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Washington, D.C. April 30, 2021

Ms. Dubravka Simonovic
Special Rapporteur on violence against women, its causes and consequences

RE: Call for inputs on the Special Rapporteur's report on femicide to be presented at the 76th session of the General Assembly.

Dear Ms. Simonovic,

On behalf of Robert F. Kennedy Human Rights, please find enclosed a submission to the mandate of the Special Rapporteur on violence against women, its causes and consequences for the report to be presented at the 76th session of the General Assembly.

Robert F. Kennedy Human Rights (RFKHR) is a non-profit organization based in the United States. Since 1968, RFKHR has worked alongside human rights defenders and civil society organizations across the globe to pursue lasting change on key human rights issues, including the protection of women from gender-based violence and femicide. We support local civil society by helping to build their capacity to present cases, or by directly representing them before regional and international human rights mechanisms.

RFKHR works with local organizations in Mexico, Guatemala and Honduras to hold governments accountable for their obligations to protect women's rights, including the right to be free from violence. Given our experience litigating femicide cases and doing legal advocacy with our partners locally and before the Inter-American system, RFKHR has first-hand experience on the measures taken to combat femicide in these countries and at the regional level. We submit the attached comments in response to the Special Rapporteur's questions.

Thank you for the opportunity to participate.

Sincerely,

A handwritten signature in blue ink, appearing to read "Abe".

Angelita Baeyens
VP, International Advocacy and Litigation
Robert F. Kennedy Human Rights

**Written Submission by Robert F. Kennedy Human Rights
in response to call for inputs from the mandate of the Special Rapporteur
on violence against women, its causes and consequences
for her report to be presented at the 76th session of the General Assembly
April 30, 2021**

1. On the existence, or progress in the creation, of a national femicide watch and/or femicide observatory and/or observatory on violence against women with a femicide watch role; observatories at Ombudspersons' office or Equality Bodies; academic institutions and/or NGOs, or any plans to create one.

In October 2017, Chihuahua became the last state in **Mexico** to classify the crime of femicide¹ and in 2018, the Executive Secretariat of the National Public Security System added femicide to its National Classification of Crimes of the Common Jurisdiction for Statistics Purposes and the Crime Catalog.² On the civil society side, the [Observatorio Ciudadano Nacional del Femicidio](#), which represents 40 organizations, documents femicide cases across Mexico.³ The [Red Mesa de Mujeres de Ciudad Juárez](#) created an observatory to monitor the performance of justice institutions⁴ and monitor and document violence against women (VAW) in the area, including femicide cases that are not reflected in the official data as such.⁵

In March 2019, **Guatemala** created the [Observatorio de las Mujeres del Ministerio Público](#)⁶, a centralized system to collect data on VAW, including statistics on violence reports and data on convictions, in order to evaluate the public response to VAW.⁷ The State also established the 'Isabel-Claudina alert for disappeared women', a 24-hour phone line for victims of physical, psychological and sexual violence ("line 1572"), a "panic button" phone app., and a national sex offender registry.⁸

2. On other measures including research and studies undertaken to analyse femicide or gender related killings of women and girls, or homicides of women by intimate partners or family members and other femicides. If available, please share a copy of such studies.

¹ Mexican government, Executive Secretary of the National System for Public Safety, Guidelines for the registry and classification of the alleged crime of femicide, pages 1-2. Available at <https://www.gob.mx/sesnsp/documentos/lineamientos-para-el-registro-y-clasificacion-de-los-presuntos-delitos-de-femicidio?state=published>.

² *Id.*, page 1.

³ Observatorio Ciudadano Nacional del Femicidio (National Citizens' Femicide Observatory). Available at <https://www.observatoriofemicidiomexico.org>.

⁴ See, eg. Robert F. Kennedy Human Rights, Calling out Mexico on its Failure to End the Femicide Epidemic in Ciudad Juarez. Available at: <https://rfkhumanrights.org/femicide-epidemic-in-ciud%C3%A1d-juarez>. (Last accessed April 29, 2021.)

⁵ Mesa de Mujeres Juárez, Observatorio Especializado Especializado en Género. Available at: <http://www.mesademujeresjuarez.org/observatorio-especializado-en-genero/>.

⁶ Observatorio de las Mujeres del Ministerio Público. Available at <http://observatorio.mp.gob.gt/isabel-claudina>.

⁷ Observatorio de las Mujeres del Ministerio Público. "Quienes Somos." Available at: <http://observatorio.mp.gob.gt/somos/>.

⁸ Observatorio de las Mujeres del Ministerio Público. "Servicios." Available at: <http://observatorio.mp.gob.gt/somos/>.

A May 2020 master's thesis studied the Isabel-Claudina alert and its effects in Guatemala City between 2018-2019 including its contributions and challenges.⁹

MunduSur published [COVID 19: Femicides in Latin America in times of Social Confinement, Prevention and Obligation](#) about how the socio-environmental implications of quarantine and isolation measures to prevent the spread of the coronavirus have contributed to the increase in VAW and femicides in Latin America.¹⁰ Additionally, its [Femicides in Latin America in the Context of the Pandemic](#) analyzes data from nine countries, comparing official and on-the-ground sources.¹¹

In 2018, UN Women and the OAS Follow-up Mechanism to the Belém do Pará Convention (MESECVI) published its [Analysis of Femicide Legislation in Latin America and the Caribbean](#) including a proposed model femicide law.¹²

3. On the results of analysis of femicide cases, including the review of previous court cases and recommendations and actions undertaken in this respect.

The Inter-American Court of Human Rights (IACtHR) has established strict due diligence obligations for States with respect to femicides and has adopted a transformative approach to reparations for VAW and violations of the rights to life, personal integrity, judicial guarantees and protection under the American Convention on Human Rights. Article 7 of the Convention of Belém do Pará, further defines and supplements State's obligations regarding these rights.¹³ Here are a few points of analysis:

States have a general duty to prevent the disappearance of women and their femicides when (i) the State authorities knew, or ought to have known of the existence of a real and immediate risk to an identified individual or group of individuals, and (ii) these authorities failed to take the necessary measures within the scope of their powers that reasonably might have prevented or avoided that risk.¹⁴ In the case of *Velásquez Paiz et al vs. Guatemala*, the case that gave rise to the Isabel-Claudina alert, the Court held Guatemala responsible for the disappearance and death of 19-year-old Claudina after authorities failed to properly investigate her disappearance and killing due to gender stereotypes and prejudices. The Court held that a generalized “context of discrimination against women in Guatemala in different spheres”¹⁵ that the State

⁹ FLACSO Argentina, Maestría en diseño y gestión de programas sociales tesis de maestría, Estudio de caso del mecanismo ‘Alerta Isabel Claudina’ y sus efectos en Ciudad de Guatemala, Guatemala, durante 2018-2019 [Masters in design and management of social programs master's thesis, Case study of the Isabel-Claudina alert mechanism and its effects in Guatemala City, Guatemala from 2018-2019]. Available at: <https://repositorio.flacsoandes.edu.ec/xmlui/handle/10469/16321>.

¹⁰ Mundusur, *COVID-19 Femicidios en América Latina en tiempos de confinamiento social preventivo y obligatorio* [COVID 19: Femicides in Latin America in times of Social Confinement, Prevention and Obligation], 2020. Available at: <https://europa.eu/capacity4dev/respuesta-interinstitucional-a-las-violencias-de-g-nero-en-el-contexto-de-la-crisis-sanitaria-covid19/documents/covid-19-femicidios-en-america-latina-en-tiempos-de-confinamiento-social-preventivo-y>.

¹¹ Mundosur, *Femicidios en América Latina en Contextos de Pandemia, Tercer Informe* [Femicides in Latin America in the Context of the Pandemic], March 2021. Available at: <https://mundosur.org/wp-content/uploads/2021/03/3-INFORME-MLF-FINAL.pdf>.

¹² UN Women & MESECVI, *Analysis of Femicide Legislation in Latin America and the Caribbean*, 2018. Available at: <https://www2.unwomen.org/-/media/field%20office%20americas/documentos/publicaciones/2019/05/1final%20analysis%20of%20femicide%20legislation%20in%20latin%20america%20and%20the%20caribbean-compressed.pdf?la=en&vs=409>.

¹³ IA Court, *Case of Velasquez Paiz vs. Guatemala*, Preliminary objections, merits, reparations and costs. Judgment of November 19, 2015. Series C. No. 307, para. 108; Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará). Available at: <https://www.oas.org/en/mesecvi/docs/BelemDoPara-ENGLISH.pdf>.

¹⁴ IA Court, *Case of Velasquez Paiz vs. Guatemala*, para. 109.

¹⁵ *Id.*, par. 111.

was aware of satisfied the first prong¹⁶ while ineffective or incomplete remedial measures implemented by the State to address such context up until Claudina’s disappearance satisfied the second, thus the State failed to meet its obligation to prevent her femicide.

States have strict due diligence obligations upon learning of a woman’s disappearance, including “the prompt and immediate action of the police, prosecution and judicial authorities”¹⁷ and an “effective investigation”¹⁸ to discover the victim’s whereabouts.

States have a heightened due diligence duty to investigate when a woman is killed within a general context of VAW. Once State authorities become aware of a possible femicide, they should initiate an investigation ex officio and without hesitation. In order to avoid impunity and a culture of tolerance for VAW,¹⁹ the investigation should be impartial, undertaken via all the possible legal measures and geared towards the determination of the truth and the identification, prosecution and eventual punishment of those responsible.²⁰ While an obligation of means, and not results, it should not be assumed by the State as a simple formality condemned in advance to futility.²¹

Standards regarding femicide apply equally to transwomen - The IACtHR understands “gender identity to be both an integral and a determining component of the personal identity of the individual” and the recognition of an individual’s trans identity is critical to ensuring that they can fully enjoy their rights, including protection from violence, the right to health, education, employment, housing, access to social security, and freedom of expression and association.²² The Court has underscored that “failure to recognize the right to gender identity of transgender persons contributes to reinforce and perpetuate discriminatory behavior towards them [...] *This may also increase their vulnerability to hate crimes, or transphobic and psychological violence, which constitutes a form of gender-based violence, driven by a desire to punish individuals whose appearance or behavior appears to challenge gender stereotypes.*”²³ (emphasis added.)

The recent case of [Vicky Hernandez et al vs. Honduras](#), litigated by CATRACHAS and RFKHR, is the first case of transfemicide before the Court. Vicky Hernandez was a 26-year-old trans woman who was killed during the 2009 Honduran coup d’état and was last seen on the street during a curfew controlled by security forces. Authorities ignored the clear context of violence against trans women in Honduras and the negligent investigation showed signs of gender discrimination and prejudice from the first hours. An autopsy report was never produced, and Vicky’s murder was written off as a “crime of passion.” Her death remains in impunity 12 years later.

¹⁶ *Id.*

¹⁷ *Id.*, para. 122.

¹⁸ *Id.*

¹⁹ IA Court, *Case of González et al (“Cottonfield case”) vs. México*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No. 205, para. 289.

²⁰ *Id.*, para. 290.

²¹ *Id.*, para. 289.

²² IA Court, Advisory Opinion OC-24-17, Gender Identity and Equality and Non-Discrimination of Same-Sex Couples State Obligations Concerning Change of Name, Gender Identity, and Rights Derived from a Relationship Between Same Sex Couples (Interpretation and Scope of Article 1(1), 3, 7, 11(2), 13, 17, 18, and 24, in relation to Article 1, of the American Convention on Human Rights. Judgment of November 24, 2017, Series A No 24, paras. 98; 101(i).

²³ *Id.*, para. 134.

We [argued](#) that the Court's existing strict standards on femicides be applied without distinction to trans women, as they face dual discrimination, not only as women in society, but, as the Court recognized, individuals whose challenge of gender stereotypes itself makes them vulnerable to gender-based violence. The Court's decision is expected in the first half of 2021.

Reparations for femicide must have a transformative approach with a view to reforming the context of discrimination that reproduces VAW based on their gender.²⁴ In the seminal case of *Campo Algodonero v. Mexico*, the "Cottonfield", the IACtHR held "the reparations must be designed to change [structural discrimination against women], so that their effect is not only of restitution, but also of rectification."²⁵ Accordingly, the Court granted "diverse measures of reparation in order to provide full compensation for the harm, so that, in addition to pecuniary compensation, measures of restitution and satisfaction, and guarantees of non-repetition have special relevance for the harm caused."²⁶ It has underscored that reparations must be considered from a gender perspective, "bearing in mind the different impact that violence has on men and on women."²⁷

In this case, the Court ordered investigation and prosecution of the facts and, if appropriate, punishment of those responsible for the violations; measures to dignify the memory of the victims;²⁸ guarantees of non-repetition;²⁹ harmonization of protocols with international standards;³⁰ conducting educational programs for the general public on gender discrimination and stereotyping, and VAW, as well as permanent education and training programs for public officials on human rights and gender. The Court also ordered provision of medical, psychological or psychiatric treatment to victims' families and payment of compensation for pecuniary and non-pecuniary damage, and reimbursement of costs and expenses.

With respect to implementation, RFKHR can speak to the specific case of *Velásquez Paíz et al vs. Guatemala*.³¹ To date, the Guatemalan State has only complied with two of the Court's ordered reparations: publication of the Court's judgment and the payment of restitution and costs. The State has created training programs for its National Civil Police force but has not included the public officials belonging to the

²⁴ See, e.g. IACHR. Female Journalists and Freedom of Expression, OEA/SER.L/V/II CIDH/RELE/INF.20/18, October 13, 2018, para. 128; IA Court, *Case of González et al ("Cottonfield case") vs. México*, para 450.

²⁵ IA Court, *Case of González et al ("Cottonfield case") vs. México*, para 450.

²⁶ IA Court, *Case of Velasquez Paíz vs. Guatemala*, par. 222.

²⁷ IA Court, *Case of Velasquez Paíz vs. Guatemala*, par. 451; See also Committee on the Elimination of Discrimination against Women, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, 26 July 2017, CEDAW/C/GC/35, Para. 33(b). In its General Comment No. 35 the CEDAW Committee stated that in cases of violence against women, reparations "should include different measures, such as monetary compensation, the provision of legal, social and health services, including sexual, reproductive and mental health services for a complete recovery, and satisfaction and guarantees of non-repetition." The Committee has recommended that States "design transformative reparations programs that help address the underlying discrimination or disadvantage that caused the violation or contributed significantly to it, taking into account individual, institutional, and structural aspects."

²⁸ The Court included publishing the judgment in newspapers, and on the radio and television; publicly acknowledging its international responsibility for the damage caused and for the serious violations that occurred, in consultation with the victim's family and, to name a place or build a monument to commemorate the victims, in consultation with their next of kin.

²⁹ The Court included legal and policy measures that result in the effective prevention and investigation of cases of violence against women and gender-based murder; ensure that those responsible are prosecuted and sanctioned, and ensure that reparation has been made to the victims

³⁰ The Court detailed "Harmonize all its protocols, manuals, judicial investigation criteria, expert services and delivery of justice used to investigate all crimes concerning the disappearance, sexual abuse and murder of women with the relevant international standards, based on a gender perspective."

³¹ Co-litigated with the Asociación de Abogados y Notarios Mayas de Guatemala (Guatemalan Association of Mayan Lawyers and Notaries).

Judiciary and Public Ministry as requested by the Court. The State has also not clarified the percentage of National Civil Police officers who have participated in or completed the training.

Guatemala also adopted the Isabel-Claudina alert to achieve the effective and immediate search for women who are reported missing.

4. On concrete measures taken to improve support to victims of violence and to prevent femicide, (risk assessment, efficiency of protection orders), in connection with the information gathered via femicide watches or observatories.

In 2018, Guatemala created the Isabel-Claudina alert via the [*Ley de Búsqueda Inmediata de Mujeres Desaparecidas*](#) (“Law for the Immediate Search of Disappeared Women”) to comply with the IACtHR’s judgments in the [*Veliz Franco*](#) and [*Velázquez Paiz*](#) cases. The alert aims to search for and locate missing women³² and is activated when a woman’s disappearance is reported. It requires a prompt and coordinated search by various government agencies, including the Public Prosecutor, the Ministry of the Interior, the Foreign Ministry, the National Civil Police, the General Directorate of Migration, and the Attorney General’s Office.³³ The Human Rights Ombudsman of Guatemala shared that the failure to allocate the necessary funds to enable the Public Prosecutor’s Office to hire full-time personnel to work for the mechanism or to facilitate the formation of local search teams to locate missing women undermined the institutional progress made.³⁴ Moreover, he called out the underreporting of cases of missing women, including data on ethnic origin, languages, occupation, nationality and marital status, making it challenging to analyze the differential impact of such crimes,³⁵ and the lack of coordination among state agencies.³⁶

6. On data, if available, on femicides or intimate-partner and family-related homicides of women and men in the past 3 years, including during the Covid-19 pandemic (indicating the time period e.g. since March 2020 to the end of December 2020) and its comparison with such data before the COVID-19 pandemic.

According to the data from the Economic Commission for Latin America and the Caribbean (ECLAC) on 18 countries³⁷ there were 4,555 femicide victims in 2019³⁸. The highest rates per 100,000 people were found in Honduras (6.2), El Salvador (3.3), the Dominican Republic (2.7) and Bolivia (2.1).³⁹

In 2019, in Mexico, 1,012 victims of femicide were recorded, which in turn opened 983 investigation folders in Mexico.⁴⁰ Zero Impunity estimated a daily average of 2.7 femicide victims in Mexico in 2019⁴¹ The Executive Secretariat of the National Public Security System registered 801 femicide victims nationwide

³² For more information about the number of alerts and disappearances, *please see* Observatorio de las Mujeres del Ministerio Público. Available at <http://observatorio.mp.gob.gt/isabel-claudina>.

³³ *See Ley de Búsqueda Inmediata de Mujeres Desaparecidas, Decreto 9-2016*. Available at <https://igm.gob.gt/wp-content/uploads/2017/09/Ley-Mujeres-Desaparecidas.pdf>.

³⁴ IACHR, Annual Report of 2020, para. 109.

³⁵ *Id.*, párr. 110.

³⁶ *Id.*, párr. 111.

³⁷ Honduras, St. Lucia, El Salvador, Trinidad and Tobago, Dominican Republic, Bolivia, Guatemala, Brazil, Mexico, Uruguay, Paraguay, Argentina, Panama, Colombia, Ecuador, Peru, Venezuela, Costa Rica, Anguilla, Dominica, British Virgin Islands.

³⁸ ECLAC, Gender Equality Observatory for Latin America and the Caribbean. Available at: <https://oig.cepal.org/en/indicadores/femicide-or-feminicide>.

³⁹ *Id.*

⁴⁰ Impunidad Cero, *Impunidad en Homicidio Doloso y Femicidio en México, Reporte 2020*, pág.8. Available at: <https://www.impunidadcero.org/uploads/app/articulo/142/contenido/1605024010E66.pdf>.

⁴¹ *Id.*

from January to October 2020.⁴² From January to March 2021, there were 234 presumed cases of femicide nationally.⁴³

According to the Red Mesa de Mujeres, in Ciudad Juárez alone 180 women were homicide victims in 2019, but only 14 of these cases were classified as femicide,⁴⁴ with a reported 71.4% increase in the number of homicides of women between 2018 and 2019.⁴⁵ In January 2021, there was a 30.7% increase of women murdered compared to January 2020.⁴⁶ Additionally, during the month of February 2021, intentional homicide increased 66% compared to February 2020⁴⁷.

In Guatemala, Grupo Guatemalteco de Mujeres recorded 400 violent deaths of women between January 1, 2020 and October 12, 2020 with 223 (46%) were classified as femicide.⁴⁸

⁴² Mexican government, Executive Secretary of the National System for Public Safety, *Víctimas de Delitos del Fuero Común 2020, Instrumento para el Registro, Clasificación de Delitos y las Víctimas* [Victims of Common Jurisdiction Crimes 2020, Instrument for the Recording, Classification of Crimes and the Victims]CNSP/38/15, November 20, 2020, page 1. Available at: https://drive.google.com/file/d/13yYGkq3C_KRxVPvcS3SllnAdW8IrJbTZ/view.

⁴³ Mexican government, Executive Secretary of the National System for Public Safety, Information on violence against women, crime incidence, 911 emergency calls, March 31, 2021.

⁴⁴ Red Mesa de Mujeres de Ciudad Juárez, *Monitoreo 2019 de Violencia Femicida Contra Las Mujeres en Ciudad Juárez* [2019 Monitoring of Femicide Violence Against Women in Ciudad Juárez], pag. 3. Available at: <http://www.mesademujeresjuarez.org/resultados-del-monitoreo-2019-de-violencia-femicida-en-ciudad-juarez>.

⁴⁵ *Id.*, pag. 4.

⁴⁶ Red Mesa de Mujeres de Ciudad Juárez, *Observatorio Especializado en Género*. Available at: <http://www.mesademujeresjuarez.org/observatorio-especializado-en-genero>.

⁴⁷ *Id.*

⁴⁸ Grupo Guatemalteco de Mujeres, Statistical Data: Violence against Women, Violent Deaths of Women, Femicides, Republic of Guatemala, page 2, Red Mesa de Mujeres de Ciudad Juárez, Observatorio Especializado en Género.