

Executive Summary

Impunity, Stigma and Gender

*Study of criminal case files related to violent deaths
in the Department of Guatemala (2005-2007)*

Document for a debate



Impunity, Stigma and Gender

One of the most relevant findings of previous studies of the violent deaths of women in Guatemala is that the phenomenon of violence against women is distinct from violence directed at men. Another widespread conclusion of these studies is that a climate of gender discrimination, indifference and prejudice prevails in the institutions which comprise the criminal justice system, and that the system's inadequate response to gender violence owes to such biases. However, none of these studies disaggregates the data by gender to analyze the violence and the State's response to it, in order to discern similarities and differences, or to make comparisons. On the contrary, the studies simply assume that violence against women is differentiated and unique, and that it occurs in a context of impunity throughout the justice system toward all violent acts, which disproportionately affects women as a group. While government authorities try to explain the causes and circumstances of the violent deaths of women, it is evident they are unable to synthesize data into a sound theoretical framework in order to solve these crimes.

These observations resulted in our identifying the need for further investigation, to analyze the Guatemalan justice system's responses to violent deaths of women compared with violent deaths of men. Hence, this study will evaluate the empirical underpinnings of the second conclusion of previous studies: that is, it will determine if, in fact, impunity for violent acts in Guatemala disproportionately affects women as group. It will not evaluate whether violence against women is different or unique, but whether the judicial system's weaknesses, and its responses to violence, result in discrimination against women as a group.

This investigation is based on the premise that gender discrimination as a cause for the inadequate response of the Guatemalan justice system is one factor among many inseparable and unequal power relationships. In addition to gender, every person is influenced by age, nationality, social class, ethnicity, religion, health, ideology and politics. Inequality takes many forms and affects all people, whose relationships are invariably affected by a variety of converging dynamics that form their identity. Guatemala is characterized by an institutionalized devaluation of people, which is perpetuated by government officials whose biases toward both victims and perpetrators of crimes result from these influences.

As a result, this study will research criminal case files involving deadly violence against men and against women. We analyze violent death records, identifying similarities and differences, in order to determine how the judicial system functions and to identify its defects, all within the context of impunity in Guatemala. The study also attempts to investigate the stigmatization of the victims of violent death in judicial investigations and prosecutions. While considerable progress has been made by describing the effects of gender-based devaluation within the justice system, this sole causation theory fails to provide a fuller and richer understanding of how the system suffers from impunity and stigmatization or to provide a basis for proposing changes that can battle against them.

This is an exploratory study, both descriptive and analytical. Qualitative research methods were used, including case studies, focus groups, interviews with key players and extensive

documentary and bibliographic reviews. For the case studies, 19 violent deaths from 2005 to 2007 were selected that had resulted in guilty verdicts; all had occurred under the jurisdiction of and were prosecuted within the department of Guatemala. Nine of the victims were women, ten were men. An extensive review of related research and writing was carried out, as well as analysis of all laws, rules and agreements that govern those institutions and agencies whose purviews are directly relevant to these cases. Investigations and reports on the subject by other national organizations and international institutions were also studied. Focus groups were convened with Prosecutors and Assistant Prosecutors of the Public Ministry (from Guatemala's *Ministerio Público (MP)*),¹ similar to District Attorneys and Assistant District Attorneys; the Criminal Investigation Department (*DICRI*); the Office of Protection for Witnesses; judges; the Gender Unit of the Institute for Public Defense (*IDPP*); the National Institute of Forensic Sciences of Guatemala (*INACIF*); the National Civilian Police (*PNC*); municipal firefighters; funeral parlor personnel; the Foundation for Forensic Anthropology of Guatemala (*FAFG*); three non-profit victim-assistance organizations; and legal experts Hilda Morales Trujillo and Marta Altolaguirre.

The report consists of three sections divided into four chapters. The first section, chapter one, offers a referenced theoretical proposal that analyzes the quality of the judicial system's response to violent murder. Previous studies that had addressed this subject were profiled in order to identify areas needing deeper, broader and more comprehensive understanding. The concepts of impunity and stigma were defined. The types of crimes referred to by the term "violent death" were catalogued and the role of gender was delineated. The second section, comprising chapters two and three, identifies and analyzes the obstacles, or what we call "bottlenecks," that give rise to impunity in the judicial handling of cases involving violent death. The third section, chapter four, contains reflections arising out of our comparing and contrasting the cases of women to those of men. Examples are provided of investigatory and prosecutorial stigmatization of murder victims. Presented at the end are the conclusions and recommendations that emerge from the study.

Impunity

A working definition of impunity became a cornerstone of this analysis. This definition arises from five core elements that describe the impact and pervasiveness of impunity and its reach. These include the systematic absence of punishment, a violation of human rights in and of itself (distinct from the violent act that is under investigation); as a context that in turn becomes a causal factor; as a culture, social system or cultural régime; and as a means of social control.

At the Myrna Mack Foundation impunity is examined only within the context of Guatemala. Our approach is based on the premise that impunity is a historical fact that deeply scarred the country and continues in the present, throughout cultural, political, social, psychological and legal spheres. In our view, impunity in Guatemala transcends the government bureaucracy, its officials

¹ In the text, government agency names are translated to English accompanied by their Spanish acronyms. Official agency names in Spanish and their acronyms: el Ministerio Público (MP), la Dirección de Investigaciones Criminalísticas (DICRI), la Oficina de Protección a Testigos (OPT), la Unidad de Género del Instituto de la Defensa Pública Penal (IDPP), el Instituto Nacional de Ciencias Forenses de Guatemala (INACIF), la Policía Nacional Civil (PNC), and la Fundación de Antropología Forenses de Guatemala (FAFG).

and its civil servants, being driven by unseen forces as well as by citizen indifference. It is primarily perceived as a distortion of the justice system held together by an intricate web of deliberate and unconscious measures that make it work. These measures can be understood as obstacles, or bottlenecks, which prevent the consolidation of the rule of law and constitute a means to deny the worth and dignity of victims. Finally, in order to combat the effects of impunity, a series of overarching principles are discussed: consistency, holistic approach and citizen participation.

Stigma

Stigma is understood as the phenomenon whereby an individual with an attribute, which is deeply discredited by his/her society, is rejected as a result of the attribute. Some examples of stigmatized groups are those with particular illnesses, disorders or physical or mental handicaps; skin color; nationality; ethnicity; or the perception or accusation of criminality, however accurate or erroneous.

Gender

Ethnicity, gender and social class have long been recognized as essential categories meriting critical study and analysis. However, most academics and researchers tend to see these and other formative elements of society as separate and different. Arguing against this view, the present study questions whether gender can or should serve as the primary focus of analysis when trying to understand the judicial system's distinct response to violent murders of women, since putting greater emphasis on gender overlooks how women's lives – including their social, legal, political and economic status – are also reflections or functions of their ethnicity, age group, sexual preference, ideology and social class, among other factors.

Bottlenecks in Criminal Prosecutions of Cases involving Violent Deaths

After exhaustive review of the 19 legal cases, the study suggests four major phases of the legal process in which these are evident. The first phase of investigation is the preparatory (“preparation or instruction”) phase, with the objective of preparing the accusatory instrument or indictment. In the second phase, results of the investigation are criticized and analyzed. The third and most critical phase is the trial itself. Finally, the fourth phase consists of monitoring the results of the outcome of the trial, or the sentencing phase, through application of punishment and appeals.

➤ The Preparatory Phase

The preparatory phase of the criminal legal process is primarily investigative. In criminal cases involving violent death, bottlenecks emerge in this first phase, which are found to give rise to impunity, resulting in a distortion of the concept of *in flagrante* detention, deficiencies in criminal investigations, the absence of a litigation strategy and a mistaken interpretation of the principle of objectivity which ought to determine actions taken by the *MP*.

Distortion of the Concept of “In Flagrante”

The distortion of the *in flagrante* concept constitutes a bottleneck in the investigations into violent deaths in two ways. First, it distorts the judicial system in that when a capture does not occur while the act is being committed, officials must obtain an authorized warrant, lest an arrest be considered arbitrary. This impedes due process. Secondly, the obstruction becomes a mechanism of impunity by providing a possible defense – illegal detention – to invalidate the arrest of the perpetrator. In some cases this can lead to exoneration, being found not-guilty, or not receiving the proper punishment.

Deficiencias in the Criminal Investigation

Criminal investigation can be defined as a process involving a series of actions through which, by employing diverse methodologies and technologies, the criminal acts and the material evidence associated with them are studied. A criminal investigation finds and verifies through technical and scientific means both a crime and the suspected perpetrators and accomplices. It is carried out by field research, by identification and reconstructive studies, and by rulings and informational and demonstrative reports. Through an investigation, the elements are being constructed which will be transformed into documentary proof, materials and expert opinions addressed to the appropriate authorities.

In the violent death legal files reviewed, various problems in the criminal investigation could be identified. Some of these involved processing the crime scene, the chain of custody, the functions of the institutions involved in the criminal investigation and interagency coordination among them, and the bureaucratization of both police and scientific investigations and of specialists' reports.

Planning failures while processing crime scenes; various means of inadequately securing crime scenes; mistakes in searching for, collecting and securing evidence; and faulty handling of the victims' bodies result in a bottleneck which gives rise to impunity, resulting in a lack of consistent action which is needed to solve the crimes.

The integrity and authenticity of evidence is assured through the chain of custody. This process ensures that evidence that is later submitted for expert analysis and to the courts is the same as that collected at the crime scene. Deficient chain of custody control constitutes a bottleneck in processing cases involving violent death. On the one hand, it violates due process of the suspect. On the other, it sometimes blocks the use of evidence which would support the charges against the suspect had it been admissible in court proceedings.

A lack of interagency coordination between the *MP* (the Public Prosecutor's Office) and the *PNC* (the National Civil Police) has become a factor causing substandard results of criminal investigations. Distortion of the prosecuting agency's function allows it to become enmeshed in both field investigation and scientific research. *PNC*'s human resources are under utilized, since the agency is assigned few tasks other than interviewing possible witnesses, while not having access to the crime scene or to the results of scientific analysis.

The lack of coordination between the *MP* and the *PNC*, and now the *INACIF* (the National Institute of Forensic Sciences), shows up as one of the most problematic features of criminal investigation. There are indications of jealousy and inter-institutional competition, duplication of effort, discrediting of others' work, a marked lack of procedures and mechanisms to develop complementary work and an unwillingness to adopt systemization.

Problems in organization, standards and attitudes within a context of minimal inter-institutional coordination in criminal investigation constitute a bottleneck in criminal cases involving violent death. Among the institutions responsible for criminal investigation, any perception of case planning is hard to find. Rather, disjointed practices lacking any effective strategies or actions are the norm.

The criminal investigation, far from being the creative activity that the judicial process requires, appears to be made up of a simple mechanical accumulation of written files. A bureaucratic investigation, in which following procedures is valued more than results, constitutes a bottleneck in legal procedures concerning violent deaths.

A scientific investigation is lacking when its objectives are not defined with precision by the prosecutors. Further, it is deficient if the specialists' reports are not developed consistent with technical guidelines and their conclusions are unsupported. Failing to take into account the degree of trustworthiness of the procedures used is also a deficiency. These conditions create another bottleneck in criminal cases involving violent death.

Lack of Litigation Methodology

Litigation methodology is comprised, in large part, of constructing a hypothesis, establishing and carrying out specific lines of investigation, as well as reviewing performance and proceedings.

Of the 19 cases studied, only five of them established a motive for the crime. In the absence of an explanation that organizes the facts regarding what happened and relates them to a legal framework and rules of evidence, charges against the suspect will be weak. The lack of a litigation methodology thus constitutes a bottleneck in criminal cases involving violent death.

Incorrect Interpretation of the Principle of Objectivity

This principle obligates the *MP* (*Ministerio Publico*) to investigate with equal vigor both the information that supports the charges as well as information that supports the defense of the accused. The principle in question, when partially constructed and narrowly interpreted, is that the *MP* must seek and require both punishment for the accused and absolution for the innocent. It should be added that the *MP* has the duty to propose or offer all the evidence it considers useful to arrive at the truth, whether that is favorable or unfavorable to the suspect.

This situation was evident in the files analyzed, since the *MP* offered and provided evidence that did not support its own charges.

Nonetheless, this interpretation conflicts with the most elemental rules of representation, which start with the principle that no one should simultaneously represent conflicting interests. The notion of “objective criminal prosecution” not only makes relative the interests, rights and guarantees of the accused, but also harms the contentious nature of the process and removes logic and coherence from the theory of the case which the *MP* must construct in its prosecution.

The true value of the principle of objectivity should be evident in a critical examination of the facts uncovered during the preparatory phase, while determining whether suspicion remains that an illicit act was perpetrated, and assessing the likelihood of a guilty verdict, or the absence of indicators of criminality, resulting in the criminal proceedings being halted. Once beyond this phase, when the charges are filed, the prosecutor cannot be expected to act in a neutral way, trying to reconcile prosecutorial interests with those of the accused fighting the charges. This distortion of the principle of objectivity is a bottleneck in the criminal prosecution, since it removes logic, consistency and coherence from the accusation and the indictment.

The Intermediate Phase

The intermediate phase is comprised of a set of procedural acts whose objective is the formal correction or clarification of the requirements or conclusive acts of the investigation.

Indictment

From the review of the case files it is clear that there is an absence of foundation that includes the juridical as well as the factual and probative elements. Deficiencies are perceived in the manner facts are narrated, the way they are framed within a criminal legal typology as well as the interrelation and the linking of probative elements that allow affirmation that the facts occurred as charged.

Building up the factual narrative establishes which pieces of evidence are pertinent, which laws are applicable, which punishment is to be requested, and which legal arguments may be put before the court so that it may value the narrative as coherent, believable, verifiable, and that it must result in a guilty sentence. The creation of a narrative of the facts implies organizing the story in a specific manner, assigning the relative importance of each fact or circumstance that is to be the subject of proof, and to give specific significance to certain facts. Also, it is necessary to predict the manner in which these will appear in the indictment, in such a way that their presentation will connect all of the elements and circumstances of the act in order to bring sense to the charges.

The judicial qualification of the punishable act consists of placing the factual narrative within the adequate applicable criminal law. This implies the use of theories of penal and criminal law. As such, the judicial element of the theory of the case is aimed at establishing elements of law that the litigators purport to prove in the case.

Application of a theory of the crime is indispensable to case development, since this is one of the tools allowing for the establishment of the sufficiency of the facts of the case to the law and doctrine. The theory of the crime is defined as a conceptual instrument to determine if the act

being prosecuted has a juridical-criminal consequence as conceived in the law. This analytical tool permits linking the telling of the facts to the elements of the crime. These are, principally, the definition under the law, illegality and culpability.

The probative component supplies the factual and juridical aspects of the theory of the case, in such a way that its construction allows one to determine what is the pertinent evidence establishing the certainty of the occurrence of punishable conduct and of the guilt of the accused as the basis for a conviction. For each charge there must be one or several means of proof that either prove or disprove it. In any event, a search for the element of proof must be made that best supports the factual proposition.

If the charge, as the basis for trial, is not sufficiently clear, precise, its circumstances described, specific and firmly based in law, it not only makes defense of the accused impossible, but also violates the principle of consistency. Faced with this anomaly, the court will find itself, at that time, unable to perform its judicial function, since it cannot rule upon that which is not clearly established, because it would result in an invalid conviction. Hence, this issue is a bottleneck in violent death criminal prosecutions.

The Trial Phase

This is the full-on and principal criminal proceeding, where evidence will be produced, questioned and evaluated, leading to a sentence (of conviction or acquittal).

Preparation of the Trial

Trial preparation is the initial phase of the criminal trial. Its objective is to prepare all the elements of the trial through the purging of those elements that might be useless or void. And so, in this phase, activities aimed at determining the types of evidence to be presented are performed.

The court has the authority to determine which evidence is admitted. If evidence has been offered that is useless, irrelevant, redundant or illegal, the court has the power to prevent the introduction of this evidence. Nevertheless, in the files reviewed, there was evidence that was later not given probative value and yet was not rejected in this phase.

The inefficiency of this phase in purging evidence constitutes a bottleneck in violent death criminal prosecutions, by contributing to the length of the trial, with the added wear upon the victim's family involved in the process and the waste of resources it generates.

The Trial

The principal proceeding – the trial – is the phase of the criminal prosecution convened on the basis of an accusation. Its central element is an oral, public, adversarial proceeding, with the specific purpose of obtaining a sentence which resolves the case. In that sense, the fundamental rules of the trial include the principal of “immediacy,” involving a process which includes oral presentation of evidence, the concentrated attention and physical presence of the judge, and the

public nature of the adversarial proceeding. Seen in this light, the trial is the phase of the process within which the parties produce, examine and challenge their respective versions of events, framing them within a judicial process.

Our analysis of procedural actions during this phase of the criminal prosecution lacked the necessary bases since questions asked to witnesses were not included in the record, only their much summarized answers. Hence, a qualitative analysis of what happened in the trial was impossible. Nevertheless, this is an opportune moment to comment on some bottlenecks that were, in fact, obvious, such as the diminished importance of the role of the “*querellante adhesivo*” (referred to herein as “joint party to the prosecution”),² issues concerning the public defender’s ethics, violations of the principal of “continuity,” the exacerbation of the principle of immediacy and the inadequacies of the witness protection system.

The reduced capacity of the joint party to the prosecution to propose and contribute to the construction and foundation of the case against the defendant as evidenced in the case files reviewed, constitutes a bottleneck in violent death criminal prosecutions, since it reduces the impact that the participation of the victim (or victim’s representatives) might have on the process.

Even though from our review of the case files, we could not infer conduct pointing to public defenders having acted maliciously to perpetuate impunity, interviews conducted revealed a distortion of gender theory and its impact on resolving cases on behalf of the *IDPP* (the Institute for Public Defense), which we identified as a bottleneck. Lack of ethics on the part of the public defender, by distorting the focus on gender to justify misogyny and presenting it as an extenuating circumstance in violence against women, arises as a bottleneck in criminal prosecutions involving violent deaths, by denying the value of the victim and constituting an apology for the decay of the social fabric.

An exaggeration of the immediacy principle, manifested in denying probative value to the DNA expert report when testing was conducted outside the country, becomes a bottleneck by nullifying the validity of evidence that could solve a given case.

The “continuity” of the trial is based on the legal rule that requires that as many successive hearings as are necessary will be held, and includes the possibility of postponing them for as long as 10 days. Thus, the trial must be carried out as a unique and continuous event. If, in order for a sentence to be handed-down, up to three months must pass, as happened in several of the processes analyzed, a bottleneck is created in the criminal prosecutions due to the prolonged nature of the process; if the participation of the victim is involved, that victim will potentially be subjected to a significant emotional drain or financial toll.

Currently, due to the weaknesses of the forensic science, the primary evidence during the preparatory phase is made up of the sworn statements of those around the crime scene and other people close to the victim—family, neighbors and friends. Nevertheless, witnesses are perceived

² Under the Guatemalan Criminal Code, victims, relatives and other interested parties may act as joint parties to the state prosecution; they can propose areas of investigation, participate in proceedings, etc. These “joint parties” are referred to as “*querellantes adhesivos*.”

as reluctant to testify in the criminal proceedings, due to lack of interest, work problems caused by repeated appearances before the court, uncompensated traveling expenses, the possibility of having to appear anew, fear of reprisals and lack of trust in institutions. Given that sworn statements and witness testimony as well as victim participation are key evidence in the criminal prosecution, inadequate protection of these subjects constitutes a bottleneck. It may also be pointed out that witness cooperation may be described as a tool to combat impunity, inspired by the principle of citizen participation.

Sentencing

The sentence is the judicial decision that brings an end to the criminal proceeding, pursuant to the accusatory hypothesis put forth by the *MP*, the joint party to the state prosecution (*querellante adhesivo*), and the civil petitioner, and its rebuttal or contradiction by the defense.

In our review of the files, some weaknesses were found in the sentences handed down, with regard to their factual and juridical basis and the analysis of the evidence. The court does not speak to the validity of the type of evidence submitted, nor of the reasons that have led it to consider the facts as having been proven. This constitutes a bottleneck as well.

Appeals

Meager development of bases for challenging sentences, manifested within the reviewed case files in both special appeals as well as in appeals to the highest authority, do not support definitions based upon unified judicial criteria or the creation of legal doctrine or jurisprudence, and thus constitutes an additional bottleneck in criminal prosecutions, by not generating a way to review the rulings of the lower courts.

Impunity, Stigma and Gender

We offer reflections on some of the findings that arise from our analysis of the reviewed files. These involve similarities and differences in the criminal cases of men and those of women. Even though this comparison leads to an inference that there is no significant difference, one can't help but wonder if that perceived similarity and the resulting disregard of contrasts and disparities actually constitutes a basis for gender-based discrimination. Finally, there is a description of how stigmatization affects the development of the case, fed by a lack of sensitivity among those who administer justice. By construing it in this manner, the intention of the text is not to take anything for granted, but to analyze possible variables in order to more broadly understand the justice system's response to cases of violent deaths.

Similarities

In comparing criminal case files involving violent deaths of women to those of men, various factors are noted which are present in the cases of both. Among them are the inefficiency of the criminal investigation, the weakness of the accusatory charges, the importance of supporting the victims in the process, technical deficiencies of sentences and the meager development of the bases for appeal.

Differences

A few differences were found, these being: the existence of a specialized prosecutor's office during the period analyzed, the completion of procedural periods, the varying criminal investigation undertaken, and the manner in which crimes are committed.

One speculates that, if there is to be a difference in the way violent death cases of women and men are to be treated, it should be based on the way they died and the causes of their death.

Faced with the perversity, brutality and viciousness that characterize the violent deaths of women which differentiate them from the violent death of men, equal treatment received from the accusatory entity could be, in effect, discrimination motivated by gender by ignoring the fact that different situations require different solutions.

Nevertheless, it must be considered that, in cases involving violent death of women, there is tendency to investigate their private lives. Hence, that is where the majority of data and information will be collected. In cases where the death occurred in that private sphere, and not in another, there is a better chance of establishing what happened. Accordingly, it is logical that these be the cases that result in a conviction and the analyzed sample (that is, the totality of cases with a conviction, for the period and geographic area selected for the study) is made up of such completed cases. Therefore, before announcing conclusions about the nature of violent deaths involving women and their implications in terms of conducting a criminal investigation and their treatment by the prosecutor, statistics with an epidemiological focus must be presented.

Accordingly, it is more plausible to conclude that, if the violent death case files of both men and women face the same bottlenecks, the subordination of women in gender relations is not the sole cause of institutional failures in the judicial system, and that they are caused mainly by the existing widespread impunity in Guatemala.

Stigma

Although this study may lead one to conclude that impunity does not necessarily affect women disproportionately as a group, it is possible that certain procedural errors are made as a result of the stigma that government officials place upon victims. Stigmatization occurs not only in relation to gender, but also to age, social class, manner of dress and tattoos, among many other factors.

Stereotyping that blames and dismisses the victim is obvious, resulting in the investigation focusing upon a victim's behavior rather than on identifying the possible guilty party or parties.

This stigmatization not only promotes impunity by hindering the criminal investigation and setting-up obstacles to the imposition of punishment upon the perpetrator, but it also becomes a manifestation of impunity itself, by denying the value of victims.

Recommendations

We organized our recommendations around three axes. The first, “Impunity,” refers to the bottlenecks that contribute to generating impunity, identified in criminal prosecutions involving violent deaths. Next, “Stigma” alludes to the stereotypes used by the personnel that are part of the criminal justice system. Finally, in the axis of “Gender,” there is reference to the differences and similarities in violent death criminal prosecutions for men and women.

Impunity

The inclusion of a criminal investigation component in the training process of *MP* prosecutors and investigators from the *PNC* is recommended, in accordance with the problems pointed out.

Likewise, it is necessary for prosecutors from the *MP* to arrive quickly at crime scenes, to order adequate means for crime scene protection and processing, and to guarantee the chain of custody for evidence collected. In addition, it is imperative that they efficiently direct and coordinate the work of *PNC* investigators and guide *INACIF* (National Institute of Forensic Sciences) activities, based upon its professional requirements, with the goal of attaining a functional management of the field investigation and the scientific investigation.

It is also considered necessary that informational and outreach programs be developed so that firefighters, as well as reporters and funeral home personnel, do not contaminate crime scenes.

It is also considered advisable for the *MP* to implement a work plan to overcome current deficiencies in inter-institutional coordination. To this end, needed adjustments should be made in the institutional field so that the *MP* can efficiently direct and coordinate criminal investigations. Modification of the *DICRI* (Criminal Investigation Department) role could provide *MP* prosecutors with the technical resources needed to adequately direct the work of the *PNC* and *INACIF*; and this could translate into improved inter-institutional coordination among the various entities, by facilitating the use of a common language. We recommend that the parties involved discuss establishing efficient channels of communication and improvements in coordination. To achieve these objectives, it is necessary to establish a plan for permanent coordination between the *MP*, *PNC* and *INACIF*, adoption of rules detailing the function of each entity in criminal investigations and their means of interaction, is necessary as well as joint training of police and prosecutors. The rules developed could govern, for example, individual investigative actions; preparation of criminal reports; collection of feedback from prosecutors; relations between police investigators and their superiors, on the one hand, and the prosecutors as investigative directors on the other; information exchange; harmonizing collection methods and statistics; specific and uniform regulations for communication and correspondence between police and prosecutors; mandatory joint training; and special instructions regarding techniques for specific investigations, among others.

In addition, it is recommended that the *MP* guarantee that the general instructions issued be mandatory and that compliance be continuously monitored by prosecutors. At the same time, it is recommended that there be a periodic revision of these instructions, that the instruction not to state a motive for the crimes in the indictment be corrected, that the one referring to genetic

analysis (DNA) be broadened, and that a general instruction be issued regarding the correct interpretation of the principle of objectivity.

It is recommended that the *INACIF* be given the necessary resources to establish a DNA laboratory, and AFIS and ABIS systems.³ Additionally, it is considered advisable that the progress of its installation and initial development be closely monitored. Likewise, the negotiation and execution of an agreement with *FAFG* is recommended in order for this organization to perform DNA analyses, while *INACIF* acquires its own equipment, in order to guarantee the presence of an expert in the presentation of the case.

The creation of prosecution as a professional career is recommended, along with the creation of incentives, performance evaluation procedures and a disciplinary system, among other things.

It is recommended that the *MP* guarantee, through its internal monitoring, supervision and disciplinary measures that will result in charges being filed in connection to an effective application of crime theory, with a technical foundation in terms of the description of the facts, judicial identification and offers of proof.

It is recommended that judges of the Judicial Branch exercise their abilities to deny, during trial, the submission of useless, irrelevant, redundant or illegal evidence, with the goal of speeding-up the trial phase. Additionally, the creation of a mechanism to schedule hearings, in order to prevent their suspension, is suggested.

Improvements in orientation and legal assistance available to victims are recommended, as well as access to information for victims of violence.

Likewise, it is considered necessary that a code of ethics be created to govern the conduct of public defenders.

The *MP* is encouraged to request protective measures for victims and their families when there is any danger posed to the physical integrity of parties involved in the judicial proceedings; and for judges to grant these measures when advisable. Strengthening the protection system is recommended, with greater emphasis on the needs of victims and witnesses.

The magistrates of the Appellate Court and the Supreme Court of Justice are encouraged to hand down rulings that contain juridical-analytical content which is useable.

Stigma

It is recommended that the Judicial Branch and the judges that comprise it neither accept nor grant probative value to testimony from witnesses or expert reports that make reference to the personal characteristics of victims.

³AFIS is the trade acronym for “Automated Fingerprint Identification System”; ABIS is the trade acronym for “Automated Biometrics Identification System.”

Additionally, it is vitally important that awareness trainings related to gender and multi-cultural issues be undertaken for *PNC* agents, *DICRI* personnel and *MP* prosecutors.

Gender

Improvements to the record-keeping systems of the *PNC*, *OJ* and *MP* are recommended, with the goal of obtaining valid statistics that guide the development of criminal investigative policies to be followed in cases involving the violent death of women, since a differentiated methodology would respond to the findings of epidemiological studies.