

Women Victims of Sexual Torture in Atenco v. Mexico

ABSTRACT¹

This case arises out of clash between protesters and police caused by the attempt to relocate flower vendors near a market. During the protest, police beat up and arrested indiscriminately anyone, including people simply walking down the street, waiting for buses, making purchases, trading, conducting research, providing medical care to those in need, and even when inside private homes. The victims in the case were eleven women, all innocent bystanders. They were arrested and sexually assaulted, in separate incidents, while being transported to the detention center to be processed, and while at the detention facility. All were eventually released without charges. Eventually, the Court found Mexico in violation of several articles of the American Convention, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, and the Inter-American Convention to Prevent and Punish Torture.

I. FACTS

A. Chronology of Events

2003: The municipal government of Texcoco, in the State of México, about 25 km northeast of Mexico City, establishes a community development plan to be fully implemented by 2006.² The plan's objective is to improve the urban image by relocating the informal trade and sale of goods within the city limits.³ This development plan includes the relocation of flower vendors who regularly sell and trade in front of the Belisario Domínguez Market in Texcoco.⁴ The flower vendors appeal to

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² Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, Report No. 74/15, Inter-Am. Comm'n H.R., Case No. 12.846, ¶ 77 (Oct. 28, 2015).

³ *Id.* ¶ 77.

⁴ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 371, ¶ 57 (Nov. 28, 2018).

the Front of the Peoples in Defense of the Earth (Frente de Pueblos en Defensa de la Tierra; “FPDT”), a resistance organization created by the residence of the neighboring town of San Salvador Atenco whose main objective is to resist the government’s expropriation of land in the region, for help.⁵

October 21, 2005: The State officials and four representatives for the florists who regularly traded in front of the Belisario Domínguez market sign an agreement forcing the florists to relocate to an assigned space at the Center for Supply of Field Products and Flowers of Texcoco.⁶

April 3, 2006: The Director of Texcoco’s Commercial Regulation files an administrative petition stating that the florists have ignored the relocation order, and they continue to conduct business in the Belisario Domínguez market.⁷ In response to their refusal to relocate, he requests assistance from the Head of the Departmental Unit of Public Road and Inspectors.⁸

April 11, 2006: Personnel from the General Director of Commercial Regulation (Dirección General de Regulación Comercial), and members of the municipal police department attempt to block florists from setting up their stalls in the Belisario Domínguez market.⁹ As a result of this attempt, approximately thirty to forty individuals comprised of florists and members of the FPDT arrive carrying machetes to confront and intimidate the police.¹⁰ A clash between the State forces and the protestors ensues and leads to the destruction of multiple government vehicles.¹¹ In response, the municipal police request immediate assistance from the Public Force of Mexico (Fuerza Pública de Mexico).¹²

April 12, 2006: Municipal police install security devices in front of the Municipal Palace and the Belisario Domínguez market to prevent florists from accessing their flower stalls.¹³

⁵ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 56.

⁶ *Id.* ¶ 57.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* ¶ 58.

¹⁰ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 58.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* ¶ 59.

April 24, 2006: Despite security device reinforcement, the florists, with assistance from the FPDT, are able to set up stalls in both locations.¹⁴

May 2, 2006: Ms. Patricia Romero Hernández, the florist community leader, and Mr. Ignacio del Valle Medina, leader of the FPDT, meet with government representatives for the State to negotiate an agreement; Texcoco municipality representative do not attend the meeting.¹⁵ At the meeting, the State agrees to remove the police stationed near the market. However, the Texcoco Municipal Police refuse to withdraw from the market, citing unspecified security reasons.¹⁶

May 3, 2006: At 4:00 a.m., Texcoco Municipal Police strategically place officers in front of the Belisario Domínguez market and throughout the neighborhood to deter florists from setting up their stalls.¹⁷ At 7:00 a.m., Texcoco florists and other members of the FDPT arrive at the market with machetes, stick, stones and explosives.¹⁸

At 7:25 a.m., the florists and their supporters attempt to set up stalls, however, officers assisting the General Director of Commercial Regulation prevent them from doing so.¹⁹ The florists retreat to the intersection at Fray Pedro de Gante and Manuel González streets, where they encounter police officers.²⁰ A violent altercation ensues between the police, the florists, and members of the FPDT.²¹ The police eventually arrest three people and many others suffer bodily injuries.²²

The remaining protesters either retreat to private buildings in search of safety, or continue throwing stones and rockets at the police and members of the General Directorate of Commercial Regulation.²³ Police surround the private buildings while elsewhere, hundreds of protestors block entrances to the Texococo-Lechería highway leading to Texcoco.²⁴ One blockade is located at Los Reyes-Lechería road located in the

¹⁴ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 59.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* ¶ 60.

¹⁸ *Id.*

¹⁹ *Id.* ¶ 61.

²⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 61.

²¹ *Id.*

²² *Id.*

²³ *Id.* ¶ 62.

²⁴ *Id.* ¶ 63.

municipality of San Salvador Atenco, as well as one at the entrance of the town Acuexcómac.²⁵ Protestors burn tires and throw stones and homemade bombs at police officers while members of the FPDT detain police officers and steal their weapons.²⁶ In response to the protest, State and Federal agencies send 194 State police officers and 154 Federal police officers to assist.²⁷

At 1:30 p.m., protestors violently confront the authorities using Molotov bombs, stones and rockets causing the remaining officers to disperse and retreat.²⁸

At 2:45 p.m., the State and Federal officers return to the protest to arrest several protestors and assist injured officers.²⁹

At 5:30 p.m., 320 to 420 State police officers arrive at a building located on Manuel González Street where protestors are hiding.³⁰ The police physically attack and arrest approximately eighty-three people hiding inside the building and two people at the market.³¹ The police first transport some of the arrestees to the office of the Attorney General of the State of Mexico (Procuraduría General de Justicia del estado de Mexico; “PGJEM”), and then transfer them to the prison, the Center for Prevention and Social Readaptation (la Centro de Prevención y Readaptación Social; “CEPRESO”).³² These events lead to a total of 200 civilian arrests, two civilian deaths, and sixty-seven injured officers.³³

May 4, 2006: State and federal authorities meet with the Governor of Mexico, the Secretary of Public Security, and the National Coordinator of the Public Security Council, and agree to authorize the use of force to unblock the Texococo-Lechería highway to restore order in San Salvador Atenco.³⁴ Then, during a second meeting which the Governor of Mexico and the Secretary of Public Security do not attend, Federal and State

²⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 63.

²⁶ *Id.* ¶ 64.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* ¶ 65.

³¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 65.

³² *Id.* ¶ 66.

³³ Victims of Sexual Torture in *Atenco v. Mexico*, Report on Admissibility, Report No. 158/11, Inter-Am. Comm’n H.R. Case No.512-08, ¶ 7. (Nov. 2, 2011).

³⁴ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 67.

authorities agree on the withdrawal strategy that the State and Federal police authorities will implement to unblock the highway.³⁵

At 6:30 a.m., State and Federal authorities successfully disperse the blockade at the entrance of the town of Acuexómac without protestor resistance but encounter protestors at the blockade at the entrance of San Salvador Atenco.³⁶ A confrontation between the protestors and the State and Federal authorities ensues.³⁷ By 7:10 a.m. protestors retreat and the State and Federal authorities are able to open the Texococo-Lechería highway.³⁸

In addition to the State and Federal authorities deployed to the blockades, other forces are ordered to gain control of San Salvador Atenco's main square.³⁹ Officers from the Federal Preventative Police and the State Security Agency arrest various individuals within the main square and begin performing warrantless searches of private homes in the town.⁴⁰ During the warrantless searches the State and Federal authorities arrest seventy-two individuals.⁴¹

The National Human Rights Commission (Comisión Nacional de Derechos Humanos; "CNDH") opens an investigation based on journalist's reports of the alleged human rights violations which occurred during the clashes in San Salvador Atenco and Texcoco, Mexico.⁴²

1. The Facts Relating to Yolanda Muñoz Diosdada

May 3, 2006: Ms. Muñoz Diosdada goes to the Belisario Domínguez market in Texcoco with her 17-year-old son to sell denim.⁴³ When she arrives she encounters a confrontation between the police and protesters and takes cover in a private building.⁴⁴ The police enter the building and throw canisters of tear gas to disperse those hiding inside.⁴⁵ Once inside,

³⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 67.

³⁶ *Id.* ¶ 68.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* ¶ 69.

⁴⁰ *Id.*

⁴¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 69.

⁴² Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 247.

⁴³ Women Victims of Sexual Torture in *Anteco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 76.

⁴⁴ *Id.* ¶ 77.

⁴⁵ *Id.*

the police find Ms. Muñoz Diosada and proceed to pull her from the building by her hair while hitting and insulting her.⁴⁶

The State Security Agency's Municipal Police force Ms. Muñoz Diosdada into a vehicle and transport her for the next five hours.⁴⁷ During the transport, police take her belongings and instruct her to keep her head down.⁴⁸ The officers inappropriately touch the women in the vehicle, including Ms. Muñoz Diosdada, and make lewd comments and gestures toward them.⁴⁹ Although Ms. Muñoz Diosada is told to keep her eyes closed, she recognizes a person dressed in black boots and pants lift up her shirt, place a hand on her breast, pull down her underwear, and forcibly touch her genitals.⁵⁰

May 4, 2006: Ms. Muñoz Diosdada arrives at CEPRESO with injuries to her head, left pelvic limb and a black eye.⁵¹ Upon arrival, officers forcibly pull her off the vehicle, beat her and threaten her.⁵² She is brought to a room filled with other naked women and men where she is instructed to undress.⁵³ Once naked, the officers perform a body search.⁵⁴

May 5 or 6, 2006: CNDH medical personnel, applying the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (also referred to as the Istanbul Protocol), arrive at CEPRESO to effectively document the alleged torture and meet with Ms. Muñoz Diosdada to examine her injuries.⁵⁵ Medical personnel note severe bruising that they attribute to being struck by hard, blunt objects during the past twenty-four to forty-eight hours.⁵⁶

⁴⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 77.

⁴⁷ *Id.* ¶ 86.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 114.

⁵¹ Women Victims of Sexual Torture in *Anteco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 100.

⁵² *Id.* ¶ 101.

⁵³ *Id.* ¶ 103.

⁵⁴ *Id.*

⁵⁵ *Id.* ¶ 106(a).

⁵⁶ *Id.*

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May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Muñoz Diosdada with the crimes of attacking authorities on the public roads, kidnapping and other organized crime.⁵⁷

May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order which states that Ms. Muñoz Diosdada be formally imprisoned and prosecuted.⁵⁸

May 13, 2008: Ms. Muñoz Diosdada is released from CEPRESO.⁵⁹

May 25, 2006: The CNDH analyzes Ms. Muñoz Diosdada's physical and mental symptoms and report that she exhibits symptoms of post-traumatic stress disorder, anxiety, depression and intense fear.⁶⁰ The doctors infer that she is suffering from injuries consistent with torture.⁶¹

May 13, 2008: Ms. Muñoz Diosdada is acquitted and the criminal case against her is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.⁶²

1. The Facts Relating to Ms. Ana María Velasco Rodríguez

May 3, 2006: Ms. Velasco Rodríguez arrives at the Belisario Domínguez market in Texcoco to shop with her brother and sister-in-law.⁶³ When she arrives she encounters a confrontation between the police and protesters and takes cover in a private building.⁶⁴ Police officers enter the building and throw canisters of tear gas to disperse those hiding inside.⁶⁵ The officers then physically assault Ms. Velasco Rodríguez and ask her if she knows the leader of FPDT, Mr. Ignacio del Valle Medina.⁶⁶ When Ms. Velasco Rodríguez states she does not know him, the officers beat her

⁵⁷ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 348.

⁵⁸ *Id.* ¶ 113.

⁵⁹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 118.

⁶⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 113.

⁶¹ *Id.* ¶ 111.

⁶² *Id.* ¶ 114.

⁶³ *Id.* ¶ 76, 77.

⁶⁴ *Id.* ¶ 76, 77.

⁶⁵ *Id.* ¶ 77.

⁶⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 79.

and call her derogatory names.⁶⁷ The officer's notice Ms. Velasco Rodríguez is not bleeding and begin to hit her harder before forcibly removing her from the building and confiscating her belongings.⁶⁸

Ms. Velasco is detained and forcibly loaded onto a truck by officers.⁶⁹ During the five-hour transport, five police officers threaten Ms. Velasco Rodríguez's life and sexually assault her.⁷⁰ The officers proceed to touch her breasts and vagina, taunt her about sexual activity, and force her to perform oral sex on several officers.⁷¹

May 4, 2006: Ms. Velasco Rodríguez arrives at CEPRESO with injuries to her head and back.⁷² The officers refuse to inform Ms. Velasco Rodríguez why she is detained and will not allow her to call her family or lawyer.⁷³ Upon arrival, officers push her head against a wall, kick her and ask her for her personal information.⁷⁴ Officer's then remove her soiled clothes and force her to wash her genitals and mouth.⁷⁵

During a medical evaluation by a CEPRESO physician, Ms. Velasco Rodríguez tells the doctor about the officers' acts, but the doctor informs her that he cannot help her and that she should report the abuse to the Public Prosecutor's office.⁷⁶

The Public Prosecutor's office opens a preliminary investigation against Ms. Velasco Rodríguez.⁷⁷

May 5, 2006: Ms. Velasco Rodríguez meets with CNDH medical personnel to document her injuries.⁷⁸ Medical personnel conclude Ms. Velasco Rodríguez's bruising is consistent with blunt trauma using hard instruments within the past twenty-four to forty-eight hours.⁷⁹

⁶⁷ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 79.

⁶⁸ *Id.* ¶ 77, 79.

⁶⁹ *Id.* ¶ 87.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.* ¶ 100.

⁷³ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 105.

⁷⁴ *Id.* ¶ 101.

⁷⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 176.

⁷⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 104.

⁷⁷ *Id.* ¶ 113.

⁷⁸ *Id.* ¶ 106(b).

⁷⁹ *Id.*

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May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Velasco Rodríguez with the crimes of attacking authorities on the public roads, kidnapping and other organized crime.⁸⁰

May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Velasco Rodríguez be formally imprisoned and prosecuted.⁸¹

May 12, 2006: Ms. Velasco Rodríguez is examined a second time by CNDH medical personnel who conduct a chemical toxicology exam of her clothing. However, the results indicate that her clothing was washed before the test.⁸²

May 13, 2006: Ms. Velasco Rodríguez is released from CEPRESO.⁸³

May 25, 2006: The CNDH analyzes Ms. Velasco Rodríguez's physical and mental symptoms by applying the Istanbul Protocol, and conclude that her symptoms are consistent with those of post-traumatic stress disorder.⁸⁴ The CNDH recommends that Ms. Velasco Rodríguez begins psychological treatment.⁸⁵

May 13, 2008: Ms. Velasco Rodríguez is acquitted, and her case is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.⁸⁶

2. The Facts Relating to Ms. Angelica Patricia Torres Linares

May 3, 2006: Ms. Torres Linares, a political science major, hears about the situation in Belisario Domínguez market and decides to go to gather information for her thesis.⁸⁷ When she arrives she meets the violent confrontation between the police and protesters and takes cover in a

⁸⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 348.

⁸¹ *Id.* ¶ 113.

⁸² *Id.* ¶ 108.

⁸³ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 186.

⁸⁴ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 111(b).

⁸⁵ *Id.*

⁸⁶ *Id.* ¶ 114.

⁸⁷ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 226.

private building.⁸⁸ The police then enter and detain Ms. Torres Linares.⁸⁹ Her description of the general events matches the statements made by Ms. Muñoz Diosada.⁹⁰ Police beat Ms. Torres Linares, forcibly remove her clothing, and confiscate her belongings.⁹¹

Ms. Torres Linares, wearing only her bra, is forcibly loaded onto a truck by officers.⁹² During the five-hour transport to CEPRESO, Ms. Torres Linares is beaten, groped and threatened.⁹³ The bus that police used to transport the victims is equipped with curtains covering the windows to prevent anyone from seeing the events taking place inside.⁹⁴ Throughout the transport Ms. Torres Linares can hear other women screaming while officers rape them.⁹⁵

Upon arrival at CEPRESO, Ms. Torres Linares is not given a certificate of entry.⁹⁶ Police forcibly remove Ms. Torres Linares from the bus and place her in a room where they throw her against a wall continue to beat her and sexually assault her.⁹⁷ While police officers book and photograph Ms. Torres Linares, they threaten to kill her family if she says anything about what has occurred.⁹⁸ Later that evening Ms. Torres Linares is examined by a doctor, but he does not report all of her injuries and does not perform a gynecological exam.⁹⁹

The Public Prosecutor's office opens a preliminary inquiry against Ms. Torres Linares for prior investigation.¹⁰⁰

May 6, 2006: Ms. Torres Linares meets with CNDH medical personnel to document her injuries.¹⁰¹ Medical personnel document bruising consistent with being hit with blunt hard instruments all over Ms. Torres

⁸⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 76, 77.

⁸⁹ *Id.* ¶ 77.

⁹⁰ *Id.*

⁹¹ *Id.* ¶ 80.

⁹² *Id.* ¶ 87.

⁹³ *Id.* ¶ 88.

⁹⁴ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 88.

⁹⁵ *Id.*

⁹⁶ *Id.* ¶ 100.

⁹⁷ *Id.* ¶ 102.

⁹⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 230.

⁹⁹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 104.

¹⁰⁰ *Id.* ¶ 113.

¹⁰¹ *Id.* ¶ 106(c).

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Linares's body, and lesions on both of her breasts consistent with manual squeezing of both breasts.¹⁰²

May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Torres Linares with the crime of kidnapping.¹⁰³

May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Torres Linares be formally imprisoned and prosecuted.¹⁰⁴

May 13, 2006: Ms. Torres Linares is released from CEPRESO.¹⁰⁵

May 13, 2008: Ms. Torres Linares is acquitted, and her case is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.¹⁰⁶

3. The Facts Relating to Ms. María Patricia Romero Hernández

May 3, 2006: Ms. Romero Hernández goes to the market to open her family's butcher shop with her father and son where they encounter the police attacking flower merchants.¹⁰⁷ Ms. Romero Hernández asks Texcoco's Municipal Police Director, Roberto Hernández Romero, and Deputy Director, Sergio González Romero, why they are threatening and assaulting the merchants while her son films the demonstration.¹⁰⁸ Officers observe her son filming the demonstration and beat him up.¹⁰⁹ Officers then arrest both Ms. Romero Hernández and her son and take their belongings.¹¹⁰ The officers throw her face down into a van for transfer.¹¹¹ During the transfer Ms. Romero Hernández is beaten by multiple police officers.¹¹²

¹⁰² Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 106(c).

¹⁰³ *Id.* ¶ 348.

¹⁰⁴ *Id.* ¶ 113.

¹⁰⁵ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 234.

¹⁰⁶ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 114.

¹⁰⁷ *Id.* ¶ 76.

¹⁰⁸ *Id.* ¶ 81.

¹⁰⁹ *Id.*

¹¹⁰ *Id.* ¶ 81.

¹¹¹ *Id.*

¹¹² Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 138.

Ms. Romero Hernández arrives at the Texcoco Deputy Prosecutor's Office.¹¹³ The officers threaten to kill and rape her and also claim they have evidence to charge her with assaulting two police officers with a machete.¹¹⁴ She is assigned to a defense attorney, but is not allowed to contact him and not informed about her rights.¹¹⁵ Ms. Romero Hernández is seen by a doctor and ordered to undress.¹¹⁶ When she refuses officers beat her with a blunt object.¹¹⁷

Ms. Romero Hernández is transferred by van to the Toluca Prosecutor's Office where officers beat her, threaten her, and forcibly touch her genitals.¹¹⁸ Ms. Romero Hernández does not report the assault to the Toluca Prosecutor's Office because she feels ashamed.¹¹⁹ An hour after her arrival, Ms. Romero Hernández is then taken to CEPRESO where she is beaten again by officers.¹²⁰

May 4, 2006: Ms. Romero Hernández enters CEPRESO with muscle and joint pain from being beaten by police. Upon arrival, officers continue to beat her, and at one point slam her head against the wall.¹²¹

The Public Prosecutor's office opens a preliminary inquiry against Ms. Romero Hernández for preliminary investigation.¹²²

May 6, 2006: Ms. Romero Hernández meets with CNDH medical personnel where her injuries are documented.¹²³ Her injuries include bruising and lesions that are consistent with blunt force trauma and stomping.¹²⁴

May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Romero Hernández be formally imprisoned and prosecuted.¹²⁵

¹¹³ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 90.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 138.

¹¹⁷ *Id.*

¹¹⁸ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 90.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.* ¶ 101.

¹²² *Id.* ¶ 113.

¹²³ *Id.* ¶ 106(d).

¹²⁴ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 106(d).

¹²⁵ *Id.* ¶ 113.

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August 21, 2008: The Second Criminal Court of First Instance of Toluca charges Ms. Romero Hernández for the crimes including carrying a prohibited weapon and causing malicious injuries.¹²⁶

Between May and June 2006: CNDH reports on Ms. Romero Hernández's physical and mental symptoms by applying the Istanbul Protocol, and conclude that her symptoms are consistent with those of post-traumatic stress disorder.¹²⁷ The CNDH recommends that she seek psychotherapeutic care.¹²⁸

August 21, 2008: Ms. Romero Hernández is convicted for assault with a weapon; however, she is granted commutation of her sentence.¹²⁹

August 29, 2008: Ms. Romero Hernández is released from CEPRESO.¹³⁰

August 9, 2017: The Attorney General of the State of Mexico conducts an extraordinary review in response to an appeal and annuls Ms. Romero Hernández's conviction.¹³¹ The Attorney General declares Ms. Romero Hernández's innocence and finds that the violations committed against her were corrupt.¹³²

4. The Facts Relating to Ms. María Cristina Sánchez Hernández

May 3, 2006: Ms. Sánchez Hernández is walking through the market with her husband when they encounter the police clash with protestors.¹³³ Ms. Sánchez Hernández and her husband take cover in a wine cellar and are accompanied by multiple other individuals, some who are injured and bleeding.¹³⁴ Officers throw tear gas into the cellar to disperse those inside.¹³⁵ Officers then enter the cellar and begin beating its occupants.¹³⁶

¹²⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 250 n.348.

¹²⁷ *Id.* ¶ 111(c).

¹²⁸ *Id.*

¹²⁹ *Id.* ¶ 115.

¹³⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 147.

¹³¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 115.

¹³² *Id.*

¹³³ *Id.* ¶ 76.

¹³⁴ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 217.

¹³⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 81.

¹³⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 217.

Following the physical assault, the officer's arrest all the occupants and force them into a van for transport.¹³⁷

During transit, police officers force Ms. Sánchez Hernández face down on the van floor and repeatedly beat her.¹³⁸ Officers also confiscate her belongings and sexually assault her.¹³⁹ Ms. Sánchez Hernández observes officers forcing another female victim to perform oral sex.¹⁴⁰

May 4, 2006: Ms. Sánchez Hernández arrives at CEPRESO with traumatic injuries.¹⁴¹ After being kicked out of the van, officers tell her that CEPRESO is her new home and threaten that she will never be permitted to leave.¹⁴² A doctor examines Ms. Sánchez Hernández and stitches a laceration on her head without using anesthesia before giving her pain medicine.¹⁴³

The Public Prosecutor's office opens a preliminary inquiry against Ms. Sánchez Hernández for preliminary investigation.¹⁴⁴

May 5, 2006: Ms. Sánchez Hernández meets with CNDH medical personnel who document her injuries.¹⁴⁵ Medical personnel conclude that Ms. Sánchez Hernández is suffering from severe injuries consistent with recent blunt force trauma.¹⁴⁶ Furthermore, CNDH medical personnel report bruising on Ms. Sánchez Hernández's legs consistent with stomping and lacerations on her ears consistent with officer's tearing out her earrings.¹⁴⁷

May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Sánchez Hernández with the crimes of attacking authorities on the public roads, kidnapping and other organized crime.¹⁴⁸

¹³⁷ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 81.

¹³⁸ *Id.* ¶ 89.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.* ¶ 100.

¹⁴² *Id.* ¶ 101.

¹⁴³ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 104.

¹⁴⁴ *Id.* ¶ 113.

¹⁴⁵ *Id.* ¶ 106(e).

¹⁴⁶ *Id.*

¹⁴⁷ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 220. 008

¹⁴⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 348.

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May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Sánchez Hernández be formally imprisoned and prosecuted.¹⁴⁹

May 13, 2006: Ms. Sánchez Hernández is released from CEPRESO.¹⁵⁰

Between May and June 2006: The CNDH analyzes Ms. Sánchez Hernández's physical and mental symptoms by applying the Istanbul Protocol, and conclude that her symptoms are consistent with those of post-traumatic stress disorder.¹⁵¹ The CNDH recommends that she undergo psychological treatment.¹⁵²

Between July and September 2006: The Collective against Torture and Impunity ("CCIC") examine Ms. Sánchez Hernández and conclude that she is suffering from post-traumatic stress disorder, anxiety and depression, and recommend that she seek medical and psychotherapeutic treatment.¹⁵³ Further, the CCIC reports that her initial injuries were not properly examined at CEPRESO.¹⁵⁴

May 13, 2008: Ms. Sánchez Hernández is acquitted and her case is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.¹⁵⁵

5. The Facts Relating to Ms. Norma Aidé Jiménez Osorio

May 4, 2006: Ms. Jiménez Osorio, a photography student, is waiting for the school bus in San Salvador Atenco when police officers block the road and slam her to the floor.¹⁵⁶ Ms. Jiménez Osorio falls to the ground and the officers beat her, slam a blunt object into her stomach, grope her, and force her onto a bus.¹⁵⁷ The officers take her photography equipment,

¹⁴⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 113.

¹⁵⁰ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 224.

¹⁵¹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 111.

¹⁵² *Id.*

¹⁵³ *Id.* ¶ 112.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* ¶ 114.

¹⁵⁶ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 83.

¹⁵⁷ *Id.*

force her to provide identification information, sexually assault her and threaten to rape and kill her.¹⁵⁸ At one point during the transfer an officer forces Ms. Jiménez Osorio off the bus, covers her head with clothing, and forces her into a smaller truck.¹⁵⁹ While inside the smaller truck, multiple officers penetrate her genitals, forcefully kiss her, and beat her.¹⁶⁰

Throughout the rest of the four-hour transport to a detention center, officers continue to beat her every twenty minutes while she observes other victims begging the officers not to rape them.¹⁶¹

Ms. Jiménez Osorio arrives at CEPRESO with edema and other injuries.¹⁶² While at CEPRESO, she is not allowed to use a restroom for eight hours despite a burning sensation in her vagina.¹⁶³ At 11:00 p.m., a prison doctor examines Ms. Jiménez Osorio, but he does not have the proper supplies to treat her injuries and does not record her rape or perform a gynecological exam.¹⁶⁴ In fact, the doctor mocks Ms. Jiménez Osorio when she requests a gynecological exam and informs her that his superiors ordered he not record any sexual trauma because there is no gynecologist present to certify the report.¹⁶⁵

The Public Prosecutor's office opens a preliminary inquiry against Ms. Jiménez Osorio for prior verification.¹⁶⁶

May 6, 2006: Ms. Jiménez Osorio meets with CNDH medical personnel who document her injuries including bruising from being hit with blunt hard instrument several times.¹⁶⁷

May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Jiménez Osorio with the crime of kidnapping.¹⁶⁸

¹⁵⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 83.

¹⁵⁹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 126.

¹⁶⁰ *Id.*

¹⁶¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 92, 93.

¹⁶² *Id.* ¶ 100.

¹⁶³ *Id.* ¶ 101, 104.

¹⁶⁴ *Id.* ¶ 104.

¹⁶⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 127.

¹⁶⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 113.

¹⁶⁷ *Id.* ¶ 106(f).

¹⁶⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 348.

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May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Jiménez Osorio be formally imprisoned and prosecuted.¹⁶⁹

May 24, 2006: CNDH authorities arrive at CEPRESO in response to a hunger strike in which Ms. Jiménez Osorio is participating.¹⁷⁰ The CNDH documents that the victims are protesting due to lack of medical and gynecological care.¹⁷¹

Between May and June 2006: The CNDH analyzes Ms. Jiménez Osorio's physical and mental symptoms by applying the Istanbul Protocol, and conclude that her symptoms are consistent with those of post-traumatic stress disorder, depression and anxiety.¹⁷² The CNDH recommend that Ms. Jiménez Osorio undergo psychological and gynecological treatment.¹⁷³

June 1, 2006: Prison medical examiners perform a gynecological exam on Ms. Jiménez Osorio and she is diagnosed with a urinary tract infection.¹⁷⁴

Between July and September 2006: The CCIC examine Ms. Jiménez Osorio and conclude that she is suffering from post-traumatic stress disorder, anxiety and depression and recommend that she seek psychotherapeutic treatment.¹⁷⁵

April 16, 2007: Ms. Jiménez Osorio is released from CEPRESO.¹⁷⁶

May 13, 2008: Ms. Jiménez Osorio is acquitted, and her case is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.¹⁷⁷

¹⁶⁹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 113.

¹⁷⁰ *Id.* ¶ 109.

¹⁷¹ *Id.*

¹⁷² *Id.* ¶ 111(d).

¹⁷³ *Id.*

¹⁷⁴ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 111(d).

¹⁷⁵ *Id.* ¶ 112.

¹⁷⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 127. 008

¹⁷⁷ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 114.

July 17, 2008: The Public Ministry issues an order of freedom for Ms. Jiménez Osorio due to a lack of evidence to prosecute her.¹⁷⁸

6. The Facts Relating to Ms. Claudia Hernández Martínez

May 4, 2006: Ms. Hernández Martínez, a political science major, is conducting research in San Salvador Atenco for her thesis when officers approach her, arrest and beat her and then take her into the courtyard of a house.¹⁷⁹ There, they continue to beat her and sexually assault her before forcing her in a truck with other victims.¹⁸⁰

While on the truck, an officer punches Ms. Hernández Martínez in the nose while other officers taunt her and violently assault her.¹⁸¹ During the four-hour drive, officers repeatedly assault and threaten Ms. Hernández Martínez.¹⁸² At one point an officer forcibly penetrates her genitals with his fingers while others grope her breasts.¹⁸³

Upon arrival at CEPRESO, Ms. Hernández Martínez is not given a certificate of entry.¹⁸⁴ Ms. Hernández Martínez observes officers rape the woman standing next to her while officers pull Ms. Hernández Martínez's hair, push her into the wall, grope her, sexually assault her, and threaten to kill her.¹⁸⁵

The Attorney General of Mexico issues a psychological and injury medical certificate indicating the status of her injuries.¹⁸⁶ The report states her arms, legs, and face are bruised.¹⁸⁷

The Public Prosecutor's office opens a preliminary inquiry against Ms. Hernández Martínez for prior verification.¹⁸⁸

May 5, 2006: Ms. Hernández Martínez is brought to the doctor, however, he refuses to examine her or offer gynecological care.¹⁸⁹ She is then taken

¹⁷⁸ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 114.

¹⁷⁹ *Id.* ¶ 83.

¹⁸⁰ *Id.*

¹⁸¹ *Id.* ¶ 94.

¹⁸² *Id.*

¹⁸³ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 236.

¹⁸⁴ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 100.

¹⁸⁵ *Id.* ¶ 102.

¹⁸⁶ *Id.* ¶ 107.

¹⁸⁷ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 238.008

¹⁸⁸ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 113.

¹⁸⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 104.

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to a second doctor who also refuses to give her a gynecological exam despite her complaint of a burning sensation in her vagina.¹⁹⁰

Ms. Hernández Martínez is then examined by CNDH medical personnel who perform a gynecological examination on her.¹⁹¹ Although they do not find any lacerations, they take samples for further testing.¹⁹²

May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Hernández Martínez with the crime of kidnapping.¹⁹³

May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Hernández Martínez be formally imprisoned and prosecuted.¹⁹⁴

June 14, 2006: The Attorney General's office conducts a forensic medical exam of the gynecological exam but do not find evidence of recent external injuries.¹⁹⁵

June 22, 2006: Ms. Hernández Martínez receives a consultation for a gynecological exam as a result of her allegations of sexual abuse. The doctor assigned refuses to perform an examination and instead diagnoses her with vaginosis and an eating disorder.¹⁹⁶

Between July and September 2006: The CCIC examines Ms. Hernández Martínez and concludes that she is suffering from post-traumatic stress disorder, anxiety and depression and recommends that she seek medical treatment.¹⁹⁷

January 26, 2007: Ms. Hernández Martínez is released from CEPRESO.¹⁹⁸

¹⁹⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 104.

¹⁹¹ *Id.* ¶ 108.

¹⁹² *Id.*

¹⁹³ *Id.* ¶ 348.

¹⁹⁴ *Id.* ¶ 113.

¹⁹⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 113.

¹⁹⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 241.

¹⁹⁷ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 112.

¹⁹⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 243.

May 13, 2008: Ms. Hernández Martínez is acquitted and her case is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.¹⁹⁹

May 24, 2011: The Public Ministry issues an order of freedom for Ms. Hernández Martínez due to a lack of evidence to prosecute her.²⁰⁰

7. The Facts Relating to Ms. Mariana Selvas Gómez

May 4, 2006: Ms. Selvas Gómez is offering medical assistance in San Salvador Atenco with her father where they encounter fifty police officers.²⁰¹ The officers force them to stand against a wall while officers beat them and threaten them before forcing them onto a pick-up truck.²⁰²

While in the truck, Ms. Selvas Gómez is forced to lie face down while officers forced other victims to lie on top of her, making it difficult for her to breathe.²⁰³ Officers demand her personal information, beat her and sexually assault her.²⁰⁴ At one point during the transfer an officer gropes her genitals while other officers forcibly hold her down.²⁰⁵

Ms. Selvas Gómez arrives at CEPRESO where officers continue to beat her before taking her to a visiting room.²⁰⁶ A doctor examines Ms. Selvas Gómez and she reports pain and itching in her genitals; however, the doctor tells her that there are no available gynecologists and instead, offers her pain medicine.²⁰⁷

The Public Prosecutor's office opens a preliminary inquiry against Ms. Selvas Gómez for prior verification.²⁰⁸

May 5, 2006: CNDH medical personnel examine Ms. Selvas Gómez and document her injuries, noting that they are consistent with recent blunt

¹⁹⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 114.

²⁰⁰ *Id.*

²⁰¹ *Id.* ¶ 84.

²⁰² *Id.*

²⁰³ *Id.* ¶ 95.

²⁰⁴ *Id.*

²⁰⁵ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 150. 008

²⁰⁶ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 100, 101.

²⁰⁷ *Id.* ¶ 104.

²⁰⁸ *Id.* ¶ 113.

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trauma with hard objects.²⁰⁹ However, results regarding the sexual assault are inconclusive.²¹⁰

May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Selva Gómez with the crime of kidnapping.²¹¹

May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Selvas Gómez be formally imprisoned and prosecuted.²¹²

May 24, 2006: CNDH authorities arrive at CEPRESO in response to a hunger strike in which Ms. Selvas Gómez is participating.²¹³ The CNDH documents that the victims are protesting due to lack of medical and gynecological care.²¹⁴

Between May and June, 2006: The CNDH analyzes Ms. Selvas Gómez's physical and mental symptoms by applying the Istanbul Protocol, and conclude that her symptoms are consistent with those of post-traumatic stress disorder.²¹⁵ The CNDH recommend that she undergo psychological treatment.²¹⁶

Between July and September 2006: The CCIC examine Ms. Selvas Gómez and conclude that she is suffering from post-traumatic stress disorder, anxiety and depression and recommend that she seek treatment.²¹⁷

April 30, 2007: Ms. Selvas Gómez is released from CEPRESO.²¹⁸

²⁰⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 106(g).

²¹⁰ *Id.*

²¹¹ *Id.* ¶ 348.

²¹² *Id.* ¶ 113.

²¹³ *Id.* ¶ 109.

²¹⁴ *Id.*

²¹⁵ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 111(e).

²¹⁶ *Id.*

²¹⁷ *Id.* ¶ 112.

²¹⁸ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 161. 008

May 13, 2008: Ms. Selvas Gómez is acquitted, and her case is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.²¹⁹

July 17, 2008: The Public Ministry issues an order of freedom for Ms. Selvas Gómez due to a lack of evidence to prosecute her.²²⁰

8. The Facts Relating to Ms. Georgina Edith Rosales Gutiérrez

May 4, 2006: Ms. Rosales Gutiérrez, a volunteer to provide medical support for injured protesters, is assisting a man with tear gas injuries in San Salvador Atenco when a police officer suddenly grabs her by her hair and beats her with a weapon.²²¹ The officer then slams her head against the floor and threatens to kill her if she looks up.²²²

Officers forcibly push Ms. Rosales Gutiérrez into a van and force her to lie face down.²²³ An officer starts to take off his pants and attempts to rape Ms. Rosales Gutiérrez, but he is interrupted by another officer.²²⁴ The officer continues to grope and threaten her with death if she objects to his conduct.²²⁵ Officers stack other victims on top of Ms. Rosales Gutiérrez in the van and continue to beat her during transport.²²⁶ After spending the five hour trip forced to keep her head down, an officer asks for Ms. Rosales Gutiérrez's personal information.²²⁷

Ms. Rosales Gutiérrez arrives at CEPRESO with lesions and bruises all over her body.²²⁸ Ms. Rosales Gutiérrez is forced to disrobe in front of four medical doctors.²²⁹ They tell her that she needs medical attention for her head injuries, but they do not provide any medical assistance to her.²³⁰

²¹⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 114.

²²⁰ *Id.*

²²¹ *Id.* ¶ 84.

²²² Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 163.

²²³ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 96.

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ *Id.* ¶ 100.

²²⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 103.

²³⁰ *Id.* ¶ 104.

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The Public Prosecutor's office opens a preliminary inquiry against Ms. Rosales Gutiérrez for prior verification.²³¹

May 5, 2006: CNDH medical personnel give Ms. Rosales Gutiérrez a certificate documenting her injuries.²³² Her injuries are consistent with recent blunt force trauma from hard instruments.²³³

May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Rosales Gutiérrez with the crime of kidnapping.²³⁴

May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Rosales Gutiérrez be formally imprisoned and prosecuted.²³⁵

May 24, 2006: CNDH authorities arrive at CEPRESO in response to a hunger strike in which Ms. Rosales Gutiérrez is participating.²³⁶ The CNDH documents that the victims are protesting due to lack of medical and gynecological care.²³⁷

Between May and June 2006: The CNDH analyzes Ms. Rosales Gutiérrez's physical and mental symptoms by applying the Istanbul Protocol, and conclude that her symptoms are consistent with those of post-traumatic stress disorder.²³⁸ The CNDH recommend that Ms. Rosales Gutiérrez should seek psychological treatment.²³⁹

Between July and September 2006: The CCIC examine Ms. Rosales Gutiérrez and conclude that she is suffering from post-traumatic stress disorder, anxiety and depression and recommend that she should seek treatment.²⁴⁰

²³¹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 113.

²³² *Id.* ¶ 106(h).

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *Id.* ¶ 113.

²³⁶ *Id.* ¶ 109.

²³⁷ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 109.

²³⁸ *Id.* ¶ 111(f).

²³⁹ *Id.*

²⁴⁰ *Id.* ¶ 112.

June 4, 2007: Ms. Rosales Gutiérrez is released from CEPRESO.²⁴¹

May 13, 2008: Ms. Rosales Gutiérrez is acquitted, and her case is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.²⁴²

August 27, 2008: The Public Ministry issues a dismissal order for Ms. Rosales Gutiérrez due to the process exceeding ninety days without action.²⁴³

9. The Facts Relating to Ms. Suhelen Gabriela Cuevas Jaramillo

May 4, 2006: Ms. Cuevas Jaramillo is a magazine journalist and reports to San Salvador Atenco to take photographs and conduct interviews during the police demonstration.²⁴⁴ She seeks shelter in a private building to protect herself from tear gas when officers enter the building and detain everyone inside.²⁴⁵ Police officers arrest Ms. Cuevas Jaramillo and violently beat her.²⁴⁶ Ms. Cuevas Jaramillo is eventually forced onto a truck.²⁴⁷

Officers pinch and grope her body as they stack other women on top of each other in the truck.²⁴⁸ During the five-hour ride, officers continue sexually assaulting and threatening Ms. Cuevas Jaramillo.²⁴⁹

Ms. Cuevas Jaramillo arrives at CEPRESO where she is instructed to undress so that officers could inspect her.²⁵⁰ Ms. Cuevas Jaramillo is examined by a doctor who tells her that she is fine despite visible bruising on her body.²⁵¹

The Public Prosecutor's office opens a preliminary inquiry against Ms. Cuevas Jaramillo for prior verification.²⁵²

²⁴¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 174.008

²⁴² Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 114.

²⁴³ *Id.*

²⁴⁴ *Id.* ¶ 85.

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 97.

²⁴⁹ *Id.*

²⁵⁰ *Id.* ¶ 103.

²⁵¹ *Id.* ¶ 104.

²⁵² *Id.* ¶ 113.

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May 5, 2006: Ms. Cuevas Jaramillo meets with CNDH medical personnel to document her injuries.²⁵³ Her injuries are consistent with bruising due to recent blunt trauma with hard instruments and physical assault using hands.²⁵⁴ In addition, the medical personnel report bruising to her breasts, and buttocks.²⁵⁵

May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Cuevas Jaramillo with the crime of kidnapping.²⁵⁶

May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Cuevas Jaramillo be formally imprisoned and prosecuted.²⁵⁷

May 24, 2006: CNDH authorities arrive at CEPRESO in response to a hunger strike in which Ms. Cuevas Jaramillo is participating.²⁵⁸ The CNDH documents that the victims are protesting due to lack of medical and gynecological care.²⁵⁹

May 31, 2006: Ms. Cuevas Jaramillo is examined in the gynecological unit at the Adolfo Lopez Mateos hospital in Toluca, however, it is impossible to detect evidence of sexual abuse due to the twenty-two-day delay in medical care.²⁶⁰

Between May and June 2006: The CNDH analyzes Ms. Cuevas Jaramillo's physical and mental symptoms by applying the Istanbul Protocol, and conclude that her symptoms are consistent with those of post-traumatic stress disorder.²⁶¹ The CNDH recommend that Ms. Cuevas Jaramillo should seek psychological treatment.²⁶²

²⁵³ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 106(i).

²⁵⁴ *Id.*

²⁵⁵ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 192.

²⁵⁶ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 106(i).

²⁵⁷ *Id.* ¶ 113.

²⁵⁸ *Id.* ¶ 109.

²⁵⁹ *Id.*

²⁶⁰ *Id.* ¶ 110.

²⁶¹ *Id.* ¶ 111.

²⁶² Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 111.

Between July and September 2006: The CCIC examine Ms. Cuevas Jaramillo and conclude that she is suffering from post-traumatic stress disorder, anxiety and depression and recommend that she should seek treatment.²⁶³

June 2, 2007: Ms. Cuevas Jaramillo is released from CEPRESO.²⁶⁴

May 13, 2008: Ms. Cuevas Jaramillo is acquitted, and her case is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.²⁶⁵

10. The Facts Relating to Ms. Bárbara Italia Méndez Moreno

May 4, 2006: Ms. Méndez Moreno is doing research for her thesis in San Salvador Atenco when she hides in a private building to avoid tear gas.²⁶⁶ Police officers enter the building, detain her and steal her belongings.²⁶⁷ Officer beat her to the ground causing injuries to her head while calling her derogatory names and threatening to kill her.²⁶⁸

Police officers force Ms. Méndez Moreno onto the truck and order her to sit on top of other people lying face down.²⁶⁹ An officer tears off her shirt and bra and rips her pants before groping her and verbally insulting her.²⁷⁰ The officer then beats her and threatens to kill her family.²⁷¹ He invites other police officers to join him in brutally beating her and sexually assaulting her while she begs them to stop.²⁷² Before arriving at CEPRESO, police officers stop the truck several times to dispose of the dead bodies on board.²⁷³

Ms. Méndez Moreno arrives at CEPRESO where she is forced to undress before being taken to see the prison doctor.²⁷⁴ The doctor examines her and sutures a laceration on her head without anesthesia or

²⁶³ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 112.

²⁶⁴ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 201.

²⁶⁵ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 114.

²⁶⁶ *Id.* ¶ 85.

²⁶⁷ *Id.*

²⁶⁸ *Id.*

²⁶⁹ *Id.* ¶ 98.

²⁷⁰ *Id.*

²⁷¹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 98.

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ *Id.* ¶ 103.

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properly cleaning the injury.²⁷⁵ Ms. Méndez Moreno requests medical care for the injuries she sustained during the sexual assaults, but the doctor refuses to treat the injuries and mocks her.²⁷⁶

The Public Prosecutor's office opens a preliminary inquiry against Ms. Méndez Moreno for prior verification.²⁷⁷

May 5, 2006: Ms. Méndez Moreno meets with CNDH medical personnel to document her injuries, which are consistent with recent blunt force trauma.²⁷⁸ The CNDH examine the bruising on her right breast and conclude that the injury is consistent with manual grip.²⁷⁹ The CNDH does not examine injuries caused by sexual assault because they require investigation performed by specialized personnel.²⁸⁰

Ms. Méndez Moreno undergoes a gynecological exam; medical personnel do not find any lacerations; however they take a sample for further testing.²⁸¹

May 7, 2006: The Second Criminal Court of First Instance of Toluca charges Ms. Méndez Moreno with the crime of kidnapping.²⁸²

May 10, 2006: The Second Criminal Court of First Instance of Toluca issues a constitutional term order that Ms. Méndez Moreno be formally imprisoned and prosecuted.²⁸³

May 15, 2006: Ms. Méndez Moreno is released from CEPRESO.²⁸⁴

Between July and September 2006: The CCIC examine Ms. Méndez Moreno and conclude that she is suffering from post-traumatic stress disorder, anxiety and depression and recommend that she should seek treatment.²⁸⁵ Further, the CCIC report that while the medical

²⁷⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 104.

²⁷⁶ *Id.*

²⁷⁷ *Id.* ¶ 113.

²⁷⁸ *Id.* ¶ 106(j).

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 108.

²⁸² *Id.*

²⁸³ *Id.* ¶ 113.

²⁸⁴ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 215. 008

²⁸⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 112.

professionals did in fact find evidence of semen on Ms. Méndez Moreno, no one conducted a DNA test for comparison.²⁸⁶

May 13, 2008: Ms. Méndez Moreno is acquitted, and her case is dismissed because the Public Ministry failed to prosecute within ninety days of her arrival at CEPRESO.²⁸⁷

B. *Other Relevant Facts*

May 11, 2006: CNDH files an ex officio complaint against the authorities responsible for the May 3 and May 4 incidents on behalf of all of the victims.²⁸⁸

May 12, 2006: In response to allegations of sexual assault committed by senior State officials during the May 3 and May 4 events, the Governor of México, Enrique Peña Nieto, issues a public statement to the press wherein he denies all sexual assault allegations.²⁸⁹

May 16, 2006: The office of the Special Prosecutor for Crimes Involving Acts of Violence Against Woman (“FEVIM”) opens a federal investigation in response to the sexual assault and violent conduct allegations.²⁹⁰

May 17, 2006: Governor Nieto releases a statement through the Excelsior newspaper indicating that following a meeting with CNDH he now believes the alleged sexual assaults committed by police during the May 3 and 4 protests could be substantiated.²⁹¹

Mexican Security General Humberto Benitez Treviño states that the government is not in a position to investigate the alleged sexual assaults committed by the police absent gynecological exams of the alleged victims, or criminal complaints.²⁹²

²⁸⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 112.

²⁸⁷ *Id.* ¶ 114.

²⁸⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Admissibility, Report No. 158/11, Inter-Am. Comm’n H.R. Case No.512-08, ¶ 14 (Nov. 2, 2011).

²⁸⁹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 73.

²⁹⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Admissibility, ¶ 13.

²⁹¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 102.

²⁹² *Id.* ¶ 103.

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June 16, 2006: The Governor declares that should any victims of sexual abuse file a formal criminal complaint against a police officer for sexual abuse, the officer would be sanctioned under the law.²⁹³

June 27, 2006: La Jornada newspaper publishes a press release summarizing the State Security Agency Commissioner, Wilfredo Robledo Madrid's opinions regarding the sexual assault allegations.²⁹⁴ Commissioner Robledo Madrid attributes the women's allegations to "high levels of stress" and further states that the women's failure to obtain gynecological exams is evidence that they did not experience any sexual abuse.²⁹⁵

February 6, 2007: The Supreme Court of Justice of the Nation (SCJN) opens an investigation into the alleged human rights violations which occurred on May 3 and 4, 2006.²⁹⁶

February 12, 2009: SCJN issues a ruling which states that human rights violations occurred during the May 3 and 4, 2006 events.²⁹⁷

July 13, 2009: The FEVIM declines federal jurisdiction on behalf of the Attorney General despite having already acknowledged police officer participation in acts of torture and other crimes against humanity.²⁹⁸

II. PROCEDURAL HISTORY

A. *Before the Commission*

April 29, 2008: The Inter-American Commission on Human Rights ("the Commission") receives a petition filed by Mr. Miguel Agustín Pro Juárez A.C. at the Center of Human Rights ("PRODH") and the Center for Justice and International Law ("CEJIL") on behalf of eleven female victims who were raped and tortured by State agents during social conflict in Texcoco and San Salvador Atenco.²⁹⁹ The petition includes

²⁹³ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 74.

²⁹⁴ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, ¶ 105.

²⁹⁵ *Id.*

²⁹⁶ *Id.* ¶ 250.

²⁹⁷ *Id.* ¶ 251.

²⁹⁸ Women Victims of Sexual Torture in Atenco v. Mexico, Report on Admissibility, ¶ 13.

²⁹⁹ *Id.* ¶ 1.

allegations that the State failed to investigate such crimes and punish those responsible.³⁰⁰

The State argues that the petition is inadmissible because petitioners have not yet exhausted domestic remedies and the investigation is still open.³⁰¹ Further, the State declares that the case is complex which explains the delay in proceedings and denies any failure to investigate.³⁰²

November 2, 2011: The Commission issues Admissibility Report No. 158/11, which declares the petition admissible.³⁰³ The Commission finds that the State violated Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), Article 8 (Right to a Fair Trial), Article 11 (Right to Privacy), Article 24 (Right to Equal Protection), and Article 25 (Right to Judicial Protection) of the American Convention on Human Rights, in conjunction with the general obligations established in Articles 1(1) (Obligation of Non-Discrimination) and Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the same instrument, and Article 6 (Right to Freedom from Violence) and Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (“Convention of Belém do Pará”).³⁰⁴ The Commission also finds that the State violated Article 1 (Obligation to Prevent and Punish Torture), Article 2 (Definition of Torture), Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhumane and Degrading Treatment), and Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture.³⁰⁵

The Commission bases its conclusion on the finding that the State failed to present any specific information during the past five years regarding their investigation into facts alleged by victims.³⁰⁶ Further, the State does not have a reasonable explanation for the delay.³⁰⁷ Instead, evidence shows that the federal investigation has been inactive since the proceedings were sent to the General Directorate of Inspectors, and

³⁰⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Admissibility, ¶ 1.

³⁰¹ *Id.* ¶ 3.

³⁰² *Id.*

³⁰³ *Id.* ¶ 4.

³⁰⁴ *Id.* ¶ 55.

³⁰⁵ *Id.*

³⁰⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Admissibility, ¶ 42.

³⁰⁷ *Id.*

although a state preliminary inquiry was opened to establish criminal responsibility, it was then closed shortly thereafter.³⁰⁸

October 28, 2015: The Commission issues Merits Report No. 74/15.³⁰⁹

The State asks the Commission to find the petitioners claims meritless for several reasons.³¹⁰ First, although the State recognized its responsibility for actions that violated the Convention, the operation's purpose was to restore order in the area.³¹¹ Second, the State argues that it investigated the gender violence and torture acts under the Convention but ran into unintentional delays during their investigation.³¹² Thus, the State has made progress but requests more time to investigate and implement effective remedies.³¹³

The Commission finds the State is responsible for violating the rights provided in: Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), Article 8 (Right to a Fair Trial), Article 11 (Right to Privacy), Article 24 (Right to Equal Protection), and Article 25 (Right to Judicial Protection) of the American Convention on Human Rights, in conjunction with the general obligation established in Articles 1(1) (Obligation of Non-Discrimination) of the American Convention on Human Rights, Article 1 (Obligation to Prevent and Punish Torture), Article 2 (Definition of Torture), Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhumane and Degrading Treatment), and Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture, and for violating Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women to the detriment of Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Rosales Gutiérrez, Ms. Velasco Rodríguez, Ms. Cuevas Jaramillo, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares, and Ms. Hernández Martínez.³¹⁴

In light of the foregoing violations, the Commission recommends the State: (1) comprehensively repair all eleven victims materially and

³⁰⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Admissibility, ¶ 42.

³⁰⁹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, ¶ 4.

³¹⁰ *Id.* ¶ 3.

³¹¹ *Id.*

³¹² *Id.*

³¹³ *Id.*

³¹⁴ *Id.* ¶ 4.

morally,³¹⁵ (2) provide free medical, psychological, and psychiatric treatment to each victim,³¹⁶ (3) perform a reasonably timed, thorough and impartial investigation aimed at fully clarifying the facts, identifying those responsible on a federal and state level, sanctioning each different degree of responsibility, while avoiding any form of revictimization,³¹⁷ (4) provide all administrative, disciplinary and criminal measures against actions and omissions to act of any state official who contributed to the State's denial of justice,³¹⁸ and (5) adopt legislative, administrative and any other measure to prevent the repetition of such events, including measures aimed at training federal and state security forces, which absolutely prohibit any form of torture, sexual and other violence against women, and extend such measures to all medical personnel, state officials who are investigation such facts, and adopt stronger methods of investigating cases of alleged sexual violence and sexual torture by state agents.³¹⁹

B. *Before the Court*

September 17, 2016: The Commission submits the case to the Inter-American Court of Human Rights after the State failed to adopt its recommendations.³²⁰

The State raises a preliminary objection arguing that the Commission violated the State's right to defense.³²¹ The State specifically claims that the Commission submitted the case to the Court incorrectly, it failed to respond to the reparation measures already adopted by the State, and it granted the State a minimal amount of time to comply with its recommendations which was not long enough for the State to make structural transformations.³²²

³¹⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Report on Merits, "Recommendations,"

¶ 1.

³¹⁶ *Id.* ¶ 2.

³¹⁷ *Id.* ¶ 3.

³¹⁸ *Id.* ¶ 4.

³¹⁹ *Id.* ¶ 5.

³²⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 3.

³²¹ *Id.* ¶ 18.

³²² *Id.*

1. Violations Alleged by Commission³²³

To the detriment of Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Rosales Gutiérrez, Ms. Velasco Rodríguez, Ms. Cuevas Jaramillo, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares, and Ms. Hernández Martínez:

Article 7(1) (Right to Personal Liberty and Security)

Article 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law)

Article 7(3) (Prohibition of Arbitrary Arrest or Imprisonment)

Article 7(4) (Right to Be Informed of Reasons of Arrest and Charges)

Article 8(2)(b) (Right to Have Prior Notification of Charges)

Article 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel)

Article 8(2)(e) (Right to Assistance by Counsel Provided by State)

all in relation to:

Articles 1(1) (Obligation of Non-Discrimination)

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)

Article 11 (Right to Privacy)

Article 24 (Right to Equal Protection)

all in relation to:

Articles 1(1) (Obligation of Non-Discrimination)

Articles 1 (Obligation to Prevent and Punish Torture) of the Inter-American Convention to Prevent and Punish Torture

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhumane and Degrading Treatment) of the Inter-American Convention to Prevent and Punish Torture

Article 7(a) (Duty to Refrain from Acts of Violence) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará)

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal)

Article 25(1) (Right of Recourse Before a Competent Court)

all in relation to:

Articles 1(1) (Obligation of Non-Discrimination)

³²³ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 28.

Articles 1 (Obligation to Prevent and Punish Torture) of the Inter-American Convention to Prevent and Punish Torture

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhumane and Degrading Treatment) of the Inter-American Convention to Prevent and Punish Torture

Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture

Article 7(a) (Duty to Refrain from Acts of Violence) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará)

To the detriment of the family members of Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Rosales Gutiérrez, Ms. Velasco Rodríguez, Ms. Cuevas Jaramillo, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares, and Ms. Hernández Martínez:

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

all in relation to:

Articles 1(1) (Obligation of Non-Discrimination)

2. Violations Alleged by the Petitioners

Same Violations Alleged by the Commission.

November 16 and 17, 2017: The Court receives sixteen Amicus Curiae briefs and held a public hearing. The Amicus Curiae briefs were submitted by:³²⁴

Women's Link Worldwide

Dr. Silvina Alvarez Medina, Professor of the Department of Public Law and Legal Philosophy at the Autonomous University of Madrid, and Dr. Tania Sordo Ruz, abo gada specializing in violence s against women and discrimination

The Due Process Foundation (DPLF)

ARTICLE 19, Office for Mexico and Central America

FUNDAR, Analysis and Research Center

ELEMENTA, Rights Consulting

The Human Rights Program and the Gender Affairs Program of the Ibero-American University of Mexico City and Concordia, Human Rights Consulting

³²⁴ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 11.

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The Center for Legal and Social Studies (CELS)
The Washington Office for Latin American Affairs (WOLA)
The Department of Human Rights of the Ibero-American University of Mexico City
Dr. Ernesto Mendieta Jiménez, lawyer and professor on public and private security issues
Dr. Moisés Moreno Hernández, professor in Criminal Law and Criminal Policy
Amnesty International
The Director of the International Criminal Law Research Group of the Santo Tomás University
Asociacion Alto al Secuestro
The Human Rights Commission of the Federal District

III. MERITS

A. *Composition of the Court*³²⁵

Eduardo Vio Grossi, President
Humberto Antonio Sierra Porto, Judge
Elizabeth Odio Benito, Judge
Eugenio Raúl Zaffaroni, Judge
L. Patricio Pazmiño Freire, Judge

Pablo Saavedra Alessandri, Secretary

B. *Decision on the Merits*

August 22, 2018 The Court issues its Judgment on Merits, Reparations and Costs.³²⁶

The Court unanimously rejected the State's preliminary objection because:³²⁷

³²⁵ Judge Eduardo Ferrer Mac-Gregor Poisot, of Mexican Nationality, did not participate in the deliberation of the Judgment pursuant to Articles 19.2 of the Statute and 19.1 of the Rules of Court. *Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, n.*.*

³²⁶ *Id.* ¶ 1.

³²⁷ *Id.* ¶ 24.

The State argued that the Commission committed a serious error that violated the State's right to defense.³²⁸ The Court found that the error was actually a discrepancy of criteria instead of a serious error.³²⁹ Further, the Court explained that the Commission referred and ruled on the proper information in its Merits Report, and in its submission to the Court.³³⁰ Thus, the Commission did not err when it processed the case.³³¹ The Court also declared that the State did not demonstrate any serious damage caused by the Commission when the Commission failed to rule on the principle of complementarity.³³² Therefore, the Court rejected the State's preliminary objection.³³³

The Court found unanimously that Mexico had violated:

Article 5(1) (Right to Physical, Mental, and Moral Integrity), Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), and Article 11 (Right to Privacy), all in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, and Article 1 (Obligation to Prevent and Punish Torture) and Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) of the Convention to Prevent and Punish Torture, and Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Convention on the Prevention, Punishment and Eradication of Violence Against Women, to the detriment of Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Rosales Gutiérrez, Ms. Velasco Rodríguez, Ms. Cuevas Jaramillo, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares, and Ms. Hernández Martínez,³³⁴ because:

First, the Court discussed the State's use of force.³³⁵ The Court relied on the principle that use of force requires states to properly regulate its application through comprehensive training which highlights the

³²⁸ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 18.

³²⁹ *Id.* ¶ 24.

³³⁰ *Id.* ¶ 24.

³³¹ *Id.*

³³² *Id.* ¶ 25.

³³³ *Id.* ¶ 25-27.

³³⁴ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, "Resolution Points," ¶ 3.

³³⁵ *Id.* ¶ 158 B.1.1.

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protection of human rights.³³⁶ The Court explained that the use of force can only be implemented when it is absolutely necessary, and it must be proportional to the threat.³³⁷ Here, the Court found that the State's use of force was excessive, illegitimate and exhibited a clear lack of training.³³⁸ The Court reasoned that the officers' actions were unprofessional and at no time did their superiors take any steps to prohibit the officers from using violence against the victims.³³⁹

The Court also found State authorities failed to prevent such extreme violations in maintaining public order as a result of their lack of training.³⁴⁰ The Court held the State's control mechanisms were generally ineffective.³⁴¹ For example, officers targeted anyone that they assumed to be a part of the protest regardless of if the individual was actually involved.³⁴² Furthermore, the Court highlighted that the State authorities consistently lacked evidence that any of the eleven victims had engaged in violent acts, resisted authority, or carried weapons on the date of the protest.³⁴³ Instead, all victims had exhibited signs of peaceful conduct, and thus, the Court did not find that the State had any reason for making the arrests.³⁴⁴

Next, the Court discussed the State's use of sexual violence.³⁴⁵ The Court emphasized that sexual violence violates personal integrity and is specifically prohibited, and extensively regulated.³⁴⁶ The Court declared that sexual violence includes all sexual actions committed against a person without their consent.³⁴⁷ Such actions include physical invasion of a victim's body such as touching and penetration and also actions that are not physical.³⁴⁸ The Court agreed with the international criminal law definition of rape; any vaginal or anal penetration act, without the victim's consent, using parts of the aggressor's body or any

³³⁶ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 161.

³³⁷ *Id.* ¶ 162.

³³⁸ *Id.* ¶ 165.

³³⁹ *Id.*

³⁴⁰ *Id.* ¶ 166.

³⁴¹ *Id.* ¶¶ 166, 167.

³⁴² Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶¶ 166, 167.

³⁴³ *Id.* ¶ 169.

³⁴⁴ *Id.* ¶ 169.

³⁴⁵ *Id.* ¶ 158 B.2.

³⁴⁶ *Id.* ¶¶ 179, 180.

³⁴⁷ *Id.* ¶ 181.

³⁴⁸ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 181.

other object, including oral penetration.³⁴⁹ The Court clarified that even superficial penetration is considered rape.³⁵⁰ Thus, the Court declared that all eleven victims had been subjected to at least one form of extreme physical violence, rape and verbal abuse by multiple State actors.³⁵¹

Further, the Court discussed whether the State's use of sexual violence constituted torture.³⁵²

The Court explained that to qualify rape as a form of torture, the victims' level of suffering must be severe, and the Court must take into account that the purpose of such act depends on the circumstances of each case.³⁵³ The Court held that the officers all acted deliberately, which satisfied the intentional element of an act of torture.³⁵⁴ Then the Court explained that all acts, including physical and psychological acts, were committed while each victim was in the State's custody.³⁵⁵ This qualified as an extreme abuse of power and satisfied the second element of torture, mental and physical suffering.³⁵⁶ Finally, the Court found that the State's use of sexual violence was aimed at intimidating, humiliating, punishing and repressing the victims.³⁵⁷ Thus, the Court declared that the third element of the definition of torture was in fact satisfied.³⁵⁸

Next, the Court discussed the State's use of torture and sexual violence as a form of repressive social control.³⁵⁹ Here, the State used such violence against its own citizens and in public forcing witnesses to observe the gruesome acts during the course of internal conflict as a means of control and power.³⁶⁰ The Court reasoned that these acts indicated that the State's intent was to show its own citizens what happens when they challenge State authority.³⁶¹ Therefore, the Court ruled that the State's behavior, regardless if the State's purpose was to maintain

³⁴⁹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 182.

³⁵⁰ *Id.*

³⁵¹ *Id.* ¶ 188.

³⁵² *Id.* ¶ 158 B.2.b.

³⁵³ *Id.* ¶ 193.

³⁵⁴ *Id.* ¶ 195.

³⁵⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 196.

³⁵⁶ *Id.* ¶ 196.

³⁵⁷ *Id.* ¶ 197.

³⁵⁸ *Id.*

³⁵⁹ *Id.* ¶ 158 B.2.c.

³⁶⁰ *Id.* ¶ 200, 202.

³⁶¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 203.

*public order, was unacceptable and expressly prohibited as a form of public control.*³⁶²

With respect to medical violence,³⁶³ the Court discussed that several victims reported degrading treatment by doctors from whom the victims sought medical care while at the prison.³⁶⁴ The Court found the doctors' acts to be cruel, inhumane and degrading and in some instances, the Court found that the doctors' acts could be considered torture.³⁶⁵ Furthermore, investigations depend on doctors' medical exams because the exams are a direct form of evidence.³⁶⁶ The Court therefore declared that the doctors' treatment of all victims constituted an additional element of sexual violence because the doctors refused to perform essential medical examinations or provide effective medical treatment, which resulted in compromised investigations.³⁶⁷

The Court reasoned that the obligation to respect and guarantee basic human rights is linked to the principle of equality and non-discrimination.³⁶⁸ The State used gender-based violence, violence directed at a woman simply because she is a woman, as a form of discrimination against women.³⁶⁹ Further, the State used sexual violence against women because they were women.³⁷⁰ The Court also emphasized the State's use of stereotypical, repetitive verbal abuse,³⁷¹ which the State actors used to assert social dominance and gender over the victims.³⁷²

The Court acknowledged that officers lacked adequate training and discipline, but the Court was more concerned with the State's response to the officers' actions against women.³⁷³ The Court found that the State breached a grave duty to each female victim when the highest State authorities failed to even respond to the use of verbal and psychological violence.³⁷⁴ The Court found it absolutely unacceptable that when first notified of such severe human rights violations, the highest

³⁶² Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 204.

³⁶³ *Id.* ¶ 158 B.2.d.

³⁶⁴ *Id.* ¶ 205.

³⁶⁵ *Id.* ¶ 206.

³⁶⁶ *Id.*

³⁶⁷ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 207.

³⁶⁸ *Id.* ¶ 158 B.3, 210.

³⁶⁹ *Id.* ¶ 211.

³⁷⁰ *Id.*

³⁷¹ *Id.* ¶ 212.

³⁷² *Id.* ¶ 213.

³⁷³ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 217.

³⁷⁴ *Id.* ¶ 217, 219.

*State authorities immediately questions the victims' credibility, accused them of being guerrillas, and denied all of the events in question before initiating any type of investigation.*³⁷⁵ *The State had an obligation to protect violence against women and punish anyone responsible for engaging in such serious acts, thus, the State breached all of its obligations.*³⁷⁶

Articles 15 (Right of Peaceful Assembly) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Rosales Gutiérrez, Ms. Velasco Rodríguez, Ms. Cuevas Jaramillo, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares, and Ms. Hernández Martínez,³⁷⁷ because:

*The Court found that under the right of assembly, all people have a right to protest or express their disagreement with State decisions.*³⁷⁸ *The Court explained that this right included the right to peaceful assembly without weapons, and was applicable to both private and public meetings.*³⁷⁹ *The Court discussed that most victims went to the market to participate in the protest in accordance with their rights, however, none of the victims went to the protest to engage in activity that went beyond their rights.*³⁸⁰ *For example, several of the victims were to the protest to lend medical assistance, while others went to conduct research for their studies.*³⁸¹ *The Court found that the State's actions violated their right to assembly, which suppressed their right to freedom of expression.*³⁸²

*The Court acknowledged that the right of assembly was not absolute and in some instances, may be subject to restriction.*³⁸³ *However, to justify restricting the right of assembly, the State's interference could not be abusive or arbitrary, and the State was required to provide a legitimate purpose for such restriction by applying the law.*³⁸⁴ *The Court*

³⁷⁵ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 219.

³⁷⁶ *Id.*

³⁷⁷ *Id.* "Resolution Points," ¶ 4.

³⁷⁸ *Id.* ¶ 171.

³⁷⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 171.

³⁸⁰ *Id.* ¶ 172.

³⁸¹ *Id.*

³⁸² *Id.* ¶ 173.

³⁸³ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 173.

³⁸⁴ *Id.* ¶ 174.

found that any use of violence by the victims was in response to the State actors first inflicting violence on them; all of the victims initially exercised peaceful activity.³⁸⁵ The Court therefore refused to attribute any act of violence committed by the victim to their peaceful behavior at the protest.³⁸⁶

Articles 7(1) (Right to Personal Liberty and Security), Article 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), Article 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), Article 7(4) (Right to Be Informed of Reasons of Arrest and Charges) and Article 8(2)(b) (Right to Have Prior Notification of Charges), Article 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), and Article 8(2)(e) (Right to Assistance by Counsel Provided by State), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Rosales Gutiérrez, Ms. Velasco Rodríguez, Ms. Cuevas Jaramillo, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares, and Ms. Hernández Martínez,³⁸⁷ because:

The Court then discussed the right not to be deprived of physical liberty, which may be limited by the Political Constitutions of the State.³⁸⁸ In application of this principle, the Court ruled that it would need to determine if all arrests were carried out in accordance with Mexican law.³⁸⁹ Lastly, the Court established the prohibition against subjecting anyone to detention or imprisonment for any cause or method, no matter how lawful, if such detention or imprisonment failed to respect fundamental human rights.³⁹⁰

The Court analyzed the legality of the State's detentions and arrests within the confines of Mexican law established by the Mexican Constitution.³⁹¹ Pursuant to the Constitution, detentions are legal if

³⁸⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 175.

³⁸⁶ *Id.*

³⁸⁷ *Id.* “Resolution Points,” ¶ 5.

³⁸⁸ *Id.* ¶ 230.

³⁸⁹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 230.

³⁹⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 231.

³⁹¹ *Id.* ¶ 233.

based on a court order, ordered by the Public Ministry due to urgency and the impossibility of securing a court order, or flagrancy.³⁹² The Court applied the Constitution to the events here and determined that all detentions were incompatible with State law.³⁹³

Further, the Court considered that the State was responsible to prove that the detentions were carried out as a result of flagrant crimes.³⁹⁴ The Court ruled that the State failed to do so; victims were instead arrested when simply walking down the street, waiting for buses, making purchases, trading, conducting research, providing medical care to those in need, and even when inside private homes.³⁹⁵

Next, the Court evaluated the arbitrariness of each detention.³⁹⁶ The Court found that many of the arrests were made on a whim after no real effort to separate individuals who were simply residents of the town from those who were engaging in violent protesting.³⁹⁷ The Court explained that the State failed to provide any evidence from which one could reasonably assume that the victims had engaged in criminal conduct and that detention was necessary.³⁹⁸ The Court rejected the idea that detention may be justified on a mere suspicion or some personal perception.³⁹⁹ Lastly, the Court expressly prohibited the presumption of violent behavior during any protest; police may only remove violent people from the crowd so that other protests may continue exercising their rights.⁴⁰⁰

The Court ruled that in the event of a detention, detainees are entitled to know why they are being detained, whether the information is presented verbally or in writing, at the time of detention and written notification of the charges against them.⁴⁰¹ Here, the Court found that the State failed to notify any of the victims about the reasons surrounding their arrests, and even failed to provide any information regarding their

³⁹² Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 235.

³⁹³ *Id.*

³⁹⁴ *Id.* ¶ 236.

³⁹⁵ *Id.*

³⁹⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 238.

³⁹⁷ *Id.*

³⁹⁸ *Id.* ¶ 240.

³⁹⁹ *Id.*

⁴⁰⁰ *Id.*

⁴⁰¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 246.

*basic guaranteed rights including the right to a lawyer or public defender and the right to communicate with relatives.*⁴⁰²

*Next, the Court evaluated the arbitrariness of the State's use of pretrial detention.*⁴⁰³ *The Court rejected the State's justification for pretrial detention for all eleven victims, explaining that the formal prison order that the Second Criminal Court of First Instance issued lacked reasonable probability that the victims had committed a crime.*⁴⁰⁴ *Instead, the judge who issued the order did so without any evidence that a crime had been committed, which the Court considered to be a clear violation of the right to liberty.*⁴⁰⁵ *Because the State failed to show evidence sufficient to justify all eleven pretrial detentions, the Court held that the State directly violated the Convention.*⁴⁰⁶

Article 8(1) (Right to a Hearing within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right to Judicial Protection) in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, and Article 1 (Obligation to Prevent and Punish Torture), Article 6 (Obligation to take Effective Measures and Punish Torture and Cruel, Inhumane and Degrading Treatment), and Article 8 (Obligation to Investigate and Prosecute) of the Convention Against Torture, and Article 7(b) (Duty to Prevent, Investigate and Punish Violence) of the Convention on the Prevention, Punishment and Eradication of Violence Against Women, to the detriment of Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Rosales Gutiérrez, Ms. Velasco Rodríguez, Ms. Cuevas Jaramillo, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares, and Ms. Hernández Martínez,⁴⁰⁷ because:

*The Court held that the State was obligated to provide all victims of human rights violations with due process of law and with effective judicial remedies.*⁴⁰⁸ *Similarly, all victims and their families have a right to know the truth about what happened, and the State is obligated to*

⁴⁰² Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 248.

⁴⁰³ *Id.* ¶ 250.

⁴⁰⁴ *Id.* ¶ 252.

⁴⁰⁵ *Id.*

⁴⁰⁶ *Id.* ¶ 253.

⁴⁰⁷ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, "Resolution Points," ¶ 6.

⁴⁰⁸ *Id.* ¶ 267

*investigate and punish those responsible within a reasonable amount of time.*⁴⁰⁹

*The Court first determined that the State had a duty to use due diligence when investigating State agents' acts constituting rape, and with respect to torturous acts, the State must guarantee victims' right to an impartial examination, both of which must be initiated immediately.*⁴¹⁰ *The State took the victims' statements in from of the Public Ministry, but State authorities prohibited them from freely delivering facts that they considered relevant, even refusing to document the facts regarding their subjection to torture and sexual violence.*⁴¹¹ *Further, victims were forced to give statements in the presence of many other people, which the Court considered to be a violation of their right to privacy.*⁴¹²

*Second, the Court declared that victims' statement should have been recorded to avoid the need for repetition, however, victims were often forced to recount these horrific events due to the State agents' lack of documentation.*⁴¹³ *More importantly, none of the victims were provided with emergency medical care by qualified personnel and without the presence of State agents.*⁴¹⁴ *The Court noted that many of the victims were denied emergency medical care all together, and when they were finally taken to the prison medical unit for an examination, the doctors refused treatment or conducted examinations in the presence of State authorities and other detainees.*⁴¹⁵

*Moreover, even after victims reported allegations of sexual abuse and torture, State authorities failed to conduct timely, thorough, or effective medical examinations.*⁴¹⁶ *Instead, some doctors refused to provide medical care, forcing victims to organize a hunger strike in order to obtain gynecological exams.*⁴¹⁷

*The Court considered the delay in collecting such important time-sensitive evidence to be a breach of the State's duty to use due diligence.*⁴¹⁸ *The State clearly mishandled the evidence and the medical*

⁴⁰⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 267.

⁴¹⁰ *Id.* ¶ 270.

⁴¹¹ *Id.* ¶ 274.

⁴¹² *Id.*

⁴¹³ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 272.

⁴¹⁴ *Id.*

⁴¹⁵ *Id.* ¶ 274.

⁴¹⁶ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 276.

⁴¹⁷ *Id.* ¶ 277.

⁴¹⁸ *Id.* ¶ 284.

examinations that the State actually performed failed to meet the requirements necessary for cases involving victims of sexual violence or torture.⁴¹⁹

The Court established that the State had a duty to conduct an investigation using all available legal means in order to determine the truth, persecute, capture, prosecute, and where appropriate, punish those responsible for participating in the acts of violence and torture.⁴²⁰ The Court explained that when determining whether the State fulfilled its obligation to investigate criminally responsible actors, the Court must analyze the indication of participation of all alleged actors, and if the State acted diligently or negligently in conducting an investigation.⁴²¹

The Court reiterated that the State's investigation lacked due diligence. The police operation had extensive real-time media coverage and was being supervised both on land and by air by superior authorities.⁴²² The Court found no excuse that authorities lacked certain knowledge of sexual assault because the nature of events indicated at least a risk that such abuse could take place.⁴²³ Thus, the State failed to investigate all possible criminally liable actors with due diligence.⁴²⁴

The Court ruled that although the case was complex, the State failed to act diligently; its preliminary investigation remained active for more than three years, the refusal to issue arrest warrants resulted in an additional three-year delay, and to date, the State had failed to investigate all of those who could be responsible.⁴²⁵ The Court stressed the importance of the principle that if passage of time significantly affected the legal status of an individual, the State must ensure that the case is resolved in a shorter amount of time.⁴²⁶ Thus, the State violated the judicial guarantee of due diligence and reasonable time.⁴²⁷

Lastly, the Court found that the investigation into the acts of torture and sexual violence was not conducted with using a gender

⁴¹⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 284.

⁴²⁰ *Id.* ¶ 292.

⁴²¹ *Id.*

⁴²² Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 296.

⁴²³ *Id.*

⁴²⁴ *Id.* ¶ 304.

⁴²⁵ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 308.

⁴²⁶ *Id.* ¶ 308.

⁴²⁷ *Id.* ¶ 309.

*perspective.*⁴²⁸ *Therefore, the Court considered that the duty to respect and guarantee victims' rights without discrimination was violated, which violated their right to equality under the law.*⁴²⁹

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the relatives of Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Rosales Gutiérrez, Ms. Velasco Rodríguez, Ms. Cuevas Jaramillo, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares, and Ms. Hernández Martínez⁴³⁰ because:

*The Court found the victims' next of kin were also victims of human rights violations; they, too, suffered violations of their right to psychological and moral integrity.*⁴³¹ *The Court reasoned that such violations are presumed due to the following non-exhaustive list of factors: (1) lack of information relatives' detentions, which inevitably generated feelings of anguish and uncertainty, (2) lack of information to achieve justice and punish those responsible for committing acts of sexual torture, (3) the ongoing deprivation of liberty, (4) the difficulties that relatives had trying to visit their family members in prison when authorities engaged in humiliating treatment while conducting the security inspections, and (5) threats made by police, which caused fear, shame and a disruption in the family dynamics.*⁴³² *Therefore, the Court found that a total of fifty-one family members experienced severe suffering and emotional distress to the detriment of their moral and mental integrity.*⁴³³

IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

⁴²⁸ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 317.

⁴²⁹ *Id.*

⁴³⁰ *Id.* "Resolution Points," ¶ 7.

⁴³¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 320.

⁴³² Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 323.

⁴³³ *Id.* ¶ 324.

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A. *Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)*

1. Judgment as a Form of Reparation.

The Court noted that the Judgment itself is a form of reparation.⁴³⁴

2. Investigate Act of Violence and Torture and Identify, Prosecute, and Punish those Responsible

The Court ordered that the State must continue to perform the exhaustive investigations to prosecute and punish the responsible parties for the crimes of violence and torture.⁴³⁵ The Court highlighted the State's unjustified twelve-year delay in investigating and prosecuting all responsible parties and ineffective training methods.⁴³⁶ The Court also required that during such ongoing investigations, the State must continue to provide victims with information about the progress of the investigations, and once complete, the State must publicly disclose all findings to the Mexican society.⁴³⁷

3. Psychological Treatment and Rehabilitation Measures

The Court ordered that the State provide free medical and psychological treatment to the victims.⁴³⁸ The treatment must include medication and transportation when appropriate and for as long as necessary.⁴³⁹ The Court further stated that each victims could request treatment within six months of notification of the Judgment, and the State must provide care to the victims within three months of the victim's request.⁴⁴⁰

⁴³⁴ Women Victims of Sexual Torture in Atenco v. Mexico Preliminary Objections, Merits, Reparations, and Costs, "Resolution Points" ¶ 8.

⁴³⁵ *Id.* "Resolution Points" ¶ 9.

⁴³⁶ *Id.* ¶ 338, 339.

⁴³⁷ *Id.* ¶ 339.

⁴³⁸ *Id.* "Resolution Points," ¶ 10.

⁴³⁹ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 341.

⁴⁴⁰ *Id.*

4. Publish the Judgment

The Court ordered that the State must publish the Judgement within six months of notification of the Judgement.⁴⁴¹ The Judgement must be published in the Official Gazette, in a national newspaper, and in a newspaper with wide circulation in Mexico.⁴⁴² The Court declared that the State must keep the Judgement publicly available for at least one year on the homepages of both the Ministry of Foreign Affairs website and the Government of the State of Mexico website.⁴⁴³ The Court noted that the State must immediately notify the Court once each publication is made available regardless of any time period restriction.⁴⁴⁴

5. Publicly Accept Responsibility

The Court ordered that the State must publicly acknowledge international responsibility and issue public apologies for all human rights violations.⁴⁴⁵ Both requirements must be done during a public ceremony in the presence of senior State officials and all of the victims.⁴⁴⁶ The Court required that the State work with all parties to come to an agreement on a date and place for the public ceremony.⁴⁴⁷ Then, the State must publish notification of such ceremony through a radio broadcast and through television and other social networks.⁴⁴⁸ Further, the State must issue a written apology signed by both state and federal authorities.⁴⁴⁹

6. Implement an Officer Training Plan

The Court ordered that the State adopt a training plan for federal and state officers within two years of the Judgement, and establish a monitoring

⁴⁴¹ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, “Resolution Points,” ¶ 11.

⁴⁴² Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶ 344.

⁴⁴³ *Id.*

⁴⁴⁴ *Id.* ¶ 345.

⁴⁴⁵ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, “Resolution Points,” ¶ 12.

⁴⁴⁶ *Id.* ¶ 347.

⁴⁴⁷ *Id.* ¶ 348.

⁴⁴⁸ *Id.*

⁴⁴⁹ *Id.*

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and control system to measure the effectiveness of existing policies.⁴⁵⁰ The Court declared that the training program must focus on raising awareness of gender perspective police operations, discriminatory gender stereotypes, and focus on civilian protection.⁴⁵¹ Moreover, the program must function to train officers on the appropriate standards regarding their use of force during social protests as established in the Judgment.⁴⁵² The State must adopt an independent observatory, whose purpose must include monitoring the State's implementation of accountability policies and monitoring the use of force by the federal and state agents.⁴⁵³ The State must show an ability to provide feedback on such institutional improvements through the observatory.⁴⁵⁴ The Court declined to monitor the implementation and such measures.⁴⁵⁵

7. Provide University Scholarships

The Court required that the State grant a scholarship to any victim attending a university at the time of the protest.⁴⁵⁶ The Court required that the scholarships should be effective until the conclusion of each victim's studies and should cover any and all necessary expenses.⁴⁵⁷ The Court noted that victims may request that the State provide scholarships immediately, but victims may have to two years to undergo psychological recovery first before resuming studies.⁴⁵⁸

8. Monitoring Mechanism for Sexual Torture Cases

The Court acknowledged the State's creation of the Mechanism to Follow Cases of Sexual Torture enacted in September 2015.⁴⁵⁹ The Court ordered that the State strengthen this mechanism within next two years including

⁴⁵⁰ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, "Resolution Points" ¶ 13.

⁴⁵¹ *Id.* ¶ 355.

⁴⁵² *Id.*

⁴⁵³ *Id.* ¶ 356.

⁴⁵⁴ *Id.*

⁴⁵⁵ *Id.*

⁴⁵⁶ Women Victims of Sexual Torture in *Atenco v. Mexico*, Preliminary Exception, Merits, Reparations, and Costs, Judgment, "Resolution Points" ¶ 14.

⁴⁵⁷ *Id.* ¶ 351.

⁴⁵⁸ *Id.*

⁴⁵⁹ *Id.* ¶ 60.

allocating resources to fulfill the mechanism's function and establish annual reporting deadlines.⁴⁶⁰

9. Notify the Court

The Court ordered that the State notify the Court of the measures adopted by submitting a written report within one year of notification of the Judgment.⁴⁶¹

B. *Compensation*

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$5,000 each to Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Velasco Rodríguez, Ms. Jaramillo Caves, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares and Ms. Hernández Martínez, for the sum of the expenses that each victim incurred as a result of the State's violations.⁴⁶²

In addition, the Court awarded \$10,000 to Ms. Muñoz Diosdada for loss of income and \$2,000 to Ms. Romero Hernández for loss of income.⁴⁶³

2. Non-Pecuniary Damages

The Court awarded \$70,000 each to Ms. Muñoz Diosdada, Ms. Jiménez Osorio, Ms. Romero Hernández, Ms. Selvas Gómez, Ms. Velasco Rodríguez, Ms. Jaramillo Caves, Ms. Méndez Moreno, Ms. Sánchez Hernández, Ms. Torres Linares and Ms. Hernández Martínez, for the violations against each victims' personal integrity, life and liberty.⁴⁶⁴ Further, the Court awarded \$15,000 each to every victims' relative that was affected by the State's actions, and \$10,000 each to every victims' sibling, nephews, and nieces.⁴⁶⁵

⁴⁶⁰ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, "Resolution Points," ¶¶ 15, 360.

⁴⁶¹ *Id.* ¶ 18.

⁴⁶² *Id.* ¶ 371.

⁴⁶³ *Id.* ¶ 373.

⁴⁶⁴ *Id.* ¶¶ 375, 376.

⁴⁶⁵ Women Victims of Sexual Torture in Atenco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, ¶¶ 324, 276. Cesar Adrian Pomposo Muñoz, Eduardo Pomposo

3. Costs and Expenses

The Court awarded \$30,000 for CEJIL, the victims' representative, for reimbursement of costs and expenses for the work made in the litigation of the case internally and internationally.⁴⁶⁶ The Court also awarded \$4,214.20 to the Legal Assistance Fund for reimbursement of expenses incurred.⁴⁶⁷

4. Total Compensation (including Costs and Expenses ordered):

\$1,456,214.20 (with calculation)

C. Deadlines

The State must pay material and immaterial compensation and reimburse all costs and expenses within one year of notification of the Judgment.⁴⁶⁸ However, if the State finds that a victim has died, the State should ensure payment is delivered to their beneficiary.⁴⁶⁹ All payment must be issued in United States dollars or its equivalent in national currency, and must be paid in full.⁴⁷⁰ The State must reimburse the Court Assistance Fund

Muñoz, José Guadalupe Pomposo Muñoz, Gregorio Pomposo Muñoz, Jennifer Pomposo Muñoz, Emma Muñoz Diosdada, Gloria Muñoz Diosdada, Jesús Muñoz Diosdada, Juana Muñoz Diosdada, and Fernando Muñoz Diosdada for Ms. Yolanda Muñoz Diosdada; Ms. María Félix Osorio Lira for Ms. Jiménez Osorio; Hilda Hernández Ramírez, Raúl Romero Macías, Arturo A dalí Sánchez Romero, Ariadna Sánchez Romero, Ascención Raúl Romero Hernández, Leticia Romero Hernández, and Rubén Constantino Díaz for Ms. Romero Hernández; Guillermo Selvas Pineda and Rosalba Gómez Rivera for Ms. Selvas Gómez; Adail Adriana Porcayo Rosales, Ameyatzin María de Jesús Antunez Rosales, Irasema Patricia Rosales Gutiérrez, Bertha Rosales Gutiérrez, and SoIrun Gutierrez Almaraz for Ms. Rosales Gutiérrez; Gustavo Hernández Velasco and Arturo Alberto Hernández Velasco for Ms. Velasco Rodríguez; Laura Elena Jaramillo Calvo, Arturo Cuevas Ledesma, and Carlos Enrique Cuevas Jaramillo for Ms. Cuevas Jaramillo; Ivan Artión Torres Urbina for Ms. Méndez Moreno; Lucía Bautista Sánchez, Pedro Jesús Bautista Sánchez, Hugo Alfredo Cadena Sánchez, Karen Leticia Cadena Sánchez, and José Alfredo Cadena Hernández for Ms. Sánchez Hernández; Genaro Torres Lagar, Concepción Linares Olivos, Miguel Ángel Torres Linares, Laura Isela Torres Linares, and Jorge Torres Linares for Ms. Torres Linares; and Juan Hernández Rivera, María Victoria Martínez Flores, Anatalia Hernández Martínez, Amelia Hernández Martínez, Rosa Gloria Hernández Martínez, Artemio Hernández Martínez, Aaron Jiménez Hernández, Agustín Jiménez Hernández, Karina Guadalupe Nonato Hernández, and Israel Nonato Hernández for Ms. Hernández Martínez.

⁴⁶⁶ *Id.* ¶ 380.

⁴⁶⁷ *Id.* ¶ 383.

⁴⁶⁸ *Id.* ¶ 384.

⁴⁶⁹ *Id.* ¶ 385.

⁴⁷⁰ *Women Victims of Sexual Torture in Atenco v. Mexico Preliminary Objections, Merits, Reparations, and Costs*, ¶¶ 386, 388.

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within six months from the date of the Judgment.⁴⁷¹ Further, the State must pay an interest if the State's enters into default.⁴⁷²

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Victims of Sexual Torture in Anteco v. Mexico, Preliminary Exception, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(Ser.C\) No. 371 \(Nov. 28, 2018\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[Victims of Sexual Torture in Atenco v. Mexico, Refund to the Victims Legal Assistance Fund, Resolution of the Inter-Am. Ct. H.R. \(Ser.C\) No. 371 \(Oct. 7, 2019\).](#)

5. Review and Interpretation of Judgment

[None]

⁴⁷¹ Women Victims of Sexual Torture in Atenco v. Mexico Preliminary Objections, Merits, Reparations, and Costs, ¶ 383.

⁴⁷² *Id.* ¶ 389.

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B. *Inter-American Commission*

1. Petition to the Commission

[None]

2. Report on Admissibility

[Victims of Sexual Torture in Atenco v. Mexico, Report on Admissibility, Report No. 158/11, Inter-Am. Comm'm H.R. Case No.512-08 \(Nov. 2, 2011\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Victims of Sexual Torture in Atenco v. Mexico, Report on Merits, Report No. 74/15, Inter-Am. Comm'n H.R., Case No. 12.846 \(Oct. 28, 2015\).](#)

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

[None]