

A BROADER LOOK AT THE SUBJECT

Femicides and gender-based aggressions

Patsilí Toledo Vásquez



Illustrator: [Eduardo Luzzatti](#)

Femicide has been defined by Law 17/2020 as “gender-based murders and homicides of women, inductions to suicide and suicides as a result of pressure and violence exerted against women”. The Catalan legislation includes therefore a concept that has been widely developed from theory, feminist activism, comparative legislation and international law.

In particular, the concept of ‘femicidi’ has been one of the translations of the English expression *femicide*, which was used for the first time as a denouncement of the misogynist murders of women by the sociologist Diana Russell in the Court against Crimes against Women, held in Brussels in 1976 [1]. However, it was not until her article *Femicide, speaking the unspeakable*, written in 1990 together with Jane Caputi, after the Montreal Massacre of 1989, that the concept of *femicide* began to be used by feminist activists, mainly in Latin America.

In the 1990s, Russell’s texts gave rise to two translations in the Latin American field: *femicidio*, a literal translation of the original concept used in the first investigations on femicides in Latin America by Ana Carcedo and Montserrat Sagot in Costa Rica; and *femicide*, which in Marcela Lagarde’s version added an additional element to the definition: the impunity that accompanied these crimes. This is closely linked to the crimes that, since the first half of the 1990s, began to be reported in Mexico, and in particular in

Ciudad Juarez and Chihuahua. Murders of women, often previously having disappeared, committed with extreme violence and which, due to negligence and discrimination of the authorities, remained unpunished and, in many cases, the victims were not even identified. These crimes were denounced internationally and even led to the condemnation of the Mexican State by the Inter-American Court of Human Rights for violating the human rights of the victims and their families [2]. It is important to stress, however, that impunity has not been exclusive to Ciudad Juarez or some regions of Mexico, as other countries, particularly in Central America, have since reported similar dynamics of violence and impunity. These two translation options, then, were maintained in the use of the various forms of feminist activism in the region, in which some countries used the expression *femicide*, and others that have used the expression *feminicide*, with the intention to stress state responsibility after the crimes [3].

These notions have been developed through the addition of others, such as “linked femicide” (in Argentina) or “femicide punishment” (in Chile), which have been developed by feminist organisations to also include sexist crimes which take the lives of people close to the assaulted woman, usually their sons or daughters.

From 2007, several Latin American countries began to classify *femicide/feminicide* as a specific crime [4]. However, the characterization in almost twenty countries has made the theoretical and political differences between the two concepts disappear. Indeed, femicide/feminicide has been typified as a common crime, in which a man kills a woman for reasons of gender (expressed in various cases), without any reference to state responsibility. Criminal categories use the word *femicide* or *feminicide* depending on which word has been used by the feminist movement in the concerned country, but there are no differences associated with the denominations. Criminal laws have been focused on individual responsibility, and state responsibility is blurred.

Unlike Latin America, in Europe the impunity of feminicides has not been denounced at large, which has aggravated the loss of the political content of the concept

In Europe, there is the same conceptual distinction. Some countries, especially English-speaking ones or those with more Anglo-Saxon influence, have used the concept *femicide* or its translations (e.g. *Femizide* in German). Countries that have received more Latin American influence, and in particular Mexican influence, such as Spain and Italy, on the contrary, have more generally used the expression *feminicide*. However, unlike Latin America, in Europe the impunity of feminicides has not been denounced at large, which has aggravated, in some way, the loss of the political content of the concept of *feminicide*, as an instrument to denounce the State.

The concept of *feminicide* in Catalan legislation

The inclusion of the concept of *feminicide* in Catalan legislation, however, is of interest regarding the above-mentioned conceptual and political distinctions. Catalan legislation on gender-based violence is not criminal law (unlike the classification of femicide/feminicide in Latin American laws) and this, more than a limitation, constitutes an important opportunity to recover the political content of the concept of *feminicide*.

Indeed, since 2015, in Spain “gender based” homicides (and any other crime, for example, sexual assaults) have been penalised (criminally) in an aggravated manner (art. 22.4 of the Criminal Code), without using the expression *femicide* or *feminicide*. Catalan legislation goes one step further, it is not limited to a criminal figure (that is to say, limited to making individual responsibility effective) but the concept is used in a law that guarantees rights to women and, for this reason, establishes duties for public authorities, in this case, regional authorities.

This means that the use of the concept *feminicide* in Catalan legislation links this notion back to its origins: it is not a notion to point only to crimes and individual perpetrators, but to emphasise the responsibility of the public authorities in relation to these crimes. In addition, as with all forms of violence against women for reasons of gender, the responsibilities of public authorities go beyond investigation and punishment, and include prevention, protection, care and reparation, and everything necessary to achieve the eradication of gender-based violence.

This is why the introduction of the expression *feminicide* in Catalan law cannot simply be limited to accounting for cases of women who have died because of gender-based violence. The data, which is obviously necessary, are only the first element within much broader obligations that must have the responsibilities of public authorities as their thrust.

The concept *feminicide* in Catalan legislation does not only refer to crimes and individual perpetrators, but also emphasises the responsibility of the public authorities in relation to these crimes: their responsibilities go beyond investigation and punishment, including prevention, protection, care and reparation

In Catalonia, as in a large part of the rest of the world, the majority of murders of women are crimes that occur within relationships between partners or ex-partners, relationships in which other forms of gender-based violence already existed. These cases are mostly crimes that could have been avoided, if there were adequate responses to the previous violence. The murders make it possible to determine the shortcomings of the existing responses to deal with gender-based violence. Each case should motivate a serious investigation of these shortcomings, by all the bodies that have to act in cases of gender-based violence, the

security forces and the criminal justice system, and all areas of action of the public authorities. The educational system must be included, for example, since usually the women killed are mothers and often schools are spaces where children can express the situations of violence they suffer. Moreover, in some cases they are the scene of episodes of violence. Also the health system, which gives care to women and children, as well as to men who may be aggressors. As for workplaces, intervention is essential in those companies and job positions where both the aggressors and the assaulted women work, in order to ensure that the assaulted women have access to resources and answers to avoid the continuation or the escalation of violence.

Femicides from an intersectional perspective

The measures against femicides (and against all forms of gender-based violence) must include an intersectional perspective. That is to say, when designing, analysing and evaluating the measures in relation to femicides they also must consider the way in which other axes of discrimination, in addition to gender, specifically affect certain groups of women, especially depending on factors such as racism, ignorance of rights due to national origin or administrative situation, financial vulnerability, etc. Economic crises, such as the one resulting from COVID-19, are an example of the impact of global crises on violence and the risk of femicide in several countries [5].

For example, at the global level migrant women are a group that is overrepresented in the statistics of femicide/femicide. Therefore, regardless of the country of origin, foreign migrant women are at greater risk of being murdered than women from that country. Considering that this is a global reality, what in general terms characterises the migrant population, and especially women, in the various countries is the lack of rights and the guarantee of these rights. It is necessary, therefore, to consider these factors in order to identify the deficiencies that aggravate the risk of violence and femicides in order to develop adequate policies to prevent and respond to these crimes.

In several countries, transgender women also tend to be overrepresented in homicide figures, in particular when it comes to immigrant or racialized women, or when they are in a situation of marginalisation that prevents them, for example, from accessing a job formally or at home. Again, the factors that increase the risk of violence and eventual femicide for trans people must be considered and addressed.

In addition, the situation of women who have any type of functional or psychological diversity, including addictions, which in not few cases are derived from or related to previous experiences of gender-based violence, must be considered. In this respect, the inclusion, in the definition of the law, of cases of what in Latin America are called *femicide suicides*, cases in which women end up taking their own lives due to the situation of violence they live in or have lived in. This inclusion is relevant considering that, in many cases, gender-based violence against women or girls, often during childhood, can have consequences much later in time, during adulthood. Considering the effects of gender-based violence on the long-term mental health of women, as well as the explicit inclusion of

suicides due to this violence, requires paying more attention to suicides among women and their causes. This should also result in adapting suicide prevention measures to these considerations and, more broadly, influencing mental health interventions aimed at women, in order to consider and address the impact of gender-based violence which is often invisible to clinical diagnoses. Mental health interventions that consider this reality may also contribute to shed light on the scope of the consequences of gender-based violence on the mental health of women.

The focus that the notion of *feminicide* places on the responsibility of public authorities must also be expressed in the necessary coordination of interventions, in all areas, since one of the fundamental bases for an adequate response to gender-based violence, including feminicides, is optimal coordination between the various services and organisations involved. This is fully applicable to all forms of gender-based violence, but is particularly relevant in the cases of feminicides, which require timely and more sensitive interventions in order to avoid the revictimisation of survivors and victims' relatives, especially children. It should also be taken into account that children are also victims of the violence suffered by the mother, and all measures taken must be aimed at minimising the damage and guaranteeing their rights as survivors.

The measures against feminicides must apply an intersectional perspective: we must consider the way in which other axes of discrimination, such as racism or financial vulnerability, specifically affect certain groups of women

Finally, and although the notion of *feminicide* has been introduced into Catalan legislation, it is essential to remember the differences in the contexts in which the political concepts such as *femicide* and *feminicide* are placed. Although the theoretical categories can be "translated" and used in other contexts, the realities that give rise to them are not equivalent or similar. Although *femicides/feminicides* are a global problem, they are not phenomena that are equally prevalent everywhere. Murders of women do not happen in the same way in all places, nor are the responses of the authorities the same. In Europe, for example, the prevalence of these crimes is low compared to others [6], and in Mexico impunity continues to be present in many cases of feminicide [7]. These differences must be taken into account in a political sense and also in Catalan foreign action, as well as in the policies that have an impact in different countries.

REFERENCES

- 1 — Rusell, Diana (2012). *Defining Femicide. Introductory speech presented to the United Nations Symposium on Femicide* [[available online](#)].

- 2 — Inter-American Court of Human Rights. Case of González et al. (“Cotton Field”) v. Mexico. Judgment of November 16, 2009, series C, no. 205.
- 3 — Toledo, Patsilí (2014). *Femicidio / Feminicidio*. Buenos Aires: Ediciones Didot.
- 4 — Toledo, Patsilí (2018). «Criminalising femicide in Latin American countries—legal power working for women?». In: Howe, Adrian; Alaattinoğlu, Daniela. *Contesting Femicide: Feminism and the Power of Law Revisited*. Routledge, pp. 39-51.
- 5 — Toledo, Patsilí (2021). *The Impact of COVID-19 on Criminal Justice System Responses to Gender-based Violence Against Women: A Global Review of Emerging Evidence* [[available online](#)]. UNODC.
- 6 — UNODC (2018). *Global Study on Homicide. Gender-related killing of women and girls* [[available online](#)]. Viena: United Nations.
- 7 — Amnesty International (2021). *Justice on Trial: Failures in criminal investigations of femicides preceded by disappearance in the State of Mexico* [[available online](#)]. Mexico.



Patsilí Toledo Vásquez

Patsilí Toledo Vásquez is a feminist activist, scholar and consultant on women's human rights, specialising in violence, gender and criminal justice. She holds a PhD in Public Law from the Autonomous University of Barcelona, where she works as a researcher at the Antígona research group. She graduated in Law from the University of Chile, where she also obtained a diploma in Women's Human Rights. Since 2014, she has been an associate professor of Gender and Criminal Justice system at Pompeu Fabra University. She has been a consultant on responses to femicide and sexual violence, especially in Latin American and South Asian countries, working for several United Nations agencies, such as the United Nations Office on Drugs and Crime (UNODC), UN Women of Latin America and the Caribbean, and the Office of the United Nations High Commissioner for Human Rights (OACNUDH). She was also a consultant to the Committee on the Elimination of Discrimination against Women (CEDAW) contributing to the General Recommendation No. 35 on Gender Violence Against Women (2017), and developed the first comprehensive impact assessment of COVID-19 on the responses of justice systems to gender-based violence for UNODC (2021). She has also been an adviser on women's rights and LGBTIQ+ rights for the Ministry of Equality and Feminisms at the Government of Catalonia.