The existing link between sexual violence and torture: some considerations on the "Mujeres Víctimas de Tortura Sexual en Atenco vs. Mexico" judgment

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Title: Il legame che intercorre tra violenza sessuale e tortura: alcune considerazioni in merito alla sentenza "Mujeres Víctimas de Tortura Sexual en Atenco vs. Mexico".

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1. – The Interamerican Court of Human Rights (hereinafter, also the Court) issued a judgment in favour of eleven women, known as "Mujeres of Atenco" against the State of Mexico, dated 28 November 2018, which in the meantime is only available in Spanish. The individual facts that concern these eleven women, the victims in the case at stake, took place in the broader context of the police operations that occurred in the municipalities of Texcoco y San Salvadòr Atenco during the 3rd and the 4th of May 2006. It found the State of Mexico accountable for the violation of several human rights enshrined by the "American Convention on Human Rights" (now "ACHR" or the "Convention"), by the "Inter American Convention to prevent and punish torture" (IACPPT) and by the "Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women", known as the "Belém do Pará Convention".

The Court ruled unanimously that the State of Mexico violated the right to humane treatment and personal integrity (art. 5, § 1 and 5, § 2, ACHR), in relation to Article 1, § 1, ACHR, the right to privacy (art. 11, ACHR), the right to assembly (art. 15, ACHR), the right to personal liberty (art. 7, ACHR), the right to defence (art. 8, § 2, let. b), d), e), ACHR) and the right to a fair trial and judicial protection (art. 8, § 1 and 25, ACHR; articles 1, 6 and 8, IACPPT; art. 7, Bélem do Parà Convention)

2. – According to the municipal development plan 2003-2006, flower vendors should have relocated to another area of the small town of Atenco in order to recover the areas of common use and improve the urban image. Eight vendors did not move from their original base. The "Frente de Pueblos en la Defensa de la Tierra" started a demonstration supporting those eight vendors. The protest turned into a violent clash between 300 unarmed civilians and 4000 policemen. Both the policemen and the civilians got hurt. In their attempt to break up the protest, the police allegedly terrorized the population, using violence against, breaking into private houses,

deporting people to centres such as the "Centro de Readaptaciòn Social Santiaguito" (now on "CEPRESO").

The majority of the persons detained during the 3rd and the 4th May operations claimed to have been subject to abuses by the police, including physical harassment, threats of death, kicks, truncheon blows, deprivations of personal goods.

In such a context, the Supreme Court of Mexico, on the basis of the complaints and declarations presented by the women before both ministerial and judicial authorities, found, in its judgement dated 12 february 2009, that fifty women were detained during those days and that thirty-one of them reported to have been sexually abused by the police during the deportation or during the detention. The initial reaction by the Mexican authority consisted of denying that sexual abuses occurred.

This is the framework in which the facts concerning the "eleven women", Yolanda Muñoz Diosdada, Ana María Velasco Rodríguez, Angélica Patricia Torres Linares, María Patricia Romero Hernández and María Cristina Sánchez Hernández, Norma Aidé Jiménez Osorio, Claudia Hernández Martínez, Mariana Selvas Gómez, Georgina Edith Rosales Gutiérrez, Suhelen Gabriela Cuevas Jaramillo and Bárbara Italia Méndez Moreno, are rooted.

Some of them were conducting researches for their thesis, some were going to the market to shop or to sell their products, some others were providing medical assistance and others were just walking down the street. When they encountered the police, they were beaten, insulted and deprived of their personal goods. All these women were deported by camion and during the travel they were touched, beaten, abused and offended. When the women arrived at the CEPRESO, the centre of detention, they were undressed, beaten and again sexually and psychologically abused. They were not informed of the charges against them, did not receive any medical assistance and they were denied their right to be assisted by a lawyer. Furthermore, the Public Prosecutor started preliminary investigations against them.

After the facts that took place on the 3rd and the 4th May 2006, several national bodies, such as the National Commission on Human Rights and the Supreme Court, started non-jurisdictional investigations in order to document the facts occurred, while the "Jurisdiction estadual del estado de Mexico" and the federal jurisdiction "FEVIM" (Fiscalía Especial para la Atenciòn de Delitos Relazionados con Actos de Violencia Contra las Mujeres en el País) initiated criminal investigations.

3. – In 2008, the "Centro del Los Derechos Humanos Miguel Augustín Pro Juárez A.C." (PRODH) and the "Centro per la Justicia y el Derecho International" (CEJIL) (now "the representatives"), on behalf of the eleven women, allegedly the victims, proposed an initial petition to the Inter-American Commission of Human Rights. After determining the case was admissible, the Commission concluded that several human rights violations were committed and issued recommendations to the State of Mexico. The State informed the Commission about that it had undertaken the necessary actions on the Commission's recommendations. However, the Commission still found the State to be not-compliant**.** According to art. 45 of the "Rules of Procedure of the Inter-American Commission of Human Rights" and artt. 51 and 61 of the American Convention and art. 35 of the "Rules of the Court", the Inter-American Commission submitted the case "*Mujeres víctimas de tortura sexual en Atenco contra los Estados Unidos Mexicanos*" to the Inter-American Court of Human Rights "*por la necesidad de obtenciòn de justicia para las víctimas*", since the State of Mexico disregarded the recommendations issued by the Commission. The State of Mexico proposed a preliminary exception, alleging that the Commission, in referring the case to the Court, had violated the State's right to defence since the right to a fair process, the principle of legal certainty and the principle of complementarity were not respected. According to the State, the

Commission omitted to consider the reparation measures that the State would have eventually adopted (§ 18). The Court denied that this would constitute a preliminary question, recognizing that in order to decide it, it would have been necessary to analyse the merit of the case, meaning the *Fondo* (§ 25, 26, 27).

So, the preliminary exception was overruled by the Court that declared to admit the case.

4. – Since its landmark judgment in Velásquez Rodríguez v. Honduras (Corte IDH, *Velásquez Rodríguez Case*, 29-07-1988, [*Excepción preliminar, fondo, reparaciones y costas*]), the Inter American Court of Human Rights, has recognized a principle of due diligence that requires States to prevent, investigate and prosecute human rights violations committed by both State and private actors. As stated in the "*Fondo*", the case concerns the international responsibility of the State of Mexico for the conduct of its state agents during the operations of the 3rd and the 4th May 2006, such as the abuses, the detentions and sexual violence against the above-mentioned eleven women and the lack of investigations in relations to these facts. The Court then carried out the analysis of the allegations contained in the "*Fondo*", acknowledging the fact that Mexico had already partially recognized its responsibility (§ 28).

5. – First of all, the Court addressed the issue concerning the use of the force by State security bodies and how it affected the right to assembly, concluding that such use was not legitimate nor necessary and ended to be excessive and unacceptable, determining a violation of articles 5 and 11 of the Convention. (Nadege Dorzema y otros vs. República Dominicana [*Fondo, Reparaciones y Costas*] 24-10-2012, § 85) (§ 159-170). The Court, even if there wasn't any allegation by the Commission and by the representatives in this sense, found that art. 15 of the Convention was violated since the force had been used in the context of a peaceful manifestation/protest to which the women were taking part as an exercise of their right to assembly (§ 171).

6. – The core of the judgment is represented by the Court's analysis of the sexual violence and violations of which the eleven women were victims of (§ 181-190).

Art. 5, § 1, of the Convention illustrates in a very general manner that "Every person has the right to have his physical, mental, and moral integrity respected", while art. 5, § 2, contains the more specific prohibition of torture and cruel, inhuman, or degrading punishment or treatment. As the Court points out, every violation of art. 5, § 2, of the ACHR necessary entails a violation of art. 5, § 1.

In this specific case, the obligations contained in art. 5, § 1, and 5, § 2, of the Convention are enhanced by both the IACPPT and the "Belém do Parà Convention", which provide for State obligations to prevent, sanction and eradicate violence against women. In the light of the case *Campo Algodonegro*, (*González y otras ("Campo Algodonero") vs. México, 16 -11- 2009, [Excepción preliminar, fondo, reparaciones y costas]*, *§* 197*)*, the "Belém do Pará" obligations were interpreted in the sense that the State, in order to comply with the due diligence standard, has to adopt effective measures and has to rely on an adequate legal framework of protection and prevention policies. The State of Mexico, since the above-mentioned case is dated back to 2009, should have already adopted such measures that would have had impeded episodes like those that took place in Atenco. It is clear that Mexico failed in this sense.

Preliminarily, the Court distinguished among sexual violence and sexual violation: sexual violence is an act of sexual nature that is perpetrated without the consent of the victim, while the sexual violation is an act of penetration, without the victim's consent, by a part of the body or by an object; but at the same time the Court

has included the sexual violation to be under the umbrella of sexual violence (§ 181-182).

In the present case, Mexico recognized its responsibility in relation to the sexual violence suffered by the eleven women during the detentions, transfers and the other facts at the CEPRESO. The Court also acknowledged that these episodes were not isolated since during the police operations of 3rd and the 4th May 2006 there were widespread episodes of violence against women (§ 188).

After determining that the eleven women were victims of sexual violence, including for seven of them sexual violation, the Court took the task of establishing whether or not those facts also constitute torture (§ 191-199).

It is appropriate to assess that the Inter-American Human Rights jurisprudence is aligned with the international human rights legal framework. The Court, in fact, highlights that the prohibition of torture and inhumane and degrading treatment is absolute and firmly affirmed in many other international instruments regarding Human Rights, as the "ICCPR Convention", the "Convention Against Torture", the "Convention on the rights of the child", and also in regional instruments, as the "Inter-American convention to prevent and punish torture", the "African Charter of Human Rights", The "Belém do Parà Convention", the "European Convention of Human Rights". Such a prohibition over the years has acquired the *status* of *jus cogens*, meaning that it cannot be derogated.

Rape has been identified as a crime against humanity, as a war crime (namely as a grave breach of Geneva Convention in *Prosecutor v. Delalic*, (*ICTY Prosecutor v. Zdravko Mucic aka "Pavo", Hazim Delic, Esad Landzo aka "Zenga", Zejnil Delalic* (Trial Judgement),16 -11-1998)) and even as an act of genocide by International courts and tribunals, such as the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the International Criminal Court.

Three cases constitute the landmarks in the international jurisprudence concerning the idea of rape as torture, by name *Prosecutor v. Akayesu*, *Prosecutor v. Kunarac* and *Aydin v. Turkey*. (Ryan M. McIlroy, *Prosecuting Rape and Other Forms of Sexual Violence as Acts of Torture Under § 2340*, Stanford Law School: Law and Policy Lab (January 2016)). According to the ICTR, in the case *Prosecutor v. Akayesu*, (ICTR, *The Prosecutor v. Jean-Paul Akayesu, Trial Judgement, 2-09-1998*), "rape in fact constitutes torture when inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity", highlighting the necessity of the subjective connotation of the perpetrator. Moreover, sexual violence is defined as "one of the worst ways [to] inflict harm on the victim as he or she suffers both bodily and mental harm"; while the Trial Chamber of the ICTY in *Prosecutor v. Kunarac*, (*ICTY, Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic (Trial Judgment), 22-02-2001*) convicted two defendants of torture since they were involved in acts of rape, observing that the "rapes resulted in severe mental and physical pain and suffering for the victims" constituted torture. The ICTR also established that "severe pain or suffering, as required by the definition of the crime of torture, can thus be said to be established once rape has been proved, since the act of rape necessarily implies such pain or suffering". Lastly, the European Court of Human Rights found that rape could constitute a violation of Article 3 of the European Convention, which prohibits torture (*Aydin v. Turkey, Council of Europe: European Court of Human Rights*, 25-09-1997).

In the experience of the Inter-American Court, the similarity among torture and sexual violence has been clearly established: they both aimed at intimidating, degrading, humiliating, castigating and controlling the person that suffers. (*Caso Fernandez Ortega y Otros vs. Mexico*, 30-08-2010, [*Exception preliminar, fondo reparaciones y costas*]). The Court also clearly stated that rape may constitute torture as proscribed by article 5 of the American Convention on Human Rights and, subsequently, found

the State responsible for torture in the case *Mejía v. Perù (*Corte IDH, *Raquel Martin de Mejía v. Perù*, 1-03-1996, *[Fondo, reparaciones y costas]*, § 128*)*. Moreover, in *Miguel Castro, Prison v. Perù*, (Corte IDH, *Miguel Castro, Prison v. Perù*, 25-11-2006, *[fondo, reparaciones y costa]*) the Court held that forced nudity violated personal dignity and "finger vaginal inspections" constituted "sexual rape" particularly recalling the jurisprudence of the ICTR in *Akayesu* (ICTR, *The Prosecutor v. Jean-Paul Akayesu (Trial Judgement, 2-09-1998*). (Ryan M. McIlroy, *Prosecuting Rape and Other Forms of Sexual Violence as Acts of Torture Under § 2340, Stanford Law School: Law and Policy Lab, January 2016*)

According to Art. 5, § 2 of the Convention, an act of torture has to be intentional, has to cause physical and mental suffering and has to be perpetrated for a certain purpose (§ 191). Moreover, the specific circumstances of the concrete case have to be taken into account.

In the case at stake, it is clear that the policemen acted wilfully in prejudice of the eleven women. In fact, the intentionality emerges from the sexual nature of such acts, their repetition, similarity and from the menaces and the offenses pronounced against them (§ 195).

For what the severity of the suffering is concerned, the Court had established that the violence perpetrated by State agents causes even more damages, consisting of physical and emotional humiliation (Corte IDH, *Miguel Castro, Prison v. Perù*, 25-11-2006, *[Fondo, reparaciones y costa]*, § 311). In this context, the women were under the complete control of the State agents and defenceless. According to the IACHR jurisprudence the subjective connotation of the perpetrator exacerbates the gravity of the violence, while for ICTR, as mentioned before, the official role of the perpetrator was necessary for the existence of such a crime (§ 199).

It is important to underline that the absence of injuries and physical diseases does not exclude the suffering of the victim, which consists also in psychological damages and consequences.

Lastly, the violence was aimed at humiliating the women so that they would have not participated in the public life anymore and would have stayed home, the only appropriate place for them, according to the stereotypical vision of the policemen. In addition, they wanted to punish them since the women tried to question their authority (§ 201).

The Court is also concerned that in the present case the sexual violence was not only a means of torture but also a weapon of social control and repression (§ 202).

The international legal framework through the years has developed the idea of sexual violence as a war tactic, a pattern also identified by the Court in the present case. The UN Security Council (Resolution 1820, 19-06-2008, S/RES/1820) and the International Criminal Courts, such as the ICTY (*ICTY, Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic (Trial Judgment), 22-02-2001*, § 583-585) and ICTR (ICTR, *The Prosecutor v. Jean-Paul Akayesu (Trial Judgement, 2-09-1998*, § 731), have established that in war context the violence is used as a meaningful means of humiliation for the adversary or as a means of repression and punishment. So, from such a perspective, the victim is only a symbol.

The Court determined that in the Atenco context the State agents used sexual violence to affirm their power: they used it in public so that everyone could see the consequences of disobeying their authority, as spectators of a macabre performance. Women's bodies were exploited for a precise purpose: discourage the protestors, quell their voices and show the outcomes questioning authority (§ 204).

Lastly, the violence was also of a medical nature: the doctors who visited the women treated them in a very stereotypical and degrading manner and their refusal of registering the injuries and their lack of competence affected the investigations (§ 205-207).

7. – The Court then analysed the above-mentioned violence in the light of the general disposition of Art. 1, § 1 of the Convention, according to which "the States Parties undertake to respect the rights and freedoms recognized herein and to ensure to all people subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition".

It is clear that there is a strict bond among the obligation of respecting human rights and the principle of non-discrimination (§ 211).

Moreover, both the IACPPT and the "Belèm do Parà Convention" have recognized the link between violence against women and discrimination, establishing the obligation upon the public power (legislative, judiciary and executive) to ensure respect for women. (*González y otras ("Campo Algodonero") vs. México,16 -11- 2009, [Excepción preliminar, fondo, reparaciones y costas]*, § 394-395)

The violence perpetrated against the Atenco women was undoubtedly gender oriented: women were violated because they were women.

Men also were victims of the policemen during the operations of 3rd and the 4th May, but women were victims of different forms of violence, clearly of a sexual nature and focused on the female parts, emphasizing stereotypes concerning their sexual roles.

Art. 1 of the CEDAW has defined discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." This idea is reinforced by the "Belém do Pará Convention" which indicates that violence against women is "a manifestation of the historically unequal power relations between women and men" and recognizes that the right of every woman to a life free of violence includes the right to be free from all forms of discrimination. CEDAW has stated that the definition of discrimination against women "includes gender-based violence, that is, violence that is directed against a woman [i] because she is a woman or [ii] that affects women disproportionately." CEDAW has also indicated that "gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men." (Corte IDH, *González y otras ("Campo Algodonero") vs. México*, 16 -11- 2009, *[Excepción preliminar, fondo, reparaciones y costas]*, § 394-395)

For what regards the gender stereotypes used, the Court referred not only to the words of the policemen during the detention and the transfer to the CEPRESO, but also to the words used in response by the government authorities when the violence was denounced. They questioned the credibility of the women and they denied what happened when no investigation had yet begun (§ 219).

Since the police acted unprofessionally and incompetently, using a sexist language, this attitude can be related and seen as a failure of the State to comply with the obligation of adopting positive and active measures to prevent and combat stereotypical and discriminatory behaviours against women.

It is not acceptable for the State to apply a passive attitude towards its agents' abuses and violations nor is it sufficient to just apply sanctions afterwards (§ 221).

The State has to implement programs and policies to eradicate prejudices and to effectively provide women substantial equality. It also has to undertake the necessary investigation with seriousness and commitment when violence against women is reported.

As observed in *Campo Algodonegro* case (§ 300), "the duty to investigate is an obligation of means and not of results, which must be assumed by the State as an inherent legal obligation and not as a mere formality preordained to be ineffective".

The State's obligation to investigate must be complied with diligently in order to avoid impunity and the repetition of this type of acts. In this regard, the Tribunal recalls that impunity encourages the repetition of human rights violations. (Corte IDH, *González y otras ("Campo Algodonero") vs. México 16 -11- 2009 [Excepción preliminar, fondo, reparaciones y costas]*, § *300)*

In light of this obligation, as soon as State authorities are aware of the fact, they should initiate, *ex officio* and without delay, a serious, impartial and effective investigation using all available legal means, aimed at determining the truth and the pursuit, capture, prosecution and eventual punishment of all the perpetrators of the facts, especially when public officials are or may be involved *(*Corte IDH, *González y otras ("Campo Algodonero") vs. México, 16 -11- 2009, [Excepción preliminar, fondo, reparaciones y costas]*, § *302)*

8. – The Court also found that the initial detention of the eleven women was arbitrary and not legitimate (§ 258 - 262).

No demonstration of "flagrante delicto" was alleged; the detentions were initiated without waiting for the conclusion of the investigation and proceedings; the collective detention failed to recognize the individual conduct of each woman.

Moreover, no information concerning the reasons for the detention or the allegations were provided, no right to consult with the lawyer was ensured and no contact with their family was permitted.

According to the Court, the detention was arbitrary and not legitimate in the light of the Convention: in fact, it was not compatible with the Convention, not appropriate in order to pursue its purpose, not necessary, not proportional and not motivated.

No revision occurred and the victims were detained for months or even for years.

Strictly connected to the perpetration of sexual violence as an act of torture, it is the question of the impunity of the perpetrators (§ 266).

Precisely, the Court took into account only the violations related to the investigations undertaken regarding the torture and sexual violence, since the representatives didn't ask the court to pronounce on the violations that may have taken place during the proceedings initiated against them (§ 266).

First of all, the Court analysed whether or not the state has complied with its obligation of due diligence in the accusation, reporting and investigating into sexual violence.

A necessary premise is that the State of Mexico has recognized its international responsibility since no investigation has been initiated *ex officio* and no internal disposition had been enhanced to comply with the obligations of the Convention at the time (as stated in art. 1, 6 and 8, ACHR) (§ 268).

The Court identified the initial deficiencies during the accusation and the collection of proofs: when the women were brought in front of the DA, some of them wanted to report the violence experienced, but the authorities did not allow them to tell the facts freely and they even refused to document the facts told by the victims; in addition their declarations were taken in front of a lot of people in an unsafe and unpleasant environment and the doctors did not apply the relevant measures of the Istanbul Protocol.

The Court did not accept the allegation that the State has filled the initial gaps (§ 272-285).

By contrast, the Court found that there was no impediment caused by the reservation of preliminary investigation and no sufficient allegations were made by the commission or by the representatives in order to establish that the women were not able to access files (§ 286).

In addition, the Court had to establish whether or not there were sufficient elements to initiate an investigation to determine if the authorities in charge omitted to impede or to investigate the acts of torture. Since the Court didn't have any information that such investigation has been initiated today, it concluded that the State failed to investigate all the perpetrators (§ 295-296).

Moreover, due to the fact that the case was not so complicated (§ 309) the reasonable time requirement in the procedure was violated.

As to the violations, the investigations have to also be considered from a gender perspective. It is evident that the investigation of the facts was characterized by a discriminatory, stereotyped, and revictimizing attitude that affected the women's right to access to justice (§ 310).

At first instance, the women were not believed and words of discrimination and discredit were used against them even by the high-ranking State authorities, including the then governor of the State of Mexico and former Mexican President, Enrique Peña Nieto. Even the Tribunal tried to minimize the violence they suffered alleging that it was due to the stress of the policemen or telling that the allegations of the women, not credible, were a tactic used by rebel groups (§ 313- 314).

The first instance tribunal also disregarded the case on the basis that there were no physical proofs, while in such cases, as the Court recalls, the victim's declarations are a fundamental proof (§ 315).

Instead, excessive importance was given to the previous social and sexual lives of the women.

The Court, indeed, had already raised awareness in regards of the credibility of victims of sexual violence, affirming that "the influence exerted by discriminatory socio-cultural patterns may cause a victim's credibility to be questioned in cases involving violence, lead to a tacit assumption that she is somehow to blame for what happened, whether because of her manner of dress, her occupation, her sexual conduct, relationship or kinship to the assailant and so on. The result is that prosecutors, police and judges fail to take action on complaints of violence. These biased discriminatory patterns can also exert a negative influence on the investigation of such cases and the subsequent weighing of the evidence, where stereotypes about how women should conduct themselves in interpersonal relations can become a factor." (Corte IDH, *González y otras ("Campo Algodonero") vs. México, 16 -11- 2009, [Excepción preliminar, fondo, reparaciones y costas], § 415).*

The influence of gender stereotypes in the Latin American region clearly emerges from the analysis of the case at stake in connection with another case *López Soto vs. Venezuela* decided by the Inter-American Court on 26 September 2018 (Corte IDH, López Sotos y Otros vs. Venezuela, 26-09-2018, [*Fondo, reparaciones y costas*]). Both cases deal with violence against women: in the Atenco context, the violence was perpetrated by State agents while in the López Soto case, by a non-State actor. Even if Lòpez Soto was kidnapped by a private citizen, the Inter-American Court found the State of Venezuela responsible since it failed to comply with the due diligence to prevent such crimes. These two cases can be lumped together since the Court had to overcome the gender biases that had characterised the investigations and the authorities' responses. In the López Soto case the police did not follow up her sister's claim holding that the girl was probably with her boyfriend and that the police should not interfere with "couple matters", while in the Atenco case the policemen used degrading and gendered words and high state Authorities minimized the suffering of the victims. In the light of these two recent cases, it is clear that the Court is willing to condemn violence against women regardless of the source of such violence. (Daniela Kravetz, *Holding States to Account for Gender-Based Violence: The Inter-American Court of Human Rights' decisions in López Soto vs Venezuela and Women Victims of Sexual Torture in Atenco vs Mexico*, Blog of the European Journal of International Law, 21-01-2019)

9. – The Court then established that the right to personal integrity of the next of kin was violated. Due to the deprivation of the women's sexual integrity, their relatives (named in the sentence) suffered psychological and moral disorders (§ 324).

10. – Lastly, according to art. 63, par. 1 of the Convention, San José Court emphasized the importance of providing adequate remedies in these situations.". (§ 390). The violation of an international obligation entails the obligation of an adequate reparation. (Corte IDH, *Velásquez Rodríguez vs. Honduras, 21-7-1989, [Reparaciones y costas])*. The Court has to decide on the damages taking into consideration the facts emerging during the proceeding, (Corte IDH, *Ticona Estrada y otros vs. Bolivia, 27-11-2008, [Fondo, reparaciones y costas], § 110]*, the violations stated by the parts, the nature and the extent of the obligation to repair. (Corte IDH, *Acost y otros vs. Nicaragua, 25-3-2017, [Excepciones preliminares, fondo, reparaciones y costas], § 210)*.

In relation to the obligation to investigate, the Court prescribed that the State has the duty to begin and continue a broader, detailed and systematic investigation that will be necessary to individuate and to sanction all the perpetrators of the violence and torture.

Moreover, the State has to provide the victims with the medical, psychological, psychiatric treatments requested. Then it has to publish the sentence within six months and to "make an act of recognition of its international responsibility". Furthermore, in two years the State has to create a training program for officials of the Federal Police and of the State of Mexico and to establish a mechanism of control in order to asses and evaluate the effectivity of the policies and existing institutions in monitoring the use of force.

The State also has to award scholarships for a Mexican higher education institution to those women who want to pursue their studies. It has to enhance the "Mecanismo de Seguimiento de Casos de Tortura Sexual". Plus, it has pay to the victims for the demages and to deposit the amount established by the court to the "Fondo de asistencia legal de victimas de la Corte". Finally, the State has to inform the Court of the measures adopted.

11. – Center PRODH and the CEJIL, the representatives of the eleven women, welcomed this judgment as "an historic sentence" and as the "victory of dignity and truth over a State that vilified them and denied them justice". Even if the judgment lies on the personal experience of the eleven women, it will benefit all women as it is considered capable to create the conditions for non-repetition.

Indeed, at the same time this judgment represents a step backward and forward in the fight against violence against women.

Since Campo Algodonero judgment, the State of Mexico should have had adopted measures to implement education and training programs for public officials on human rights and gender and on a gender perspective to ensure due diligence in conducting preliminary inquiries and judicial proceedings concerning gender-based discrimination (González y otras ("Campo Algodonero") vs. México, 16 -11- 2009, [Excepción preliminar, fondo, reparaciones y costas], § 602, 22). However, ten years later, the Court found Mexico still deficient: its state agents, even high-ranking, are unprofessional and incompetent in dealing with cases of violence against women (as pointed out in § 7 of the present paper).

On the other hand, the judgment is an advance since the Court recognized Mexico to be directly responsible for the violations of substantive rights such as the right to personal liberty (art. 7, ACHR), and the right to humane treatment (art. 5, § 1 and 5, § 2, ACHR) perpetrated by state agents. In fact, in 2009, in Campo Algodonero case, the Court did not hold Mexico accountable since the violations were perpetrated

by non-state actors. It is clear that the nature of the perpetrators is a fundamental *discrimen* that affects the outcome of the judgment. In Campo Algodonero the fact that the acts of violence were committed by non-state agents prevent the Court to assess the international responsibility of Mexico, while in the case at stake, the fact that the perpetrators were state agents allowed the Court to declare Mexico directly accountable.