasizes the urgency to modify the practices that violate the human rights of women in Mexico.

Sánchez Cordero explained that law-enforcement authorities and prosecutors contribute to the violation of human rights of women by not conducting the proper investigations. Therefore, she said, the need was urgent to specify that these types of violations should be considered from a gender-related perspective.

Other justices agreed that the decision was necessary to clarify the need for authorities to respect the rights of victims and their families, which are guaranteed by Mexico's legal code. "Our system of justice is designed to support [the claims] of Irinea Buendía Cortez," said Justice Alfredo Gutiérrez Ortiz Mena.

"This is the best present that my daughter could have received on her birthday," said Buendía Cortez, pointing out that the decision came on what would have been Lima Buendía's 34th birthday.

Buendía Cortez agreed that the SCJN decision is significant because it sets a precedent for authorities around the country to view similar crimes against women through the lens of femicide.

"With this we are saying 'enough' to what the misogynists have done to our women," Buendía said in an interview with the online news site Sinembargo. "Any Mexican woman could face the same situation that my daughter faced."

"This decision is not only going to help resolve my daughter's case, but all the similar crimes that occurred in our country," added Buendía Cortez.

Victims' rights groups applaud ruling

The SCJN decision earned the support of the victims' rights organization Comisión Ejecutiva de Atención a Víctimas (CEAV). "This ruling establishes that the violent deaths of girls and young and adult women should be investigated from a gender perspective, with the purpose of determining the truth behind the situation," said CEAV.

Women's rights advocates pointed out that other efforts have occurred in Mexico to prosecute crimes against women in recent years, but the result was generally cosmetic and involved creating weak agencies that had little or no powers of investigation and indictment ([SourceMex, March 1, 2006](#)). The ineffectiveness of these agencies puts women and girls in constant danger, CEAV said.

These efforts include the Ley General de Acceso de las Mujeres a una Vida Libre de Violencia. Women's groups like the Observatorio Ciudadano Nacional de Femicidio (OCNF) point out that the law is difficult to enforce because of ingrained cultural factors such as the culture of machismo in Mexico ([SourceMex, March 5, 2014](#))

"Impunity is claiming many lives, and we cannot keep hiding this problem," said ONCF coordinator María de la Luz Estrada. "What is the good of creating so many agencies, if they do not work, if they are not given any teeth to function properly, and if protocols do not exist or are not applied properly?"

The most significant aspect of the decision is the stipulation that experts with the proper training and background investigate any crimes perpetrated by men against women. "They have to open the investigation to the scrutiny of organizations that emerged in recent years to monitor violence against women," Perseo Quiroz, director of the Mexican office of Amnesty International (AI), said at a joint press conference with Buendía, representatives from the OCNF, and the organization Justicia, Derechos Humanos y Género on the day of the SCJN decision.

"Public officials must be held accountable for failure to meet their obligations not only to protect the women who are clearly at risk as well as to investigate the instances of violence against them," added Quiroz.

The most prominent cases of femicide in Mexico include the killings of hundreds of women in Ciudad Juárez in the 1990s and 2000s ([SourceMex, Sept. 11, 2002](#), [June 23, 2004](#), and [March 1, 2006](#)). In 2009, the Inter-American Court of Human Rights (IACHR) held the Mexican government responsible for the murders of three of the victims and ordered it to pay restitution to their families, reopen investigations of the murders, and investigate officials accused of obstructing justice.

While the killings in Juárez have gained international notoriety, crimes against women in other parts of the country—particularly México state—have not received the same attention.

Estrada said the Lima Buendía case offered the OCNF and other organizations an opportunity to begin to hold the state attorney general's office (Procuraduría General de Justicia del Estado de

México, PGJEM) and officials in municipalities like Ciudad Nezahualcóyotl and Chimalhuacán accountable. Those two communities are among the 10 municipalities in México state that accounted for half of the 1,200 murders of women recorded between 2005 and 2013, said OCNF.

Femicide often reported as suicide

The OCNF said murders of women are often reported as suicides. "This is the case everywhere in Mexico, but more so in México state," said OCNF attorney and legal representative for Lima Buendía's family Rodolfo Domínguez.

Because of the prevalence of violence against women, state legislator Xóchitl Arzola Vargas and others brought a petition to the federal Secretaría de Gobernación (SEGOB) asking the interior ministry to declare an Alerta de Género (gender alert) in México state to shine the spotlight on the problem and force authorities to take action. The request was presented to SEGOB almost six months before the SCJN handed down its decision.

Lima Buendía is representative of the situation faced by many women in Mexico, where they are subject to physical and psychological torture by their partner, and the victims are often reluctant to file a complaint for fear of retributions.

Lima Buendía had a special disadvantage: she worked closely with state prosecutors and was aware of the deficiencies of the system. "She decided not to denounce her situation because of a lack of confidence in the authorities that were supposed to protect her," said Sinembargo. "There was reason for despair; these same authorities provided cover for her probable killer."

The PGJEM has agreed to comply with the SCJN directive and reopen the investigation into Lima Buendía's death. As part of its probe, the state prosecutor's office pledged to "remove all the obstacles" to an impartial review of the case and to sanction any officials who were responsible for blocking the procurement of justice.

"Our office has not closed this investigation," the PGJEM said in a statement. "We have replaced the personnel in charge of the case to guarantee impartiality."

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