

**The Process of Criminalizing Femicides: A Comparative Analysis between Mexico and
Colombia**

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Abstract:

Femicides, the intentional killing of women because they are women, have been a rising issue within Latin America and the Caribbean for the past 30 years. This issue has caused many countries within the region to explore different processes for criminalizing femicide. Mexico and Colombia are two countries that have been leaders in the region by implementing expansive and inclusive penal codes. Throughout this paper, I will be discussing important background information concerning Mexico and Colombia to create an important context for the paper. Additionally, I will explore how Mexico and Colombia have criminalized femicide through three different factors: 1) international non-governmental organizations (NGOs); 2) domestic courts; and 3) legislators.

Introduction:

In recent Latin American history, the number of gender-based violence against women (GBVAW) crimes has become alarming. Particularly, there has been a rise in the number of femicide crimes occurring across the 33 Latin American and Caribbean countries. The concept of femicide is still a new term that was conceived by Carol Orlock and later refined by Diana Russell as the “killing of females by males because they are females” (Russell, “THE ORIGIN AND IMPORTANCE OF THE TERM FEMICIDE” 2012). GBVAW has been present throughout Latin America and the Caribbean for many decades; however, the extent to which femicide is occurring within the region has made the international community pay closer attention to Latin

America and the Caribbean. For example, in 2022, a study conducted by ECLAC (the United Nations Economic Commission for Latin America and the Caribbean) found that in 26 of the 33 countries within the region, there were about 4050 women that were victims of femicide. This translates to about 2 women killed per hour over the course of the year (ECLAC, 2023). Even with the results of studies such as these being so startling, of the 33 countries, only 18 Latin America and Caribbean countries have taken steps to create concrete penal codes that criminalize femicides. In my thesis, I conducted a comparative analysis case study between 2 of the 18 countries, Mexico and Colombia, to understand the extent to which different factors influenced their legal definitions and criminalization of femicide. From this comparison, I explore how the factors affected their process of criminalization.

By framing my thesis around transnational network advocacy and a criminological theoretical framework, we can create a clear comparison between the Mexican and Colombian pathways to criminalizing femicides. The Mexican case is a strong example of how domestic femicide awareness groups utilized their networks through the boomerang approach (Keck and Sikkink 1998). The “boomerang” method is when domestic groups that are being blocked or ignored by their governments reach out to their international networks to bring attention to the issue at hand (Keck and Sikkink 1998, 9). This is especially the case in Ciudad Juárez, where the domestic groups such as Las Mujeres de Negro garnered international attention to force their government to act (Wright 2011, 717). In the Colombian case it is groups such as Madres de Catatumbo that are bringing awareness internationally to the domestic and sexual violence that is occurring on the local level in one of Colombia’s most violent regions (Stallone 2022). It is also through the work of more national feminists such as Sisma Mujer, an organization that

also helps women who are victims of sexual and domestic violence receive justice while simultaneously bringing attention to these issues that are occurring in Colombia to bring that international pressure (*Corporación Sisma Mujer - SweFOR - Movimiento Sueco Por La Reconciliación*, n.d. 2023). Additionally, another tactic that transnational advocates employed was the pincer method. The pincer method is where international groups apply pressure from "above" the state so that domestic groups can focus on passing legislation and exerting pressure from "below" (Freidman 2009, 362). This method was utilized more in Mexico as opposed to Colombia, where there was some resistance to passing legislation to codify femicides. Furthermore, throughout my research on femicide, a criminological approach has been present. The criminological approach explains why "femicides" are a "unique subsection" of homicides (Corradi et al. 2016, 979). It also gives an explanation as to why femicides should not be reduced to crimes of passion. In the penal codes for both Mexico and Colombia, there is a clear distinction and definition between what constitutes a femicide and homicide and why they are treated as two different entities.

The sources I used to conduct this case study were composed of primary sources, such as the penal codes in both Colombia and Mexico. I compared the legal definitions of both Colombia and Mexico using the qualitative data provided by Lucas Martinez-Villalba, who compiled an extensive list of the definitions of femicides using the federal penal code and created a chart for comparison between the two definitions. Moreover, another primary source I used was the IACHR ruling in the Cotton Field case for my analysis. In addition to the primary sources that I utilized, a large part of my research included analyzing secondary source material,

such as peer-reviewed articles. These articles help provide the source material for the data on which factors influenced the criminalization of femicide in the respective countries.

Little research has focused on the criminalization of femicides, and which factors are influential throughout this process. However, my findings contribute to this gap in the literature on the criminalization of femicides. Investigating how the criminalization of femicides led me to consider a comparative case analysis of Mexico and Colombia. Both countries have various aspects in common that make them excellent case studies to investigate. For example, they both have similar economic standing in Latin America, as they are both major oil-producing countries. In addition to their economic standing, another notable similarity that these two countries share is the fact that they have a similar history of drug-related violence. The drug-related violence that these countries experience is relatively new; the term narco-terrorism was coined, to explain the unique situation these countries find themselves in. Essentially, narco-terrorism involves an “alliance between drug producers and an insurgent group” to carry out terrorist attacks in their home countries (Teiner 2020, 84). Drug trafficking organizations (DTOs) in Colombia and Mexico are engaged in terrorist acts such as “bombings, violent communication, and attacks against politicians” (Teiner 2020, 87). This shared experience, coupled with the economic and political commonalities, is not the only area where these countries are similar - they both are leaders when it comes to criminalizing femicides. Of the 26 Latin American and Caribbean countries that have laws that criminalize femicide, Colombia and Mexico are the most progressive, containing penal codes that exhibit inclusive language that defines not only acts of femicides, but also who qualifies as a victim of these violent crimes. However, even though they are both leaders in the way they have constructed their penal

codes, the process by which it took each state to implement and create their laws differs sustainably. Mexico had to be “shamed” by both domestic and international organizations for them to even consider acting and acknowledging the issue. The families of loved ones who died from femicides had to deal with the inaction of the Mexican government and demand to be heard before anything concrete was done. In contrast, the Colombian government took a different approach. While the Colombian government has its fair share of inefficiencies and compliancy, the international community did not have to fight as hard to force Colombia to act for the victims of these crimes. Colombia has a history with GBVAW because of the armed conflict. Therefore, it does not seem outlandish to Colombians that women are dying because of the misogynistic views that men hold. Because Colombia was not forced to deal with the issue of femicides, they could go the extra mile when it comes to criminalizing these offenses. By utilizing international soft law, which is not legally binding and is notoriously difficult to implement, and transforming it into hard law, they were able to create groundbreaking precedent and an inclusive legal definition for femicides that protects a wider range of people.

In my thesis, I detail the current literature on femicides, from the people who helped define what femicide is today to the current legislation on criminalizing femicides today. After focusing on the current literature, I dive into the historical context and background of each country. The historical background clarifies the reason why these countries are more similar than what the literature currently suggests. Additionally, it provides context as to why each country struggles with the issue of femicide. Next, I discuss my methodological process with both the primary and secondary sources that I have used. Furthermore, I analyze which factors

influenced Mexico and Colombia's processes for criminalizing femicides and why the Colombian approach is more inclusive, allowing space for transgender women to join the conversation. Finally, I present my findings, which are that there are three factors that affect the process of criminalizing femicide: 1) international NGOs; 2) domestic courts; and 3) legislators. Of these three factors, the international NGOs and legislators were the most influential for Mexico during the process of criminalizing femicide, while domestic courts played the biggest role for Colombia.

Literature Review:

Femicide and Feminicides:

Femicides are a relatively new topic that emerged out of the increasing concern and focus on gender-based violence worldwide. It is so new, in fact, that the origin of the word can be traced back to when American feminist Carol Orlock used "Femicide" as the title of her book (Angulo López 2019; Orlock 1974). While it was Orlock who first utilized it, it was South African feminist activist Diana Russel who was the first to refine the definition of femicides. In 1982, she gave the first definition of femicide as "the killing of women for being women" (Angulo López 2019; Russell 1982). Later, in 1992, Russell and Jill Radford released a co-edited book that provided many important social and legal precedents, such as defining femicides as "the misogynistic killing of women committed by men" (Angulo López 2019; Russell and Radford 1982). Their work helped set the foundation for current literature by defining types of femicides and the motivations as fundamental components that set femicides apart from just another

homicide. Some of the motivations for femicide that Radford and Russel found include anger, hate, jealousy, the search for pleasure, misogyny, contempt or some sense of superiority or ownership towards women (Angulo López 2019, 167). The definition that Russel and Radford conceptualized went through its latest reworking in 2012, when their definition changed from “the misogynistic killing of women committed by men” to “the killing of females by a male **because** they are female.” (Neumann 2020; Russell and Radford 2012).

This foundation that Russell and Radford provided helped lay the groundwork for other people to expand on this definition. One of the most prominent was Marcel Lagarde, a Mexican legislator and feminist, who added to the discussion by coining the term “*feminicidio*” (Neumann 2020, 6). Lagarde conceptualized *feminicidio* to highlight the state’s role and responsibility in the killings of women and the importance of holding the state accountable for their part in these murders (Neumann 2020, 6). Throughout the literature, by utilizing the criminological perspective that highlights creating a distinction between femicides and homicides as well as drawing on that gender perspective, both these terms provide valuable foundational work for the killing of women based on their gender identity. These definitions provide important historical and social context for my research into the ways that Mexico and Colombia have formulated their penal codes regarding femicides. Orizaga Inzunza highlight the difference between a gender-based killing by emphasizing the fact that it demands an investigation be conducted from a gendered perspective. Historically and socially, femicide has been investigated through the lens of a crime of passion. The literature describes this as a crime where the perpetrator has no chance to reflect on what is happening or how the person is going to act. The prime example of this that is highlighted in the literature is when a husband catches

his wife in bed with their lover and kills them in the heat of a moment, something that can be used to lessen the crime that was conducted (Orizaga Inzunza 2021, 58). The literature mentions that the fact that these crimes against women have often been dismissed as “in the heat of the moment” acts drives home the point of the need for the creation of the word femicide. There is a need to distinguish the role the state has when it comes to its complacency and inaction when it comes to investigating the crimes, which is extremely important. Laguarde mentions how femicide occurs when States do not provide guarantees that women will be safe in their homes, places of work, recreational areas, and more (Orizaga Inzunza 2021; Laguarde 2005). If the State fails, then impunity is created, crime is fostered and femicides cannot end, thus increasing the importance of a term that calls out a government that is contributing to the issue instead of helping end it (Orizaga Inzunza 2021; Laguarde 2005).

Mexican and Colombian Approach: A Comparative Case Study

The literature provides an insight into both countries and their relationship with femicide. Femicide within Mexico has been a prominent topic since the 1990s, with the disappearance of women in Ciudad Juárez (Angulo López 2019, 167). Colombia, in contrast, is not as widely studied as Mexico and does not have as much literature surrounding high-profile cases. However, there are some pieces in the literature that detail the differences in the legal definition of criminalizing femicides in both states. Both states provide progressive and inclusive language in their definitions that allow for multiple forms of GBVAW to be considered acts of femicides (Martinez-Villalba 2023, 90). The penal code as written for Mexico includes the following: "*[A person c]ommits the crime of femicide who deprives a woman of life for reasons*

of gender. *[The deprivation] is considered to have been committed for reasons of gender when any of the following circumstances occur*" (Martinez-Villalba 2023, 90). As for Colombia, it is written as *"Whoever causes the death of a woman because of her womanhood or due to gender identity motives or where any of the following circumstances have occurred or preceded, shall be liable to imprisonment of two hundred and fifty (250) months to five hundred (500) months"* (Martinez-Villalba 2023, 90). Martinez-Villalba mentions that the vagueness of both penal codes is intentional to allow widespread protection for women (Martinez-Villalba 2023, 91). The verbiage that Colombia and Mexico decided to use was extremely powerful because it allowed the penal codes to be enforced regardless of the relationship that was had with the victim (Martinez-Villalba 2023, 91). Additionally, within the penal codes of both countries, there is mention that people who experience any of the following can be considered victims of femicide: sexual violence at the hands of perpetrators, history of threats, being deprived of freedom of movement, and mutilations present on the body (Martinez-Villalba 2023, 90). For example, Mexico has codified *"There was a history of any type of domestic, labor, or school violence from the perpetrator towards the victim,"* whereas Colombia chose to include *"The crime was committed to harness power relations exerted on women, expressed in the personal, economic, sexual, military, political, or sociocultural hierarchy"* (Martinez-Villalba 2023, 90).

There is also an interesting distinction in the literature on the different ways that the two states were influenced to create and criminalize femicide. Various sources mention the "naming and shaming" tactic that local activist groups used to force international attention onto Mexico and the widespread *feminicidio* (García-Del Moral and Neumann 2018, 453). This tactic allowed local feminist actors to link litigation to supranational arenas as well as gave

international support needed for feminist legislators to act and create these penal codes (García-Del Moral and Neumann 2018, 453). These tactics are known as transnational networks, which are defined by the voluntary and reciprocal forms of communication among different groups (Keck and Sikkink 1998, 8). These kinds of networks are advantageous for domestic social justice groups because the “commodity” that they exchange is more important than a simple economic transaction (Keck and Sikkink 1998, 8). Essentially, the domestic groups would reach out to the larger international groups by protesting and creating massive uproar about a certain issue. The "commodity" that they exchanged was the power and influence to be able to enact change within their country. The international community, coupled with the influences from domestic actors, helped both countries in their process of criminalizing femicides. Additionally, the literature cites another transnational advocacy tactic that was useful in getting Mexico to criminalize femicides. The pincer method is one where there is pressure being applied from "above" from international groups as well as from "below" from local domestic activist groups and legislators (Friedman 2009, 359). Although within the literature this method is something that has been more widely studied and applied to how courts within the EU utilize this method, there are still authors who recognize how this method was effective for Latin America. The literature was plentiful in depicting the different transnational advocacy tactics used in Mexico; however, it did not mention any tactic that Colombia utilized. There are mentions of the international outcry for the high-profile femicide cases, but none of the cases discussed in the literature mention transnational advocacy tactics that domestic groups within Colombia employed. There were only general references to powerful women's advocacy groups, such as Sisma Mujer. In addition to the transnational

tactics, the literature mentions that Mexico was becoming more and more conscious of its reputation on the international stage regarding human rights. The literature mentions that from about the 1990s and onwards, Mexico had a lot at stake on the international stage that could solidify its state legitimacy, such as entering a trade agreement with the US and Canada (Sikkink 1993, 431). It would have been in Mexico's best interest if they improved their image internationally, which many in the literature mention could have also persuaded Mexico to act accordingly regarding femicide. There is a gap in the literature regarding concerns over state legitimacy when it comes to why Colombia decided to criminalize femicides. However, there are various other sources of literature that point to the fact that Colombia was already in the process of doing peace talks with the FARC around the time that the criminalization of femicides was occurring. Therefore, given that it was a period of change for Colombia, it would not be strange to understand why they are receptive to this process.

Additional literature also addresses the difference between the two countries and the types of governing systems each one has, as well as how these, in turn, affect the process of criminalizing femicide. In Mexico, the literature finds that although federally there is a single penal code defining femicide, each state varies in how they codify femicide (Martinez-Villalba 2023, 113-114). Mexico State and Tamaulipas are the only states in Mexico that have all six aspects of the federal definition in their state legislatures. Other states have implemented some aspects, similar versions, or chose not to include one of the six aspects of the federal penal codes (Martinez-Villalba 2023, 113-114). In contrast, in Colombia has a presidential system that is more centralized and absolute than that of Mexico. The literature is lacking in research about how the penal codes apply to different departments in Colombia. However, overall, there are

indications that the department and local level are collaborating to achieve greater gender equality (OECD 2020).

Influential Factors for Criminalizing Femicides:

International Organizations:

Throughout my literature review, various authors cited different international NGOs that helped pass anti-femicide legislation in both countries. The literature mentions that international organizations such as the OAS (Organization of American States) have helped keep states accountable to their duties to human rights (García-Del Moral and Neumann 2018, 458). Latin American feminists “engaged with the political and judicial bodies” of the OAS to institutionalize the Belém Do Pará Convention (García-Del Moral and Neumann 2018, 458). The Belém Do Para Convention was a result of the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women Convention, and it was the declaration that defined state responsibility for GBVAW (García-Del Moral and Neumann 2018, 458). The OAS institutionalized the Belém Do Para Convention, and it became the first legally binding international treaty that addressed violence against women (García-Del Moral and Neumann 2018, 458). Another international treaty that is cited throughout the literature is CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women). CEDAW created an international political consensus for the idea that

forms of violence against women deserve to be examined from a gendered perspective (Pasinato and de Ávila 2023, 63). Another international organization that is referenced multiple times throughout the literature is the Inter-American Court of Human Rights (IACHR). According to López-Padilla and Saadoun, the IACHR and their ruling on the *Cotton Field* case set a precedent that established the regional standards on the state's obligations on gender-based violence against women (GBVAW).

Domestic Courts:

According to the literature, recently, domestic courts have been utilizing international “soft law” to criminalize femicides. Soft law refers to “agreements, principles and declarations” that are not legally binding and thus are not easily implemented (“Hard Law/Soft Law”). Hard law refers to the laws and statutes that are legally binding and enforced by a court of law (“Hard Law/Soft Law”). The literature mentions how the domestic courts of Colombia created a landmark case by utilizing soft law and turning it into legally binding hard law (López Padilla and Saadoun 2023, 427). For example, the Colombian Supreme Court ruling on the Sandra Patricia Correa case dismissed the notion that femicides are crimes of passion and established that femicides are their own type of GBVAW (Martinez-Villalba 2023, 134). Additionally, the literature establishes that, under the pressure of international courts such as the IACHR, the Mexican Supreme Court decided on a ruling that created an enforceable hard law.

The literature cites how the ruling in the *Gonzalez et al. vs. Mexico* case affected the investigations in *Fiscalía Especial para los Delitos de Violencia Contra las Mujeres y Trata de Personas* (FEVIMTR) (Martinez-Villalba 2023, 129). FEVIMTR must be conducted with a certain amount of caution so as not to cause further injury to the victims of femicides, a newfound consideration that was put in place by the courts (Martinez-Villalba 2023, 129).

Legislators:

The literature finds legislators play a notable role in determining what kinds of penal codes are codified to criminalize femicides. In Colombia, the legislators are the ones who first introduced the “crime of homicide aggravating circumstances of being committed against a person for being female” (Benavides Vanegas 2015, 83). In addition, the literature reflects how quickly and swiftly Colombia reacted when news of the different high-profile femicides broke out. As for Mexico, as mentioned earlier, the literature references how prominent legislators such as Marcel Lagarde helped push the state to take responsibility for their role in femicides. One of Mexico’s first attempts to criminalize femicide was a GBVAW was with Marcel Lagarde acting as Federal Deputy on the bill (Martinez-Villalba 2023). The literature mentions how she and four other feminist leaders were forming commissions created to be intentional and careful with the language that was being used for the penal codes (Garcia Del-Moral 2020, 858).

Historical Background:

Mexico and Colombia are key actors within the Latin American and Caribbean region. Respectively, they are the third largest and fifth largest countries in the region in terms of population, with the second largest and fourth largest economies (“Largest Countries in Latin America | Statista”; Statista, “Latin America and Caribbean: Gross Domestic Product 2022, by Country”). They also rely on similar commodities that influence their GDP, such as crude oil petroleum- which makes up about 27.3 billion and 11.3 billion dollars, respectively. Their social and economic factors within Latin America are not the only similarities that stand out when comparing Colombia and Mexico. The most noteworthy similarity between them is their relationship and history with drug-related violence and narco-terrorism within their countries. Learning about the different processes that each country took when it came to criminalizing femicides cannot be properly done without considering the history that each country has with violence. Therefore, to properly understand how the issue of femicide became as prominent as it is now, it is important to take into consideration the historical context. The following section will explore the history of the different drug-trafficking organizations (DTOs) within the countries and how it affects the state’s capacity to address other issues.

Mexico:

Mexico's history with violence can be traced back to the start of their government in 1910. With a new and fragile democracy, there was a system of compromises and concessions proposed by the federal government going on in the background in the hope that it

would quell any discontent that was brewing within the new republic (Alonso-Trabanco 2022). However, even though this strategy was good for the health of the new republic, it also led to an increase in violence. The initial strategy allowed for compromises if organized criminal groups did not disrupt the status quo, and thus, these criminal groups were tolerated if they recognized the supremacy of the government (Alonso-Trabanco 2022). This is why these groups, which started off on a small scale, smuggling marijuana into the United States, went unbothered by the government. Eventually, this allowed them to switch up their commodity to cocaine- which was incredibly profitable (Alonso-Trabanco 2022). Even with the switch in products, the real issue came when the Institutional Revolutionary Party (PRI), the main political party, started losing control over the government in 1970s. With the growing civil pressure and unrest to end the PRI's single-party rule, other political parties, such as the National Action Party (PAN) were able to grow in influence and win PRI strongholds. In Baja California in 1989, when PRI lost its first election to PAN, drug-related violence surged (O'Neil 2009, 65). This surge in drug-related violence is because the PRI, which once had the cartel under control, could no longer provide that same level of supervision as they were attempting to maintain power. The cities that had already lost PRI control began to work with the cartels and form a mutually beneficial alliance (O'Neil 2009, 65). Additionally, when the PRI lost the Chihuahua governorship in 1992, the violence surged there as well. We can see how the supervision under the PRI is important because once they gained control of the governorship again in 1998, the violence shifted to Ciudad Juárez, a city governed by the PAN (O'Neil 2009, 65). These drug organizations found an opportunity with the political opening to escape the political submission from the PRI government and find a way to expand their networks. With

this newfound power, they turned to tactics such as bribing or intimidating local officials to safely transport their commodities (O'Neil 2009, 66). Democratic competition hindered the state's ability to handle the situation and curbed its strong central executive power.

Additionally, the fact that about 88% of the victims who die from drug-related violence are men is something that can make it hard to wrap the idea around that there is a need for a gender-based approach to analyzing these murders (Pandit 2022). Furthermore, attempting to have others think about the fact that men could be killing women because of their identity is not as widely accepted because there hasn't been a historical precedent like the one present in Colombia. This information, coupled with the fact that Congress was gaining more power over the presidency as well as the disputes on how to handle the drug-related violence issue across all levels of government (federal, state, local) hindered any solutions to the current situation as more and more conflict was created (O'Neil 2009, 66).

In the context of femicides, we can see how these issues that Mexico was battling in the 1990s affect the criminalization of femicides today. With the lack of accountability and action for these issues that are happening in criminal hotspots such as Ciudad Juárez, attempting to criminalize femicides has been an uphill battle for the country. With this history of turning a blind eye to serious issues occurring within the state, Mexico was used to conducting business and solving issues this way. Because of this mindset, it made it even more difficult for advocates to try and bring these issues to Mexico's attention.

Colombia:

The actors who perpetuate violence in Colombia are more complex and nuanced than the systems in place in Mexico. The historical context behind the violence in Colombia is threefold: leftist guerilla groups, right-wing paramilitary groups, and narco-violence. The start of the violence began in 1964, when two separate guerilla groups formed- FARC and ELN (“Colombian Armed Conflict - Justice for Colombia”). These guerilla groups formed after the bloody civil war *La Violencia* (1948-1958) occurred (Holmes and De Piñeres 2014, 373). The Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, or FARC) were officially created in 1964 following a series of land conflicts in the 1920s and 1930s (Holmes and De Piñeres 2014, 373). FARC gained support and traction in areas where agriculture was important and where the frustration of land reform was the strongest (Sánchez 2005, 123). The Army of National Liberation (Ejército Liberación Nacional or ELN) was created after 16 young Colombians visited Cuba and aspired to create a similar movement in their home country (Holmes and De Piñeres 2014, 373). The members of this group were influenced by the idea that change would come from an armed confrontation (Sánchez 2005, 124). Although there are other guerilla groups that emerged, these two had the biggest impact on the country.

The other type of group that was curating this atmosphere of violence were paramilitary groups. They are self-defense groups that came into fruition under the presidency of Belisario Betancur (Sánchez 2005, 124). These were groups of no more than 1,000 troops that received sponsorships and financial support from landowners (Sánchez 2005, 124). They engaged in offensive policies and different tasks such as acting on behalf of the state, fighting against the guerillas, and killing leftist leaders and their “allies” (Sánchez 2005, 124). Paramilitary groups would often displace, murder, and torture supposed “allies” of guerillas (Seagrave 2001, 532).

Oftentimes, the government would have the paramilitary groups take care of the issue discreetly, and not on behalf of the state.

The last source of violence within Colombia stems from narcotic trafficking. Just as in Mexico, Colombian criminal organizations started off with growing marijuana leaves. In 1975, they were on the international stage in terms of marijuana production. However, once the Medellín Cartel diversified to cocaine, that is when the real money and power came to these cartels (“Colombia | History, Map, Flag, Capital, Population, Currency, and Facts”). Although the two major cartels (Medellín and Cali) did cause serious harm within the country, the left guerilla groups and right paramilitary groups also- entered the narcotics trade to further their agenda. When the power of the cartels was waning in the 1980s and 1990s, FARC and other non-state entities stepped up to fill that hole. The financial benefits from growing coca allowed these non-state entities to continue to fund their operations (Holmes and De Piñeres 2014, 378). Furthermore, both guerillas and the United Self-Defense of Colombia (AUCs) exchanged drugs for weapons in the black market (Sánchez 2005, 128).

Through these three sources of violence and instability- leftist guerilla groups, paramilitary groups, and narcotic trafficking- the consequences have been startling. The violence experienced in Colombia does not only affect direct victims of war. The state institutions were constantly under siege, weakening the capability of the state to effectively respond to the violence at hand (Holmes and De Piñeres 2014, 373). With a government that needs to get itself in order, it was difficult to prioritize other forms of violence, such as gender-based violence.

In both the Mexican and Colombian cases, it is not until recently, when both countries have begun addressing their own state inadequacy, could there be room for other serious

issues such as femicides to enter the agenda. However, when looking at the historical analysis, it is important to note how differently Mexico and Colombia analyze the deaths of women in their countries. Colombia, for example, acknowledges that girls and women are the most disproportionately affected groups when it comes to the issue of armed conflict. Therefore, as a society, when they hear about the different deaths and disappearances of these women due to femicide, it is not a far-fetched concept for Colombians to wrap their heads around. However, Mexico, on the other hand, is not acknowledging the disappearances of those women. This is reflective of their historical response to dealing with this issue, which is ignoring the fact that it is not happening if it does not mess with the status quo. Hence, this is one of the reasons why Mexico has an issue with impunity.

Research Design:

My research aims to demonstrate the process by which Mexico and Colombia have taken to criminalized femicides and what the contributing factors are that have influenced this process. This is a comparative case study analysis of similar systems because both countries have a similar history with violence and drug trafficking that has shaped the sociopolitical dynamics within their countries, economic standing, and penal codes for the criminalization of femicides. Additionally, both countries have similar language that is being used for their penal codes, and similar factors that have influenced their processes. However, the way in which each country implements and enforces these laws leaves Colombia standing on top.

This is a very similar comparative system case study because Mexico and Colombia are very similar in various ways, from their economic standing to their history. However, with the topic of femicide, both countries are similar in this regard as well. Essentially, both countries were influenced by the three factors, however, to varying degrees. Additionally, the findings that were concluded at the end of the investigation are that Mexico and Colombia are similar in every other aspect, except for the most influential factors in their journey to criminalize femicides and the general environment of inclusivity that Colombia projects.

Methodology:

The research I conducted was primarily done by reviewing primary and secondary sources on the criminalization of femicides. The primary sources that I utilized were the language breakdowns of the penal codes that both countries implemented. My research was aided by the research that Lucas Martinez-Villalba conducted in his dissertation. The basis of his research was utilizing descriptive research on the different penal codes that Mexico and Colombia had codified. He draws on comparisons from the legal codes as the basis for this argument, and provides clear and concise tables and graphs that detail the similarities and differences between the two countries. He describes how each subsection of the law is legally interpreted and why the verbiage used allows for progressive penal codes.

Additional primary research that I used is the international case law of *Gonzalez et al. v. Mexico* case ruling. I used this law to analyze what the argument of the court was as well as understand which international treaties were being used to come to a verdict. This was

extremely important in understanding why international NGOs were playing a prominent role in both Mexico and Colombia's femicide criminalization processes.

The secondary sources are peer-reviewed articles that give insight into the different actors and factors that helped put these penal codes in place. The literature provided information on the role that international actors such as the UN with their CEDAW treaty as well as the OAS and the IACHR played in criminalizing femicides within the region as a whole and how it has specifically led to progressive penal codes for criminalizing femicides.

Analysis:

The Process of Criminalizing Femicide:

The paths to criminalizing femicide in Mexico and Colombia had various similarities but also some clear distinctions. In Mexico, the issue of femicide has drawn international attention. Between 1993 and 2005, an estimated 300 women were murdered in Ciudad Juárez (Austin 2009, 4). In addition to being victims of femicides, more than a third of these women were kidnapped, strangled, or stabbed and were left in deserts and/or in random locations around the city (Austin 2009, 4). Besides the initial victims, there were an additional 50–100 women who were missing from 1993 to 2005. The pattern that journalists, relatives, and others were witnessing led to a growing concern that there was a bigger underlying issue that was not being resolved. These advocates noticed a pattern with the types of women who were disappearing, as well as the people that they were seen with right before their deaths or

disappearances. However, even with the growing concern and recognition about the disappearances and murders of these women, the Mexican government did not act. With the lack of response, local activists and family members in the area became restless. This situation was the spark that led to the bigger push for the criminalization of femicides that we see today. Local activist groups, such as Las Mujeres de Negra, take action in Mexico and become part of the transnational movement, as well as active participants in the boomerang approach.

In contrast, Colombia has recently been more proactive in dealing with the issue of femicide, as there have been more high-profile attacks against women in the last couple of years (Jolin 2016, 374). These cases sparked a massive outcry internally within Colombia as well as internationally. However, instead of being slow to put in place any legislation to deal with these issues, Colombia acts relatively quickly. For example, Mexico's first femicide law came in 2011, almost two decades after the initial disappearances of the women in Ciudad Juárez, whereas Colombia implemented theirs in 2015, a few months after their first high-profile case (Jolin 2016, 385). However, even with the speed at which Colombia acted, it is important to note the work that advocacy groups within Mexico have done to make femicide an important issue in the region. Therefore, although Colombia took less time to implement their law, Mexican activists laid the foundation for these laws to be passed. Although it took some time, eventually, with internal and external influence, both countries took steps to implement inclusive and progressive penal codes.

Throughout my research, I have found that of the various factors that led to both countries implementing their codes, three stand out as the most influential: 1) international non-governmental organizations (NGOs); 2) domestic courts; and 3) legislators. The extent to

which each factor influenced the process of criminalizing femicides differs depending on the country. In the following sections, I will explore and compare the influence that the three factors have on each country and why, through their differing levels and forms of influence, Colombia ended up with a more progressive law.

International Pressure:

The criminalization of femicides is in no small part due to the work of these international organizations. One of the most influential first steps that the international community took in addressing violence against women was the ratification of the Convention on the Elimination of Discrimination against Women (CEDAW) in 1979 (Neumann 2020, 3). CEDAW provided foundational work for the development of international and regional women's rights regarding their personal freedom (Neumann 2020, 3). It was one of the most effective international treaties, as it was ratified by 189 states, all Latin American and Caribbean included. It was also an as it was the first time that so many sovereign states recognized the idea that various forms of gendered violence against women deserve to be observed in the context of human rights standards (Martinez-Villalba 2023, 54). Additionally, it ensured that every country that ratified CEDAW understood the importance of ensuring women have the right to be free from violence in both public and private spheres (Martinez-Villalba 2023, 33). CEDAW was a step in the right direction for the international community, but it was not legally binding on an international scale. It is more of an acknowledgement that states will hold themselves to a certain standard when it comes to fighting for the rights of women. It wasn't

until 1994 that the Declaration on the Elimination of Violence Against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (more commonly known as the Belém do Pará Convention) had come into fruition that there was a movement to provide a legally binding agreement concerning protecting women (Martinez-Villalba 2023, 30). Not only that, but it was drafted by the *Comisión Interamericana de Mujeres* (CIM, InterAmerican Commission on Women), a commission formed by the Organization of American States (OAS) (Neumann 2023; Friedman and Meyer 1999). The Belém do Pará Convention was the first legally binding international treaty that addressed gender-based violence against women (Toledo Vásquez 2023, 412). Within the Latin American and Caribbean region, it is the most important international treaty, as it gives the legal basis to convict countries for not protecting the liberties of these women. It specified that states must “apply due diligence to prevent, investigate, and impose penalties for violence against women” and adopt any legal means needed to do so (Neumann 2020, 3). Additionally, it allowed for individuals or groups to create petitions with the Inter-American Commission on Human Rights (IACHR) (Neumann 2020, 4). These petitions allow for domestic and international groups to sue the country that is committing the harm in hopes of holding them accountable. Because of this newfound accountability, the Belém do Pará Convention gave legal grounds to hold these countries responsible for their negligence with femicides. Additionally, it is through this act that the IACHR was able to set up and become a tool for the local domestic groups within both Colombia and Mexico to make their governments hear their voices.

Now, while both countries experienced the impact of these NGOs and the treaties that came out of them as a result, Mexico was the most heavily impacted by the pressure of the

international community. Connecting back to Ciudad Juárez and the women disappearing from 1993 to 2005, Mexico was already receiving a lot of pressure from the international community. NGOs such as the United Nations and international human rights organizations such as Amnesty International were all placing considerable pressure on Mexico because of its lack of action. However, it wasn't until the *González et al. v. Mexico* case occurred when Mexico finally decided to act. The *González et al. v. Mexico* case, more commonly known as the Cotton Field case, resulted in a landmark IACHR ruling. This case addresses the murders and disappearances of Claudia Ivette Gonzalez, Esmeralda Herrera Monreal, and Laura Berenice Ramos Monarrez- three women under the age of 20 whose bodies were found in a cotton field (Martinez-Villalba 2023, 50; González et al. ("Cotton Field") v. Mexico). The local, national, and international outcry was overwhelming- so much so that human rights organizations were creating petitions to the IACHR. To be able to petition to the IACHR, advocacy must have exhausted all other means to remedy the situation. Usually, with the help of international advocacy groups, the victims of the harm that occurred can file a petition for the IACHR to take their case. Ultimately, the IACHR ruled that Mexico should be held responsible for their deaths. The court examined the actions of the state into two time periods: prior to the disappearance of these women and prior to the discovery of their bodies (Martinez-Villalba 2023, 69; González et al. ("Cotton Field") v. Mexico). The court found that Mexico was not liable for the initial period, although the court did note that Mexico could have implemented general policy to address the gender violence issues occurring there (Martinez-Villalba 2023, 70; González et al. ("Cotton Field") v. Mexico). However, for the second period, the IACHR found them at fault and responsible for the deaths of the three women. The IACHR came to this ruling after considering evidence such

as testimonies, and expert opinion. The commission of international and domestic human rights groups presented evidence that detailed the dangers for women between the ages of 15 and 25 in Ciudad Juárez, the lack of government response in the 72 hours following the disappearance of the women, as well as the government's failure to properly investigate the deaths of these women (González et al. ("Cotton Field") v. Mexico 51). For example, following the investigation that the international groups conducted, it was found that the police ignored reports from witnesses about the whereabouts and known associates of the three women—information that would have saved their lives and brought justice to them. Overall, the IACHR court ruled that, based on the evidence, Mexico was guilty of violating the liberty of these women as was written in the Belém Do Para convention that they agreed they would adhere to. The court ruled that the State violated the “rights to life, personal integrity and personal liberty” and failed to “adopt domestic legal provisions” as stated in “established in Articles 7(b) and 7(c) of the Convention of Belém do Pará” (González et al. ("Cotton Field") v. Mexico 146). Furthermore, the court used Articles 7(b) and 7(c) of the Convention of Belém do Pará to hold the Mexican government liable for failure to comply with their obligation to investigate- something that had never been established before- a decision that had never been made before.

The Cotton Field case created precedent for criminalizing femicides, as it declared that countries are liable for their inaction to rectify a situation. Mexico was the perfect example of a country that was aware of the issue going on at hand but didn't uphold their part in addressing the GBVAW occurring in their country. The Cotton Fields case was the perfect example to demonstrate to the international community that Mexico was not upholding and protecting the liberties and freedoms that they ratified in the Belém do Pará Convention. This situation

provided the opportunity for these different NGOs to utilize and enforce the international law that these countries agreed they would adhere to. Therefore, without the femicides that occurred in Ciudad Juárez from 1993 to 2005, it is hard to say if the region had advanced in criminalizing femicides at the pace it did. Mexico was the perfect example of a country that was aware of the issue going on at hand but didn't uphold their part in addressing the GBVAW occurring in their country. Furthermore, Mexico was receiving overwhelming amounts of scrutiny and backlash for their impunity and mishandling of the Cotton Field case. This, coupled with the fact that Mexico was attempting to solidify its state legitimacy through its work with human rights, created ample opportunity for the IACHR to find them guilty of violating Articles 7(b) and 7(c) of the Convention of Belém do Pará. These conditions created the perfect environment for NGOs to be able to utilize and enforce international law that specifically addresses and condemns a state for its role in GBVAW. If it weren't for the shame and scrutiny that followed their impunity, as well as their desire to be seen as a legitimate state, it is unlikely that Mexico would have started the process of criminalizing femicides. Hence, this is why Mexico was significantly more impacted by international NGOs than Colombia was.

Although Colombia was also receiving international scrutiny for its fair share of issues, it was not derived from a need to examine murders from a gendered perspective. The movement to examine the deaths of women within Ciudad Juárez as femicides instead of homicides set the stage for countries such as Colombia to be able to utilize international law set by NGOs as a beneficial tool instead of something they are reluctant to do. Understanding the influence that NGOs have on both countries sets the stage to discuss how domestic courts affect the process of criminalizing femicide.

Domestic Courts:

Domestic courts played a monumental role in getting femicides criminalized within both countries, however their biggest impact was within Colombia. To begin it is important to note that the judicial system within both countries was influential in turning international soft law into enforceable hard law. Soft law is defined as “any international instrument that other than a treaty” that contains “principles, norms, standards or statements of behavior” that is not legally binding (López Padilla Tostado and Saadoun 2023, 425). International law is often referred to as soft law because it is difficult to make states enforce and adopt the standards the international community poses. Hard law on the other hand is legally binding law that can be enforced in a court (Hard Law/Soft Law). Both Mexico and Colombia used the soft law to their advantage and were able to create legal and enforceable hard law.

As explained earlier, Mexico was heavily influenced by the international NGOs to act and properly investigate the femicides that were occurring within their own country. The Mexican Courts were one of the main institutions that were helping to implement and enforce the standards that the international community set. For example, the Mariana Lima-Buendía case was very influential in creating precedent for the country using international soft law. In June 2010 Mariana was murdered by her husband, Julio César Hernández. She would often complain to her parents about the domestic violence she experienced at his hands, and finally one day she mentioned to her parents that she was ready to leave him the night before her death occurred (Michel 2020, 44). The husband claimed that she committed suicide, and eventually

the case was closed without Mariana receiving her proper justice. Irina, Mariana's mother, continued to fight her daughter's case, and with the help of her private prosecutor, Rodolfo Domínguez, they found how gross Mariana's case was mishandled (Michel 2020, 44). Domínguez found that there had been 65 pieces of evidence gathered during the investigation, and the original prosecutor only used 5 of the 65 pieces to prosecute the case (Michel 2020, 44). Because of the gross prosecutorial misconduct that had occurred, Domínguez argued that it was evident that this was a GBVAW crime and that the state had failed to comply with the recommendations that were issued by the IACHR with the Cotton Field case (Michel 2020, 44). The Court considered all the evidence of the strangulation, and marital history of rape and physical violence that had occurred over the span of their relationship (Martinez-Villalba 2023, 231). Taking all this into account, they ruled that all institutions and authorities are tasked with preventing, investigating, and sanctioning violence against women, while also examining these cases from a gendered perspective (Martinez-Villalba 2023, 231). Additionally, the court set the standards that must be upheld within Mexico, stating that failure to comply with their legal obligations sends the message that violence against women is allowed and socially acceptable within the country (Martinez-Villalba 2023, 231).

Throughout the process of attempting to criminalize the acts committed by Marianna's husband, the Court was the avenue that was best suited for this process to occur. They gave space for Mariana's case to be heard, while ensuring that all pieces of evidence were taken into consideration. The court was important in opening the door for other cases within Mexico so that they too could get due process and receive justice for victims such as Mariana. However, even with the influence that this decision had within the country, it was still not as influential as

the impact that the international NGOs had on Mexico. The most influential role that the Court played in this case was adopting statutes from the IACHR ruling and allowing for there to be a legally binding precedent within their own country now. It provided a path for international soft law to be transformed into hard law. Additionally, this ruling provided guidelines and structure to agencies such as *Fiscalía Especial para los Delitos de Violencia Contra las Mujeres y Trata de Personas* (FEVIMTRA) as to how they are supposed to proceed when investigating femicides. FEVIMTRA is now required to: a) identify the behaviors that caused the death of the woman; b) verify the presence for gender reasons that originate or explain the violent death; c) preserve specific evidence to determine if there was sexual violence; d) determine if the victim was immersed in a context of violence, in order to identify if the circumstances constitute a femicide crime (Martinez-Villalba 2023, 128–129). The Supreme Court essentially helped the regulatory agencies within the country to ensure that they are properly investigating these crimes.

The judicial institutions within Colombia have had a more expansive impact on the process of criminalizing femicides as opposed to Mexico. Two high-profile femicides received overwhelming amounts of international and domestic attention in Colombia. The first was the murder of Rosa Elvira Cely- a young woman whose body was found in a public park in Bogotá with gruesome injuries left on her body (Jolin 2016, 386). It was evident that she was raped, tortured, and mutilated- with her perpetrators inserting a stick within her anus to cause internal organ damages as well as breaking her pelvis and causing head trauma (Jolin 2016, 386). Unfortunately, she passed due to her injuries, but she was able to identify her attacker. It was a local male student from her university, and on the day of the crime, he had given her a ride on the motorcycle after classes were done (Martinez-Villalba 2023, 131). There was

massive domestic outcry, and many took to the streets to march for justice for her and the millions of other women whose deaths go unnoticed. The second femicide occurred less than six months later. Sandra Patricia Cortez was stabbed to death in Medellín by her ex-partner, Alexánder de Jesus Ortiz Ramirez (Martinez-Villalba 2023, 131). This case received international attention as well as domestic outrage and was picked up by the Colombian Supreme Court. This was Colombia's first femicide case, where the Supreme Court handed down the conviction. Ultimately, the Court ruled the Defendant was guilty of committing the crime and that femicide was the aggravated factor in homicide as written under their current penal code (Jolin 2016, 388). Aggravated factor means that the crime needs to be elevated to a more serious degree because of outstanding circumstances ("Aggravating Factor"). By adding femicide as an aggravated factor, it doesn't allow for femicide to be its own stand-alone crime. This ruling, coupled with the evidence presented and the fact that Ortiz Ramírez turned himself in, was sufficient evidence to sentence him to 280 months in jail (Jolin 2016, 387). However, it gets more complicated than handing down a simple ruling. The reason Colombia was more influenced by domestic courts isn't something as simple as the act of charging Ortiz Ramirez with a crime; it is the aftermath that followed. The court charged him with "homicide with aggravated femicide," wording that did not make it clear the difference between what constitutes a homicide and a femicide. Although the case is being analyzed from a gendered perspective at this moment in time, the rationale behind the verdict was not enough to understand the extent to which he deprived Sandra of her freedom and life of Sandra. The context in which the court was analyzing this case was whether the perpetrator was attacking the victim on grounds of jealousy, control, or intimidation and not any of the principles that

were outlined in CEDAW or the Belém do Pará Convention (Jolin 2016, 387). The reason why the initial ruling of the court was not enough is because when examining a femicide within the context of jealousy, there is grounds for it to be dismissed as a crime of passion- a spur-of-the-moment decision. This loophole was something that the Defendant was able to use to appeal to the Superior Court of Medellín on the ground that the aggravated femicide charge did not apply because femicide is a crime of “misogyny” and not of “jealousy,” and since the defendant acted on “jealousy for his partner” he was exonerated from this charge (Jolin 2016, 387). This decision essentially undid the work that the Colombian Supreme Court did regarding criminalizing femicides. Their failure to provide a sufficient and well-defined definition for femicide is something that the Supreme Court had to fix the second time around, when the family appealed to the court to hear their case once more. To be more intentional with the way that they are analyzing this case, the Court examined the circumstances surrounding the case before the victim had passed. For example, the sister of Sandra would report that Sandra had been punched in the face, threatened, and mentioned she could be with someone else over “her dead body” on various separate occasions (Jolin 2016, 388). In addition to analyzing these circumstances, the court looked at how the prosecution and the defense crafted their arguments. The prosecution cited the IACHR ruling for the Cotton Field case to define femicide, referring to the “homicide motivated by hatred of or contempt for the female gender and not to isolated crimes of passion, as is the case here,” whereas the defense stated that one “previous instance of jealousy” doesn't mean that it is systematic or constant (Jolin 2016, 388). Essentially, both sides were trying to get the definition the court used to strike down the previous definition for their own reasons. For the prosecutors, allowing that definition to stand

would reduce other femicides to a subsection of crimes of passions, while the defense was arguing that their client's single offense does not mean he is guilty of femicide. The intense battle and debate as to what femicide is, how it should be prosecuted, and what the penalties are for committing the crime are why the domestic courts were the biggest factor in influencing Colombia in the process of criminalizing femicides. This rich discussion highlights where the state is lacking in terms of adoptive measures to protect women, and through the court, the country can add protections to women's safety. Additionally, the use of international treaties and laws reflects how Colombia sees GBVAW as something they are willing to address instead of being forced into. We see this reflected in this court case, as Sandra's family is attempting to call on the Colombian government to adhere to and honor the commitments that they made when they ratified CEDAW. This acknowledgement of their commitments helped them examine their current legislation on GBVAW and examine the holes and faults present within their laws. With these ideas in mind, the Colombian Supreme Court came to a decision. They first rejected the interpretation the prosecution provided for the definition present in the Cotton Field case, as it did not go deep enough to acknowledge that femicides are the misogynistic killing of women but that discrimination and subordination should be included when discussing femicides (Jolin 2016, 391). Additionally, they took into consideration the unequal power present in the relationship between Sandra and the Defendant, the Defendant's history of violence and threats within the relationship, and the acknowledgement of the misogynistic roots of the current penal codes, all of which played a role in the Court's decision. They concluded that the history of the relationship between Sandra and the Defendant was one of

subjugation, and it is clear the Defendant killed Sandra because she was a woman- setting the stage for femicide to be criminalized as a stand-alone crime within Colombia.

In addition to this landmark case, Colombia also created protections for transgender women through the courts. In 2018, in the Garzon Circuit Criminal Court in Hulia, Colombia, a judge had to determine if the crime of femicide had been committed against Anyela- a transgender woman (López Padilla Tostado and Saadoun 2023, 426). The court had guidance from the penal codes that Colombia had implemented, but there still needed to be gaps to be filled concerning whether being transgender fulfills the requirements for what it means to be a woman (López Padilla Tostado and Saadoun 2023, 427). Eventually, the court ruled that the gender identity of the victim resulted in the case and handed out a verdict of aggravated femicide, the first case in Latin America to recognize transwomen as someone who can experience a femicide. This verdict was made possible because of Colombia's forward thinking when it comes to GBVAW. The judge cited how the Belém Do Pará Convention is a living document and as such as to be applied according to modern needs (López Padilla Tostado and Saadoun 2023, 427). This reflects the idea that in Colombia they not only accept that GBVAW exist, but they are being proactive in making sure that anyone who can be affected as a seat at the table.

The key difference between Mexico and Colombia is that Colombia went in depth and fundamentally changed the way that femicides are perceived and criminalized under the law. The Mexican Supreme Court did excellent work with their handling of Mariana Lima-Buendia's case and providing guidelines for how to investigate the deaths of women. However, the extent to which domestic courts changed the way that femicides are criminalized is sustainably less

compared to Colombia. Therefore, Colombia was the most impacted by the rulings conducted by the courts.

Legislators:

The final factor that has affected the process of criminalizing femicides is the legislators that were involved with this process. While both countries were affected by this factor, legislators played a bigger role in Mexico's process. To begin, both countries utilized their legislative powers to codify the penal codes that criminalize femicides. The legislative process within Mexico is known for consisting of passionate, tense debates about whatever legislation is being discussed (García-Del Moral 2020, 846). Drawing back to the time once again when the femicides in Ciudad Juárez were reaching their peak from 1993 to 2007 up until the IACHR Cotton Field case, Mexico was receiving the largest amount of criticism for their inaction with the deaths of these women. With the international pressure that they were receiving, this was the prime time for the allies of the feminist cause to push forth a set of penal codes that will ensure that femicide is criminalized. However, given that their main obstacle is the very government that they are attempting to change, the feminist legislators received pushback from other male legislators and the executive branch (García-Del Moral 2020, 846). Specifically, male legislators charged that these laws are discriminatory against men and threatened to leave and disrupt the lawmaking process to stop them from passing (García-Del Moral 2020, 846). As for the executive branch, President Vicente Fox was receiving backlash for his lack of action on the death of a 10-year-old girl. Neither the legislature nor the executive branch lent

support to the movement. Even so, the legislators who wanted to see substantial change did not want the momentum provided by the international community to go away; therefore, they employed the pincer method (García-Del Moral 2020; Friedman 2009). It is essentially another transnational advocacy tactic that utilizes the pressure from international organizations and domestic pressure from within the country to get the policies and action they want to see done.

Through the support of the international community as well as domestic efforts, Mexican legislators were able to pass two important bills: the 2007 Ley General de Acceso de las Mujeres a una Vida Libre de Violencia (General Law on Women's Access to a Life Free of Violence) and the 2012 reform to Article 325 of the Federal Criminal Code. The legislators utilized various commissions and resources at their disposal, such as the bicameral Equity and Gender Commissions and the Special *Feminicidio* Commission. These commissions were able to stake their claim and use the international pressure being forced upon Mexico as leverage to pass the General Law on Women's Access to a Life Free of Violence, as well as codify *feminicidio*. This law helps identify femicide as a violation of women's rights to safety in both the private and public spheres (García-Del Moral 2020, 845). The 2012 reform to Article 325 reflects a push to codify the concept of *feminicidio* as a crime, and it created a provision to punish officials who hindered the administration of justice (García-Del Moral 2020, 845). The goal of these two laws was to create accountability within the state and uphold the international treaties and laws that they mentioned they would implement. Hence, the reason as to why the legislators were utilizing everything at their disposal to get this law passed and create these penal codes stems from the desire to hold the Mexican government accountable.

In contrast to Mexico, Colombian proponents of legislation addressing femicide had an easier time navigating within the legislative and executive branches. For example, after the Colombian Supreme Court's landmark ruling, the legislative branch was quick to pass reforms. The legislators not only created reforms that would classify femicide as a distinct crime but also created a law named after Rosa Elvira Cely that increased the penalty for femicide to 250 to 500 months in jail (Martinez-Villalba 2023; Jolin 2016). Additionally, when the law was signed into effect in July 2015, President Santos showed his support for the bill and his disdain for what happened to Rosa - supporting and acknowledging the issue in a way that Mexican presidential administrations did not. Moreover, when there was another high-profile femicide concerning acid attacks against women, Colombian legislators were quick to act once more and pass additional laws to criminalize the offense. The high-profile femicide concerned Natalie Ponce de Leon, a woman who was being stalked by Johnathan Vega. After months of stalking her, he broke into her home and threw acid at her face (Jolin 2016, 398). The victim survived and campaigned for the Colombian Congress to create a law that protects the victims of these acid attacks. The result of her efforts was a law that increased penalties against offenders who use acid for femicide attacks. The quick action that Colombia was able to take to criminalize this type of femicides is due to the lack of resistance to these femicide reforms.

In sum, the legislators were important for both countries because, without them, it would not be possible to codify femicides and *feminicidios*. However, for Mexico, certain legislators played a more influential role in the process compared to Colombia. The legislators in Mexico who wanted to create substantive change faced obstacles at various governmental levels. It was difficult to pass legislation that codifies *feminicidio* and creates penalties for

offenders when the President is ignoring the outcry being raised over the death of a 10-year-old girl. In comparison, the Colombian executive branch was not that resistant to these changes in the law and readily accepted what the courts mandated. Were it not for these Mexican feminist legislators, who fought for years and created these commissions to show the importance of these issues, anti-femicide laws would have never been codified.

Discussion of Findings:

The process to criminalize femicides is not a straightforward one. It requires various institutions and individuals to come together to pass the penal codes and reforms needed to ensure that women are protected in public and private spheres. Through the research that I have conducted, I have found that there are three factors that affect the process of criminalizing femicides within Mexico and Colombia the most: 1) international NGOs; 2) domestic courts; and 3) legislators. All three factors played a major role in criminalizing femicides in both countries, however, to varying degrees. I found that the influence of the international NGOs and the legislators was the most impactful for Mexico because the government's lack of accountability in recognizing or addressing the issue. It is evident in the way that former President Fox ignored the outcries for the death of the 10-year-old girl and the consistent mishandling of the evidence by authorities. The culture of *feminicidio* is significantly more pervasive in Mexico than it is in Colombia. It is a culture where there is general inaction by the overarching governmental body that is present within the country. This environment has fostered a government where there is a lack of accountability; therefore, it takes pressure and

influence from more than one arena to get Mexico to act. The Cotton Field case is a perfect example of an international entity holding Mexico accountable for the lack of action on their part; hence, it impacted the Mexican government (locally and federally) to finally acknowledge their role in the deaths of these women. Moreover, the legislators applying pressure from within the system to get the Mexican state to actively change are the ones implementing the penal codes that criminalize femicides.

Colombia had similar levels of domestic and international outcry with the deaths of Rosa Elvira Cely and Sandra Patricia Cortez; however, the court acted swiftly, reflecting how important the issue was for the government. For example, the Supreme Court was willing to take on the case again when the Medellín Superior Court appealed the initial aggravated femicide factor. This reflects how important the issue of getting the definition and process of femicide correct was for the government. Moreover, the legislative body acted quickly after the incident to codify femicide as a stand-alone crime and increase the penalty for offenders. This swift action is not to say that there are no cases that go unheard or unsolved within Colombia or that there are no cases of *feminicidio* occurring within the country, but the environment of impunity is not as pervasive as it is in Mexico. Additionally, gendered violence has always been a present issue within Colombia because of the armed conflict, and groups such as Sisma Mujer have been fighting for decades on behalf of women. Whereas in Mexico, men make up the largest portion of people who are murdered because of drug-related violence; therefore, the idea of analyzing the deaths of these women from a gendered perspective is a recent development.

The penal codes that criminalize femicide in both countries are effective and include language about what victims of femicides are and examples of what injuries offenders can do to their victims. Even so, the action that Colombia takes is a step above Mexico's. Overall, because Colombia had less of a struggle in codifying femicides, their language within the penal codes and process to criminalize femicides was not nitpicked nearly as much as it had been for Mexico. Therefore, it was easier to pass the revisions that they wanted using the wording of their choice. Colombia ended up choosing a definition that defines victims being targeted because of their "womanhood or due to gender identity," whereas Mexico chose "to deprive a woman of their life for gender reasons". These two laws are both inclusive of various kinds of women; however, by including "gender identity" within the Colombian penal codes, transgender women are included in the discussion as well. We see this already in Colombia already with the court case ruling of Ányela, where the court used the current penal codes as well as the Belém Do Pará Convention to justify the fact that transwomen can be victims of femicides. Colombia has recognized for a longer period that women are being disproportionately affected in their country due to the violence present.

Additionally, unlike Mexico, whose historical background includes turning a blind eye to serious issues, Colombia doesn't ignore their issues but confronts them instead. This prevents the issue of *feminicidio* from becoming too widespread, unlike Mexico. Therefore, through this process, it is evident that because Colombia already recognized their issue with GBVAW and isn't actively ignoring the issue of femicide within their country, their process of criminalizing femicides is better, and they take it one step further by giving room for transwomen to enter the discussion.

Both countries have created progressive penal codes that are inclusive of victims who experience various forms of trauma. However, Colombia's use of "gender identity" and subsequent actions reflect how inclusive the process of criminalizing femicides was for them; hence, through this process, Colombia ended up with the best penal codes of the two countries.

Conclusion:

Mexico and Colombia are two essential cases to examine when discussing the criminalization of femicides. They are countries with similar histories, similar issues with drug-related violence, and similar economic standing. Mexico and Colombia have both been struggling with drug-related violence and narco-terrorism for the past couple decades. These two issues have occupied a large portion of their time and resources, distracting the countries from other important issues occurring within their countries. Amongst all the things that Mexico and Colombia are similar on, the most important one is their issue of femicides. They are both experiencing a rising number of femicide cases, with the public growing more and more concerned about how their governments will address these issues. Mexico has had a more visible issue with femicides, beginning with the disappearances of the women in Ciudad Juárez from 1993 to 2005. The environment of impunity has been difficult to ignore, with it reaching its peak during the Cotton Field case.

Whereas, Colombia, in contrast, does not have the same levels of *feminicidio*, there are still vast underlying systematic issues present. The country has also had its fair share of high-profile cases, with Rosa Elvira Cely and Sandra Patricia Cortez being some of the women whose

deaths have garnered international attention. Through my research, I have identified 3 factors that were the most influential in criminalizing femicide: 1) International NGOs; 2) domestic courts; and 3) legislators. All three factors had an impact on criminalizing femicide in both countries, however, to varying degrees. The NGOs created the international law concerning the protection of women against gender-based violence and held both countries accountable for upholding the law that they ratified. The domestic courts transformed the international soft law into an applicable and legally enforceable hard law. Their ruling created new legislation and guidelines that assisted the legislators in their processes. Finally, the legislators were influential in drafting and passing the creation of these new laws; without them, the penal codes would not exist.

Of these factors, NGOs and legislators affected Mexico the most because of the environment of impunity that the government fostered. The NGOs not only created the laws protecting women from GBVAW, but also kept Mexico accountable for the lack of action they displayed in the Cotton Field case. Additionally, without the work of the legislators, fighting against as many obstacles as they did, the penal codes would not be nearly as inclusive or progressive as they are today. As for Colombia, the courts played the most important role. The verdict given out by the Colombian Supreme Court led to the country recognizing femicide as a stand-alone crime, extending the penalty for femicide, and resulting in immediate action from the country. The other two factors were important, as the court referenced the international treaties created by the NGOs and the legislators helped pass the law, but the courts were the ones who helped highlight the inefficiencies within the current system and thus created new law and shaped the future of their country. Through this process, both Colombia and Mexico

encountered their fair share of obstacles and pushbacks. However, Mexico's impunity was more substantial than that of Colombia's. Therefore, since there has been less pushback from legislators, the Colombia created penal codes with language that was more inclusive. Because of this language, Colombia ended up with a better penal code, which in turn led to a more inclusive process of criminalizing femicide. Colombia's process will continue to be more inclusive as the courts are applying the progressive language in the penal code as well as international treaties to create protections for transgender women- something that Mexico is not in a position to do right now.

The process of criminalization is one that involves various factors working together to create meaningful change. Mexico and Colombia have created progressive and inclusive penal codes that criminalize femicides. Other countries could use the penal codes that Mexico and Colombia have implemented as an example of an effective law that is all-encompassing in various ways. Not only are their penal codes inclusive of who can be victims of femicide, but also what are the harms that they suffer. Additionally, they are both inclusive of the people who can commit femicides. Future research could analyze other countries whose penal codes are not as expansive and progressive and see which of the three factors I analyzed is holding them back. Additionally, this research on analyzing the process of criminalizing femicide can be applied to other regions beyond Latin American and the Caribbean. It can be used to discover what gaps the different regions must fill to obtain inclusive and progressive penal codes.

Work Cited:

“Aggravating Factor.” LII / Legal Information Institute,
www.law.cornell.edu/wex/aggravating_factor#:~:text=An%20aggravating%20factor%20refe
rs%20to,jurisdiction%20and%20specific%20underlying%20offense.

Alonso-Trabanco, Jose Miguel. “Backgrounder: Evolution of Organized Crime in Mexico |
Geopolitical Monitor.” *Geopolitical Monitor*, 21 Apr. 2022,
www.geopoliticalmonitor.com/backgrounder-evolution-of-organized-crime-in-mexico.

Angulo López, G. “Femicide and Gender Violence in Mexico: Elements for a Systemic
Approach”. *The Age of Human Rights Journal*, no. 12, June 2019, pp. 158-83, Date Accessed
25 September 2023 doi:10.17561/tahrj.n12.9.

Austin, Regina, Women’s Unequal Citizenship at the Border: Lessons from Three Nonfiction
Films about the Women of Juárez (2009). GENDER EQUALITY: DIMENSIONS OF WOMEN'S
EQUAL CITIZENSHIP, Linda C. McClain, Johanna L. Grossman, eds., Cambridge University
Press, 2009, U of Penn Law School, Public Law Research Paper No. 09-41, Available at
SSRN: <https://ssrn.com/abstract=1523749>

Benavides Vanegas, Farid. “Femicide and Criminal Law.” *Criterio Jurídico Garantista*, vol. 8,
no. 13, 2015, pp. 66–89. <https://doi.org/10.26564/21453381.583>.

“Colombia | History, Map, Flag, Capital, Population, Currency, and Facts.” *Encyclopedia Britannica*, 17 Feb. 2024, www.britannica.com/place/Colombia/The-growth-of-drug-trafficking-and-guerrilla-warfare.

“Colombian Armed Conflict - Justice for Colombia.” *Justice for Colombia*, 18 Feb. 2018, justiceforcolombia.org/about-colombia/colombian-armed-conflict.

Corporación Sisma Mujer - SweFOR - Movimiento Sueco por la Reconciliación. (n.d.). SweFOR - Movimiento Sueco Por La Reconciliación. <https://swefor.org/colombia/human-rights-defenders-accompanied-in-colombia/corporacion-sisma-mujer/#:~:text=Sisma%20Mujer%20is%20a%20Colombian,founded%20on%20August%202023%2C%201998>.

Corradi, C., Marcuello-Servós, C., Boira, S., & Weil, S. (2016). Theories of femicide and their significance for social research. *Current Sociology*, 64(7), 975-995. <https://doi.org/10.1177/0011392115622256>

ECLAC. (2023, November 25). *Femicidal violence in figures: Latin America and the Caribbean - Preventing femicides: an obligation for states and a persistent challenge in the region - Bulletin No. 2, November 2023 - World*. ReliefWeb. <https://reliefweb.int/report/world/femicidal-violence-figures-latin-america-and-caribbean-preventing-femicides-obligation-states-and-persistent-challenge-region-bulletin-no-2->

[november-2023#:~:text=in%20the%20region.-](#)

[,In%202022%2C%20at%20least%204%2C050%20women%20were%20victims%20of%20femicide,of%20the%20Economic%20Commission%20for](#)

Femicidal Violence in Figures: Latin America and the Caribbean - Preventing Femicides: An Obligation for States and a Persistent Challenge in the Region - Bulletin No. 2, November 2023 - World. Reliefweb, 25 Nov. 2023, reliefweb.int/report/world/femicidal-violence-figures-latin-america-and-caribbean-preventing-femicides-obligation-states-and-persistent-challenge-region-bulletin-no-2-november-2023#:~:text=in%20the%20region.-

[,In%202022%2C%20at%20least%204%2C050%20women%20were%20victims%20of%20femicide,of%20the%20Economic%20Commission%20for](#). Accessed 30 Jan. 2024.

Friedman EJ. Re(gion)alizing Women's Human Rights in Latin America. *Politics & Gender*. 2009;5(3):349-375. doi:10.1017/S1743923X09990171

García-Del Moral, P. (2020). Practicing Accountability, Challenging Gendered State Resistance: Feminist Legislators and Femicidio in Mexico. *Gender & Society*, 34(5), 844-868. <https://doi.org/10.1177/0891243220948217>

"Gender Equality." *UNICEF*, 2019, www.unicef.org/lac/en/gender-equality. Accessed 30 Jan. 2024.

González et al. ("Cotton Field") v. Mexico, Inter-American Court of Human Rights (IACrHR), 16 November 2009, <https://www.refworld.org/jurisprudence/caselaw/iacrthr/2009/en/107991> [accessed 17 March 2024]

"Hard Law/Soft Law." *ECCHR*, 29 Feb. 2024, www.ecchr.eu/en/glossary/hard-law-soft-law.

Holmes, Jennifer S., and Sheila Amin Gutiérrez De Piñeres. "Violence and the State: Lessons From Colombia." *Small Wars & Insurgencies*, vol. 25, no. 2, Mar. 2014, pp. 372–403. <https://doi.org/10.1080/09592318.2013.857939>.

Jolin, Noelle. "Gender-Based Violence in Colombia: New Legislation Targets Femicides and Acid Attacks." *Tulane Law Review*, vol. 91, no. 2, December 2016, pp. 371-[vi]. *HeinOnline*, <https://heinonline.org/HOL/P?h=hein.journals/tulr91&i=397>.

Keck, Margaret E., and Kathryn Sikkink. *Activists Beyond Borders : Advocacy Networks in International Politics*, Cornell University Press, 1998. *ProQuest Ebook Central*, <https://ebookcentral.proquest.com/lib/ucb/detail.action?docID=3138636>

López, Adriana Isabel, and Helene Saadoun. "Femicide and Transnational Law | 44 | The Routledge International Hand." *Taylor & Francis eBooks*, 2023, Accessed 25 September

2023. <https://www.taylorfrancis.com/chapters/edit/10.4324/9781003202332-44/femicide-transnational-law-adriana-isabel-l%C3%B3pez-padilla-tostado-helene-saadoun>.

O’Neil, Shannon. “The Real War in Mexico: How Democracy Can Defeat the Drug Cartels.” *Foreign Affairs*, vol. 88, no. 4, 2009, pp. 63–77. *JSTOR*, <http://www.jstor.org/stable/20699622>. Accessed 17 Feb. 2024.

Neumann, Pamela. "Femicidio and Femicidio Laws in Latin America." *Oxford Research Encyclopedia of Politics*. December 17, 2020. Oxford University Press. Date of access 24 Sep. 2023, <https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-1715>

Martinez-Villalba, Lucas. *Criminalization of Femicide in Mexico and Colombia: A Comparative Analysis of Legislative and Symbolic Approaches*, American University, United States -- District of Columbia, 2022. *ProQuest*, Date of Access 25 September. 2023, <https://colorado.idm.oclc.org/login?url=https://www.proquest.com/dissertations-theses/criminalization-femicide-mexico-colombia/docview/2699966818/se-2>.

Martuscelli, Patricia Nabuco, and Rafael Duarte Villa. "Child soldiers as peace-builders in Colombian peace talks between the government and the FARC–EP." *Conflict, security & development* 18.5 (2018): 387-408.

Michel, Verónica. "Judicial Reform and Legal Opportunity Structure: The Emergence of Strategic Litigation Against Femicide in Mexico." *Studies in Law, Politics and Society*, 2020, pp. 27–54. <https://doi.org/10.1108/s1059-433720200000082003>.

Moral, Paulina García-Del, and Pamela Neumann. "The Making and Unmaking of *Feminicidio/Femicidio* Laws in Mexico and Nicaragua." *Law & Society Review*, vol. 53, no. 2, Wiley-Blackwell, Dec. 2018, pp. 452–86. <https://doi.org/10.1111/lasr.12380>.

OECD (2020), *Gender Equality in Colombia: Access to Justice and Politics at the Local Level*, OECD Publishing, Paris, <https://doi.org/10.1787/b956ef57-en>.

Orizaga Inzunza, Isabel Anayanssi. "Femicides: Different Approaches from the Regional Protection of Human Rights." *Mexican law review* 14.1 (2021): 53-87.

Pachón, Mónica, and Santiago E. Lacouture. "Female Representation in Colombia." *Gender and Representation in Latin America* (2018): 228.

Pandit, Puja. "Homicides in Mexico – Statistics." *Vision of Humanity*, 19 Dec. 2022, www.visionofhumanity.org/homicides-in-mexico-statistics/#:~:text=Homicides%20in%20Mexico%20by%20gender,88%20percent%20of%20the%20total.

Pasinato, W., & de Ávila, T. P. (2023). Criminalization of femicide in Latin America: Challenges of legal conceptualization. *Current Sociology*, 71(1), 60–77.

<https://doi.org/10.1177/00113921221090252>

Russell, Diana. *DEFINING FEMICIDE*. dianarussell.com/f/Defining_Femicide_-_United_Nations_Speech_by_Diana_E._H._Russell_Ph.D.pdf.

Russell, Diana, and Radford. *Femicide: The Politics of Woman Killing*. 27th ed., vol. 2, Australian and New Zealand Journal of Criminology, 1992,

<https://doi.org/10.1177/000486589402700212>.

SÁNCHEZ, FABIO, et al. "Conflict, Violence, and Crime in Colombia." *UNDERSTANDING CIVIL WAR: Evidence and Analysis*, edited by Paul Collier and Nicholas Sambanis, World Bank, 2005, pp. 119–60. *JSTOR*, <http://www.jstor.org/stable/resrep02484.9>. Accessed 17 Feb. 2024.

Seagrave, Alan. "Conflict in Colombia: How Can Rebel Forces, Paramilitary Groups, Drug Traffickers, and Government Forces Be Held Liable for Human Rights Violations in a Country Where Impunity Reigns Supreme." *Nova Law Review*, vol. 25, no. 2, Winter 2001, pp. 525-546. *HeinOnline*, <https://heinonline-org.colorado.idm.oclc.org/HOL/P?h=hein.journals/novalr25&i=545>.

Sikkink, Kathryn. "Human Rights, Principled Issue-Networks, and Sovereignty in Latin America." *International Organization*, vol. 47, no. 3, 1993, pp. 411–41. *JSTOR*, <http://www.jstor.org/stable/2706982>. Accessed 26 Mar. 2024.

Stallone, K. (2022, November 8). A Colombian town's spike in femicides is linked to armed groups. *The New Humanitarian*. <https://www.thenewhumanitarian.org/news-feature/2022/04/12/Colombia-armed-groups-femicide-Cucuta>

Statista. "Latin America and Caribbean: Gross Domestic Product 2022, by Country." *Statista*, 4 Sept. 2023, www.statista.com/statistics/802640/gross-domestic-product-gdp-latin-america-caribbean-country.

Teiner, David. "Cartel-Related Violence in Mexico as Narco-Terrorism or Criminal Insurgency: A Literature Review." *Perspectives on Terrorism*, vol. 14, no. 4, 2020, pp. 83–98. *JSTOR*, <https://www.jstor.org/stable/26927665>. Accessed 29 Feb. 2024.

Toledo Vásquez, Patsilí "Femicide/Feminicide and Legislation." *Routledge eBooks*, 2023, pp. 411–21. <https://doi.org/10.4324/9781003202332-43>.

“THE ORIGIN AND IMPORTANCE OF THE TERM FEMICIDE.” *Diana E. H. Russell Ph.D,*

www.dianarussell.com/origin_of_femicide.html.

Wright, Melissa W. “Necropolitics, Narcopolitics, and Femicide: Gendered Violence on the Mexico-U.S. Border.” *Signs*, vol. 36, no. 3, Mar. 2011, pp. 707–31.

<https://doi.org/10.1086/657496>.

