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## Analysis between Femicide and Feminicide in Comparative Criminal Law

## Análisis Entre El Femicidio Y El Feminicidio En El Derecho Penal Comparado

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### Abstract

*Femicide is the most violent form of violence against women, causing the death of women simply because of their gender. In the Americas, based on the figures of violence against women, criminal offenses were established to sanction behaviors related to this type of violence. Therefore, in legislative processes, efforts were made to classify the act of causing the death of a woman because she is a woman as a separate crime. In some countries like Mexico and Ecuador, this is referred to as feminicide and femicide, respectively. Thus, the objective of this study was to analyze the similarities and differences between feminicide and femicide in comparative criminal law in these countries. The methodology used had a qualitative approach, involving a documentary study of the aforementioned legislation. Information was collected from official gazettes, records, jurisprudential search engines, legal doctrine, and other relevant legal sources. Comparative law was the main method used. The main result revealed the differences and similarities in these legal systems concerning femicide and feminicide, and the contemporary normative situation in these countries. It was concluded that, despite legislative efforts to punish violence against women, there is currently a high incidence of such criminal acts, indicating a legal problem that requires further investigation.*

**Keywords:** Femicide, crime, gender, women, criminal law, comparative law, Mexico, Ecuador.

### Resumen

*El femicidio es la forma más violenta de manifestación de violencia contra las mujeres, toda vez que este causa la muerte de dicho grupo etario por su condición de serlo. En el continente americano, de acuerdo con las cifras de agresiones contra la mujer, se tipificó infracciones penales que sancionen conductas relacionadas a este tipo de violencia, por ello desde los procesos legislativos, se encaminó a tipificar como delito autónomo el hecho de causar la muerte a una mujer por el hecho de serlo, lo que, en algunos países como México y Ecuador, se denomina feminicidio y femicidio, respectivamente. De esta forma, el presente trabajo tuvo como objetivo el analizar las semejanzas y las diferencias entre el feminicidio y el femicidio en el derecho penal comparado, en estos países. La metodología empleada*

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*se caracterizó por tener un enfoque cualitativo, bajo un estudio documental de las legislaciones antes mencionadas, donde se recopiló información de gacetas, registros oficiales, buscadores jurisprudenciales, doctrina y de otras fuentes del derecho encontradas al respecto, siendo el principal método utilizado el derecho comparado. Como principal resultado se conoció las diferencias y similitudes en estos ordenamientos jurídicos respecto de femicidio y feminicidio y cuál es la situación normativa contemporánea en dichos países, concluyendo en que, pese a los esfuerzos legislativos por sancionar la muerte contra las mujeres, existe actualmente una alta cifra de dicho tipo penal, lo que evidencia una problemática jurídica que amerita investigarse.*

**Palabras Clave:** Femicidio, delito, género, mujer, derecho penal, derecho comparado, México, Ecuador.

## Introduction

Comparative law at a historical level has allowed the understanding of the normative content of different countries in relation to each other. In this way, doctrine has asserted that comparative law is a discipline, a method, a resource, or a legislative tool. However, the ultimate goal of comparative law is one: to understand the similarities and differences between two or more legislations, and hence, the need arises to apply it in order to understand legal concepts or institutions in different countries, to contrast their normative content and learn how these concepts or institutions are regulated.

Therefore, the importance of comparative law in the study of legal sciences is evident, as in the case of criminal law, which is responsible for penalizing individuals who have committed criminal offenses. Precisely, this study outlines an analysis of the crime of femicide, which is defined as the act of causing the death of a woman because she is a woman. The particularity of this study is that femicide is examined through comparative law to understand its normative similarities and differences, for which two legislations were selected as the study's scenarios: Ecuador and Mexico.

It should be noted that the penal codes in force in different countries around the world, such as Mexico and Ecuador, have strengthened their content based on legislative advances and studies conducted by the science of law, penal dogmatics, and social sciences. This is because criminal law is interdisciplinary, drawing from various aspects of knowledge such as sociology, psychology, criminology, etc. In this regard, Ecuador and Mexico are no exception, as their penal codes have been the result of legislative processes and constitutional reforms. In the same line of thought, Cornejo (2020) asserts that criminal law evolves over time.

According to Bejarano (2014), the most well-known definition of the term femicide was proposed by Russell (2006), who considers it "the murder of women by men because they are women." This contribution, in Bejarano's opinion (2014), transcended the theoretical aspect and managed to become an affirmative action in favor of the female collective since naming these murders this way makes them easier to recognize. However, as mentioned above, Lagarde (2006) and Monárrez (2000) state that the concept of femicide has been used since the nineties, originating in the United States, and since then, various academics and feminist activists have made contributions to give it a more appropriate meaning for the Latin American context.

Latin America is not only one of the most unequal regions in the world, but it is also one of the territories where rates of violence against women reach the highest values year after year (Committee on the Elimination of Discrimination against Women, 1994). Among the forms and types of violence against women, femicide is the cruelest. The growing number of femicide

cases in Latin America has prompted governments in the region to classify it as a crime to deter this type of violence (Álvarez & Acosta, 2021). Given the magnitude, severity, and persistence of femicides/femicides in this region, it is necessary to strengthen what has been implemented by the states and develop new strategies and public policies (De Angelo, 2022).

The theoretical development in Latin America has found a correlation in the normative sphere: over the last decade, "femicide" has been classified in fifteen Latin American countries in their respective laws against macho violence. The Navarre law against violence towards women also incorporated it in 2015. But beyond the debate about the appropriateness of its classification, femicide, as a paradigm, aims to break with the resignation in which our societies find themselves while placing important elements on the table to understand extreme violence against women in all its dimensions and complexity. An understanding from which it is possible to adopt effective prevention measures by all the institutional and social agents involved. (Gomez, 2017)

Femicide is the ultimate and most severe form of violence against women. By its nature, this crime violates the most important of human rights: the right to life, as established in the Universal Declaration of Human Rights and constitutionalized in the majority of constitutions worldwide. In this regard, the Constitutions of Mexico and Ecuador respond to the fulfillment of the international framework of human rights instruments and conventions, thus guaranteeing the right to life and integrity of individuals.

In the case of Mexico, the act of killing a woman because she is a woman is known as femicide. Meanwhile, in Ecuador, according to the Comprehensive Organic Penal Code, it is known as femicide. Indeed, these figures in the mentioned countries will be analyzed in subsequent lines to understand their similarities and differences, based on the application of comparative law, which, according to Somma (2015), involves a parallel legal comparison. Mancera (2008) considers comparative law as a method or research technique that can be employed in practically all areas of law. Blacio Aguirre (2010) states that comparative law aims to analyze a plurality of legal systems, not only to study them separately but also to compare them and infer their analogies.

The present research was developed based on these backgrounds. Its main objective was to analyze the similarities and differences between femicide and femicide in Mexico and Ecuador, applying the comparative law method. To achieve this, the work begins by explaining the methodology used, based on the selected research line; then, the results of the documentary analysis of the mentioned legislations are presented, which are examined in the discussion section. Finally, the conclusions reached at the end of the study are presented.

## **Methods**

For the realization of this study, a documentary research process was followed, given that theoretical sources of information predominated, such as legal sources composed of laws, doctrine, and jurisprudence, as well as the review of scientific search engines and institutional repositories. The research background was obtained and cited in the introduction and discussion sections, which were compared with the results obtained in the development of this work.

As a technique, documentary review was applied, as legal gazettes, official records, and jurisprudential search engines of Mexico and Ecuador were reviewed, with the guiding search criterion being the crime of femicide. By applying this technique, the normative situation of these legislations regarding the crime of femicide was analyzed, resulting in a description and

explanation of this offense in the mentioned legal systems. Finally, the methods used were deductive, comparative law, and exegetic.

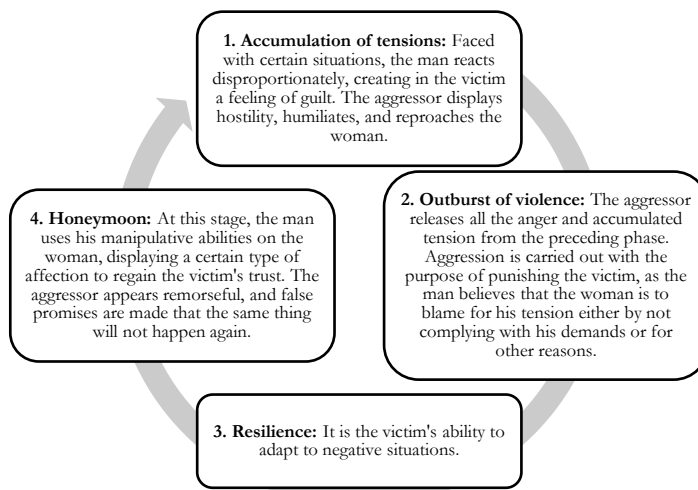
## Results

### Approach to the Concept of Femicide

According to Salazar (2022), the precedent for the concept of femicide can be traced back to the early 19th century when it was defined as the murder of a woman. However, Russell (2006) states that by the mid-19th century, it began to be considered a punishable crime, for example, in England, without the imprint of a gender-based sexual crime. Salazar (2022) asks, "Should all murders of women be considered as femicide?" or "What makes them femicide?" Indeed, Russell & Radford (2006) critically analyze definitions provided in the Anglo-American context, considering the hypothesis that it is the "misogynistic murder of women by men" (p. 137).

Authors such as Caputi (1987), Russell & Radford (2006), Legarde (2008), and Monárrez (2009) consider that hatred constructs misogynistic feelings, and the main perpetrator of femicide is a man actively carrying such feelings, as he protects his rights over others and validates excesses of violence, leading to femicide. Therefore, it has been asserted from perspectives such as those of Larrauri (2007), Legarde (2008), and Bejarano (2014) that prior to femicide, there is a repeated history of violence where the victim experiences a series of escalating aggression, thus associated with the *continuum*.

Salazar (2022), citing Monárrez (2004), Legarde (2008), and Bejarano (2014), describes femicide as the result of a sustained and growing process of patriarchal dynamics to reproduce male power over and against women, eventually leading to the social phenomenon of murder based on gender (female). In other words, the *continuum* of violence experienced by women in various areas of their participation can exacerbate one or several types of violence and culminate in femicide. In the same line of thought, according to Argüello (2017), femicide is the murder of women for gender reasons, with episodes of pre-existing violence. In light of the above, this cycle of gender-based violence can be depicted in the following way:



**Figure 1:** Cycle of Violence Against Women.

**Source:** Larrauri, 2007.

In this sense, femicide, according to Salazar (2022) and Aguirre (2018), is a social phenomenon exercised rationally and deliberately, with the ability to harm a group of individuals and inflict unavoidable damage on the victims, achieving their subjugation. It is considered the ultimate manifestation of gender-based power conflicts woven into everyday asymmetric relationships and interactions. Albarran (2015) states that violence against women and femicide has been normalized by society throughout history through a predominantly patriarchal, androcentric, and misogynistic discourse.

It is then worth asking, which term to use, femicide or feminicide? According to Albarran (2015), the terms in question are complementary, and both have shown that while the women who die are generally the most vulnerable, the message is for all women, as expressed by Aguilar (2005). Through the evolution of these expressions, it has been demonstrated that the deaths of women at the hands of their husbands, fathers, boyfriends, suitors, acquaintances, or strangers, or by men who sexually assault them, are not the result of inexplicable cases but have a common root in crimes against women motivated or based on the subordinate and oppressive position they occupy in the gender hierarchy.

### **Femicide in Mexico**

As mentioned in the introduction of this work, in Mexico, the act of killing a woman because of her gender is classified as feminicide. This violence originates from gender inequality, meaning the subordinate, marginalized, and risky position in which women find themselves compared to men. Therefore, there arose the need to classify it as such because, by its nature, it constitutes a crime of violence against women, being the most extreme form of violence against this age group.

In this country, the figures of feminicide are alarming. In the mid-1980s, information emerged about the deaths of women in Ciudad Juárez after acts of violence (Aguirre, 2018). Thus, between 1993 and 2015, the record of female deaths in Ciudad Juárez reached a figure of 1452 murders. Monárrez (2009) states that there were 382 murders of girls and women from 1993 to 2004 in the same locality, while Robles (2015) confirms 579 from 2007 to 2010. Other cases that illustrate the extent of femicide violence can be traced in the states of Guerrero, Oaxaca, Michoacán, Sinaloa, and Mexico City, where over the last 20 years, public symbolic violence, policies related to violence against women, domestic, workplace, institutional violence, and femicide have been observed.

Now, according to Guillen (2022), from 2018 to 2022, 17,776 women were murdered, estimating that more than 3,500 femicides occur each year, 300 per month, and 10 per day in the country. Similarly, according to the National Public Security System, of the 32 states in Mexico, in just the first nine months of 2022, 2,831 women have died violently, 50,000 were physically assaulted, nearly 2,000 were raped, 497 were victims of trafficking, 120 were kidnapped, and 258,700 made emergency calls due to being subjected to violence.

The history of Ciudad Juárez, as well as the statistics provided by various institutions in the current context, has drawn the attention of different organizations, such as the Broad Movement of Women (MAM) and the Women's Roundtable Network of Ciudad Juárez, the latter including 10 other groups. Alongside the efforts of civil society in various regions of the country, these organizations have strived to count, identify, and disseminate records from the 1990s to the present, confirming the incidence and constant increase of femicide in Mexico as a current and latent social problem.

The appearance of femicide in Mexican legislation stems from feminist movements and organizations that have undertaken various studies and research on women's deaths. The first normative precedent on femicide in Mexico arose from this movement, namely the General Law on Women's Access to a Life Free of Violence. As Legarde (2007) explains, this law resulted from the diagnosis she and her team conducted in 2005-2006 at the request of the Mexican Chamber of Deputies. While there is deep academic research behind the drafting of this law, there is also significant political work from various sectors of the feminist movement concerned about the phenomenon known as "the dead women of Juárez," as discussed in previous paragraphs.

The events in Ciudad Juárez came to the attention of the Inter-American Court of Human Rights through a contentious process known as the "González and others" case or the "cotton case." This case is a paradigmatic precedent in the development of jurisprudence in the Inter-American Human Rights System (IAHRS). For the first time, the Inter-American Court of Human Rights examined a structural situation of violence against women based on their gender, which is the type of violence defined by the first article of the Belém do Pará Convention. The crucial aspect for the Court was causing the death of a woman simply because of her gender (González and others -Cotton Field- vs. Mexico, 2009).

While different international organizations have pressured Latin American states to prevent and eradicate violence against women, according to Toledo (2009), the typification of femicide has occurred gradually. In the case of Mexico, the initial attempts to classify it come from the efforts of Marcela Lagarde and other deputies to achieve the publication of the General Law on Women's Access to a Life Free of Violence, which includes the definition of femicide, recognized as the extreme form of violence against women. Although this did not immediately lead to the inclusion of the offense in criminal codes, it did set the stage for subsequent initiatives presented in Chihuahua and then in the rest of the states.

With these precedents, in Mexico, the process of constructing the criminal type of femicide required arguments to differentiate between homicide and femicide, involving a legislative technique process. The National Citizen Observatory of Femicide (OCNF) systematized these differences and classified them as normative, objective, and sanctioning elements of the criminal type of femicide. These considerations are already integrated into Article 325 of the Federal Penal Code, treating femicide as a serious crime. All of this was decreed on June 14, 2012. However, according to Diaz, Vargas, & Medécigo (2020), it was not easy to classify femicide given other seemingly similar criminal types.

In this way, the Federal Penal Code of Mexico classifies femicide in Article 325, which establishes the following: "Femicide is committed by anyone who takes the life of a woman for gender-related reasons. Gender-related reasons are considered to exist when any of the following circumstances occur: The victim shows signs of sexual violence of any kind; Infamous or degrading injuries or mutilations have been inflicted on the victim, prior or subsequent to the deprivation of life or acts of necrophilia; There are records or data of any type of violence in the family, work, or school environment by the perpetrator against the victim; There has been a romantic, emotional, or trust-based relationship between the perpetrator and the victim; There is evidence of threats related to the criminal act, harassment, or injuries by the perpetrator against the victim; The victim has been held incommunicado, regardless of the time before the deprivation of life; The victim's body is exposed or exhibited in a public place." (Federal Penal Code of Mexico, 1931)

The aforementioned article establishes the penalty for the crime of feminicide, which ranges from forty to sixty years in prison and from five hundred to one thousand fine days. In addition to the sanctions described in this article, the perpetrator will lose all rights related to the victim, including succession rights. If feminicide is not proven, the rules of homicide will be applied. Public officials who maliciously or negligently delay or obstruct the procuratorship or administration of justice will face a prison sentence of three to eight years and a fine of five hundred to one thousand five hundred fine days. Additionally, they will be dismissed and disqualified from holding another public job, position, or commission for three to ten years (Federal Penal Code of Mexico, 1931).

It is worth noting that this criminal type has a federal character, so in the other federations (32) that make up the country of Mexico, different penalties and descriptions of the criminal type, as well as its subjective and objective elements, are established. In summary, the following could be outlined:

	<b>Federal entity</b>	<b>Publication date</b>	<b>Typical figure</b>
1.	Aguascalientes Article 97A	August 21, 2017	Autonomous figure
2.	Baja California Article 129	April 5, 2013	Autonomous figure
3.	Baja California Sur Article 389	November 30, 2014	Aggravating circumstances of homicide
4.	Campeche Article 160	July 20, 2012	Autonomous figure
5.	Chiapas Article 164 Bis	February 8, 2012	Autonomous figure
6.	Chihuahua Article 126 Bis	September 14, 2017	Autonomous figure
7.	Coahuila Article 336 Bis 1	October 24, 2012	Autonomous figure
8.	Colima Article 191 Bis 5	August 27, 2011	Autonomous figure
9.	Mexico City Article 148 bis	July 26, 2011	Autonomous figure
10.	Durango Article 147 Bis	July 26, 2011	Aggravating circumstances of homicide
11.	Mexico state Article 242 Bis	March 18, 2011	Autonomous figure
12.	Guanajuato Article 153A	June 11, 2011	Autonomous figure
13.	Guerrero Article 135	September 10, 2012	Aggravating circumstances of homicide
14.	Hidalgo Article 139 Bis	April 1, 2013	Autonomous figure
15.	Jalisco Article 232 Bis	September 22, 2012	Autonomous figure
16.	Michoacan Article 120	January 21, 2014	Aggravating circumstances of homicide
17.	Morelos Article 213 Quintus	September 2, 2011	Autonomous figure
18.	Nayarit Article 361 Bis	January 9, 2020	Autonomous figure
19.	Nuevo León Article 331 bis	June 26, 2013	Autonomous figure
20.	Oaxaca Article 411	October 4, 2013	Autonomous figure
21.	Puebla Article 338	December 31, 2012	Autonomous figure
22.	Queretaro Article 126 Bis	June 12, 2013	Autonomous figure
23.	Quintana Roo Article 89 Bis	May 30, 2012	Autonomous figure
24.	San Luis Potosi Article 135	July 23, 2011	Autonomous figure
25.	Sinaloa Article 134 Bis	April 25, 2012	Autonomous figure
26.	Sonora Article 263 Bis	November 28, 2013	Autonomous figure
27.	Tabasco Article 115 Bis	July 18, 2020	Autonomous figure
28.	Tamaulipas Article 337 Bis	June 22, 2011	Aggravating circumstances of homicide
29.	Tlaxcala Article 229	May 31, 2013	Aggravating circumstances of homicide
30.	Veracruz Article 367 Bis	August 29, 2011	Autonomous figure
31.	Yucatan Article 394 Quinquies.	April 30, 2013	Autonomous figure
32.	Zacatecas Article 309 Bis.	August 4, 2012	Autonomous figure

**Source:** Spotlight Initiative Regional Program for Latin America, (2022).

At the jurisprudential level, it was found that the Supreme Court of Justice of the Nation (SCJN) issued Amparo Review Sentence No. 55/2013 in the case of Mariana Lima Buendía. This ruling establishes, as a standard, that in cases of women's deaths, certain elements should be considered: 1. Identify the behaviors that caused the woman's death. 2. Verify the presence or absence of gender-related motives or reasons that originate or explain the violent death. 3. Preserve specific evidence to determine if there was sexual violence. 4. Conduct relevant expert

examinations to determine if the victim was immersed in a context of violence. (Sentence No. 554/2013, 2015).

### **Femicide in Ecuador**

In Ecuador, femicide has its antecedent in the study "Femicide in Ecuador," which was published in September 2010 and conducted by the Transition Commission Towards the Women's Council and Gender Equality, edited by Ana Carcedo. This study yielded the following results:

- Between 2005 and 2007, based on the study of 170 deaths of women in the cities of Guayaquil, Esmeraldas, Cuenca, and Portoviejo, 77.5% were femicides, while in another 16.3%, there is suspicion that they may also have been femicides. In addition, only 6.3% of the remaining homicides could be ruled out as femicides, which means that in the minority of homicides, it was a coincidence that the victim was a woman (Transition Commission Towards the Women's Council and Gender Equality, 2011).

Given that the majority of intentional and violent deaths of women were the result of control and violence in relationships, it highlighted a social problem that warranted analysis from a legal-legislative perspective. This study revealed the serious situation in Ecuadorian society regarding femicide, where women lose their lives because of their gender. Despite these indicators and the pressure exerted by various groups in Ecuador that joined forces to denounce this phenomenon, before the year 2014, the absence of a criminal framework obscured the reality of femicide in Ecuador.

It is worth noting that the Constitution of the Republic of Ecuador, in Article 66, Paragraph 3, subparagraphs a and b, declares that: People will be recognized and guaranteed the right to personal integrity, which includes physical, psychological, moral, and sexual integrity; and a life free of violence in the public and private spheres. Regarding the State, it will adopt the necessary measures to prevent, eliminate, and punish all forms of violence, especially that exercised against women, girls, boys, adolescents, older adults, people with disabilities, and anyone in a situation of disadvantage or vulnerability; identical measures will be taken against violence, slavery, and sexual exploitation (Constitución de la República del Ecuador, 2008).

In terms of public policies, Ecuador has had the National Women's Council (CONAMU) since 1997, the governing body for gender public policies in the country; the National Gender Directorate (DINAGE) as the body that coordinates and controls the Women and Family Commissariats nationwide; and the Office for the Defense of Women's and Family Rights (ODMU), which is the police unit that executes orders issued by the commissariats and other justice administration offices for the protection and investigation of cases of violence against women. It also has the Equal Opportunities Plan (PIO) declared a state policy by Executive Decree 1207a in March 2006, and the National Plan for the Eradication of Gender-Based Violence, which was also declared a state policy by Executive Decree No. 620 in September 2007.

Until before 2014, the crime of femicide was not defined as such in this legislation, although it was punishable through the criminal types of murder or homicide in the case of a female victim. Simple homicide and murder were typified in articles 449 and 450, respectively, of the old Penal Code; however, they made no mention or distinction based on the sex or gender of the victim. With the promulgation of the current Comprehensive Organic Penal Code (COIP) on January 28, 2014, and its entry into force 180 days later, on August 10 of that year, femicide was typified in Article 141 as follows:



Femicide.- The person who, as a result of power relationships manifested in any type of violence, causes the death of a woman because she is a woman or due to her gender condition, shall be punished with a term of imprisonment from twenty-two to twenty-six years (Código Orgánico Integral Penal, 2014).

While Article 142 of the same code establishes the aggravating circumstances of the crime of femicide, and if one of them concurs, the maximum penalty provided in the aforementioned article shall be imposed on the accused:

1. Having intended to establish or re-establish a romantic or intimate relationship with the victim.
2. There exists or has existed between the perpetrator and the victim family, marital, cohabitation, intimacy, courtship, friendship, companionship, work-related, school-related, or any other relationship involving trust, subordination, or superiority.
3. If the crime is committed in the presence of the victim's daughters, sons, or any other family member.
4. The victim's body is exposed or thrown in a public place. (Código Orgánico Integral Penal, 2014)

Regarding these circumstances, Luna (2020) highlights aporias that mainly revolve around the objective and subjective types, the aggravating circumstances that have been doubly strengthened through generic and specific ones inherent to the femicide type. These affect the punitive dosage in the specific case, establishing the gap between theory and judicial practice, for which a relevant and original case study processed and heard in the Courts of Justice of Ecuador has been taken, from which significant data has been obtained for the generalization of conclusions about the generated problem.

According to current data from the ALDEA Foundation, in Ecuador, from January to November 2022, a total of 272 violent deaths due to gender reasons were recorded, including 107 intimate, family, sexual, or other femicides/feminicides, 8 transfeminicides, and 157 feminicides by organized crime. It has been calculated that a femicide occurs every 28 hours in the country. The figures continue to rise: if 2021 was declared the most violent year against women in Ecuador, with 197 cases, 2022 surpassed this figure. From January 1, 2014, to November 15, 2022, a total of 1,317 lives of women and girls have been taken by sexist violence. (ALDEA Foundation, 2022).

According to the aforementioned source, the provinces with the highest number of femicide cases in Ecuador during 2022, in absolute figures, are Guayas (93), Manabí (31), and Esmeraldas (27). In the provinces of Zamora Chinchipe and Galápagos, no cases have been recorded so far in 2022. Regarding transfeminicides, the cases are distributed as follows: Guayas (2), Esmeraldas (2), Cotopaxi (1), Santa Elena (1), Tungurahua (1), and Manabí (1). Transfeminicides represent 2.9% of the total violent deaths for gender-related reasons. The age range with the highest number of victims (83) is between 26 and 35 years. There are 33 victims in the age range between 36 and 45 years. In this period of 2022, the youngest victim was 3 months old, and the oldest was 66 years old; the most common age of the victims is 32 years (ALDEA Foundation, 2022).

A total of 144 children and adolescents were left orphaned due to femicides in 2022 (January to November). Of the 82 women who were mothers, 51 (24.8%) femicide victims had one or two sons and daughters; in smaller percentages, there are cases with three or four sons and daughters. Regarding the known ages of the orphaned children and adolescents due to

femicides, we know that 61 of them are minors (under 18 years), 25 of them are between 1 and 5 years old, and 14 children are between 6 and 10 years old. However, these indicators are subject to constant change. (ALDEA Foundation, 2022)

### Femicide in the Latin American Region

Even though the present investigation focused on Mexico and Ecuador, it is important to briefly analyze the current normative situation in the Latin American region regarding the crime of femicide. Thus, in light of the conceptual and analytical advances in the feminist field regarding gender-based violence against women, and in the face of events of great public significance, such as the "Cotton Field" case, the figure of femicide or feminicide became part of the discussions on legal reforms, being adopted for the first time in Latin America in 2007 in the Law for the Penalization of Violence against Women in Costa Rica (Law number 8.589).

To date, in this region, 18 countries have approved laws or reforms to penal codes that typify femicide or feminicide as an independent crime from others already contemplated in criminal laws, or as an aggravating factor in homicide. In five of them, there are no comprehensive laws against violence towards women, so femicide/feminicide is only addressed from the perspective of penalizing perpetrators and lacks provisions for prevention, protection, investigation, and reparation for the victims. This is the case in Brazil, Chile, Costa Rica, Honduras, and the Dominican Republic.

Almost 15 years after the approval of the first femicide law in the region, it is possible to observe an evolution in the typification process, with a tendency to broaden the criminal modalities. While among the initial criminal types, as in Costa Rica, the death of "a woman with whom the perpetrator is in a marriage or declared or undeclared union" is punished, in more recent criminal types, such as Uruguay in 2017, femicide is defined within the framework of behaviors of "hatred, contempt, or scorn" based on the condition of being a woman. In the case of Chile, the femicide criminal type was reformed in 2020, as there was a restrictive definition of this crime that required a marital or cohabitation relationship between the victim and the perpetrator, leading to a broad criminal type when the death occurs due to gender.

Legislation	Rule	Year	Penal type
Ecuador	Comprehensive Organic Penal Code	2014	Femicide
Mexico	General Law on Women's Access to a Life Free of Violence	2012	Feminicide
Argentina	Law 26,791 (Penal Code)	2012	Aggravated homicide
Chile	Law 20,480 (Penal Code)	2010	Femicide
Colombia	Law 1,761, Rosa Elvira Cely Law	2015	Feminicide
Costa Rica	Law 8,589	2007	Feminicide

**Source:** Spotlight Initiative Regional Program for Latin America, (2022).

Statistically, the Observatory for Gender Equality in Latin America and the Caribbean reported in 2021 that 11 countries in Latin America recorded a rate equal to or higher than one victim of femicide or feminicide per 100,000 women (Argentina, Bolivia, Brazil, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, the Dominican Republic, and Uruguay). Among these countries, the highest rates of femicide or feminicide were observed in Honduras (4.6 cases per 100,000 women), the Dominican Republic (2.7 cases per 100,000 women), and El Salvador (2.4 cases per 100,000 women).

## Discussion

Once the results of each of the studied legislations were obtained, it was possible to identify the characteristics of the crime of feminicide/femicide in Mexico and Ecuador, as well as their similarities and differences. In both Mexico and Ecuador, the background for the typification of femicide is the deaths of women in these states/provinces, where studies and investigations by various groups and government agencies allowed the government to become aware of this unfortunate reality of women being killed simply because they are women, leading to legislative efforts to classify this crime as a special offense.

Conceptually, it was determined that femicide arose from the need to specifically classify this crime due to its high incidence in Ecuadorian and Mexican society. In this context, the term "feminicide" refers to a specific type of homicide in which a man kills a woman, girl, or child because of their female sex. Unlike other types of murder, feminicides often occur in the home as a result of gender-based violence. They are also categorized as hate crimes, given that they occur in a context where the feminine has been stigmatized for years.

Through document and literature review, the cycle of gender-based violence against women, which ends in their death, was understood, preceded by a set of systematic stages as discussed in the first part of the results. Initially, the man reacts disproportionately, creating a sense of guilt in the victim, who adopts a submissive position to prevent the situation from worsening. Subsequently, the aggressor releases all his anger and accumulated tension from the preceding phase, resulting in physical and psychological abuse. Afterward, the victim adapts to this reality, and finally, the abuser appears manipulative, attempting to rectify his mistakes.

From the examination of the Mexican legal system, it is determined that while the definition of feminicide operates at the federal level, the penal codes of each federative entity define it similarly under common jurisdiction. An essential aspect of this crime is its qualification, as it determines the severity of the corresponding penalty. At the federal level, according to Article 315 of the Federal Penal Code: "Injuries and homicide are considered qualified when committed with premeditation, advantage, treachery, or betrayal." In common jurisdiction, some state penal codes, such as Sinaloa, instead of using the term "qualified," list the aggravating factors that incur a higher penalty than in the case of simple homicide, while others, such as Yucatán, define premeditation, advantage, treachery, and betrayal to consider feminicide as qualified.

Femicide in Ecuador is a crime against the legal right to life of women and girls, where severe acts accompanied by intense and inhumane violence can be observed. It has been evident that many women have experienced various forms of violence, including sexual, psychological, physical, emotional, etc., leading to their deaths. All of this is rooted in the existence of inequitable, unequal relationships based on the abuse of power. Machismo or a patriarchal society, stemming from sociocultural patterns, is the reason femicide occurs.

As seen in Ecuador, the Constitution recognizes the right of women, girls, and adolescents to live a life free of violence. The inclusion of the femicide figure in the COIP (Comprehensive Organic Penal Code) constituted a necessary response for harmonization, aiming to make visible the violent and intentional deaths of women for gender-related reasons. This involves the comprehensive protection of the right to integrity in the dimension of physical integrity. However, in the Mexican Constitution, there was no evidence that the constituent placed this right in its dogmatic part, as was done in Ecuador. This indicates that Ecuadorian legislation

provides a more protective framework in terms of rights and freedoms, specifically in the case of integrity.

On the other hand, the Latin American legislations that were reviewed consider several factors as criminal aggravating circumstances. For example, if the crime is committed in the presence of the victim's children, the victim is pregnant, a minor or elderly, has a physical and/or mental disability, or another condition that implies discrimination, such as non-hegemonic ethnic-racial identity, non-heteronormative gender identity or expression, and sexual orientation. The crime may also be considered aggravated if committed with brutality, such as genital mutilation, and exposure of the body in public spaces, among other factors.

Furthermore, the fact that femicide/feminicide is included in the Penal Code of only 11 out of the 18 Latin American countries that have typified it is concerning. This raises worries about the possibility of it being marginalized within criminal law, reducing its visibility and the likelihood that justice operators have the appropriate technical knowledge for its application (Toledo, 2009).

## Conclusions

- According to the results obtained, femicide is a crime present in 100% of Latin American countries, including Ecuador and Mexico, demonstrating progress in the protection of women's rights in this region.
- The fact that the classification of femicide has been motivated by the impetus of various women's collectives, and feminist groups, among others, demonstrates the influence of social activism on legislative activism, particularly in the field of gender-based violence.
- Latin American governments need to be aware of the tools for investigating and acting in cases of femicide. This is to ensure that, at the judicial level, comprehensive reparations are sought for collateral victims, especially the children of the victims.
- The femicide penal code in Mexico is characterized by having the same governing verb as in Ecuador: killing a woman because she is a woman. Therefore, in terms of penal theory, these legislations are similar.
- The existence of a different legislation for each state in Mexico indicates the difficulty of unifying doctrinal criteria regarding femicide in the country. This is in contrast to Ecuador, where the Comprehensive Organic Penal Code is in force nationwide.

## References

- Gómez, A. G. (23 de Agosto de 2017). *Pueblos, revistas de informacion y debate*. Obtenido de <http://www.revistapueblos.org/blog/2017/08/23/datos-tratamiento-en-prensa-y-sentencias-de-los-feminicidios-en-euskadi-y-navarra-entre-2010-y-2015/>
- Cornejo, S. (2020). Introducción. En S. Cornejo, & I. Torres, *Código Orgánico Integral Penal comentado Tomo I* (Segunda ed.). Quito, Ecuador: Corporación de estudios y publicaciones. doi:978-9942-10-484-7
- Somma, A. (2015). *Introducción al Derecho Comparado*. Madrid, España: Universidad Carlos II de Madrid.
- Mancera, A. (2008). Consideraciones durante el proceso comparativo. *Revista Boletín Mexicano de Derecho Comparado*, 41(121). Obtenido de: <http://www.scielo.org.mx/pdf/bmdc/v41n121/v41n121a7.pdf>, 213-243.

- Comité para la Eliminación de la Discriminación contra la Mujer. (1994). *Recomendación General No. 19. La violencia contra la mujer*.
- Álvarez, C., & Acosta, H. (2021). El feminicidio en América Latina: Un enfoque económico. *Revista Desarrollo y Sociedad*(88), 11-42. Obtenido de: <http://www.scielo.org.co/pdf/dys/n88/0120-3584-dys-88-11.pdf>.
- De Angelo, E. (2022). Feminicidios en América Latina y el Caribe. Las respuestas posibles desde las organizaciones de mujeres para colmar vacíos legales. *Revista Universitas*(38), 23-48. Obtenido de: <https://e-revistas.uc3m.es/index.php/UNIV/article/view/6577/5106>.
- Bejarano, M. (2014). El feminicidio es sólo la punta del iceberg. *Revista Región y sociedad*, 26(4), 13-44. Obtenido de: <https://www.scielo.org.mx/pdf/regsoc/v26nespecial4/v26nespecial4a2.pdf>.
- Russell, D. (2006). Definición de feminicidio y conceptos relacionados. En D. Russell, & R. Harnes, *Feminicidio: una perspectiva global* (págs. 73-96). Ciudad de México: Cámara de Diputados.
- Lagarde, M. (2006). Presentación de la edición en español. En D. Russell, & R. Harnes, *Feminicidio: una perspectiva global* (págs. 15-42). Ciudad de México, México: Cámara de Diputados.
- Monárrez, J. (2000). La cultura del feminicidio en Ciudad Juárez, 1993-1999. *Revista Frontera Norte*, 12(23), 87-117. Obtenido de: <https://www.redalyc.org/pdf/136/13602304.pdf>.
- Blacio Aguirre, R. (26 de marzo de 2010). *Derecho Comparado*. Obtenido de Derecho Ecuador: <https://derechoecuador.com/derecho-comparado-0/>
- Código Orgánico Integral Penal. (10 de Febrero de 2014). Registro oficial No. 180. Quito, Ecuador: Corporacion de estudios y publicaciones.
- Salazar, L. (2022). De la violencia al feminicidio en el Estado de México. *Revista textos y contextos*, 1(25), 1-13. Obtenido de: <https://revistadigital.uce.edu.ec/index.php/CONTEXTOS/article/view/4031/5033>.
- Russell, D., & Radford, H. (2006). *Feminicidio. La política del asesinato de las mujeres*. Ciudad de México, México: Universidad Autónoma de México.
- Caputi, J. (1987). *The Age of Sex Crime*. London, England: Popular Press.
- Monárrez, J. (2009). *Trama de una injusticia. Feminicidio sexual sistémico en Ciudad Juárez*. Ciudad de México, México: Porrúa Editores.
- Lagarde, M. (2008). Antropología, feminismo y política: violencia feminicida y derechos humanos de las mujeres. En C. Diez, & M. Bullen, *Retos teóricos y otras prácticas* (págs. 209-240). Madrid, España: Editorial Ankulegi.
- Larrauri, E. (2007). *Criminología crítica y violencia de Género*. Madrid, España: Trotta.
- Monárrez, J. (2004). Elementos de análisis del feminicidio sexual sistémico en Ciudad Juárez para su viabilidad jurídica. *Seminario Internacional: Feminicidio, Derecho, Justicia*, (págs. Obtenido de: <http://mujeresdeguate-mala.org/wp-content/uploads/2014/06/Elementos-del-feminicidio-sexual-sistémico.pdf>). Juárez.
- Argüello, D. (2017). El feminicidio: una forma de violencia extrema. *Resistencia: revista de los estudiantes de la Universidad Andina Simón Bolívar*(5), 16-19. Obtenido de: <https://repositorio.uasb.edu.ec/bitstream/10644/5597/1/05-TC-Argüello.pdf>.
- Aguirre, I. (2018). *Panorama de la violencia feminicida en México: escenarios y transformaciones contemporáneas*. Obtenido de [https://nanopdf.com/download/panorama-de-la-violencia-feminicida-en-mexico-escenarios-y-transformaciones-cont\\_pdf](https://nanopdf.com/download/panorama-de-la-violencia-feminicida-en-mexico-escenarios-y-transformaciones-cont_pdf)
- Aguilar, A. (2005). Femicidio: la pena capital por ser mujer. *Revista diálogo*, 4(44), 1-8. Obtenido de: <https://biblioteca.iidh-jurisprudencia.ac.cr/index.php/documentos-en-espanol/derechos-humanos-de-las-mujeres/2355-femicidio-la-pena-capital-por-ser-mujer/file>.

- Albarran, J. (2015). Referentes conceptuales sobre femicidio / feminicidio. Su incorporación en la normativa jurídica venezolana. *Revista Comunidad y Salud*, 13(2), 75-80. Obtenido de: <http://ve.scielo.org/pdf/cs/v13n2/art10.pdf>.
- Robles, R. (2015). Las mujeres de Ciudad Juárez ante el riesgo del Femicidio. Percepciones, sentidos y sentimientos. En J. Monárrez, R. Robles, L. Cervera, & C. Fuentes, *Vidas y territorios en busca de justicia* (págs. 79-107). Juárez, México: Frontera Norte y Universidad Autónoma de Ciudad Juárez.
- Guillen, B. (25 de noviembre de 2022). *Radiografía de un país que mata a sus mujeres: 17.776 asesinadas en cinco años*. Obtenido de Sitio web de Diario El País: <https://elpais.com/mexico/2022-11-25/radiografia-de-un-pais-que-mata-a-sus-mujeres-17776-asesinadas-en-cinco-anos.html>
- Lagarde, M. (2007). Por los derechos humanos de las mujeres: la Ley General de Acceso de las Mujeres a una Vida Libre de Violencia. *Revista Mexicana de Ciencias Políticas y Sociales*, 49(200), 143-165. Obtenido de: <https://www.scielo.org.mx/pdf/rmcps/v49n200/0185-1918-rmcps-49-200-143.pdf>.
- Toledo, P. (2009). *Femicidio*. Ciudad de México, México: OACNUDH.
- Díaz, A., Vargas, F., & Medécigo, U. (2020). La tipificación del feminicidio en México. Un diálogo entre argumentos sociológicos y jurídicos. *Revista interdisciplinaria de estudios de género de El Colegio de México*, 6, 1-36. Obtenido de: <https://www.scielo.org.mx/pdf/riegcm/v6/2395-9185-riegcm-6-e468.pdf>.
- Caso González y otras -Campo Algodonero- vs. México, Excepciones preliminares, fondos, reparaciones y costas (Corte Interamericana de Derechos Humanos 16 de noviembre de 2009).
- Código Penal Federal de México. (14 de agosto de 1931). Diario Oficial de la Federación. Ciudad de México, México.
- Sentencia No. 554/2013, Amparo en revisión (Primera Sala de la Corte Suprema de Justicia 15 de marzo de 2015).
- Toledo, P. (2009). *Femicidio*. Ciudad de México, México: Oficina en México del Alto Comisionado de las Naciones Unidas para los Derechos Humanos.
- Programa Regional de la Iniciativa Spotlight para América Latina . (2022). *Estudio sobre la calidad de la medición del femicidio/feminicidio y las muertes violentas de mujeres por razones de género*.
- Comisión de transición hacia el consejo de las Mujeres y la igualdad de Género. (2011). *Femicidio en Ecuador*. Quito, Ecuador: FLACSO.
- Constitución de la República del Ecuador. (20 de octubre de 2008). Registro Oficial No. 449. Quito, Ecuador: Corporación de Estudios y Publicaciones.
- Fundación ALDEA. (22 de noviembre de 2022). *Mapeo femicidios en Ecuador*. Obtenido de Sitio Web de la Fundación ALDEA: <http://www.fundacionaldea.org/noticias-aldea/cuartomapa2022>
- Luna, M. (2020). El feminicidio. Dogmática y aplicación judicial. *Universidad Andina Simón Bolívar*. Quito, Ecuador.
- [www.KurdishStudies.net](http://www.KurdishStudies.net)