Feminicidio, Transnational Legal Activism and State Responsibility in Mexico

by

Paulina García Del Moral

A thesis submitted in conformity with the requirements for the degree of Doctor of Philosophy
Department of Sociology
University of Toronto

© Copyright by Paulina García Del Moral 2016
Abstract

This dissertation uses the concept of transnational legal activism to analyze the mobilization of international human rights law as a multi-scalar process that produces and is shaped by gendered political and discursive opportunities. I apply this framework to examine how feminist grassroots activists engaged with supranational human rights institutions, especially the Inter-American Court of Human Rights, to hold the Mexican state responsible for the murders of three young women in Ciudad Juárez, an industrial city that borders the United States, in the case of González and Others “Cotton Field.” The Court declared that Mexico had failed to act with due diligence to prevent, investigate, and punish these crimes. These murders epitomize what activists identified as feminicidio, the systematic killing of women in a context of institutionalized gender discrimination sanctioned by the state; this phenomenon has prevailed in the northern state of Chihuahua where Ciudad Juárez is located since the 1990s. The dissertation also investigates how federal and local state actors responded to grassroots activists’ claims and the judgment of the IACtHR, including the criminalization of feminicidio. Through interviews with Mexican activists and frame analysis of the IACtHR judgment and of federal and local parliamentary debates, I argue that grassroots activists’ involvement in transnational legal activism contributed
to expanding and rearticulating the meaning of women’s human rights and state responsibility at the domestic and supranational levels. Throughout, I highlight activists’ agency in this process and in their interactions with transnational organizations specialized in human rights advocacy and supranational litigation. Thus, I challenge assumptions in the literature on human rights and social movements that imply that grassroots actors have a limited access to international law and avenues to participate in transnational advocacy. Last, I suggest that the actions of Mexican grassroots activists extend a Latin American approach to international human rights law.
Acknowledgments

I like to think of this dissertation as the tip of the iceberg of my doctoral studies. Beneath it and out of sight, yet of part of the process of writing this document, are very many early drafts, theories that guided my thinking but did not incorporate, and ideas for different projects that I entertained but did not develop, as well as other forms of intellectual, physical and emotional work that are part of doing a Ph.D. and are difficult to capture with words. More important are the many stimulating conversations with my committee, friends, other faculty and colleagues about my ideas and arguments. To all of them I want to thank them wholeheartedly for being part of this process.

When I entered the Ph.D. program in Sociology at the University of Toronto, I was told I would know that my supervisors had done their job if I wrote something radically different from the initial project that I had in mind when I started my studies. This is certainly true of my committee, Anna Korteweg, Ron Levi, and Karen Knop. I want to thank them for being my mentors and guiding me through the process of developing and completing this research project. You have all challenged and encouraged me in your own ways to find my authorial voice and thus to become a scholar who owns her arguments and ideas. Thanks also to my internal and external examiners, Ronit Dinovitzer and Cecília MacDowell Santos for their willingness to participate in the dissertation and for their insightful comments.

This process, however, would not have been possible without the strong friendship and support of Emily Laxer, Salina Abji, Cristian Rangel, and Megan Dersnah. Thank you for being there for me during the most difficult moments of being a Ph.D. student, for letting me share not only my ideas, but also my fears and insecurities. It was with you that I had the best and most rewarding experiences during these last seven years. I know our friendship will be for life.

I would like to thank Hae Yeon Choo, Jennifer Chun, Bonnie Fox, Judy Taylor, Joe Bryant, Erik Schneinderhan, Cynthia Cranford, Bonnie Erickson, Monica Boyd, Paula Maurutto, Kelly Hannah-Moffat, Luisa Schwartzmann and Julian Tanner for being invested in my academic and professional development. A special thanks is due to Carmela Versace and Michelle Bailey for their invaluable kindness and assistance dealing with the many and complicated bureaucratic processes that are part of the Ph.D. program. Thanks also to Tina Colomvakos, Jeremy Nichols,
Donna Ragbir and John Manalo for making the department a welcoming environment for students. I am grateful to Mariana Valverde for taking an interest in my research and for inviting me to be a fellow at the Centre for Criminology and Socio-legal Studies at the University of Toronto and to participate in various reading groups and events.

I also thank my parents, Sergio and Herminia, my sister Natalia and my extended Del Moral family for their unconditional love and for always believing in me. My dad deserves many thanks for sharing his legal expertise with me. As a non-lawyer, I could not have completed a dissertation about Mexican and international human rights law without him. I am indebted to Cathie Krull and Brian McKercher, who have been invested in my personal and academic development since I was an undergraduate student at Queen’s University and have always pushed me to trust myself. Without them I would never have considered doing a Ph.D. in Sociology. Special thanks to Ryan Davis, who has been cheering me on as my loving partner during this academic marathon and patiently reminding me to not be so hard on myself.

I further want to acknowledge the Social Sciences and Humanities Research Council of Canada (SSHRC) for supporting my research through the Canada Vanier Graduate Scholarship. I also greatly benefitted from being a participant in the summer school of the Danish National Research Foundation’s Centre for Excellence in International Courts iCourts at the University of Copenhagen, Denmark.

Last but not least, I thank the participants in my research and their organizations, the CLADEM, JPHN, CEDEHM, MXM, OCNF, CEJIL, Pablo Navarrete (INMUJERES) and Dr. Julia Monárrez Fragoso for sharing their experience and knowledge about feminicidio and activism to combat gendered violence in Mexico.
# Table of Contents

Acknowledgments ........................................................................................................ iv

Table of Contents ......................................................................................................... vi

List of Tables ................................................................................................................ ix

List of Figures ................................................................................................................ ix

List of Appendices ........................................................................................................ xi

Abbreviations ............................................................................................................... xii

Research Participants ................................................................................................. xv

Timeline of Events ....................................................................................................... xii

Chapter 1. Introduction................................................................................................. 1

Towards a Framework for Analyzing Gendered Processes Across Scales.................. 8

  Approaches to Human Rights, Law, and Social Movements .................................. 8

  Feminist Approaches to Transnational Activisms, Law and the State .................... 15

  Feminisms and *Feminicidio* in Mexico ................................................................. 22

Data and Methods ....................................................................................................... 31

Overview of the Chapters ......................................................................................... 34

Chapter 2. Beyond Vernacularization: On Chihuahuan Grassroots Feminist Activism,
  Transnational Human Rights Advocacy and Transnational Legal Activism .......... 37

On Transnational Human Rights Advocacy and the Grassroots/Translator Binary ...... 40

  Challenging the Grassroots/Translator Binary: The Activist Trajectories of Grassroots
  Human Rights Defenders ....................................................................................... 43

On Transnational Legal Activism and the Human Rights as Ideas for Social
  Movements/Human Rights as Law Binary ............................................................... 56

  Challenging the Social Movement/Law Binary of Human Rights: Grassroots Human
  Rights Defenders and Transnational Legal Activism ........................................... 59

Discussion and Conclusion ....................................................................................... 66
Chapter 3. Gendering the Supranational: Transnational Legal Activism and the “Cotton Field” Case .......................................................................................................................................................... 68

Gender, Human Rights, and Global Governance ......................................................................................................................... 72

Establishing the Norm of State Responsibility for Gendered Violence: Due Diligence and Violence against Women as Gender Discrimination ................................................................. 76

The Inter-American Case Law on Gendered Violence .............................................................................................................. 79

The “Cotton Field” Judgment as a Network of Meaning ........................................................................................................ 84

Building the Network of Meaning, Constructing the Gender Perspective .............................................................................. 87

Contested Terrain: State Responsibility and the Gender Perspective in “Cotton Field” ................................................................. 91

The Gender Perspective and the Belém Do Pará Convention ......................................................................................................... 92

The Network of Meaning and the Gender Perspective ...................................................................................................................... 96

Applying the Gender Perspective: Rearticulating and Reaffirming the Norm on State Responsibility for Violence against Women ........................................................................................................ 100

Discussion and Conclusion .............................................................................................................................................................. 105

Chapter 4. ................................................................................................................................................................................................. 109

How Feminicidio Became the Language of State Responsibility .................................................................................................... 109

Women’s Rights, Mexican Law, and the Gendered Structure of State Power in the Late 20th Century ................................................................. 112

The Federal and Local Regendering of the Mexican State ........................................................................................................ 116


The LIX Legislature of the Congress of Chihuahua (1998-2001) ........................................................................................... 119


The LX Legislature of the Congress of Chihuahua (2001-2004) ........................................................................................ 124


The LXI Legislature of the Congress of Chihuahua .................................................................................................................. 133


The LXII Legislature of the Congress of Chihuahua .................................................................................................................. 141

Discussion and Conclusion .............................................................................................................................................................. 144
Chapter 5. Conclusion ........................................................................................................... 146
References ............................................................................................................................ 153
Appendices ........................................................................................................................... 189
List of Tables

Table 3.1. Plaintiffs and Representatives in the Litigation of the “Cotton Field” case

Table 3.2. List of the Most Frequently Cited Reports in the “Cotton Field” Judgment
List of Figures

Figure 1.1. *La cruz de clavos* bearing the name of the *Ni Una Más* campaign at the Plaza Hidalgo in Chihuahua City. March 2014.

Figure 3.1. A Map of the Discursive Concatenation between the Most Frequently Cited Reports in the IACtHR “*Cotton Field*” Judgment

Figure 3.2. The “*Cotton Field*” Judgment as a Network of Meaning.
List of Appendices

Appendix A. Overview of the Main Organizations/Actors involved in the *Ni Una Más* campaign after 2004.

## Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>AHRC</td>
<td>American Human Rights Convention</td>
</tr>
<tr>
<td>Belém Do Pará Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women</td>
<td></td>
</tr>
<tr>
<td>CEDAW</td>
<td>United Nations Convention on the Elimination of All Forms of Discrimination against Women</td>
</tr>
<tr>
<td>CEDEHM</td>
<td>Centre for Women’s Human Rights (<em>Centro de Derechos Humanos de las Mujeres</em>)</td>
</tr>
<tr>
<td>Ciudad Juárez Commission to Prevent and Eradicate Violence against Women in Ciudad Juárez (<em>Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez</em>)</td>
<td></td>
</tr>
<tr>
<td>CLADEM</td>
<td>Latin American and Caribbean Committee for the Defense of Women’s Rights (<em>Comité Latino Americano y del Caribe para la Defensa de los Derechos de la Mujer</em>)</td>
</tr>
<tr>
<td>CMDPDH</td>
<td>Mexican Commission for the Defense and Promotion of Human Rights (<em>Comisión Mexicana de Defensa y Promoción de Derechos Humanos</em>)</td>
</tr>
<tr>
<td>CNDH</td>
<td>Mexican National Human Rights Commission (<em>Comisión Nacional de Derechos Humanos</em>)</td>
</tr>
<tr>
<td>DEVAW</td>
<td>United Nations Declaration on the Elimination of Violence against Women</td>
</tr>
<tr>
<td>EAAF</td>
<td>Argentine Forensic Anthropology Team (<em>Equipo Argentino de Antropología Forense</em>)</td>
</tr>
<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
</tr>
<tr>
<td>FEADHM</td>
<td>Special Prosecutor to Investigate the Homicides of Women in the Municipality of Juárez (federal) (<em>Fiscalía Especial para la Investigación de los Homicidios de Mujeres en el Municipio de Juárez</em>)</td>
</tr>
<tr>
<td>FEIHM</td>
<td>Special Prosecutor for the Investigation of the Homicides of Women in the Municipality of Ciudad Juárez (local) (<em>Fiscalía Especial para la Investigación de Homicidios de Mujeres en el Municipio de Juárez</em>)</td>
</tr>
<tr>
<td>ICC</td>
<td>International Criminal Court</td>
</tr>
<tr>
<td>IACHR</td>
<td>Inter-American Commission on Human Rights</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Name</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>IACtHR</td>
<td>Inter-American Court of Human Rights</td>
</tr>
<tr>
<td>ICTR</td>
<td>International Criminal Tribunal for the Rwanda</td>
</tr>
<tr>
<td>ICTY</td>
<td>International Criminal Tribunal for the former Yugoslavia</td>
</tr>
<tr>
<td>ICHMUJERES</td>
<td>Women’s Institute of Chihuahua (Instituto Chihuahuense de la Mujer)</td>
</tr>
<tr>
<td>INMUJERES</td>
<td>National Women’s Institute (Instituto Nacional de las Mujeres)</td>
</tr>
<tr>
<td>JPNH</td>
<td>Justice for Our Daughters (Justicia Para Nuestras Hijas)</td>
</tr>
<tr>
<td>LEAMVLV</td>
<td>State Law on Women’s Access to a Life Free of Violence (Ley Estatal de Acceso de las Mujeres a una Vida Libre de Violencia)</td>
</tr>
<tr>
<td>LGAMVLV</td>
<td>General Law on Women’s Access to a Life Free of Violence (Ley General de Acceso de las Mujeres a una Vida Libre de Violencia)</td>
</tr>
<tr>
<td>MC</td>
<td>Citizen Movement Party (Movimiento Ciudadano)</td>
</tr>
<tr>
<td>MXM</td>
<td>Women for Mexico in Chihuahua (Mujeres por México en Chihuahua)</td>
</tr>
<tr>
<td>NHRC</td>
<td>May Our Daughters Return Home (Nuestras Hijas de Regreso a Casa)</td>
</tr>
<tr>
<td>OCNF</td>
<td>National Citizen Feminicidio Observatory (Observatorio Ciudadano Nacional del Feminicidio)</td>
</tr>
<tr>
<td>PAN</td>
<td>National Action Party (Partido Acción Nacional)</td>
</tr>
<tr>
<td>PANAL</td>
<td>New Alliance Party (Partido Nueva Alianza)</td>
</tr>
<tr>
<td>PASC</td>
<td>Social Democratic and Peasant Alternative Party (Partido Alternativa Socialdemócrata y Campesina)</td>
</tr>
<tr>
<td>PGJE</td>
<td>Office of the State Prosecutor (Procuraduría General de Justicia del Estado)</td>
</tr>
<tr>
<td>PGR</td>
<td>Office of the Attorney General (Procuraduría General de la República)</td>
</tr>
<tr>
<td>PRD</td>
<td>Democratic Revolution Party (Partido de la Revolución Democrática)</td>
</tr>
<tr>
<td>PRI</td>
<td>Institutional Revolutionary Party (Partido de la Revolución Institucional)</td>
</tr>
<tr>
<td>PT</td>
<td>Worker’s Party (Partido del Trabajo)</td>
</tr>
<tr>
<td>PVEM</td>
<td>Green Party (Partido Verde Mexicano)</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>SRVAW</td>
<td>United Nations Special Rapporteur on Violence against Women</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNDC</td>
<td>United Nations Commission of Drugs and Crime</td>
</tr>
<tr>
<td>WOLA</td>
<td>Washington Office for Latin American Affairs</td>
</tr>
</tbody>
</table>
## Research Participants

<table>
<thead>
<tr>
<th>Name</th>
<th>Organization</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clara Luz Azcuaga</td>
<td>MXM</td>
<td>Grassroots feminist activist.</td>
</tr>
<tr>
<td>Gisela De León</td>
<td>CEJIL</td>
<td>Feminist lawyer specialized in supranational litigation in the Inter-American Human Rights system.</td>
</tr>
<tr>
<td>Rodolfo Domínguez Márquez</td>
<td>OCNF</td>
<td>Feminist lawyer and activist. Head of litigation of the OCNF. The Mexican Supreme Court of Justice recently ruled in his favour.</td>
</tr>
<tr>
<td>Julia Escalante</td>
<td>CLADEM</td>
<td>Feminist activist. Coordinator of the CLADEM in Mexico.</td>
</tr>
<tr>
<td>Alma Gómez</td>
<td>CEDEHM</td>
<td>Feminist lawyer and grassroots activist involved in the <em>Ni Una Más</em> campaign. Founder of the CEDEHM.</td>
</tr>
<tr>
<td>Mirna González</td>
<td>MXM</td>
<td>Grassroots feminist activist.</td>
</tr>
<tr>
<td>Élida Hernández</td>
<td>MXM</td>
<td>Grassroots feminist activist.</td>
</tr>
<tr>
<td>Norma Ledesma</td>
<td>JPNH</td>
<td>Grassroots feminist activist involved in the <em>Ni Una Más</em> campaign. Founder of grassroots NGO JPNH in the aftermath of the abduction and murder of her 16-year old daughter Paloma Angélica Escobar Ledesma in 2002.</td>
</tr>
<tr>
<td>Dr. Julia Monárrez Fragoso</td>
<td>Colegio de la Frontera Norte</td>
<td>Feminist sociologist. She was among the first to introduce the term <em>feminicidio</em> in the Mexican academia and she is involved in activism through the OCNF.</td>
</tr>
<tr>
<td>Pablo Navarrete</td>
<td>INMUJERES</td>
<td>Former human rights activist and current Coordinator of Juridical Affairs at the National Women’s Institute.</td>
</tr>
<tr>
<td>Dr. Guadalupe (Lupita) Ramos Ponce</td>
<td>CLADEM</td>
<td>Feminist activist. Coordinator of the CLADEM in the state of Jalisco. She also is affiliated with the OCNF.</td>
</tr>
<tr>
<td>Graciela Ramos</td>
<td>MXM</td>
<td>Grassroots feminist activist involved in the <em>Ni Una Más</em> campaign. Coordinator of MXM in Chihuahua.</td>
</tr>
</tbody>
</table>
Timeline of Events

1974  Mexico hosts the UN First World Conference on Women. On December 31, Mexico recognizes the juridical equality between women and men in Article 4 of the Mexican Constitution.


1993  The murders of women and girls begin in Ciudad Juárez, Chihuahua, Mexico.

1997  On November 6, the Coordinating Group of Pro Women NGOs in Chihuahua led by local feminist activist Esther Chávez Cano approach federal Deputy Angélica Vucovich Seele (PRD), asking that the federal government intervene in the investigation of the murder of almost 100 women and girls since 1993. Vucovich Seele presents a complaint to the Mexican National Human Rights Commission (CNDH).

         On November 25, International Day for the Elimination of Violence against Women, the Coordinating Group places 100 crosses in front of the government palace in Chihuahua City to protest against the murder of women and girls since 1993 and the impunity of these crimes.

         Mexican feminist anthropologist Marcela Lagarde introduces the term *feminicidio* in the Mexican academic setting.

         Mexico ratifies the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém Do Pará Convention).

         Rape in marriage is outlawed in Mexican legislation.

1998  The CNDH releases Recommendation #44/98, which documents the irregularities in the investigation of the disappearance and subsequent murder of 104 women and girls in Ciudad Juárez since 1993 in relation to institutionalized gender discrimination.

         In response to Recommendation #44/98, Chihuahua state governor Francisco Barrios Terrazas (PAN) creates the Special Prosecutor for the Investigation of Homicides of Women (FEIHM) and the Women’s Institute of Chihuahua (ICHMUJER).
The Coordinating Group becomes allied with other national human rights and feminist organizations. Together, they approach UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions, Asma Jahangir, and the UN Special Rapporteur on the Independence of Judges and Lawyers, Dato’Param Cumaraswamy to pressure the Mexican state into complying with Recommendation #44/98.

UN Special Rapporteur Jahangir releases her report on her visit to Mexico accusing Mexico of tolerating the impunity of the murders of women in Ciudad Juárez.

Mexican feminist sociologist Julia Monárrez Fragoso publishes an article on the murders and disappearances of women and girls in Ciudad Juárez between 1993 and 1999 drawing on data collected by local feminist activist Esther Chávez Cano. She names these murders feminicidio.

Vicente Fox (PAN) becomes President, ending the 70-year rule of the PRI. He makes a commitment to make human rights in Mexico a reality.

In February, Lilia Alejandra García Andrade is abducted, raped, and murdered in a car in Ciudad Juárez. The police fail to act despite being notified of the incident. Norma Andrade, Lilia Alejandra’s mother, and Marisela Ortiz, her teacher, form the NGO Nuestras Hijas de Regreso a Casa (May Our Daughters Return Home, NHRC) to demand access to justice.

In May, UN Special Rapporteur Cumaraswamy releases his report on his visit to Mexico, accusing Mexican authorities of participating in victim blaming to justify the impunity of the crimes.

On November 6 and 7, the bodies of eight murdered women were found in a cotton field in Ciudad Juárez. Three of these women were identified as Claudia Ivette González, Laura Berenice Ramos Monárrez, and Esmeralda Herrera Monreal.

The Gender and Equity Commission of the Chamber of Deputies of the Federal Congress creates a Special Commission to Follow Up the Investigation of Homicides of Women in Ciudad Juárez in response to the cotton field murders.

The Justice and Human Rights Commission of the Congress of Chihuahua creates a Special Commission to Monitor the Homicides of Women in the Municipality of Juárez in response to the cotton field murders.

In December, NHRC and the relatives of other murdered and disappeared women join forces with local, national, and transnational feminist and human rights organizations to launch the Alto a la Impunidad: Ni Una Muerta Más campaign (Stop Impunity: Not One More Woman Murdered!). Activists place a cross of nails in front of the government palace in Chihuahua City and another one on the
Santa Fe bridge at the border of Ciudad Juárez and the United States as a symbol of the campaign. The representatives of numerous transnational and supranational institutions visit Mexico and issue reports and recommendations on these murders (see Appendix A).

2002

In February, the Inter-American Rapporteur for the Rights of Women, Marta Altolaguirre, visits Ciudad Juárez.

In March, Paloma Angélica Escobar Ledesma is abducted and murdered in Chihuahua City. Her mother, Norma Ledesma, begins to protest daily in front of the government palace along with the relatives of other disappeared and murdered women. Their actions call attention to a pattern of violence similar to Ciudad Juárez. Norma Ledesma and her allies create Justicia para Nuestras Hijas (Justice for Our Daughters, JPNH) and become part of the Ni Una Más campaign.

In March, Josefina González, Benita Monárrez, and Irma Monreal, the mothers of cotton field victims Claudia Ivette González, Laura Berenice Ramos Monárrez, and Esmeralda Herrera Monreal submit separate petitions to the Inter-American Commission on Human Rights (IACHR).

In October, Esther Chávez Cano and the American NGO Equality Now requested that the CEDAW Committee conduct an inquiry into the murders and disappearances of women and girls in Ciudad Juárez under its Optional Protocol.

Mexican feminist sociologist Julia Monárrez Fragoso publishes another article on feminicidio in Ciudad Juárez, applying the concept systematically to interpret this phenomenon.

2003

Norma Ledesma presents a petition to the IACHR.

The Inter-American Rapporteur on the Rights of Women, Marta Altolaguirre, releases her report on her visit to Mexico. Amnesty International visits and releases its own report. Both reports argue that Mexico has failed to act with due diligence to prevent, investigate, and punish the murders of women and girls in Ciudad Juárez and Chihuahua City and link this finding to institutionalized gender discrimination. The CEDAW Committee visits Mexico to conduct an inquiry into the murders and disappearances of women in Ciudad Juárez.

Feminist anthropologist Marcela Lagarde becomes a federal Deputy through her affiliation with the PRD during the LIX Legislature (2003-2006). On November 25, International Day for the Elimination of Violence against Women, she publicly defines feminicidio as a “state crime.” She is instrumental in drafting the General Law for Women’s Access to a Life Free of Violence (LGAMVLV) during this legislative period.

In November, the CNDH presents a second report on the feminicidios of Ciudad Juárez to the federal Congress.
In the federal Congress, Senators create their own Special Commission to Follow Up on the Progress of the Investigations on the Homicides of Women in Ciudad Juárez.

In October, President Fox (PAN) instructs the Secretariat of the Interior to create the federal Commission to Prevent and Eradicate Violence against Women in Ciudad Juárez (Ciudad Juárez Commission).

2004

In January, the Office of the Attorney General (PGR) creates the Special Prosecutor to Investigate the Homicides of Women in the Municipality of Juárez (FEADHM) through Agreement A003/04.

In February and March, as part of V-Day International, the Ni Una Más campaign organizes the First Awareness Tribunal on the Human Rights Violations of the Murdered Women of Ciudad Juárez and Chihuahua. Marcela Lagarde and Julia Monárrrez Fragoso present their work on feminicidio.

In April, Deputy Marcela Lagarde creates the Special Commission to Make Known and Monitor Feminicidios in Mexico and Secure Efforts to Justice in Such Cases in the federal Chamber of Deputies.

In April, the UN Office on Drugs and Crime (UNDC) visits Ciudad Juárez and Chihuahua City and issues its report.

In November, the Deputies in the Congress of Chihuahua create a new Special Commission to Follow the Feminicidio Investigations in the State of Chihuahua.

2005

In February, the UN Special Rapporteur on Violence against Women (SRVAW) Yakin Ertürk visits Mexico.

In February, the IACHR declares the petitions on the murders of Claudia Ivette González, Laura Berenice Ramos Monárrrez and Esmeralda Herrera Monreal admissible.

2006

The UN SRVAW Yakin Ertürk releases her report on her visit to Mexico, which accuses Mexico of breaching its international legal obligations under CEDAW.

The IACHR declares that the case regarding the murder of Silvia Arce in Chihuahua City is admissible.

2007

In early 2007, the IACHR notified the Mexican state of its decision to join the cases of of Claudia Ivette González, Laura Berenice Ramos Monárrrez and Esmeralda Herrera Monreal to address them in a single report on the merits and to issue its recommendations.
In February, federal Deputies and Senators create their respective Special Commission to Know the Policies and the Procurement of Justice related to the Feminicidios in the Country.

The LGAMVLV enters into force, criminalizing feminicidal violence.


On November 4, the IACHR submits the case of González and Others “Cotton Field” v. Mexico to the Inter-American Court of Human Rights (IACtHR). On December 26, the IACtHR admits the case.

2008
Deputies in the Congress of Chihuahua create the new Special Commission on Feminicidio.

2009
On November 16, 2009 the IACtHR issues its judgment on the “Cotton Field” case, declaring that Mexico had failed to act with due diligence to prevent, investigate, and punish the murders of Claudia Ivette González, Laura Berenice Ramos Monárez, and Esmeralda Herrera Monreal. It declared that this violence constituted gender discrimination.

2010
In December, JPNH activist Marisela Escobedo is shot in the head in front of the cross of nails while demanding justice for ther murder of her daughter Rubí.

The IACtHR draws on the “Cotton Field” judgment to rule against Mexico in the cases of Valentina Rosendo Cantú and Inés Fernández Ortega concerning the rape of indigenous women by Mexican soldiers.

2011
The IACHR draws on the “Cotton Field” judgment to rule against the United States in the case of Jessica Gonzales (Lenahan).

2012
The IACHR declares that the petition regarding the case of Lilia Alejandra García Andrade is admissible.

2013
On June 14, feminicidio is criminalized in the Federal Criminal Code under article 325.

In July, the IACHR issues its report on the merits in the case of Paloma Angélica Escobar Ledesma.

2014
The IACtHR draws on “Cotton Field” to rule in the case of Véliz Franco v. Guatemala concerning the feminicidio of 15-year old Isabel Véliz Franco.

2015
In March, the Mexican Supreme Court of Justice declares that the violent death of a woman must be investigated as a feminicidio.
Chapter 1.
Introduction

A large wooden cross surrounded by over one thousand pink ribbons attached to thick iron nails stands in front of the government palace of the northern Mexican state of Chihuahua (Figure 1), in Chihuahua City. Each ribbon bears the name of a woman murdered in this border state since 1993. The majority of the murders have taken place in Ciudad Juárez, a city bordering El Paso, Texas, and Chihuahua City, the state capital. The sign at the top of the cross bears the words *Ni Una Más!*, meaning not one more woman murdered. The nails encase a picture of a murdered woman, who, like many of the victims commemorated in each ribbon, was found half buried in the desert at the outskirts of these industrial cities. Written in red letters against a black background, the picture’s caption states: “The total disregard and contempt for human rights have resulted in acts of barbarie that violate the human conscience.”³ Next to it is a mirror that reflects the main entrance to the government building. This structure is known as la cruz de clavos, the cross of nails.² This cross stands as an emblem of *feminicidio*. *Feminicidio*, or feminicide, refers to an extreme manifestation of violence against women and girls resulting in their death in a context of institutionalized discriminatory gender relations sanctioned by the state (Fregoso and Bejarano 2010; Lagarde 2010; Monárrez Fragoso 2002, 2009, 2013). In other words, the cross is at once a claim for justice and an accusing symbol of the role of the Mexican state in the violation of each of these women’s human rights.

Undoubtedly, this cross embodies the pain and suffering not only of the victims, but also of their next of kin as well as their joint activism with local feminist organizations to demand access to justice in what can only be described as a context full of adversities. The cross reflects the state and its power in more ways than one. The monument that currently stands in front of the government palace is not the original cross that activists placed there in December 2001. Activists believe that the local government had the original cross burnt and vandalized (Wright 2005). It was later stolen, forcing activists to replace it (Wright 2005). In addition, activists have often faced threats at the hands of unknown individuals likely associated with local authorities and/or organized crime (Castañeda Salgado, Ravelo Blancas, and Pérez Vásquez 2013; Monárrez Fragoso 2013; Portillo 2001; Segato 2010). A gruesome example of this harassment was the
shooting of activist Marisela Escobedo, the mother of a victim of feminicidio, in front of the new cross while protesting the impunity of her daughter’s murder in December 2010.

Figure 1.1. La cruz de clavos bearing the name of the Ni Una Más campaign at the Plaza Hidalgo in Chihuahua City. March 2014.

This symbolically laden monument can be read as a metaphor for the intersection of local and transnational feminist activisms and their attending conceptualizations of gender inequality, violence, and the state. The notion that the state should be held responsible for failing to act with due diligence to prevent, investigate, and punish violence against women under international human rights law is the product of transnational feminist advocacy in the early 1990s (Bunch and Reilly 1994; Friedman 2003; Joachim 1999; 2007; Keck and Sikkink 1998). In the late 1990s, Mexican feminist scholars adapted the radical feminist concept of femicide and used feminicidio to capture the relationship between the recurring disappearances, sexual abuse, and vicious murders of women and girls in these industrial cities to address the climate of impunity enveloping these crimes (Lagarde 2004, 2010, 2012; Monárrez Fragoso 2002, 2013). In turn, local activists appropriated the concept and used it as a frame to render visible the conditions of gender inequality underlying this violence and the indifference of the Mexican state towards it (Aikin Araluce 2011; García-Del Moral, forthcoming; see also Bueno-Hansen 2010; Fregoso and Bejarano 2010). In so doing, they made the claim that the Mexican state was responsible for these murders.

The cross of nails further captures a post-colonial dimension that undergirds the intersection of local and transnational feminist activisms. The cross is located in the Plaza Hidalgo, named in
commemoration of the hero Miguel Hidalgo y Costilla, a Mexican born priest of Spanish origins who initiated the war of Independence from Spain in 1810. After being apprehended in Chihuahua, Hidalgo was executed in the government palace by a firing squadron on July 30, 1811 by orders of the colonial government. A statue of Hidalgo with his right fist raised in the air, as if beckoning the Mexican people to join him in battle, stands only a few meters behind the cross, itself a symbol of the ubiquity of the Catholic legacy of three hundred years of Spanish colonial rule. Together, the cross and the statue of Hidalgo interpellate the colonial and post-colonial history of Mexico and Latin America more generally (c.f. Althusser 1971). This is a history of diverse nation-building projects, rife with political conflict, violence, and authoritarian manifestations of state power (Krauze 1984, 1997, 2011). Yet the struggles that accompanied the creation of independent states in Latin America over the course of the 19th and 20th centuries also shaped a distinctive Latin American approach to international law, especially international human rights law (Becker-Lorca 2015; Burgorgue-Larsen and Úbeda de Torres 2011; García Ramírez 2011).

This dissertation takes this metaphorical intersection between the local and the transnational and its underlying post-colonial dimension as its analytical entry point to examine the complex social processes that shaped the engagement of grassroots activists in Chihuahua with the Mexican state and supranational institutions, in particular the Inter-American Commission on Human Rights (IACHR), the Inter-American Court of Human Rights (IACtHR) and the United Nations (UN). Perhaps surprisingly, much has been written about the creation and subsequent diffusion and adaptation of international human rights norms to local contexts, but less about the way in which grassroots activists mobilize international human rights law to hold states accountable for their violations by bringing complaints to supranational institutions. According to Nash (2012, 802), the literature on human rights and social movements has tended to place an emphasis on the specialized NGOs or networks that are engaged in transnational advocacy without studying the relationship that they have to grassroots activism at the local level. At the same time, work on the institutionalization of human rights has privileged an understanding of “human rights as international law” without considering whether grassroots social movements have created new interpretations of human rights, how or whether these new understandings are shaped by international legal texts, and/or the extent to which these may have been institutionalized in domestic legislation (Nash 2012, 802). For Nash, “[q]uestions of how issues, conflicts, and
injustices come to be defined as human rights violations are neglected as a result, as is the study of the organisational forms within which contestations over those definitions takes place” (p. 802, original emphasis).

To challenge these tendencies, I make the actions and agency of grassroots activists in Chihuahua central to this dissertation. I focus in particular on the involvement of grassroots activists in the transnational mobilization of international human rights law to demand that the Mexican state be held accountable for the feminicidios in Chihuahua, further taking into consideration the impact of their actions on domestic legislation on gendered violence and on the jurisprudence of the Inter-American Human Rights system. In so doing, I build on Cecilia Santos’s (2007) concept of “transnational legal activism” (c.f. Sousa Santos and Rodríguez Garavito 2005; see also Cichowski 2002, 2004, 2007, 2013).

Santos (2007, 30) argues that transnational legal activism can be understood as “an attempt not simply to remedy individual abuses, but also to re-politicize law and re-legalize human rights politics by invoking and bringing international courts and quasi-judicial systems of human rights to act upon the national and local juridical-political arenas.” Put differently, this concept blurs the divide between law and politics to capture how civil society actors mobilize international human rights law to make rights claims vis-à-vis supranational institutions as well as how the state reacts to this process in specific historical and political contexts. This concept also recognizes the fragmented or “heterogeneous” character of the state at the local and national levels and thus the potential for contradictions in the state’s response to transnational legal mobilization. In short, the notion of transnational legal activism brings to the fore the multiple and complex social processes that shape the multi-scalar interactions between activists, supranational institutions, and a fragmented state on the contested terrain of international law.

Drawing on this concept, I illustrate how the transnational mobilization of international human rights law became a strategy of activism related to, but distinct from the successful transnational advocacy campaigns that emerged in Ciudad Juárez and Chihuahua City to pressure the Mexican state to address the problem of violence against women (Aikin Araluce 2011, 2012; Anaya Muñoz 2011; Ensalaco 2006; Martínez, Fernández and Villareal 2008). To be clear, I do not mean to suggest that transnational legal activism was more important than transnational human rights advocacy. Rather, my aim is to point out that these strategies interacted and shaped each
other, even though the legal dimension of transnational activism to combat the murders and disappearances of women and girls in Chihuahua has not received much scholarly attention (but see Ensalaco 2006). Ultimately, both reflect what McAdam, Tarrow and Tilly (2001, 331) identify as a “scale shift” in the dynamics of collective action, that is “a change in the number and level of coordinated contentious actions leading to broader contention involving a wider range of actors and bridging their claims and identities.” As such, I analyze the interactions between grassroots activists and other differently positioned non-state and state actors to trace how they engaged with international human rights law and with supranational institutions, especially the IACHR, the IACtHR and the UN.

My dissertation makes four key arguments. First, that through these interactions, grassroots activists acquired legal knowledge that they then used not only to interpret these murders as a human rights violation, but also to become central actors in the process of documenting the failure of Mexican authorities to carry out effective investigations into the crimes. Through this process, they acquired a shared identity as defenders of women’s human rights. The knowledge that they produced became, as such, instrumental for them to make claims against the Mexican state vis-à-vis the IACHR and the IACtHR in partnership with NGOs specialized in supranational litigation. Second, through their involvement in transnational legal action, grassroots activists and their allies contributed to reaffirming, expanding and rearticulating the meaning of women’s human rights. In particular, they disrupted traditional understandings of the responsibility of the state for gendered violence espoused by institutions of governance at the local, national and supranational levels. This, I show, is closely linked to the production of an understanding of the murders of women in Chihuahua as feminicidio or, to be more specific, to the transformation of this concept into a frame (García-Del Moral, forthcoming). Frames constitute “interpretive packages” that are actively deployed to organize and convey meaning in a structured manner (Ferree 2003). As discursive strategies, they produce shared interpretations of issues as problematic or unjust to motivate collective action by “attribut[ing] blame or responsibility for injustices” (Benford and Snow 2000, 616; Snow and Benford 1992). Feminicidio thus became a frame of state responsibility. Third, I argue that the supranational political and discursive opportunities underlying transnational legal activism (Della Porta, Rucht and Kriesi 1999; Ferree 2003, 2006) are gendered and that their gendered structure shaped the domestic and supranational impact of this complex process. Last, I posit that by engaging in
transnational legal activism, grassroots activists and their allies have arguably contributed to the Latin American approach to international human rights law (Becker-Lorca 2015; Burgorgue-Larsen and Úbeda de Torres 2011).

These arguments are based on an analysis of the transnational mobilization of law in the emblematic case of the cotton field murders. On November 6 and 7, 2001 the remains of eight women were found in a cotton field in Ciudad Juárez. Although they were in varying states of decomposition, the bodies bore traces of the extreme physical and sexual violence. Three of these victims were identified as Claudia Ivette González (20), Laura Berenice Ramos Monárrez (17), and Esmeralda Herrera Monreal (14).6 These women’s mothers had previously reported them as disappeared, but agents of the municipal Public Prosecutor’s Office dismissed their claims. They were told that they needed to wait at least 72 hours for the formal investigation to commence, forcing them to organize their own search parties. These public officials further suggested that the young women were not really missing, but were instead partying with their boyfriends. Moreover, irregularities plagued the investigation of the crime scene, the body identification process, and even involved the torture of two innocent men to produce false evidence to inculpate them for the crimes.

In partnership with national and transnational human rights organizations, the mothers of these young women brought a complaint before the IACHR and later the IACtHR.7 They argued that the Mexican state had failed to respond to the women’s disappearance and to conduct a proper investigation into their subsequent sexual assault and murder. These claims became the basis of the case of González and Others “Cotton Field” v. Mexico decided at the IACtHR in November 2009. In its landmark judgment, the IACtHR declared that the Mexican state had failed to act with due diligence to respond to the murders, thus violating the rights of the victims under the American Convention of Human Rights (ACHR) and the 1994 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém Do Pará Convention). Mexico ratified the ACHR in March 1981 and the Belém Do Pará Convention in December 1998. The Belém Do Pará Convention is the first international treaty to specifically address gendered violence and create legal obligations for all the states parties.

Why focus on this case? Neither the brutal murder of these young women nor the dismissive attitude of the local authorities toward their disappearance was uncommon in Ciudad Juárez at
the time (González Rodríguez 2002; Gutiérrez Castañeda 2004a; Monárrez Fragoso 2002, 2013; Ronquillo 2004). Yet, more so than the cases that preceded them, the cotton field murders became a catalyst for transforming the interpretation of violence against women in Chihuahua as well as the state’s response to it (Castañeda Salgado et.al. 2013; Ensalaco 2006; Monárrez Fragoso 2013). Indeed, in the weeks following the discovery of the bodies, national and transnational human rights and feminist organizations joined local activists to launch the campaign *Alto a la Impunidad: Ni Una Muerta Más!* (Stop Impunity: Not One More Woman Murdered) for which the cross of nails stands (Aikin Araluze 2011). The campaign resulted in the intervention of transnational NGOs like Amnesty International as well as supranational institutions like the UN, the IACHR, the European Union (EU) and the Council of Europe (CoE). These institutions issued numerous reports and recommendations on the situation of violence against women in Ciudad Juárez and Chihuahua City that claimed that the Mexican state had failed to observe its international legal obligations under the 1979 UN Convention on the Eradication of Violence against Women (CEDAW) and the Belém Do Pará Convention, among other human rights treaties. No other case of human rights violation in Mexico had received this much international attention before (Anaya Muñoz 2011). What is more, the IACtHR judgment in this case represented the first time that this supranational institution declared that violence against women constituted a form of gender discrimination (Acosta 2012; Burgorgue-Larsen 2011; Celorio 2011; Rubio-Marín and Estrada-Tank 2013; Rubio-Marín and Sandoval 2011). Finally, this judgment paved the way for the criminalization of *feminicidio* in Mexican law (García-Del Moral, forthcoming).

This case provides the opportunity to contribute to the work on human rights and social movements by exploring how grassroots activists engaged in transnational legal activism and how they utilized and generated political and discursive opportunities as part of this multi-scalar process. Analyzing this case involves placing an emphasis on the agency of grassroots activists as well as on their relations to specialized NGOs or networks, supranational human rights courts or quasi-judicial bodies, and state institutions. I ask the following questions: How did grassroots activists come to interpret these murders as a violation of women’s human rights, and how did it lead to the transnational mobilization of law to hold the Mexican state responsible for them? What have been the domestic, transnational, and supranational implications of the “*Cotton Field*” judgment for combatting gendered violence? How did local and federal Mexican state
actors understand their responsibility for the feminicidios of Chihuahua? To address these questions, I develop a feminist framework to conceptualize the multi-scalar social processes and interactions that shaped the trajectory of the cotton field murders to a supranational arena and back to the domestic realm.

This framework pushes forward extant interdisciplinary feminist scholarship on transnational feminist activism; international law, human rights, and global governance; and gender and the state. Drawing on this work and the concept of transnational legal activism, I extend approaches to social movements and international human rights law. The purpose is to provide a gendered and more complex view of the dynamics of grassroots organizations’ contribution to solidifying and reformulating the meaning of women’s human rights and “how law mattered” here (McCann 1994, 2006). At the same time, I emphasize that these interactions and processes are shaped by the paradoxical position of the state as the protector of women’s human rights and as the perpetrator of violations against them (Brown 1992).

Towards a Framework for Analyzing Gendered Processes Across Scales

At the core of this dissertation are two findings. First, grassroots activists play a central part in mobilizing law across scales, simultaneously contributing to the reaffirmation and rearticulation of human rights. Second, this multi-scalar process is gendered. In the following sections, I take steps to describe a framework that I developed to analyze these processes. I begin by discussing approaches to human rights, law and activism. This review seeks to shed light on possible reasons for the limited attention that has been given to the ways in which grassroots activists mobilize law transnationally and how they engage with international courts. Then I provide conceptual tools for analyzing how gendered structures and interactions shape transnational legal activism as multi-scalar process.

Approaches to Human Rights, Law, and Social Movements

In a recent article on human rights movements and law, Nash (2012, 802) raised several salient questions that tie in with those that motivate this dissertation: “Is grassroots mobilisation often facilitated by notions of ‘human rights’? Are definitions of human rights at the grassroots similar to those we find in international human rights agreements? How are they different? How do uses
of human rights at the grassroots relate, if at all to legal reform? And when they do, what kind of legal reform is demanded?” For Nash (2012), these questions are difficult to answer, since much of the interdisciplinary scholarship on this topic has not paid significant attention to the ways in which individuals or groups at the grassroots interact with the specialized NGOs or networks involved in transnational advocacy (c.f. Keck and Sikkink 1998). Grassroots groups’ engagement with international human rights law or their participation in its domestic legal institutionalization also remains understudied. Nash (2012, 802) thus claims that scholars have disregarded how these processes contribute to collective identity formation at the grassroots level. In this light, it is useful to question the notions that the legal expertise required to mobilize international human rights law is out of reach for grassroots activists (Della Porta and Kriesi 1999, 20; Kennedy 2003, 2012; Levitt and Merry 2009; Merry 2006a; Tsuitsui, Whitlinger and Lim 2012), or that a formal engagement with international human rights law can undermine alternative languages of emancipation in the local context (Kennedy 2003, 2012; Rajagopal 2003) that permeate this literature.

According to Tsuitsui and colleagues (2012, 383) “the institutional context of international human rights circumscribes civil society actors’ engagement with international laws and can direct social movements in more professionalized and institutionalized directions.” Professionalization, although potentially conducive to the mobilization of international human rights law to generate political opportunities and access to symbolic and material resources, may set the stage for the movement’s co-optation or deradicalization (Kennedy 2003, 2012; Tsuitsui et.al. 2012). Movement deradicalization results from the likely marginalization of groups that are less influential or have fewer resources to channel international human rights law to address issues that affect them more directly than those that reflect the agenda of elites (Kennedy 2003, 2012; Rajagopal 2003; Tsuitsui et.al. 2012).

These arguments echo the critiques of critical legal scholarship against the elitism of law and legal institutions, which renders them hardly accessible to subordinated groups, especially at the supranational level. Scholars working in this tradition claim that even when these groups do gain access to the formal process of litigation, the legal discourse that they are required to use to frame their claims may actually misrepresent, undermine and delegitimize their experiences and their own language (Lobel 2007; White 1988, 1990). Lawyers, even when well intentioned, are
part of the problem here. As elites, lawyers and other human rights professionals are distanced from the individuals or groups that they claim to represent; this distance reinforces “a global divide of wealth, mobility, information, and access to audience” (Kennedy 2003, 121; see also Levitt and Merry 2009; Merry 2006a). Although “removed from the collective grassroots struggle, [lawyers nevertheless] assume the role of speaking for the group, translating their constituents’ words into a professional, distinct language” (Lobel 2007, 953).

Critical legal scholars problematize this legal language because they see it as closely tied to a discourse of victimization that erases the differences among victims (Kennedy 2003, 112) and simultaneously reproduces negative stereotypes of subordinated groups (White 1990). Lawyers are, in this sense, involved in the exercise of ‘producing authentic victims’ (Kennedy 2003). In so doing, they may be silencing some groups or individuals, while (perhaps inadvertently) subordinating the experience and interpretation of injury of others to their own agendas for reform (Kennedy 2003, 121; White 1988, 538). Consequently, victims and those who have been silenced may not actually benefit from the creation of legal reforms and institutions to address human rights violations (Kennedy 2003).

In the worst-case scenario, this may in fact allow elites, whether local or international, to assert that they have already addressed the problem (Kennedy 2003, 110). Even if this is not the case, other scholars have argued that law produces narrow conceptualizations of human emancipation (Kennedy 2012) or what can be considered a solution to problems (see Lobel 2007, 951). White (1998, 329) argues, for example, that a focus on law or legal solutions has prevented feminist legal activists from incorporating analyses of the systemic political and economic inequalities that are linked to gender oppression. Kennedy (2012, 24) echoes this point, claiming that the human rights legal tradition tends to disregard economic or distributive issues as well as extra-legal remedies by paying too much attention to what governments do to individuals or individuals’ inability to make rights claims. What is more, Kennedy (2003, 118) asserts that human rights movements often emerge “in response to political conflict and discursive fashion among international elites, thereby overestimating the field’s emancipatory potential and obscuring the field’s internal dynamics and will to power” (see also Dezalay and Garth 2002, 2006; Hagan and Levi 2007). This limited approach to problems and their solutions may ultimately contribute to a movement’s deradicalization (see Lobel 2007). Worse, it may render
lawyers and movements complicit with the oppressive practices of the state or neoliberal governance projects (Bumiller 2008; Halley 2004, 2006, 2009; Orloff and Shiff, forthcoming).

Linked to these criticisms is the notion that a formal engagement with international human rights law can undermine alternative languages of emancipation, especially in the Third World (Rajagopal 2003). For example, in his work on Third World activism, Rajagopal (2003) heavily critiques the role that international law has played in legitimizing the historical oppression of the Third World through colonialism and current forms of inequality and violence, for instance, as a result of the imposition of harmful development policies. A central claim in his critique is that Third World grassroots activists are not the imagined ideal subjects of rights, so that both the scholarship and practice of international law tend to efface their experiences of resistance (but see Sousa Santos 2006; Sousa Santos and Rodríguez Garavito 2005). In this sense, human rights are not truly universal, but an expression of Western norms. Another salient problem is that states and institutional arenas or practices become the privileged site of international law, rendering invisible or delegitimizing the “extra-institutional spaces” and the alternative languages in and through which Third World resistance takes place (Rajagopal 2003; Sousa Santos and Rodríguez Garavito 2005). The language of human rights as the only legitimate discourse to frame resistance exacerbates this problem, since it may have more costs than benefits (Kennedy 2003).

Not all scholars conceptualize international human rights law or its potential for social change in these terms. Sousa Santos (2006, 134) argues, for example, that “translating” international human rights law into local cultures may render it more accessible and relevant to emancipatory, counter-hegemonic projects. For him, separating law from the state and from the neo-liberal politics of globalization is a necessary part of this process (see also Sousa Santos and Rodríguez Garavito 2005). Nash (2012, 803) explicates:

As local law, it [would be] embedded in the everyday life of the community, serving the interests and values of those who elaborated it. It is local, participatory, accessible and consensual. Ultimately, emancipatory law pluralises and decentres the state, which is absorbed into, rather than standing over and above, local legal practices.
In other words, the translation of international law into local cultures would render it a legitimate as opposed to an alienating or distorting language. Thus localized, law could function as a potential vehicle for resistance, provided that it became decoupled from and contributed to decentering the state. However, Nash (2012) and Santos (2007) have raised some important concerns with regard to this conceptualization of law. Since “it is so rare that human rights are developed outside and against the state,” Nash (2012, 799) insists in “bringing the state back in.” For Nash, as for Santos (2007), it is necessary to recognize that states remain the principal guarantors of human rights, while attending to the complexity inherent in the reality of human rights as a multi-scalar legal order. Santos also adds: “not all forms of transnational legal activism directly challenge neoliberal globalization, which does not mean that this type of activism does not seek to promote social, legal and political changes” (p. 34).

Against this background, work on vernacularization makes an important intervention, since it presents a framework for understanding the processes whereby international human rights law is translated into local contexts without dismissing the importance of the state (Merry 2003a, 2003b, 2006a, 2006b; Levitt and Merry 2009; Merry et.al. 2010). Levitt and Merry (2009, 441) define vernacularization as “the process of appropriation and local adoption of globally generated ideas and strategies.” With a focus on gender, they examine vernacularization in terms of the “global women’s rights package,” that is the shared ideas about gender equality, women’s empowerment, and political and economic independence that are codified in international law (Levitt and Merry 2009, 443). Vernacularizers play a central role here, since they orchestrate the translation process of this “rights package” by framing it in relation to local idioms, symbols and narratives to facilitate its adoption (Levitt and Merry 2009; Merry 2006a, 2006b). The goal of vernacularization is thus to shape domestic understandings of gender by creating a local human rights consciousness that contributes to challenging gender inequality (Merry 2003b, 2006a, 2006b). Ultimately, this work emphasizes that law “matters” beyond the formal legal process that critical legal scholars critique, since the meanings that it contains can be appropriated “to imagine social or political possibilities” (McCann 2006, 22).

The work on vernacularization further intervenes in the world polity and constructivist international relations literature as another set of approaches to human rights and social movements that emphasize the normative power of law. World polity scholars privilege the
concept of “world culture” as a global cultural system that drives the worldwide spread of international norms and institutions (Boli and Thomas 1997, 1999; Meyer 1999; Meyer et.al. 1997). In the world polity literature, international law channels the values of world culture and it is through states’ adoption of international treaties that these norms diffuse (Boyle and Meyer 2002; Gordon and Berkovitch 2007; Hafner-Burton and Tsuitsui 2009). These scholars thus do not necessarily conceptualize the near worldwide ratification of the CEDAW (Wotipka and Ramirez 2008) or of legislation on women’s suffrage (Berkovitch 1999; Ramirez, Soysal and Shanahan 1997) as a product of domestic activism. Rather, they attribute it to the institutionalizing drive of world culture and the role of international organizations in shaping state interests (Berkovitch and Bradley 1999; Heintz, Müller and Schiener 2006; Towns 2010).

Drawing on the world polity perspective, the constructivist school of international relations also identifies the normative power of international standards that are codified in international law. The role that international organizations play in socializing states into understanding certain norms and practices not only as acceptable and expected, but highly desirable is a central theme in this scholarship (Barnett and Finnemore 2004; Checkel 1998; Finnemore 1996; Finnemore and Sikkink 1998; Goodman and Jinks 2004; Hathaway 2002; Risse, Ropp and Sikkink 1999). The ratification of international treaties is a sign that states have begun to internalize the norms that bind the international community of states.

As such, both world polity and constructivist scholars argue that despite the constraints that these treaties place on sovereignty, states ultimately choose to sign and ratify them because the discourse of human rights has become a “global script” that confers legitimacy in international society (Hafner-Burton, Tsuitsui and Meyer 2008, 21; Wotipka and Tsuitsui 2008). Yet the weak enforcement of these treaties has prompted some world polity scholars to characterize states’ rationale for adopting them as a “paradox of empty promises” (Hafner-Burton and Tsuitsui 2009). This refers to a wilful decoupling between the treaties’ aims and the policies that states actually implement, to the detriment of citizens’ lives (Hafner-Burton and Tsuitsui 2009).

Nevertheless, others contend that the ratification of international treaties like the CEDAW still tends to lead to improved conditions for the protection of human rights, since it provides domestic activists with normative resources to push for domestic change (Boyle, McMorris and Gómez 2002; Liu and Boyle 2001; Simmons 2010). Constructivist scholars also support this
idea. For example, through her analysis of domestic violence legislation in post-conflict Latin America, Friedman (2009) challenges the notion that gender equality norms will be automatically introduced in domestic policies after states adopt international treaties on women’s rights. Friedman shows, in fact, that laws can reinscribe gender inequality in some contexts domestic while giving the appearance that states are progressive in this regard. Yet she continues to emphasize “the centrality of international human rights norms and movements in promoting women’s rights at the national level” (p. 350).

Like world polity and constructivist scholars, work on vernacularization considers that international law “does important cultural work by articulating [universal] principles,” even if it is “law without sanctions” (Merry 2003a, 943). For example, vernacularization scholar Sally Engle Merry (2003a) describes the CEDAW and its monitoring process as fostering the “global women’s rights package.” Nonetheless, the literature on vernacularization critiques the world polity and constructivist scholarship because it disregards the relationship between diffusion and the interpretation and adoption of norms, which in turn are also contingent on the context and the social position of actors and networks that engage in translation. However useful, work on vernacularization reveals that this literature does not explain how domestic activists understand, interpret and internalize international norms codified in international law in order to engage in transnational advocacy.

In sum, the work on vernacularization makes significant contributions towards gaining a more nuanced understanding of the dynamics of the diffusion and circulation of human rights norms and values. It further emphasizes that law matters beyond the formal legal process or its enforcement by legal institutions by drawing attention to its normative power and its potential to challenge inequality once its meaning has been translated and appropriated at the local level. Yet, in order to answer Nash’s (2012) questions and those that motivate this dissertation, I argue that it is necessary to go beyond this framework. The work on vernacularization, like that of critical legal scholars, ultimately still contends formal legal processes are inaccessible to grassroots groups. What is more, the vernacularization framework suggests that it is primarily elites and not grassroots groups who engage in the translation process. Consequently, the ways in which grassroots groups may in fact engage with international human rights law to resist or challenge inequality remains unexamined. Indeed, the literature reviewed thus far has tended to disregard
the political opportunities that international human rights courts offer to grassroots activists. In so doing, it has failed to take into consideration the impact that grassroots involvement in transnational legal activism (Santos 2007) may have not only in the domestic institutionalization of human rights, but also – and perhaps more interestingly – in extending or rearticulating traditional understandings of human rights. I suggest that Mexican grassroots activists’ claim that the murders of women and girls in Chihuahua should be understood as feminicidio and the subsequent attempts to present this framing in the litigation of the “Cotton Field” case that led to the criminalization of feminicidio in Mexican law is a case in point to go beyond vernacularization.

Feminist Approaches to Transnational Activisms, Law and the State

In many ways, feminist analyses of transnational activisms, law and the state stand in contrast to the approaches to human rights movements and law reviewed so far, including vernacularization. Three key sets of differences emerge between these approaches: a) conceptualizations of the local and the transnational and, by extension, of the agency of the actors that engage in multi-scalar action, the political and discursive opportunity structures that facilitate it, and the implications of this action; b) understandings of the state as a multi-faceted composite of numerous institutions, processes and discourses operating simultaneously at different levels and often in contradictory ways; and c) how gendered power relations operate through law and the state shaping both the actions and outcomes of actors at the domestic and transnational levels.

Recent work on transnational feminist activisms has problematized the meanings that scholars attribute to the term transnational, while highlighting the varieties of feminist transnational collective action (Conway 2008; Dufour, Masson, and Caouette 2010; Mahon 2006; Masson 2006; Thayer 2013; c.f. Della Porta and Tarrow 2005; Tarrow 2001, 2005). Feminist geographers in particular have taken issue with reductionist conceptualizations of the transnational, since this scale often becomes synonymous with the global or equated to what is beyond/outside the local and is thus “up there” (Dufour, Masson and Caouette 2010, 3). As such, the transnational is mistakenly construed as having an a priori existence to “the daily activist work” (Dufour, Masson and Caouette 2010, 3). According to Masson (2010, 38) “the transnational scale of collective action needs to be constructed in order for women’s movements to act.” Put
differently, Masson suggests a mutually constitutive relationship between activism and the transnational scale. For Masson (2010, 37), this also means that it is necessary to ground the processes of collective action in spatial social relations to analyze how the transnational scale emerges. In this sense, the local cannot be thought as “a passive and static counterpoint” to the transnational or the global, but as a site through which transnational processes are constituted (Thayer 2013, 6; c.f. Massey 1994). In sum, transnationalization is a process that is “always located somewhere” (Dufour, Masson and Caouette 2010, 3).

Another insight of feminist geographers is the categorization of two strands of feminist work on transnational activism: one whose focus is on the interactions of feminist and women’s movements in transnational settings or a “transnational public sphere,” and another that emphasizes domestic encounters with transnational actors/organizations, processes, and ideas (Dufour, Masson and Caouette 2010, 15). A concern with the social location of activists and the power differences that structure their collective action cut across these two approaches (Dufour, Masson and Caouette 2010, 15). Dufour and co-authors categorize as belonging to the first strand the literature on transnational feminist networks (e.g. Moghadam 2000, 2005); cross-border feminist collaboration and activism through events like the World March of Women and other global campaigns (e.g. Conway 2008); the creation of alliances or partnerships to set agendas at UN conferences (e.g. Basu 1995, 2000; Desai 2005; Friedman 2003; Friedman, Hochstetler and Clark 2005; Synder 2006); and other forms of regional organizing like Latin American feminist encuentros (e.g. Álvarez 1999, 2000, 2009).

According to Dufour and colleagues (2010), the second strand typically explores the form and outcome of the interaction of diverse forms of feminist activism (grassroots, local, national) with various transnational actors and organizations including international donors, transnational NGOs or the UN (e.g. Álvarez 2000, 2009; Thayer 2001, 2013; Tripp 2006); or the translation and travel of feminist discourses (Álvarez 2000; Thayer 2013). This literature acknowledges the often-contradictory impacts of these encounters (see also Basu 1995, 2000; Ferree and Tripp 2006; Grewal 1999; Grewal and Kaplan 1994; Naples and Desai 2002). On the one hand, these encounters may bring resources, both material and symbolic, to push forward a domestic feminist agenda. They may also open up opportunities to share and develop ideas and practices as well as to strengthen or build new alliances. On the other, the involvement of transnational actors,
especially in non-Western contexts, may impose agendas and priorities that constrain domestic mobilization, hinder its ability to cater to the needs of its constituency, and/or create conflict among domestic activist groups. A critical awareness of the potential for the reproduction of colonial or imperial dynamics runs through this work.

The categorization of the literature on transnational feminist activism that Dufour, Masson and Caouette (2010) propose is useful because it specifies more concretely how different and differently positioned feminist actors engage in various forms of transnational action. In so doing, it exposes a contrast between this interdisciplinary feminist literature and the dominant focus of world polity and constructivist scholarship on international organizations as the engines behind transnational processes of diffusion. Another such contrast is the lack of attention to the mutual constitution of the transnational scale through the transnational and local exchanges in which social actors are involved. But it also highlights differences vis-à-vis the work on vernacularization and critical legal scholarship, especially when it comes to its conceptualization of local, grassroots actors. Although vernacularization scholars take the positionality of actors into consideration, they attribute to so-called transnational elites or domestic political elites a greater capacity for acting as vernacularizers and thus for developing a stronger commitment to human rights (Levitt and Merry 2009; Merry 2006a). As a result, they argue that these privileged actors are more likely and better able to engage in transnational advocacy than grassroots activists. In turn, critical legal scholars seem to assume that grassroots actors have no agency or control over the terms of their participation in formal (domestic or supranational) legal processes, which they view as deeply alienating and disempowering to begin with.

In this dissertation, I examine what Dufour, Masson and Caouette (2010) consider as domestic encounters with the transnational. I focus, for example, on the trajectories of activism of grassroots women in Chihuahua and how they were shaped through their interactions with transnational human rights organizations like Amnesty International, or supranational institutions like the IACHR, the IACtHR and the UN in the context of their struggles against the killing of women in Ciudad Juárez and Chihuahua City. At the same time, I analyze the consequences of the transnationalization of this local struggle beyond the domestic realm. Thus, while I use the term local and grassroots actors interchangeably, I emphasize that these actors are active in constructing and engaging in transnational meanings and practices that have implications for
supranational institutions and other transnational struggles, including extending the Latin American approach to international law.

The concept of “transnational legal activism” (Santos 2007) is a helpful analytical tool in this regard. Drawing on the work of Sousa-Santos and Rodríguez Garavito (2005), Santos (2007, 30) defines this concept as “a type of activism that focuses on legal action engaged with international courts or quasi-judicial institutions to strengthen the demands of social movements; to make domestic legal and political changes; to reframe or redefine rights; and/or to pressure States to enforce domestic and international human rights norms.” Santos (2007, 32) argues that this term captures a different set of transnational interactions and processes than the concept of transnational advocacy that is associated with the work of Keck and Sikkink (1998), since it focuses on specifically legal practices and transnational legal mobilization. Nevertheless, the concept goes beyond the “narrow, legalistic perspective” that legal scholars adopt when analyzing transnational litigation as if the legal process was separate from politics and culture (Santos 2007, 32-33). Indeed, Santos (2007) points out that transnational legal activism is embedded in specific historical contexts in which various legal, social, and political struggles involving the agendas of a diversity of differently positioned social actors intersect. In short, this concept recognizes that differently positioned activists and social movements may pursue litigation as a strategy in legal, social and political struggles and it also highlights its limitations.

Employing the concept of transnational legal activism broadens up the scope for the analysis of the transnational and supranational opportunity structures that domestic and transnational actors can seize and produce (Della Porta, Kriesi and Rucht 1999; Ferree 2006; Ferree and Gamson 1999; Passy 1999; Smith 1999; see also Della Porta and Tarrow 2005). Ferree (2006, 9) argues that political opportunity structures, that is “the positive opportunities and the obstacles provided by a specific political and social structure,” can vary substantially at the transnational level. She defines the transnational opportunity structure as “a political context that seems open to feminism, particularly as it takes up the discourses of human rights and development” (p. 10). In a similar vein, Della Porta and Kriesi (1999) identify supranational opportunity structures. Della Porta and Kriesi (1999, 13; emphasis in original) view the UN and the European Union (EU) as a “supranational layer, which opens up new possibilities for challenges of social movements.” Indeed, they constitute not only a new arena for claims making but “a new reference public – the
European public or the global public” (p. 14). They also provide alternative symbolic and material resources than domestic political opportunities. My analysis of transnational legal activism in the “Cotton Field” case contributes to this literature in that, like Santos (2007), I consider understudied regional bodies for the protection of human rights to examine the supranational and transnational opportunities that they offered to differently situated actors in this case (see also Friedman 2009).

Della Porta and Kriesi (1999) further caution against a homogenous understanding of the impact that these arenas may have for domestic actors. They argue that the domestic political (and legal) context also influences the terms under which social movements and activists can seize supranational political opportunities (see also Ferree and Gamson 1999; Zippel 2004, 2006). Likewise, the work of feminist scholars of global governance can be applied in this respect (e.g. Meyer and Prügl 1999). This work highlights that institutions of global governance that operate in these supranational and transnational arenas have a gendered structure that may facilitate or hinder the introduction of feminist concerns or a gender perspective to address structural gender inequality. This, I argue, is another important factor shaping activists’ interactions with these institutions. Moreover, I suggest that the outcome of transnational legal activism can affect this gendered structure, for example through gender mainstreaming, with important implications for future claims making (Cichowski 2002; Verloo 2005).

The concept of transnational legal activism is also a useful tool to bring to the forefront the practices of documentation and knowledge production of domestic and transnational activists in relation to the violations of women’s rights in Ciudad Juárez. This legal knowledge was incorporated in the form of reports in the supranational litigation of the “Cotton Field” case at the IACtHR. In so doing, I point out that supranational and transnational opportunities need not be only political, but discursive (Ferree 2003, 2012). Discursive opportunity structures, defined as “gradients of relative political acceptability to specific packages of ideas” are central to the framing work that activists do, especially when they draw on the language of human rights norms that is enshrined in international human rights laws (Ferree 2003, 309, 2012). Moreover, through this conceptualization, I aim to disrupt the association of practices that may be associated with professionalization with movement deradicalization (Tsuitsui et.al. 2012).
Santos (2007, 33) makes another relevant insight for the purposes of this dissertation. She indicates that an analysis of transnational legal activism cannot be complete without taking into consideration how the state responds to it (see also Nash 2012). Ultimately, the state is a central actor in transnational legal disputes. More important is, however, Santos’s argument regarding how the state’s response is itself mediated by its “heterogeneous character.” By this Santos means “a State that, due to contradictory national and international pressures, assumes different logics of development and rhythms, making it impossible to identify a coherent pattern of State action common to all State sectors or fields of action” (p. 30). The work of Huneeus (2011) on the domestic obstacles that states face to comply with rulings of the IACtHR illustrates this point. The decisions or recommendations of international human rights courts like the IACtHR or the European Court of Human Rights (ECtHR) and other supranational quasi-judicial bodies address the executive branch of the state. However, Huneeus emphasizes, “the implementation of orders involves disparate state actors whose interests, ideologies, and institutional settings differ from those of the executive, and who may be only dimly aware of the Inter-American Court” (p. 495). My analysis of the response of the local and federal Mexican legislators to grassroots activist claims as well as the IACtHR judgment reveals the pervasiveness of this heterogeneous character and how it is imbricated in the federal organization of Mexican politics. In addition, I point out that institutional corruption and the prevalence of organized crime intersect with the heterogeneous character of the Mexican state. I argue that this conceptualization of the state allows for a more nuanced understanding of both how states are able to respond to gendered violence and for how state actors can make sense of their responsibility for this violence.

The notion that the state is heterogeneous is compatible with feminist theories of the state that conceptualize it as “a differentiated set of institutions, agencies and discourses, and the product of a particular historical and political conjuncture” (Waylen 1998, 7). At the core of these theories is the mutual constitution of gender and the state (Brown 1992; Connell 1990; MacKinnon 1987; Pateman 1989). Indeed, for feminist theorists the state is not a neutral arbiter of gender nor does it automatically reproduce existing gender inequalities (Haney 1996; Randall and Waylen 1998; Reinelt 1995, 86). The multiple and contradictory processes and institutions that constitute the state are sites of struggle through which gender and its intersection with other axes of inequality are constructed and power operates (Brown 1992; Connell 1990; Ferree 2012; Haney 1996). One such site of struggle is the separation of the public and the private.
Historically, the public/private divide contributed to the exclusion of women from citizenship as well as to the depoliticization of their experiences of violence. For example, feminist citizenship scholars have argued that the public/private divide has functioned as a “shifting” gendered mechanism of exclusion that intersects with other axes of difference to prevent women from becoming full subjects of citizenship and human rights (Lister 1997, 42; García-Del Moral and Dersnah 2014; García-Del Moral and Korteweg 2012; Schneider 2009; Young 1989; Yuval-Davis 1997). Likewise, feminist political scientists have shown that the depoliticization of the so-called private sphere with which women have been associated has often limited the terms on which they can engage with the state, since this depoliticization extends to their personhood, their relationships to men within this domain, and their unremunerated reproductive work (Brown 1992; Connell 1990; MacKinnon 1989; Pateman 1988; Orloff 1993). Similarly, these scholars have shown that the notion that violence against women is a ‘private’ issue has tended to give state authorities a justification to ignore it and to prevent its recognition as a social problem, thus reinforcing patriarchal power over women (MacKinnon 1989). As such, the historical constructing of the private sphere as a realm that should be exempted from legal regulation by the state has depoliticized women’s experiences of violence (Charlesworth 1994: 69; Cook 1994b; Romany 1994).

In turn, feminist legal scholars have identified the depoliticizing effects of the public/private divide beyond the boundaries of the state, including the restrictions it has placed on women’s ability to mobilize international human rights law or to institutionalize their concerns in global governance organizations (Benninger-Budel 2008; Charlesworth and Chinkin 2000; Chinkin 1999; Meyer and Prügl 1999). For example, the principle of state sovereignty established a different manifestation of the public/private divide that supported the assumption that international law should not address violence against women (Romany 1994). This principle distinguishes between the domestic arena as a ‘private’ space internal to the state and the international as a ‘public’ space external to it (Meyer 1999, 61). This distinction rendered violence against women a national concern and/or a matter of culture and thus as an issue exempt from international legal intervention (Merry 2006a). This body of work ultimately reveals that law as a gendered structure that governs the mutually constitutive relationship between gender and the state. As such, some legal scholars have cautioned against using law as a tool to achieve
gender equality, arguing instead that it is a gendered tool of state power (Brown 1992; Smart 1995).

Although much of the feminist literature on the state critiques Western state formations, feminist scholars from other parts of the world have developed their own insights on gender, violence, and the formation of colonial and post-colonial states and the role of the public/private divide therein (e.g. Lazarus-Black 2003; Maier 2010; Mohanty, Russo and Torres 1991; Dore and Molyneux 2000; Rai 1996). Importantly, these feminists have also questioned the relationship between gender and the project of modernity in various post-colonial states (Craske 1999, 2005; Dore and Molyneux 2000; Lazarus-Black 2003). This dissertation is informed both by Western and non-Western feminist theories on the state. As such, my analysis is influenced by and in conversation with the work of Mexican feminist scholars on violence against women (Torres Falcón 2004a, 2004b), in particular feminicidio (Castañeda Salgado et.al. 2013; Fregoso and Bejarano 2010; Gutiérrez Castañeda 2004; Lagarde 2004, 2010; Monárrez Frago 2002, 2009, 2010, 2013), and gender, law, politics and civil society (Craske 1999, 2005; De Barbieri 2003; De Barbieri and Cano 1990; Gargallo 2004; Tarrés 2002; Torres Falcón 2002, 2004a; Toto Gutiérrez 2002) as well as the literature on Mexican and Latin American feminisms (Álvarez 1999, 2000, 2009; Arizpe 2002; Espinosa 2002; González 2001; Macías 2002; Maier and Lebon 2010; Mejía 2002; Thayer 2013). In this sense, the history of Mexican feminisms and the work on feminicidio deserve attention here.

**Feminisms and Feminicidio in Mexico**

Mexican feminisms emerged in contestation, but at times also in alliance with the state and they have aimed to challenge the deeply macho culture that permeates Mexican society. They developed in relation to the various nation-building projects that followed a war of Independence from Spain in the early 19th century after 300 years of colonial rule; a Revolution in the early 20th century that emerged in response to a 40-year dictatorship that exacerbated the vast material and racial inequalities of the post-colonial project; the 70-year authoritarian rule of the Institutional Revolutionary Party (PRI); and more recently a neoliberal project that intersects with a fragile process of democratization and the influence of an international human rights regime. Mexican feminisms were also shaped by differently positioned groups of women and influenced by
travelling feminist ideas and discourses from other contexts, in particular the United States, Europe, and other Latin American countries (Thayer 2013).

Mexican women, like women in other parts of the world, began to mobilize in the mid-19th century. According to Macías (2002), prior to the Mexican Revolution in 1910 the participants of this early feminist movement were mostly middle class, educated women. They aimed to improve women’s access to education and achieve better pay for female workers, in particular teachers. Although these early feminists also demanded reforms to the Civil Code of 1884, which was modeled after the Napoleonic Code, they did not prioritize the attainment of political rights or the vote (Macías 2002, 39; see also Cano 1996; González 2001). Unlike their counterparts in Western countries, they targeted the double moral standard entrenched in the Civil Code, especially visible in the curtailment of the rights of married women. They were also concerned with the high prevalence of prostitution and women’s sexual exploitation. Following the ideas of Sor Juana Inés de la Cruz, a nun, renowned poet and pioneer of feminist thought in Mexico in the 17th century, early feminists were convinced that education would be a more effective tool to challenge women’s oppression (Macías 2002). It was only after the Mexican Revolution that feminists began to pursue the right to vote.

For Macías (2002, 183), this emphasis on education is a distinctive feature of early Mexican feminism: “The reason is obvious: effective suffrage did not exist during the [40-year] long government of [dictator] Porfirio Díaz. Any protest against the manipulation of elections, corruption, or political repression had severe consequences.” The Mexican Revolution provided a hope for democracy and, as such, an opportunity for women to seek political equality with men. Yet, despite women’s widespread participation in the Revolution, in particular working class, poor and/or indigenous women, most revolutionary leaders did not support the idea of female suffrage. They argued that women were “not ready to vote” and identified the influence of the Catholic Church over women as a justification for this claim (Macías 2002, 183). A profound anticlericalism characterized the Mexican Revolution and the nation-building project that emerged from it (Krauze 1997). Many revolutionary leaders suggested that women would vote for conservative candidates that supported the Church and, consequently, threaten the post-revolutionary government, itself fraught with political conflict and economic instability (Cano 1996; Macías 2002). Macías (2002, 185) emphasizes here that the post-revolutionary government
had not yet established as strong a party structure as the ecclesiastic structure. Thus, the 1918 electoral law officially restricted the right to vote to men, even though the Constitution of 1917 had not explicitly excluded women from political citizenship (Macías 2002, 184). The notion that women’s political orientation and their exercise of political rights could not be trusted continued until the mid-20th century, thwarting feminist efforts to gain the suffrage in 1939 (Macías 2002). Women obtained the right to vote in municipal elections in 1947, and in general elections in 1953 (Cano 1996).

Women’s exclusion from political rights did not prevent some feminists from attempting to hold office, even if they were not allowed to vote. They did so, in fact, with the support of a few revolutionary leaders who held a different view on women’s political participation. For example, the first two post-revolutionary governors of the southern state of Yucatán, Salvador Alvarado and Felipe Carrillo Puerto, openly encouraged a feminist movement. The first funded the organization of two feminist congresses in 1916; the latter supported women’s right to vote, held arguably progressive views on reproductive rights, and introduced less restrictive divorce laws (Cano 1996; Macías 2002). Indeed, Elvia Carrillo Puerto, the governor’s sister, was among the first women to run for office and win an election, but her brother’s assassination in 1924 put an end to her political career in Yucatán. She later moved to the state of San Luis Potosí, where she once again became elected as a Deputy, although the local congress refused to acknowledge her triumph and prevented her from taking office. The story of Elvia Carrillo Puerto was not an exception at the time. Up until 1937, almost a decade after the National Revolutionary Party (PNR) had been formed, the electoral victory of women was not recognized (González 2001). Despite their defeat, Elvia Carrillo Puerto and the other women who sought to become involved in politics continued to be influential in the struggle to obtain suffrage.

Women’s political and legal inequality increasingly became a central concern of the post-revolutionary Mexican feminist movement. Feminists organized four congresses at the national scale between 1923 and 1934 and they participated in the First Pan American Conference on Women in Baltimore in 1922 (Cano 1996; Macías 2002). These conferences paved the way for important reforms to the Civil Code and other laws governing women’s participation in the labour force. They also resulted in the creation of various important feminist organizations and the involvement with the Pan American feminist movement that eventually led to the founding of
the Inter-American Commission on Women (CIM) in 1928 (see Meyer 1999; Thayer 2013). The CIM was the first inter-governmental agency created for the protection of women’s rights and it was instrumental in drafting the 1994 Belém Do Pará Convention. The congresses thus broadened feminist conversations and served to increase Mexican women’s participation in the feminist movement nationally and internationally for years to come.

However, divisions among middle class, working class and indigenous women became more apparent. For example, the reform of the Civil Code of 1927, considered a triumph of the first national feminist congress, benefitted middle and upper class women more directly than poor or indigenous women. This reform allowed married women to manage the properties that they had in common with their husbands as well as to retain custody of their children. But poor and indigenous women were much more concerned with everyday survival and often did not have properties to manage in the first place (Macías 2002, 151). The divisions among differently positioned women had diverse and often contradictory effects on feminist organizing during this time period. The term “feminism” became heavily contested even when feminist organizations were at their peak during the 1930s (Cano 1996). Although women from a working class background considered that upper and middle class women did not represent their interests and perspectives on women’s issues (Macías 2002), Cano (1996, 352) nevertheless points out that the feminist movement at the time geared its efforts towards poor neighbourhoods and incorporated the demands of female workers and peasants. The use of the language of Marxism in the Mexican political landscape further served to disqualify feminism as a bourgeois project, even though prominent feminists like Elvia Carrillo Puerto were affiliated with the Communist Party.

Feminist activism declined significantly between 1940 and 1970, arguably in part as a result of these contradictions. The student movement of 1968, which ended with the massacre of students by state agents in the Tlatelolco Plaza in Mexico City, contributed to the creation of political opportunities for the revival of feminism in Mexico. The movement did not result in structural changes in Mexican society, but it left a chink in the armor of authoritarianism that characterized the Institutional Revolutionary Party, the successor to the PNR that was to remain in power until 2000 (González 2001). The governing party moved from a “politics of coercion” to a “politics of negotiation” that allowed for the surge of new organizations, parties, and opportunities for collective action (González 2001, 75). At the same time, mirroring the experiences of women in
student movements in other parts of the world, Mexican women recognized the need for their own mobilization (Lagarde 2012). In this context, a myriad of feminist organizations emerged and women, especially from a middle class background who had gained an increased access to education and the labour force, began to participate in consciousness raising groups that had become popular among feminists in Western as well as Latin American countries (Cano 1996; Thayer 2013). Important publications to divulge academic feminist theories emerged, too. These publications operated as creative spaces that allowed women to engage with and add to existing feminist work, fostering at the same time the development of feminism in the Mexican academia in the 1980s (Cano 1996).

Moreover, in 1974, Mexico hosted the UN First World Conference on Women. The conference pressured the government to pass juridical reforms to eliminate laws that openly discriminated against women, but feminists argued that these reforms did not go far enough. They therefore decided to disavow the conference and organized a “counter-conference” that served to recruit more women to their cause and to have debates and discussions about the role of feminism in Mexico (Cano 1996; González 2001). As such, despite the critiques that many Mexican feminists voiced against the conference, it was a springboard for legal and political change that benefitted women and contributed to the movement’s unity. According to Cano (1996, 356), the decriminalization of abortion galvanized feminist efforts in the late 1970s to the early 1980s. In partnership with the Communist Party, they proposed a bill on voluntary maternity that legislators, however, never discussed (González 2001). Though limited, their efforts to propose legal reforms to address sexual violence, sexual harassment, and wife battery were more successful (González 2001). Yet, as I will discuss in Chapter 4, it was not until the 1990s and 2000s that more meaningful reforms to address these forms of gender inequality took place, largely propelled by the mobilization around the murders of women in Chihuahua. Ultimately, feminists struggled to maintain autonomy while developing a relationship to state that could give traction to their demands (González 2001).

The weak official political engagement with feminist demands, a lack of a well-defined organizational structure as well as contradictions between “feasible” and “desirable” goals are some of the main causes that González (2001, 169) identifies as important factors influencing the retrenchment of feminist groups formed during this time period in the mid-1980s. This
retrenchment did not, however, signify the demise of feminism in Mexico. On the contrary, the struggles of women living in poor urban neighbourhoods, workers and peasants to overcome the effects of the feminization of poverty that became aggravated as a result of Mexico’s economic crisis gave rise to what became known as “popular feminism” in Mexico and in Latin America (Cano 1996, 357; Espinosa 2002; Thayer 2013). Thayer (2013, 12) defines popular feminism as “working-class movements that fought women’s subordination with their own brand of class-based feminist politics.” But, for Espinosa (2002, 18), it is necessary to point out that “feminism did not spontaneously develop among the people in general, but rather among nuclei of women who had a certain degree of organization. In fact, the access of feminism to popular sectors was mediated above all by militants of left-wing organizations.” These left-wing militants had adopted feminist perspectives on “women’s issues” and converged with a group of feminists who had formed NGOs that were committed to social justice (Espinosa 2002, 20). Women involved in liberation theology also played an important role here (Espinosa 2002, 20). It was the confluence of these groups that spurred the growth of popular feminism and allowed it to give new impetus to feminist collective action in Mexico. By the late 1980s, popular feminists had a significant presence in the Latin American feminist encuentros, revealing the “social and ideological diversity that feminism had achieved” in that time span (Cano 1996, 358).

Despite this rich history, renowned Mexican feminist scholar Gabriela Cano (1996, 359) claimed that “at the end of the 20th century, feminism in Mexico [had] not yet become a defined and visible social movement, and its arguments [were] far from achieving general acceptance.” I argue, however, that the feminist mobilization to combat feminicidio has pushed Mexican feminism into a new stage through which it has become both more visible and better defined. Currently, an emphasis on human rights has become more prevalent in the feminist agenda to address gendered violence, women’s sexual and reproductive rights, poverty and access to education. At the same time, some of the main challenges that feminist face are the dismantling of pervasive sexist, racist, and homophobic structures that continue to marginalize women in the context of the crass material inequalities that have accompanied Mexico’s economic liberalization through the North American Free Trade Agreement (NAFTA). These challenges have become increasingly exacerbated through the fragile democratization process as well as the pervasiveness of organized crime and the violence that has accompanied it (Monárrez 2015).
Feminism in Chihuahua is inserted in this historical context. Ravelo Blancas, Sánchez Díaz and Carrillo Domínguez (2000) document the participation of Chihuahuan women in the Revolution and the post-revolutionary period, as well as their role in contemporary feminist mobilizations. In particular, they highlight the role of feminist movement constituted by women from the left, especially academics and those associated with left-wing parties and unions in the 1980s. These women created feminist groups and established relationships with other feminist organizations from Mexico City. One of these groups was the March 8 Committee, which later became salient in the mobilization against feminicidio as the March 8 Group (Aikin Araluce 2011; Monárrez 2013; Ravelo Blancas 2011; see Chapter 2). Ravelo and her colleagues (2000) also point to what can be understood as a popular feminist current that developed out of women’s mobilization in different civil society organizations that were not explicitly or exclusively feminist. These varieties of feminism created and fought for spaces that would set the stage for activism against the murders and disappearances of women and girls in Ciudad Juárez and Chihuahua City. Moreover, it was against this background that academic work on feminicidio was produced to later influence the struggles of grassroots activists and their transnationalization that concern this dissertation.

Mexican anthropologist Marcela Lagarde y de los Ríos and sociologist Julia Monárrez Fragoso were among the first to utilize the concept of feminicidio as a tool to analyze the sharp increase of murders of women and girls in Ciudad Juárez in the early 1990s. Both drew on radical feminist work on femicide, defined alternatively as “the misogynous killing of women by men” (Radford 1992, 3) or as “the killing of women by men because they are female” (Russell 2002, 3). Lagarde first introduced this concept in the Mexican academic setting in 1997 during a summer seminar (see Monárrez Fragoso 2002). Translating femicide as femicidio, Lagarde later (2004, 2010, xvi) argued, would strip the term of its critical value: “femicidio is homologous to homicidio [homicide] and solely means the homicide of women.” Only feminicidio, as opposed to femicidio, would thus be able to capture the politics of gendered violence that the concept of femicide sought to reveal and challenge. Through their work, however, Lagarde and Monárrez Fragoso have expanded the meaning of feminicidio beyond the original definition of femicide. Moreover, they both have become engaged extensively in activism against feminicidio and they served as expert witnesses in the “Cotton Field” case. In addition, Lagarde became a federal Deputy through her affiliation with the left-wing Party of the Democratic Revolution (PRD).
Monárez Fragoso (2000) first used the term to name a database on murders that had taken place between 1993 and 1999 with information that she gathered from newspapers, reports from the local attorney’s office, as well as data collected by local feminist activist Esther Chávez Cano, the leader of the Group March 8. In a second publication, Monárez Fragoso (2002) expanded on this research to examine the murders until 2001, noting in particular that more than one third of the 291 murders that she had analyzed could be classified as “systemic sexual feminicides,” that is, murders in which women had been subjected to extreme sexual violence and torture. Bringing in other radical feminist work on sexual crimes, Monárez Fragoso (2013, 67) conceptualized feminicidio as a pattern of misogynist, sexist violence that represents “not only the destruction of women’s biological bodies, but also their culturally constructed signification, while its impunity points to the passivity and tolerance of the masculinized state.” At the same time, her work has been heavily influenced by Marxist analyses of class as well as Foucaultian understandings of the relationship between power, bodies, and spaces of legality and illegality. Monárez Fragoso has, therefore, consistently insisted in the need to go beyond gender in order to understand the complexity of the murders of women in Ciudad Juárez. In grounding her analyses in the material conditions of inequality, she has emphasized that class is a central factor that rendered the victims more vulnerable to violence (Monárez Fragoso 2002, 2009, 2010; Monárez Fragoso and Fuentes 2004; see also Wright 1999; 2001). Indeed, Monárez Fragoso (2010, 60) has argued that the way in which the murdered women of Ciudad Juárez are discarded and the places where they are found reveal more than the brutality of the physical and sexual violence done to them; they capture the symbolic violent process through which they become “fetishized commodities” in the context of this industrial border town that houses over 300 maquiladoras (assembly plants) that exploit their labour (see also Wright 1999). More recently, she has drawn on Giorgio Agamben to argue that naming the systemic murder of women as feminicidio becomes a means to restore the victims’ subjectivity and citizenship, making it possible to reclaim the value of their lives from their reduction to the “bare life” of homo sacer and to demand justice (Monárez 2015).

Lagarde’s (2004, 2010) work focused more on linking feminicidio to concepts of international human rights law and international criminal law. As such, she made the responsibility of the state in maintaining the impunity of the murders of women and girls in Ciudad Juárez central to her conceptualization of feminicidio (see also Ravelo Blancas 2005, 2011). Lagarde offers different
definitions of feminicidio in her work, at times as “genocide” or as a “crime against humanity,” claiming that this type of violence “takes place whenever historical conditions generate social practices that make possible attempts against women’s integrity, health, freedom, and lives” (2010, xvi). Ultimately, Lagarde (2010: xxiii) argues that “feminicidio is a state crime” given that…

[it] entails a partial breakdown of the rule of law because the state is incapable of guaranteeing respect for women’s lives or human rights and because it is incapable of acting in keeping with the law and to uphold the law, to prosecute and administer justice, and to prevent and eradicate the violence that causes it.

As I will show in Chapter 4, Lagarde was able to introduce this conceptualization of feminicidio in Mexican legislation when she became elected as a federal Deputy for the PRD during the LIX Legislature (2003-2006) (see Lagarde 2012). Her work as an academic, activist and politician facilitated the eventual criminalization of feminicidio in Mexico against the background of the IACtHR judgment in “Cotton Field” and the grassroots activist appropriation of this concept as part of the Ni Una Más campaign (see García-Del Moral, forthcoming).

This dissertation ultimately emphasizes that the significance of the production of feminicidio as a crime as part of the part of the transnationalization of local feminist struggles against the murders of women and girls in Ciudad Juárez and Chihuahua City cannot be underestimated. On the one hand, it represents the convergence of grassroots activism with the actions of differently positioned actors at the intersection of the local and the transnational, and their ability to both mobilize and create gendered political and discursive opportunity structures. On the other, it reflects how their engagement with transnational legal activism has contributed to expanding and rearticulating the meaning of women’s human rights and the responsibility of the state for failing to effectively prevent, investigate, and punish violations of these rights. Although the criminalization of feminicidio is relatively recent and not without problems in its implementation, it arguably acquires a deeper import if it is considered not only a new chapter in the history of Mexican feminism, but also part of the legacy of Latin America’s contribution to international human rights law.
Data and Methods

For this dissertation, I relied on participant observation and interviews with nine representatives of organizations involved in the Ni Una Más campaign locally, nationally or transnationally in May 2013 and March 2014. I conducted two additional interviews with actors that were not directly involved in this campaign, but whose expertise on international human rights law and feminicidio was relevant for this project. I also engaged in qualitative analysis of materials produced in the context of the Ni Una Más campaign, as well as the decisions of cases that were litigated at the IACHR and IACtHR, in particular the case of González and Others “Cotton Field” v. Mexico and related case documents. In addition, I analyzed a total of 97 debates on feminicidio in Chihuahua of the federal Congress from 1997 to 2012 and 187 debates of the local Congress of the state of Chihuahua from 1998 to 2010 on the same topic.

To carry out the interviews, I did fieldwork in Mexico in May 2013 and March 2014 that included visits to Mexico City, Guadalajara, the state capital of Jalisco, Chihuahua City, and a trip to Washington D.C. All eleven interviews were in Spanish, but only nine of them were formal and one of these was conducted over Skype. The other two took place during conversations while I was doing participant observation and I obtained consent to use them as part of this research project. I wrote careful field notes that allowed me to re-create these conversations. The formal interviews were semi-structured, open-ended and recorded; they lasted between sixty and ninety minutes. Given the nature of their work, participants are public figures and agreed to be named in the research. I obtained ethics approval for this research from the Office of Research Ethics at the University of Toronto in February 2013.

I conducted six interviews with grassroots activists in Chihuahua City representing three different organizations: Norma Ledesma from Justicia Para Nuestras Hijas (JPNH, Justice for Our Daughters), Alma Gómez from the Centro de Derechos Humanos de las Mujeres (CEDEHM, Centre for Women’s Human Rights), and Graciela Ramos (informal), Élida Hernández (informal), Mirna González, and Clara Luz Azcuaga from Mujeres por México en Chihuahua (MXM, Women for Mexico in Chihuahua). Two other interviews were with representatives of the Comité Latino Americano y del Caribe para la Defense de los Derechos de la Mujer (CLADEM, Latin American and Caribbean Committee for the Defense of Women’s Rights), the largest transnational feminist network in Latin America and an organization involved
in the litigation of the “Cotton Field” case. I interviewed Guadalupe (Lupita) Ramos Ponce, the coordinator of the CLADEM in Jalisco, after being invited to be a participant observer during an international meeting of CLADEM members from all over Latin America from May 7-10, 2013. During my second trip to Mexico, I visited Lupita in Guadalajara, where I was a participant observer in the March 8 demonstration that she organized along with other feminist groups from this city. It was during this second visit to Mexico that I formally interviewed Julia Escalante, the national coordinator of the CLADEM, who had invited me to participate in the international seminar in the previous year. I also did participant observation with the Observatorio Ciudadano Nacional de Feminicidio (OCNF, National Citizen Feminicidio Observatory), at the invitation of feminist academic and activist Dr. Julia Monárrez Fragoso.17 I later conducted a formal interview over the phone with the head of litigation of this organization, Rodolfo Domínguez Márquez. The OCNF is a national network of 47 civil society organizations that monitor women’s murders and disappearances in Mexico. The CLADEM Jalisco and the organizations in Chihuahua City are members of the OCNF. Together, the CLADEM and the OCNF have become the main producers of knowledge and expertise on feminicidio (Aikin Araluce 2011, 216). The prominence of these feminist networks locally, nationally, and transnationally and their central role in the Ní Una Más campaign provided the rationale for recruiting them for the purposes of this research project. The additional interviews were with Pablo Navarrete, a former human rights activist and current Coordinator of Juridical Affairs of the National Women’s Institute (INMUJERES), and Gisela de León, a senior attorney at the Centre for Justice and International Law (CEJIL), a transnational non-governmental organization specialized in supranational litigation in the Inter-American Human Rights system.

The sample reflects the different positionality of my interviewees in the national and global hierarchies of gender, class, and race. The positionality of these actors shaped not only their trajectory of activism, but also the risks to which some of them they may be exposed as a result of their actions, as I illustrate in Chapter 2. Actors’ positionality was, therefore, a methodological issue that influenced the construction of the sample. For example, the leaders of some of the grassroots organizations in Ciudad Juárez live in exile after being subjected to harassment, death threats, and actual attempts against their lives. Although I contacted them via e-mail, I did not receive a response. Dr. Monárrez Fragoso facilitated my access to MXM and the CEDEHM in Chihuahua City. In turn, Graciela Ramos (MXM) introduced me to Norma Ledesma of JPNH
during my visit to Chihuahua City. I initially communicated with Dr. Monárrez via e-mail, using the information on her professional profile as a faculty member of the Colegio de la Frontera Norte. During the events of the OCNF to which she invited me, I met Rodolfo Domínguez Márquez, who expressed an interest in my project and agreed to a phone interview once I had returned to Canada. Likewise, I established e-mail contact with the CLADEM, INMUJERES and CEJIL with the information provided on the web sites of these organizations.

The interview guide that I designed focused on the impact of transnational legal mobilization as a strategy to hold the Mexican state responsible for feminicidios in Chihuahua, the significance of the concept of the feminicidio and international human rights law in this process, and the opportunities and challenges that these differently positioned actors identified as emerging in this context. The questions further encouraged participants to talk about their involvement with their respective organizations and/or activism to combat gendered violence. After transcribing and translating the interviews and field notes, I engaged in a first round of open coding to identify relevant themes. I conducted the second round of coding after I had begun textual analysis of the materials related to the litigation of the “Cotton Field” case and the Ni Una Más campaign, and the federal and local parliamentary debates. This exercise allowed me to gain a better understanding of how the participants, as differently positioned actors, interacted with the diverse political and discursive opportunity structures provided by the myriad of domestic, transnational and supranational organizations and institutions that became involved in the mobilization against feminicidios in Chihuahua. I also paid attention to their interactions with the Mexican state at the local and federal levels.

I collected the materials related to the “Cotton Field” case by visiting the web sites of the IACtHR and the IACHR. After reading these documents, I was able to identify numerous campaign materials, which I then searched using Google. Secondary sources provided additional information on campaign materials. The materials amount to over 2000 pages. I engaged in discursive frame analysis of these documents. As I explain in detail in Chapter 3, I drew on the work of Ferree (2003, 2012) to conceptualize the “Cotton Field” decision as a “network of meaning,” that is, a text that links and integrates previously institutionalized discourses that serve as opportunities to introduce new frames to produce specific interpretations of social problems. In this case, I focused on the frames that were used to conceptualize the murders of
women in Chihuahua and the responsibility of the Mexican state for this violence, in particular
the frame of violence against women as gender discrimination and feminicidio. Analysis of this
decision required, therefore, examining how this text was linked to the campaign materials as
well as how international human rights law informed the arguments that were developed in each
document. Secondary sources on the jurisprudence on gendered violence in the Inter-American
Human Rights system further provided context to my analysis.

I visited the web sites of the federal Chamber of Deputies, Chamber of Senators, and the
Chamber of Deputies of the State of Chihuahua to gather the relevant federal and local
parliamentary debates from 1997 to 2012 using the digital archives of the stenographic versions
of past parliamentary sessions. I used the search terms “feminicidio,” “murders of women,”
homicides of women,” “Chihuahua” and “Ciudad Juárez” as well as “Campo Algodonero” (i.e.
“Cotton Field”). My search resulted in 45 debates from the Chamber of Deputies, 52 debates
from the Chamber of Senators, and 187 debates from the Chamber of Deputies of the State of
Chihuahua. Together, these 284 debates amount to over 1,500 pages of text. I analyzed these
debates using Nvivo in two rounds of coding. In the first round of coding, I identified major
themes in the interventions of state actors on the topic of the murders of women in Ciudad Juárez
and Chihuahua City. The first round of coding also allowed me to pinpoint the time when state
actors began to refer to the murders as feminicidio at the federal and local levels as well as the
key actors in this process. In the second round of coding, I paid attention to the discursive
significance that federal and local state actors gave to feminicidio as a means to conceptualize the
responsibility of the Mexican state for these crimes and how it shaped their strategies to respond
to the demands of local and transnational activists as well as to the “Cotton Field” judgment.

Overview of the Chapters

The chapters that follow apply the framework developed above to analyze the
transnationalization of the local struggle against feminicidio in Ciudad Juárez and its implications
for understanding the responsibility of the state for gendered violence within and beyond Mexico
taking the perspective of grassroots activists, the IACtHR, and local and federal Mexican state
actors. Each chapter examines the same time period – the late 1990s, when activism on the
murders of women and girls in Ciudad Juárez first began to gain strength to the end of the first
decade of the 2000s, after the IACtHR issued its judgment in the “Cotton Field” case. Each
Chapter thus looks at the way in which events that took place during this time period affected these differently positioned actors, as well as the impact of actors’ actions on each other as they utilized or generated multi-scalar political and discursive opportunity structures.

Chapter 2 tells the stories of two grassroots activists from Chihuahua City and their transition from having no knowledge about human rights to becoming important transnational advocates and legal activists as part of the *Ni Una Más* campaign. The aim of this chapter is to illustrate the need to go beyond vernacularization as a framework to understand how international law matters in local contexts. The chapter incorporates interview data with grassroots activists from Chihuahua City and materials documenting these activists’ advocacy and involvement in transnational legal activism, thus providing the backdrop to the IACtHR judgment in the “Cotton Field” case. These materials include reports written by local, national, transnational and supranational human rights organizations as well as secondary sources. The chapter shows that through their simultaneous involvement in transnational legal activism and transnational advocacy, grassroots actors became human rights defenders and active participants in extending the meaning of women’s human rights to understand the responsibility of the Mexican state for gendered violence in Chihuahua as feminicidio.

Chapter 3 takes up the analysis of the “Cotton Field” judgment using Ferree’s (2012) conceptualization of court decisions and laws as “networks of meanings.” This concept allows for analysis of the judgment that takes into consideration not only the IACtHR’s application of legal doctrines, but also how this institution incorporated an interpretation of the responsibility of the Mexican state for gendered violence in Ciudad Juárez that was largely crafted through alliances between grassroots, national and transnational activists. The chapter highlights how activists’ framing efforts underlying this interpretation were grounded in the discursive opportunities of international legal instruments pertaining to women’s human rights, in particular the Belém Do Pará Convention and the CEDAW. The analysis focuses on the discursive relationship of the legal principle of due diligence and the feminist frame of violence as a form of gender discrimination that allowed activists to mobilize the argument that the Mexican state had failed to prevent, investigate, and punish the sexual abuse and murder of Claudia Ivette González, Laura Berenice Ramos Monárez and Esmeralda Herrera Monreal and the IACtHR to rule in their favour. Furthermore, the chapter argues that the litigation of this case represented the
opportunity to gender the Court as a supranational institution that had been slow to adopt a gender lens to adjudicate cases on violence against women.

Chapter 4 examines parliamentary debates of the federal Congress and the Congress of the state of Chihuahua from 1997 to 2012 to analyze how federal and local Mexican state actors responded to the claims made by grassroots activists concerning the disappearance and murder of women and girls in Ciudad Juárez and Chihuahua City. My analysis focuses on the processes that led state actors to adopt the frame of feminicidio to conceptualize the responsibility for the state for gendered violence and the ensuing criminalization of feminicidio. The chapter identifies this process as the “regendering” of the Mexican state (Lazarus-Black 2003) and points out how it is imbricated in the “gender regime” (Connell 1990) of the Mexican state. The chapter highlights how state actors are embedded in the state apparatus and, in turn, how the gendered structure of the state limits the impact of their actions to address gendered violence as a human rights violation.

Chapter 5 is a conclusion that discusses the challenges of transnational legal activism in relation to the institutionalization of feminicidio in Mexican legislation. It highlights the salience of the criminalization of feminicidio as well as its paradoxes and limitations drawing on interview data with grassroots and national activists. It also suggests avenues for future research.
Chapter 2.
Beyond Vernacularization: On Chihuahuan Grassroots Feminist Activism, Transnational Human Rights Advocacy and Transnational Legal Activism

By the time the cotton field murders took place in November 2001, at least 291 women had been killed over the span of eight years in Ciudad Juárez; in 110 of these cases the women had also been sexually abused and tortured (Monárrez Fragoso 2002; see also González Rodríguez 2002; Gutiérrez Castañeda 2004a; Ronquillo 2004; Washington 2006). Chihuahua City presented a similar pattern of gendered violence (Ensalaco 2006; Monárrez Fragoso 2013). However, local feminist activist Alma Gómez argued, “the killing of women was not a phenomenon exclusive to Chihuahua. The difference between Chihuahua and the rest of Mexico was that there was a women’s movement capable of making visible the feminicidios at a global level by putting this topic on the international agenda” (interview, March 2014). Activists did so by claiming that, as feminicidios, these murders and the lack of an effective state response to them constituted a violation of women’s human rights for which the state should be held responsible.

And yet, in our interview, Alma emphasized that grassroots activists like her did not initially conceptualize the murders in terms of human rights when they began to mobilize in the late 1990s. Although she is also a lawyer, Alma claimed: “We didn’t see it as a human rights violation. In fact, those were issues that we incorporated muchito, muchito después [a ‘little much’ later]. [A]t first we claimed that we had a right to life, to not be mistreated – because it isn’t fair – but not because this was a [human] right that we were aware of as such.” Norma Ledesma, who founded the NGO Justicia Para Nuestras Hijas (Justice for Our Daughters, hereafter JPNH) after the abduction and murder of her sixteen-year old daughter Paloma Ángelica Escobar Ledesma in March 2002 in Chihuahua City, expressed a similar sentiment. Now a seasoned human rights defensora (defender), Norma described her old self as a “housewife and maquiladora worker” (interview, March 2014). When her daughter went missing, Norma and the relatives of another six women who had been murdered and/or disappeared in previous years demonstrated for weeks in front of the government palace demanding “access to justice.” According to Norma, they were “claiming a right that [they] did not know [they] had, because [they] were ignorant of the law.” Their decision to mobilize was
thus “purely impulsive,” “propelled by the anguish and desperation” that they felt because the authorities had not taken steps to search for their daughters (interview, March 2014).

In their narratives, Alma and Norma made human rights claims intuitively, without specific knowledge of international human rights law. Yet, Norma presented a successful complaint to the Inter-American Commission on Human Rights (IACHR) only a year after her daughter’s murder (Petition 1175/03). In 2013, the IACHR found that Mexico had breached its international legal obligations under the American Convention on Human Rights (ACHR) and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém Do Pará Convention) (Report 51/13). As part of this process, Norma and Alma became involved in transnational legal activism by documenting the negligence with which local authorities handled the cases of Paloma and other disappeared and murdered women and girls in Chihuahua City and Ciudad Juárez, including cotton field victims Claudia Ivette González, Laura Berenice Ramos Monárrrez and Esmeralda Herrera Monreal. At the same time, both women participated in local activism and in extensive transnational human rights advocacy, even travelling to the headquarters of the IACHR in Washington, D.C. and to the United Nations in New York and Geneva on various occasions to claim that the murders of women in Chihuahua constituted feminicidios.

In this chapter, I apply the framework to conceptualize gendered, multi-scalar processes developed in the introduction and analyze how grassroots activists went from having an almost intuitive interpretation of rights to becoming central actors in the construction of state responsibility for failing to prevent, punish, and investigate violations to women’s human rights. Examining this transformation represents a step towards better understanding how grassroots activists interpret and interact with international human rights law, as well as how they relate to the networks of differently positioned non-state and state actors and NGOs that typically participate in transnational human rights advocacy and/or specialize in supranational litigation (Nash 2012). As such, this analysis seeks to shed light on the role of grassroots activists in the complex processes that set the stage for defining the murders and disappearances of women and girls in Chihuahua as a human rights violation, as mirrored in the decision of the Inter-American Court of Human Rights (IACtHR) against Mexico in the “Cotton Field” case (Chapter 3) and in the creation of domestic legislation to criminalize feminicidio (Chapter 4). In so doing, the
chapter problematizes narrow conceptualizations of the agency of grassroots actors in the literature on vernacularization.

The dominant framework to examine how ideas about women’s human rights become adopted at the local level is “vernacularization” (Levitt and Merry 2009; Merry 2006a, 2006b). Levitt and Merry (2009, 443) define vernacularization as the “cultural circulation and appropriation” of the shared ideas about women’s human rights that are codified in international human rights law. It involves a means of unpacking the discursive elements of law that represent ideas about gender equality and selfhood and repackaging them to fit the local context. A central claim in the literature on vernacularization is that human rights ideas may not be readily accessible at the grassroots level, preventing local individuals from engaging in transnational advocacy (Merry 2006a, 164-66). Another involves the assumption that there is a distinction between human rights as ideas for social movements and as law (Levitt and Merry 2009, 459; Merry et.al. 2010, 102). This assumption has justified a lack of scholarly attention to the few women who move from the grassroots to present complaints in formal supranational legal arenas. The experiences of grassroots activists like Alma and Norma complicate the claims of the literature on vernacularization and highlight the need to analyze the circumstances under which grassroots women utilize international human rights law to participate both in transnational advocacy and transnational legal activism.

The chapter is divided into three sections. The first two sections engage with the literature on vernacularization, focusing respectively on the assumptions about grassroots activists’ participation in human rights advocacy and the distinction between human rights as social movement and as law that permeate it. By tracing the interactions of Alma and Norma with national and transnational feminist networks and human rights NGOs, local and federal state actors, and supranational institutions, the chapter points out the limitations of these assumptions. It shows that grassroots activists became actively engaged in transnational human rights advocacy, even participating in the “spaces of transnational modernity” where global ideas about women’s human rights are produced (Levitt and Merry 447; Merry 2006a, 2006b). It also illustrates that in this case transnational human rights advocacy went hand in hand with transnational legal activism involving the Inter-American and UN Human Rights systems. In the process, I argue that grassroots activists seized and produced national, transnational and
supranational opportunities (Della Porta, Kriesi, and Rucht 1999; Ferree 2006; Passy 1999; Smith 1999). More importantly, I emphasize that what may seem as vernacularization in this context is in fact a misrecognition that results from an understanding of grassroots actors as incapable of engaging in transnational advocacy and transnational legal activism. In the conclusion to the chapter, I set up the stage for the following chapter by emphasizing the role of the Inter-American Human Rights system as a salient, yet understudied supranational arena in and through which grassroots activists contribute to expanding understandings of women’s human rights and the responsibility of the state for violating them.

On Transnational Human Rights Advocacy and the Grassroots/Translator Binary

The notion that grassroots women do not actively participate in advocacy because the international human rights legal framework is not readily accessible to them permeates the work on vernacularization. This notion is intrinsically tied to the conceptualization of vernacularization as a process of translation that takes place through the interactions between differently positioned actors across multiple scales from the supranational to the local (Merry 2006a, 2006b). Translators, or “vernacularizers,” move from the global to the local and produce interpretations of global ideas about women’s human rights to fit local cultural contexts (Levitt and Merry 2009, 446). They also transplant institutions and programs that encapsulate these ideas (Merry 2006a, 134, 2006b). Merry (2006a, 134) identifies a variety of actors or “intermediaries” that serve as translators, key among them national and transnational elites. She adds, “[a]lthough grassroots groups are the ultimate target of these efforts, they are not typically the translators” (p. 134; emphasis added).19

This understanding of the dynamics of translation structures the literature on vernacularization and its account of the development of a local legal consciousness that appropriates human rights to challenge gender inequality in this context (Levitt and Merry 2009; Merry 2006a). Legal consciousness refers here to individuals’ everyday understanding of law and legality as well as its impact on their identity and interpretations of the world (Merry 1990, 2003b; see also Ewick and Silbey 1998). According to Merry (2006a, 181), this human rights consciousness emerges when grassroots women begin to think of themselves as rights-bearing subjects. Framing is a central element here, since translators must articulate global ideas about women’s human rights
in terms that resonate with local ideologies, symbols, and narratives so that they will be adopted at the grassroots level (p. 181; Merry 2003b; Rajaram and Zararia 2009). Through her ethnographic work with battered women in Hawai‘i and the female inheritance movement in Hong Kong, Merry (2006a, Ch. 6) shows that this process is tied to grassroots women’s ability to turn their grievances into rights claims. This does not mean that women’s previous understandings of their situation are displaced, but rather that a “new dimension” is added to the way they perceive themselves and their problems (p. 180). This new sense of self is, however, contingent on the response of courts and police to the claims that to women make using the language of rights (p. 192). If institutions dismiss women’s rights, women may not be able to develop a legal consciousness (p. 215). Put differently, vernacularization scholarship implies that grassroots women do not acquire a human rights subjectivity of their own accord, but that it is a by-product of the framing work of translators and it must be legitimated in interactions with state institutions.

In this light, Merry (2006a, 215) further argues that “human rights movements do not require the adoption of a human rights consciousness by individuals at the grassroots.” She suggest, “grassroots individuals can be mobilized to use human rights approaches but their commitment to rights is not necessarily deep or long lasting” (p. 215; emphasis added). For Merry, “middle-level” women’s groups and national or transnational elites are more likely to be engaged in human rights advocacy, since they are much more committed to the human rights approach than grassroots groups (pp. 165, 215).

Admittedly, underlying these claims is an awareness of the disparities in terms of education, class, and access to resources that structure the interactions between grassroots groups and national or transnational elites and that may lead to the reinforcement of existing power inequalities between these differently positioned women (Alayza Mujica and Crisóstomo Meza 2009; Levitt and Merry 2009, 446; Rajaram and Zararia 2009). Nevertheless, these claims are problematic because they work to create a grassroots/translator binary that produces a homogenized understanding of the experiences of women at the grassroots level, ignoring these women’s active participation in struggles against human rights violations. By construing grassroots women as “targets” of efforts that aim to produce social change, but not as actors that initiate or contribute to them by participating in the process of translation or developing a strong
commitment to human rights, the binary undermines the agency of women belonging to the grassroots. Simultaneously, it presumes that translators, as elites, are somehow both more committed to challenging inequality at the local level and better able to exercise their agency for this purpose. Interestingly, this understanding of grassroots activism contrasts with the literature on transnational feminisms (Álvarez 1999, 2000, 2009; Basu 1995, 2000; Grewal and Kaplan 1994; Naples and Desai 2002; Thayer 2013). This literature acknowledges the power inequalities that exist between grassroots women’s groups and national and transnational elites, yet it often sees the grassroots level as the locus of more radical mobilization (Chapter 1).

Ultimately, the binary between grassroots and translators maps onto yet another problematic dichotomy: that of transnational activism from “below” and from “above” (Mahler 1998). According to Naples (2008, 8), this distinction “masks the complex ways resistance [to gender inequality] operates on multiple levels simultaneously and the relations of ruling that may shape so-called grassroots or local organizing efforts” (c.f. Mahler 1998; see also Basu 1995, 2000; Desai 2002; Sikkink 1993). Put differently, such dichotomies tend to present reified understandings of “below” and “above,” the “grassroots” and “elites” that fail to capture the conditions under which differently positioned individuals or groups act to resist and/or challenge inequality. For example, in equating translators with elites, the binary seems to project the notion that the boundary between the grassroots and translators is almost impermeable. Yet the context of the struggles against feminicidio allowed individuals like Alma and Norma to operate on both sides of the divide, as well as from “below” and from “above.”

To clarify: as a lawyer, Alma has knowledge and expertise that women like Norma do not initially possess. However, Alma did not, by virtue of having this expertise, automatically become a translator or more effective at challenging oppression than women like Norma. It would also be inadequate to view Alma as disconnected from the struggles at the grassroots level (Kennedy 2003, 2011; White 1988, 1990). On the contrary, Wright’s (2005) ethnographic research on the Ni Una Más campaign identifies Alma as a participant in the frequent local demonstrations to denounce the state’s inaction to stop the murders and disappearances of women of Chihuahua City and Ciudad Juárez. In turn, as I illustrate in the next section, Norma and her collaborators at JPNH have been able to acquire considerable legal knowledge and expertise; but this achievement has not meant that they have ceased to be grassroots activists.
As my analysis of the trajectories of activism of Norma and Alma will show, grassroots women in Chihuahua seized transnational and supranational opportunities that set in motion the process of vernacularization (Della Porta, Kriesi and Rucht 1999; Ferree 2006; Passy 1999; Smith 1999; Thayer 2013). Consequently, they cannot be seen exclusively as the targets of translation efforts. My findings reveal that once women like Alma and Norma learned about human rights, they became committed to this approach. They went on to engage in human rights advocacy at the national and transnational levels, while they simultaneously participated in transnational legal activism. Moreover, I argue that grassroots women went beyond adopting the language of international human rights law and becoming translators themselves. As I hint here and illustrate more thoroughly in Chapters 3 and 4, by mobilizing international human rights law these grassroots actors utilized spaces like the Inter-American Human Rights system to rearticulate and extend understandings of state responsibility for violations of women’s human rights. Their actions had important implications at the supranational and domestic levels, in particular through the use the concept of *feminicidio* to frame the murders of women and girls in Chihuahua (see also García-Del Moral, forthcoming).

**Challenging the Grassroots/Translator Binary: The Activist Trajectories of Grassroots Human Rights Defenders**

Alma and Norma see themselves as defensoras of women’s human rights, that is, as women who would be characterized as having a human rights consciousness and a deep commitment to fighting against violations to women’s human rights in the work on vernacularization. The development of this shared identity and its attending human rights consciousness is anchored in their different trajectories of activism. Tracing these trajectories reveals that the vernacularization framework does not capture the complexity of grassroots women’s agency through their involvement in advocacy, first at the national and subsequently at the transnational level.

Alma Gómez was already an activist before she became involved in combating gendered violence in Chihuahua. She belonged to the grassroots organization *Barzón Chihuahua*, which defended the economic and social rights of bank debtors. After meeting Esther Chávez Cano, a pioneer grassroots activist on the situation of violence against women in Ciudad Juárez (Ensalaco 2006, 419; Monángrez Fragoso 2013; Wright 2001, 2011), Alma became part of this struggle in
the mid-1990s. Chávez Cano had begun documenting the murders and disappearances of women in that border city in the early 1990s, after noticing “over and over again that the murdered women were young and poor, making [her] feel like their murders were a message, that as women we are disposable, they use us and discard us, as any sanitary napkin” (quoted in Monárez Fragoso 2013, 71). In our interview, Alma explained that to combat the notion that women are disposable and the violence that accompanied it, Chávez Cano created alliances between civil society organizations in Ciudad Juárez and Chihuahua City (interview March 2014). These organizations came together as the Coordinating Group of Pro Women NGOs (Aikin Araluce 2011). According to Wright (2011, 711), Chávez Cano claimed in an interview that it had seemed unimaginable that “women could have a strong impact on public politics” and hence characterized the Coordinating Group as a “unique political force” that was able to “shock” the city. But it did not only shock the city, it paved the way for shocking the state of Chihuahua and later the Mexican state and the international community.

The Group’s first action took place on November 25, 1997, the International Day for the Elimination of Violence against Women, which involved erecting around 100 crosses in front of the governmental palace in Chihuahua City representing the murdered women from 1993 to 1997 (Alma Gómez, interview March 2014). These crosses were the precursors to the cross of nails that stands there today. Like the cross of nails, this symbolic action captures the notion that the authorities of Chihuahua were responsible for these crimes. Indeed, this symbolic action accompanied the Group’s demand that the federal state take action against this violence and the systematic denial of this problem on the part of then Chihuahua state governor, Francisco Barrios Terrazas of the National Action Party (PAN), and the Chihuahua state Prosecutor Francisco Molina Ruiz (Aikin Araluce 2011, 135).  

In a letter that the Coordinating Group addressed to federal Deputy Alma Angélica Vucovich Seele earlier that month (CD 06.11.97), activists argued the following:

> Violence against women in this city has reached levels never before seen in other parts of the world. Close to 30 women were subjected to the amputation of the right breast and their left nipple was bitten off. They were all raped and strangled. Attached is the list of the 93 women who died a violent death from 1993 to this date. […] In these four years of abductions, rapes, tortures, and murders, the authorities in charge of administering justice
have not carried out serious investigations to find the perpetrators, much less the root causes and potential solutions to this cruel violence. [Instead, the authorities have implied] that women are responsible for their own death. This attitude justifies a lack of social justice for women. It is time that we see violence in all its manifestations as a serious problem of public security that should obligate legislators, as well as the authorities in charge of administering justice and society in general to take actions directed at putting an end to the alarming increase in violence that culminates in the murder of women (translation mine).

Deputy Vucovich Seele responded by presenting a complaint to the Comisión Nacional de Derechos Humanos (Mexican National Human Rights Commission, hereafter CNDH).

According to Merry (2006a, 168), federal state actors and national human rights commissions are vernacularizers. National human rights commissions are able to act as translators, given that they are situated between the state and society, “the location where global ideas merge with local movements and ideologies and, local definitions of human rights are institutionalized” (Ray and Purkayastha 2012, 3). Although it may seem like Deputy Vucovich Seele and the CNDH played this role, it is necessary to emphasize here that their intervention was the result of the Coordinating Group’s first moment of advocacy at the national level. In other words, through their national advocacy, grassroots activists mobilized a political opportunity that allowed this federal state actor and the CNDH to become involved and thus to introduce the language or human rights. As such, grassroots actors can be more accurately understood as initiators of actions to bring about social change, as opposed to passive targets of vernacularization efforts to challenge the disregard of local authorities for the murder of women and girls in Chihuahua, as the binary between grassroots and translators would suggest. What is more, as exemplified in my analysis below, grassroots activists remained consistently involved in the process of combating the local government’s inaction after this initial moment of advocacy.

The CNDH carried out an investigation resulting in the Recommendation #44/98 On the Case of the Murdered Women in Ciudad Juárez and the Lack of Collaboration on the Part of the Chihuahua State Prosecutor’s Office. The Recommendation documents the “gross irregularities” in the murder investigations of 104 women and the disappearance of several others in Ciudad Juárez since 1993. These irregularities involved, among many others, a failure to preserve and
document the crime scenes, to properly identify the bodies by performing the necessary forensic tests, and to determine whether the victims had been sexually abused. Most of the women had died as a result of extreme violence and presented similar patterns, which the police failed to take into consideration. In fact, the majority of the case files contained little evidence that a serious investigation had been pursued. Moreover, the CNDH found that these irregularities were the product of deliberate negligence and sexism on the part of public officials, based on a discriminatory attitude towards women tolerated by the Chihuahua state Prosecutor. For example, public officials consistently undermined the seriousness of the situation through comments that reproduced pervasive negative stereotypes of young, working class women as “immoral” (Benítez et.al. 1999; Nathan 1999; Wright 1999). These victim-blaming exercises were coupled with the notion that the murders were attributable to psychopaths (García-Del Moral 2007, 2011) or constituted “crimes of passion” and were a “private matter” (Aikin Araluce 2011). These irregularities and discriminatory attitudes were mirrored in the investigations of the cotton field murders years later.

The CNDH presented its findings as a violation of the Mexican federal Constitution, various laws of the state of Chihuahua governing the conduct of public officials, the UN Universal Declaration of Human Rights, the CEDAW and the Belém Do Pará Convention of which Mexico was a signatory. In so doing, it introduced the language of gender discrimination that is embedded in these legal instruments to conceptualize the responsibility of the Chihuahua state authorities for these irregularities:

It is important to understand that the right to non-discrimination and equality between women and men enshrined in the CEDAW and recognized in Articles 1, 4, and 6 of the Mexican Constitution acknowledges that various differences exist among individuals, and it is precisely because of those differences that the law obligates the authorities, as those in charge of regulating the public order, to not discriminate against anyone based on their difference. This means that the [Chihuahua] state authorities have the same obligations toward everybody because everybody has the same rights – even in cases when the assumed victim is a sex worker or a woman whose disappearance was not reported. The CNDH disapproves that some public officials have used discriminatory adjectives against the victims of the reprehensible acts that are presented in this document, issuing value
judgments that not only are not warranted, but that pretend to justify the failure to act with due diligence in the investigation of the crimes… (p. 38; translation mine).

In introducing this language, the Recommendation #44/98 became a political and discursive opportunity structure for grassroots activists as they began to engage in transnational advocacy and their human rights consciousness began to develop. Put differently, grassroots activists were able to utilize Recommendation #44/98 discursively to define and interpret the murder of women as a human rights violation and politically to legitimate their claims vis-à-vis transnational actors when local authorities failed to redress the situation.

As a response to the Recommendation #44/98, governor Barrios Terrazas created the Women’s Institute of Chihuahua (ICHMUJER) as well as the Fiscalía Especial para la Investigación de Homicidios de Mujeres (Special Prosecutor for the Investigation of the Homicide of Women, hereafter FEIHM) (Aikin Araluce 2011; Ensalaco 2006; Monárrez Fragos 2013). However, these newly created institutions had serious limitations and Barrios Terrazas resisted the full implementation of the Recommendation (Aikin Araluce 2011; Monárrez Fragos 2013). This resistance prompted the Coordinating Group to partner with national feminist networks and human rights organizations like the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (Mexican Commission to Defend and Promote Human Rights, hereafter CMDPDH) to engage in transnational advocacy (Aikin Araluce 2011; Ensalaco 2006). Groups of mothers whose daughters had been disappeared or murdered also began to join these efforts (Aikin Araluce 2011; Bejarano 2002; Monárrez Fragos 2013). 22

Together, they approached the UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions, Asma Jahangir, and the UN Special Rapporteur on the Independence of Judges and Lawyers, Dato’ Param Cumaraswamy. In her report on her visit to Mexico in 1999, Jahangir accused the Mexican state not only of facilitating the conditions for the murders to remain in impunity, but also of fostering the impression that the victims, who “were ‘only’ young girls with no particular social status, [were] expendable” (E/CN.4/2000/3/Add.3). Cumaraswamy made similar accusations about this institutionalized pattern of victim blaming following his visit in May 2001. He noted being “amazed to learn of the total inefficiency, incompetency, indifference, insensitivity and negligence of the police who investigated these cases earlier” (E/CN.4/2002/72/Add.1).
These actions reflect what Keck and Sikkink (1998, 12) characterize as a “boomerang pattern of advocacy.” In throwing a boomerang, activists may pursue alliances with other state and non-state actors in the international arena with the hope that they will pressure their state “from above” as a means to push forward their domestic agenda. This pattern of advocacy became intensified after the discovery of the cotton field victims in Ciudad Juárez on November 6 and 7, 2001 (Aikin Araluce 2011). In our interview, Alma told me that local activists engaged in a new symbolic action every week thereafter, culminating in the creation of the campaign *Alto a la Impunidad: Ni Una Muerta Más* (Stop Impunity: Not One More Woman Murdered!) in December 2001 (interview March 2014). The campaign demanded the Chihuahua state authorities’ compliance with the Recommendation #44/98. The symbol of the campaign were two large pink crosses with nails representing the feminicidios of women, one placed in front of the government palace in Chihuahua City, the other on the Santa Fe bridge at the border of Ciudad Juárez with the United States. According to Alma, the murders and the campaign were catalysts for collective action on an “explosive” scale (interview March 2014).

The campaign quickly spread beyond Mexico through the support of organizations in El Paso, Texas, as well as the involvement of Latin American and Spanish feminist networks (Aikin Araluce 2011; Staudt 2008, 2009, 2011). The Inter-American Rapporteur for the Rights of Women Martha Altolaguirre and Amnesty International visited Mexico in 2002 and 2003 as a response to the campaign, as did other important international and supranational actors, including the UN Special Rapporteur on Violence against Women (SRVAW) in 2006 (see Aikin Araluce 2011; Anaya Muñoz 2011; Ensalaco 2006; Martín, Fernández, Villareal 2008; Prieto Carrón et.al. 2007; Schmidt Camacho 2005; Staudt 2008, 2009). Mexican federal legislators, in particular female Deputies and Senators belonging to these Chambers’ Gender and Equity Commissions, also supported the campaign. In the end, the campaign brought together over 300 domestic and transnational human rights and feminist NGOs (Aikin Araluce 2011, 2012; see Appendix 1). At least 24 reports and over 200 recommendations were produced in the context of this campaign (Aikin Araluce 2011, 2012; see Appendix 2). Thus, the campaign “generated more critical international reactions than any other situation of violation of human rights in Mexico after [its] 2000 political transition [to democracy]” (Ananya Muñoz 2011, 340;).23
Against this background, Alma specifically identified Amnesty International as the organization that introduced her to the CEDAW, the SRVAW, and “that other world” – what Merry (2006a) has identified as the world of the transnational space of human rights. Delegates of Amnesty International visited Ciudad Juárez and Chihuahua City in 2002 and 2003 to create an accurate database on the murders and disappearances of women in these cities from a gender and human rights perspective (Amnesty International 2003). After reviewing official reports and cross-referencing them with other sources and the testimonies of the relatives of the murdered and disappeared women, the organization declared that the official database was “inadequate” (Amnesty International 2003, 14). The resulting report, *Intolerable Killings: 10 Years of Abductions and Murders of Women in Ciudad Juárez and Chihuahua* (2003) documents the failure of the Mexican state to implement the CNDH Recommendation #44/98, “thereby denying the relatives a proper response and an effective judicial remedy” (p. 14). Through the examination of emblematic cases – among them the cotton field murders and the case of Paloma Escobar Ledesma – the report illustrates that the Mexican state’s failure to act with due diligence in preventing, investigating and punishing these crimes are “expressions of discrimination against women” (p. 27). Discrimination on the basis of gender and its intersection with class is a root cause of violence against women; a fact that the authorities refuse to recognize, affecting the investigation process (p. 29). Like the Recommendation #44/98, the report ultimately argues that Mexico breached its obligations under the CEDAW and the Belém Do Pará Convention by tolerating the impunity of the majority of these crimes.

The development of the *Ni Una Más* campaign shows that grassroots activists and domestic NGOs began to interact more systematically with transnational and supranational arenas to articulate their claims, making these arenas a “new reference public” and creating coalitions with them (Della Porta and Kriesi 1999, 17; Passy 1999; Smith 1999). At first glance, it could be possible to see the delegates of Amnesty International and the representatives of the many other transnational and supranational organizations that became involved in the *Ni Una Más* campaign and the CNDH before them as vernacularizers here. Through their intervention, the mothers of victims were able to “tell their stories” (Polletta 2000) using the language of gender discrimination that these organizations had introduced by invoking international legal instruments pertaining to women’s human rights and the CNDH Recommendation #44/98. Amnesty International’s report documents stories that tell of their daughters’ last whereabouts.
and of the traces of violence left on their bodies – if their bodies were found. They also tell of the corruption of the local authorities, their failure to respond to these disappearances and murders, and the attending tolerance for impunity. For example, police agents tortured two men identified as Víctor Javier García and Gustavo González Meza to confess to the murder of the eight women found in the cotton field in Ciudad Juárez in November 2001. In the case of Paloma Escobar Ledesma, the head of the Sexual Offences and Offences against the Family Unit, Commander Gloria Cobos, falsified evidence to blame the girl’s ex-boyfriend for her murder. A glaring example of police inaction is the case of 17-year old Lilia Alejandra García Andrade, a maquiladora worker and the mother of a baby and a three-year old boy. Although someone witnessed her being raped and beaten in a car and had called emergency at 10:15 pm on February 19, 2001, the police did not respond. Another call was made shortly before 11 pm, yet the police did not respond until 11:25 pm. When a police car finally came, it was too late: the car in which Lilia had been raped and killed was gone. Despite this, the police report taken at 11:15 pm that night simply states “nothing to report.” Despite the flagrant abuse of power that these examples illustrate, none of these public officials were punished for their actions or their consequences, namely the diminished possibilities of catching the real murderers and curbing the violence.

Viewing these organizations as vernacularizers, however, would once again disregard the agency of grassroots activist in making possible the intervention of these organizations. These interactions in fact reflect the complexity and multi-directionality of multi-scalar processes, not to mention how these processes are constituted through the interactions of differently positioned actors (Dufour, Masson, and Caouette 2010; Thayer 2013). What is more, the interactions between grassroots actors and transnational and supranational actors in the context of the Ni Una Más campaign diverge from the trajectory that vernacularization scholars outline in their work (Levitt and Merry 2009; Merry 2006a, 2006b). Namely, there is nothing in the reports of the CNDH and Amnesty International to suggest that this institution had to draw on “local symbols and narratives” to introduce the language of gender discrimination so these grassroots actors would adopt it. Elsewhere, Merry (2006b, 44) characterizes as “replication” the process of vernacularization where an institution or frame remain “largely unchanged from [their] transnational prototype.” She argues that this form of vernacularization is “thinly adapted to local circumstances” (p. 48). As such, it has less potential for subversion than the frames or institutions that result from a “hybrid” process of vernacularization that is “thickly shaped by
local institutions or structures” (p. 48). Although the introduction of the language of gender discrimination in the context of the Ni Una Más campaign may resemble “replication,” grassroots women were still more than able to use it subversively to shed light on the normalization of gendered violence that permeates Mexican culture and legal-political institutions. This, I argue, is indicative of the limits of vernacularization in capturing the agency of differently positioned actors and their multi-scalar interactions.

Importantly, the report fully acknowledges these young women’s mothers’ own strong mobilization as a result of their lack of access to justice, as well as the role of activist lawyers like Alma in this process. The mother of Lilia Alejandra, Norma Andrade, and her high school teacher Marisela Ortiz founded the NGO Nuestras Hijas de Regreso a Casa (May Our Daughters Return Home, hereafter NHRC) in Ciudad Juárez in 2001. Josefina González and Irma Monreal, the mothers of cotton field victims Claudia Ivette González and Esmeralda Herrera Monreal, became involved in this organization (Monárrez Fragoso 2013). On her part, Benita Monárrez, the mother of Laura Berenice Ramos Monárrez, another cotton field victim, formed the organization Integración de Madres por Juárez (Integration of Mothers for Juárez) (Monárrez Fragoso 2013). Norma Ledesma founded JPNH in Chihuahua City a year after. These grassroots NGOs were the engines behind the Ni Una Más campaign (Aikin Araluce 2011; Monárrez Fragoso 2013).

But unlike Alma, who was already an activist that joined the struggle against gendered violence through Esther Chávez Cano, these women were thrown into activism. In our interview, Norma emphasized several times that she “got into [activism] because the situation got [her] into it.” She went on to say that she “did not know then that [she] could do it [engage in activism] but now she knows she can” (interview, March 2014). Grassroots activist lawyers like Alma and her collaborator Luz Esthela (Lucha) Castro played an important role here. According to Norma, these activist lawyers helped her and the families that constituted JPNH “to learn about their rights” and went on “to counsel them” as to how to deal with the authorities, but “always respecting [their] decisions” (interview, March 2014). They also were able to attract the attention of the media to generate “social pressure” so that the authorities “had to accede to some of [their] demands” (interview, March 2014). Indeed, Paloma’s abduction and subsequent murder happened within months of the start of the Ni Una Más campaign so that, according to Alma,
they were able to take advantage of the political opportunities that the campaign had begun to open (interview March 2014).²⁴

When Norma succeeded in meeting with then Chihuahua state governor Particio Martínez of the Institutional Revolutionary Party (PRI)²⁵ – something that no other mother’s group had done before – she had “no knowledge of the Constitution, of the criminal code or the role of prosecutors” (interview March 2014). It was thus important for her to know about her rights in order to be able to make claims about the irregularities that pervaded the investigations of the murders and disappearances of Paloma and the daughters of her co-founding partners (interview, March 2014; see also JPNH and CMDPDH 2007, 2010, 2013). It was in this context that grassroots activist lawyers like Alma and her collaborator Lucha Castro, as well as the mothers of the murdered and disappeared women, became human rights defenders. Captions underneath these women’s pictures in the Amnesty International’s (2003) report identify them as such (see pp. 28, 60). Alma and Lucha later founded the Centro de Derechos Humanos de la Mujer (Women’s Human Rights Centre, hereafter CEDEHM) in Chihuahua City.

As I will examine in the next section, this knowledge was part and parcel of the involvement of these grassroots women in transnational legal activism. With this knowledge, the mothers of Claudia Ivette González, Laura Berenice Ramos Monárrez, and Esmeralda Herrera Monreal filed complaints first with the IACHR and then with the IACtHR (Petitions 281/02, 282/02, 283/02). Like Norma Ledesma, Norma Andrade also presented a complaint before the IACHR (Petition 266/03).²⁶ Although Norma Ledesma ultimately did not forward the case of Paloma to the Court because she opted for a friendly settlement with the Mexican state, Norma Andrade is in the process of doing so at the time of writing. All these petitions argued that institutionalized gender discrimination was at the root of their daughters’ murders and their impunity.

It would be hard to make sense of the actions of activists like Alma and Norma as part of the Ni Una Más campaign without a corresponding change in their legal consciousness. But it would be inaccurate to think that the human rights subjectivity of grassroots women that emerged in this context or their commitment to human rights was ephemeral, as the work on vernacularization implies. These women’s understandings of themselves changed dramatically. For example, in the documentary El Brillo del Sol Se Nos Perdió Ese Día (Sunshine Went Missing that Day) (JPNH and CMDPDH 2010), Norma Ledesma recounts that she was also a victim of domestic violence
at the hands of her husband. However, after what happened to Paloma, she confronted her husband and told him, “Never again! Paloma was murdered because she was a woman. I will never allow you to touch or hurt me again.” This quote reveals that Norma understood that gender discrimination was at the core of violence against women through her activism. As a result, Norma divorced her husband (interview, March 2014).

Another testimony to the strong commitment to human rights of grassroots women like Norma is that they have carried out their activism despite being subjected to harassment by the state, including physical and psychological violence (Monárez Fragoso 2013; Portillo 2001). Norma Andrade (NHRC) was shot in Ciudad Juárez, but survived. She also survived being stabbed after she had relocated to Mexico City, while her collaborator Marisela Ortiz was threatened at gunpoint. Norma Andrade and Marisela Ortiz were granted asylum in the United States as a result of these threats, as was Benita Monárrez, the mother of cotton field victim Laura Berenice Ramos Monárrez who was also harassed. Marisela Escobedo, who was involved with JPNH after the murder of her 16-year old daughter Rubí in 2008, was shot in the head in front of the government palace in Chihuahua City in December 2010. Norma Ledesma has a bodyguard. Nevertheless, these women have continued to fight for justice for their daughters. In this sense, these women’s human rights consciousness did not become concretized through institutional validation, as Merry (2006a) suggests. On the contrary, it has developed through the consistent confrontation with Mexican public officials who continuously dismissed their rights, those of their daughters, and the harassment that they have faced in the process of demanding that the Mexican state recognize its responsibility for gendered violence in Chihuahua.

Against this background, it would be equally inaccurate to credit Mexican or transnational elites for engineering the Ni Una Más campaign or for being more invested in combating injustice through a human rights approach. This is not meant to undermine the role that representatives of national and transnational organizations, whether they are seen as elites or not, have played in the campaign and in translating human rights in this context. The understanding of this violence as an outcome of gender discrimination has been central to the advocacy strategy that these grassroots groups pursued, including frequent travels to the spaces of transnational modernity (Merry 2006a). Alma Gómez (CEDEHM), Norma Andrade and Marisela Ortiz (NHRC), Norma Ledesma (JPNH) or representatives of these organizations have traveled frequently to the UN in
New York and Geneva, and to the headquarters of the IACHR in Washington D.C. (see Aikin Araluce 2011). They also regularly attend the IACHR hearings (see e.g. JPNH and CEDEHM 2007). In these hearings, they have continued to denounce the complicity of the local and federal governments in the murders and disappearances of women in Chihuahua. However, they have also tried to extend the language of gender discrimination by insisting that this phenomenon should be understood as *feminicidio* (JPNH and CEDEHM 2007; see also CMDPDH et.al. 2006).

For example, the document that JPNH and CEDEHM prepared for the 128th Period of Sessions of the IACHR (2007) uses the work of Julia Monárrez Fragoso and Marcela Lagarde on *feminicidio* to frame the claim that the Mexican state is complicit in the impunity of these crimes because it is invested in the institutionalization of gender discrimination. I quote at length:

> The contribution of feminist intellectuals [on] the murders of women is of transcendental importance for the struggle of families and organizations that are defensoras of human rights. [Feminist intellectuals] have taught us the importance of giving an appropriate name to the phenomenon that today we bring to the attention [of the IACHR] in this hearing. […]

> [According to Julia Monárrez Fragoso], it is necessary to use the term *feminicidio* because, no matter how much imagination we have, we cannot capture the magnitude of the number of murdered women through the term homicide. […] The concept of *feminicidio* refers to the murder of girls and women by men simply because of they are women. What does this mean? That men are able to use the abusive power conferred to them by gender discrimination to kill girls and women [with impunity]. […] On her part, Marcela Lagarde has established that Feminicidio constitutes genocide against women. It takes place when the state cannot guarantee women’s lives or their integrity, health, liberties. […]

> We [JPNH and the CEDEHM] hope that this concept will be used in all instances [to refer to these crimes] (p. 20; translation mine, emphasis in original).

Elsewhere, I examine more thoroughly how the academic concept of *feminicidio* was transformed into a frame through the actions of grassroots activists (García-Del Moral,
forthcoming). Of relevance here is primarily the fact that grassroots activists used the language of gender discrimination encapsulated in international human rights law as a discursive opportunity to create *feminicidio* as their own frame to define the responsibility of the Mexican state for these crimes. What is more, this frame was later introduced in the litigation of the “Cotton Field” case at the IACtHR (Chapter 3), paving the way for the criminalization of *feminicidio* in domestic legislation (Chapter 4).

In this light, some could attempt to characterize *feminicidio* as “hybrid” of vernacularization (Merry 2006b). Nevertheless, this conceptualization would not be entirely accurate. For Merry (2006b), hybrids fully merge the narratives, symbols or institutions of local culture with transnational ideas about human rights. Yet *feminicidio* was initially first and foremost a feminist academic concept, itself a product of the “travel” of feminist theories (Thayer 2013). Its transformation into a frame happened after Julia Monárrez and Marcela Lagarde introduced it to grassroots actors as part of their own involvement with the *Ni Una Más* campaign (see e.g. Lagarde 2004). Grassroots actors then appropriated it and mobilized it as part of the campaign (García-Del Moral, forthcoming). The transformation of *feminicidio* from an academic concept into a frame thus certainly took place in the context of vernacularization, but the active participation of grassroots activists in the process as translators and subjects of rights cannot be ignored here.

I further argue that this goes beyond what is characterized as an instance of “the local talking back to the global” or a process of “re-translation” in the vernacularization framework (Levitt and Merry 2009). Re-translation implies that it is possible for the grassroots to contribute to the creation of global ideas about women’s rights when their ideas become shared in UN conferences or meetings through vernacularizers that can access these transnational modern spaces. However, through their actions, activists like Alma and Norma and the organizations to which they belong have done more than this. They created political opportunities to “integrate a gender perspective back in transnational and supranational arenas” (Ensalaco 2006, 418). As I will show in the next chapter, the IACtHR’s adoption of a gender perspective to adjudicate the “Cotton Field” case was not a given. Rather, it was contingent on the discursive practices of transnational human rights advocacy and transnational legal activism that took place during the *Ni Una Más* campaign.
In sum, I argue that grassroots actors have contributed to reaffirming and extending the meaning of global ideas of women’s human rights, effectively becoming translators and subjects of rights as opposed to targets of translation efforts with weak or transient commitments to rights. As subjects of rights, they have also strategically engaged in interactions with transnational and supranational arenas through transnational legal activism.

On Transnational Legal Activism and the Human Rights as Ideas for Social Movements/Human Rights as Law Binary

The previous section suggests the need to problematize the second claim in the literature on vernacularization, namely that there is a distinction between human rights as ideas for social movements and human rights as law (Levitt and Merry 2009, 459; Merry et.al. 2010, 102). Levitt and Merry (2009, 459) argue that “this is a significant but largely unrecognized difference.” This difference rests on the assumption that “within social movements, the meaning of human rights is more fluid and open to grassroots activism” (p. 460), that is, after transnational elites have translated these ideas for them. Human rights as law, in turn, are constrained by the “original parameters of legal documents” and under the control of legal institutions (p. 460). This difference further entails the involvement of two sets of actors: lawyers who have the necessary expertise to use the supranational human rights legal system, and social movement activists (p. 460). Ultimately, the notion is that human rights as law is not really accessible to grassroots groups and favours elites that possess the necessary knowledge and material resources to present complaints in supranational forums. These arguments thus mirror the concerns of critical legal scholars regarding the elitism of law and legal institutions, as well as the distance that exists between legal professionals and the individuals or activist groups that they claim to represent (Kennedy 2002; Lobel 2007; White 1988, 1990).

Consequently, although the literature on vernacularization acknowledges that human rights as law and as social movement are linked, the primary focus has been on the adaptation of the ideas associated with international human rights law in local contexts to frame grievances and on the role of this cultural translation in transforming the local legal consciousness (Alayza Mujica and Crisóstomo Meza 2009; Levitt and Merry 2009; Meng, Hu and Liao 2009; Merry 2003a, 2006; Merry et.al. 2010; Rajaram and Zararia 2009). Underlying this emphasis on vernacularization is the argument that the significance of international legal instruments on women’s rights is “not in
their enforcement, but in their capacity to create shared cultural understandings on gender and to articulate and expand a vision of rights” (Merry 2006a, 89).

Once again, the experience of grassroots activists in Chihuahua challenges these assumptions (see also Brysk 1992; Garth and Sarat 1999; McCann 2006; Sarat and Scheingold 2006; Shdaimah 2006). These grassroots activists did not only mobilize the ideas associated with human rights and “their international appeal” (Levitt and Merry 2009, 447). They mobilized international human rights law itself to argue that the heretofore uncontested, yet pervasive discriminatory attitude of public officials toward women was a root cause of the Mexican state’s failure to respond effectively to the disappearances and murders of women in Ciudad Juárez and Chihuahua City. In other words, they engaged in transnational legal activism.

The story of Alma Gómez illustrates that the distinction between social movement activists and lawyers is blurred. She is not an exception – there are other activist lawyers at the grassroots level that engaged in activism and litigation (see Aikin Araluce 2011; Ensalaco 2006). In turn, these grassroots organizations became allied with national and transnational feminist human rights NGOs specialized in supranational litigation. Salient at the national level were the CMDPDH and the Asociación Nacional de Abogados Democráticos (National Association of Democratic Lawyers, hereafter ANAD) and, at the transnational level, the Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (Latin American and Caribbean Committee for the Defense of Women’s Rights, hereafter CLADEM), and the Center for Justice and International Law (CEJIL). CLADEM is the largest and most visible transnational feminist network in Latin America. Latin American feminist lawyers and activists founded this network to use international law as a tool of change in the aftermath of the 1985 UN Third World Conference on Women in Nairobi. CEJIL is the product of efforts of prominent human rights defenders in Latin America who recognized the need to create an organization that could provide legal expertise for the purpose of litigation in the Inter-American Human Rights system. It was through these organizations that the “Cotton Field” case and the cases of Paloma and Lilia Alejandra were ultimately litigated in the supranational arenas of the IACHR and the IACtHR.

At the same time, JPNH, NHRC and the CEDEHM joined other local and national feminist organizations to create the Observatorio Ciudadano para Monitorear la Impartición de Justicia en los Casos de Feminicidio en Ciudad Juárez y Chihuahua (Citizen Observatory to Monitor the
Delivery of Justice in Cases of *Feminicidio* in Ciudad Juárez and Chihuahua, which later became the *Observatorio Ciudadano Nacional del Feminicidio* (National Citizen Feminicide Observatory, OCNF). Through the OCNF, under the coordination of the Mexican Chapter of Catholics for Choice, these grassroots organizations presented an important amicus brief to the IACtHR in support of the petitioners of in the “Cotton Field” case (Chapter 3).

The Washington Office for Latin American Affairs (WOLA) and the *Equipo Argentino de Antropología Forense* (Argentine Forensic Anthropology Team, EAAF) were two additional organizations that facilitated the involvement of grassroots actors in transnational legal activism. Importantly, the involvement of the EAAF and WOLA renders visible the broader Latin American context in which the struggle against *feminicidio* took place and, as such, how the distinctive approach to international human rights law that developed in the region intersected with this process. WOLA was created in 1974, in the aftermath of Augusto Pinochet’s coup that overthrew the democratically elected government of Chile in September 1973 with the complicity of the U.S. government (Youngers 2006). WOLA was formed by “an ecumenical coalition of church-related and other political activists in the United States,” who wanted to influence American policy on Latin America as well as to “create a space where Latin Americans and others living and working in the region could speak out in defense of human rights and social justice” (Youngers 2006, 2). These actors were able to successfully introduce their concern with the human rights violations that followed the rise of military dictatorships in the region in the U.S. Congress. The commitment to change the policy debate on human rights in Latin America that has characterized WOLA since the 1970s has made it an important resource for Latin American activists who are engaged in transnational human rights advocacy (Youngers 2006).

Like WOLA, the EAAF was established in 1984 as a response to the human rights violations of the military dictatorships in Latin America. The members of this not-for-profit, scientific NGO are primarily forensic anthropologists and archeologists who apply their knowledge to investigate human rights violations. The EAAF’s first task was, in fact, the investigation of at least 9000 cases of forced disappearance that took place in Argentina under the military government that ruled from 1976-1983 (http://www.eaaf.org/). Thus, both the EAAF and WOLA share the historical and political background that structured the development of the Inter-American Human Rights system (Chapter 3).
Below I illustrate that through their interaction with these national and transnational networks and organizations, grassroots women like Norma Andrade, Marisela Ortiz, and Norma Ledesma actively took advantage of opportunities to gain legal knowledge and expertise to document violations and to put this expertise into practice. In other words, women at the grassroots seized the political opportunities that became available to them through the involvement of these specialized organizations to make claims against the Mexican state vis-à-vis the IACHR, the IACtHR and also the UN (Della Portal, Kriesi, and Rucht 1999; Passy 1999; Smith 1999).

Therefore, I argue that the concept of transnational advocacy cannot alone capture the complexity of the interactions of these women with these supranational arenas (Santos 2007). Their engagement with international human rights law in the above-described instances constitutes an example of transnational legal activism (Santos 2007). In sum, transnational human rights advocacy and transnational legal activism are not separate, but interconnected strategies in which grassroots actors were active participants.

Challenging the Social Movement/Law Binary of Human Rights: Grassroots Human Rights Defenders and Transnational Legal Activism

Transnational legal activism was an important strategy for grassroots groups in the context of the Ni Una Más campaign. The mothers of murdered women filed complaints with the IACHR through JPNH and NRHC with the support of national and transnational organizations like ANAD, CMDPDH, CEJIL and CLADEM. Esther Chávez Cano and her organization Grupo Feminista 8 de Marzo (Feminist Group March 8), in coalition with the CMDPDH and the American organization Equality Now, also requested that the CEDAW Committee conduct an inquiry under Article 8 of the Optional Protocol of the Convention into the murders and disappearances of women in Ciudad Juárez (CEDAW/C/2005/OP.8/Mexico). In other words, as part of their strategy activists targeted two supranational institutions in order to maximize the political and discursive opportunities that these institutions could provide. The ultimate goal was to bring a potential precedent-setting case to the Inter-American Court of Human Rights (IACtHR) that would have legally binding implications for the Mexican state, but also would pave the way for future cases of women’s human rights violations in the Inter-American Human Rights system (Alpízar 2003 in Ensalaco 2006, 434).
According to Ensalaco (2006, 431), as part of this strategy “it was critical that the information presented to the IACHR by the [local] women’s organizations have a high level of probity, a requirement that forced those organizations to professionalize their operations.” Ensalaco refers here in particular to the practice of documenting violations (see also Brysk 1992; Santos 2007). This practice involved developing “organizational structures, action repertoires, and strategies necessary to address multi-level system of governance” (Della Porta, Kriesi and Rucht 1999, 21).

In later work, Merry and colleagues (2010) have identified the practice of documenting violations at the grassroots level as a way to engage local institutions in “good governance” and to foster the development of a human rights consciousness. Based on the experiences of Alma and Norma, I argue that these practices go beyond an attempt to introduce practices of “good governance” in Chihuahua, although they arguably did lead them to develop a human rights consciousness. What Merry and her colleagues (2010) ignore is that these practices of documentation were also both a means and a product of the mobilization of law through transnational legal activism (see Brysk 1992). My interviews with Alma and Norma exemplify this process.

Norma and Alma spoke at length of the importance of gaining access to the case files to be able to document the failure of local authorities in preventing, effectively investigating, and punishing the murders of women as human rights violations. According to Alma, access to the files was limited in that local authorities would more often than not fail to inform the relatives of missing women that they had the right to coadyuvancia, that is to participate in the penal process (interview, March 2014). This was even the case for Norma, when Paloma went missing, and for the mothers of the cotton field victims (Norma Ledesma, interview March 2014; see Monárrez Fragoso 2013). These women were left to their own devices to conduct their own search parties for their daughters and were continuously subjected to humiliations when they asked police agents to give them information on the status of their investigations (CMDPDH and JPNH 2010; JPNH and CEDEHM 2007; Monárrez Fragoso 2013). For example, when she testified at the IACtHR, the mother of Laura Berenice Ramos Monárrez declared that…

…police agents told her that she would have to look for her daughter, because “all the girls who get lost, all of them, [...] go off with their boyfriend or want to live alone.” She added that, on one occasion, she asked the police agents to accompany her to a dance hall
to look for her daughter; they said “no Señora, it’s very late, we have to go home and rest and you should wait for your moment to look for Laura,” and patted her on the shoulder saying: “go home and relax, have some ‘heladas’ [beer] and offer a toast to our health; because we can’t go with you (“Cotton Field,” para. 200).

Alma further claimed that local authorities obstructed access to the files to hide the fact that they not carried out a proper investigation to begin with (interview, 2014). Importantly, Norma linked this lack of action to gendered stereotypes of appropriate feminine behaviour that worked to blame the victim (interview, 2014; see also Wright 1999; Monárez Fragoso 2013). In turn, a lack of knowledge of their right to participate in the penal process prevented the relatives of disappeared and murdered women from having evidence that the authorities had not done their job:

After they became coadyuvantes and named us as coadyuvantes as well, the claims [of the relatives of missing or murdered women] stop being based on their testimony. Because the evidence was there… when we went to get the files we saw that they were scattered all over the floor, tied together with strings, that there were files that had been opened over a year ago and only had five pages. Then it was not just mothers claiming “they didn’t investigate,” no, there was the proof (interview, March 2014).

In other words, the process of transnational legal activism began when the relatives of missing and murdered women learned about their right to coadyuvancia and exercised this right through their interactions with activist lawyers like Alma, and later with organizations like Amnesty International, WOLA and the EAAF. The document that JPNH and the CEDEHM presented to the IACHR during the 128th Period of Sessions points out, nevertheless, that JPNH took the initiative to “propose the consistent intervention of independent investigations to assess the work of local authorities and, based on the results, develop legislative proposals to address negligence on the part of public officials” (2007, 27). Thus, it can be argued that the lack of legal knowledge did not necessarily prevent grassroots actors from being initiators of legal measures to bring about social change.

The EAAF became involved in the investigation of the murders of women in Ciudad Juárez and Chihuahua after receiving a request from the CMDPDH and WOLA in December 2003 (JPNH
and CEDEHM 2007; see also Testimony of EAAF investigator Mercedes Doretti, before the IACtHR, April 2009, p. 7). JPNH also joined this request as part of an arrangement with Guadalupe Morfín, the Head of the Comisión para Prevenir y Erradicar la Violencia Contra las Mujeres en Ciudad Juárez y Chihuahua (National Commission to Prevent and Eradicate Violence against Women in Ciudad Juárez and Chihuahua, hereafter Ciudad Juárez Commission). The federal Secretariat of the Interior had created this Commission as a response to demands made in the context of the Ni Una Más campaign (Chapter 4). Through JPNH, Norma Ledesma had been able to negotiate an agreement with Commissioner Morfín in light of the petition that she had submitted to the IACHR regarding the disappearance and murder of her daughter Paloma (interview, March 2014).

Commissioner Morfín made available some of the case files to the team of investigators of the EAAF. During this initial visit, the EAAF looked into the cases of unidentified women that were murdered between 1993 and 2004 (JPNH and CEDEHM 2007, 27). This initial investigation produced a report that echoed the findings of the CNDH Recommendation #44/98 and legitimized activists’ claims regarding the institutional irregularities that continued to affect the way in which the cases of disappearances and murders of women were being handled. Here, Alma emphasized the importance of the EAAF’s background as an organization that had emerged in response to the human rights violations of military dictatorships in Latin America. This meant that the EAAF had done work in a context of transitional justice and thus could guarantee that “it would not be easily manipulated by the authorities” (interview, March 2014). Moreover, Alma and Norma also drew attention to the close relationship that the EAAF investigators had established with the victims’ relatives, so that they could know and follow the investigative process step by step and have confidence in the results (interviews, March 2014). This was particularly important, since the authorities had consistently failed to assure families that the bodies that had been recovered had been correctly identified.

For Alma, this was the result of…

…negligence, because many of the remains that were found were bones or remains that could not be identified. These remains had slowly accumulated in the morgues and then had been sent to mass graves. When families would insist a lot in getting the remains of who had been their loved one, the authorities would give them a bag with bones and tell
them “this is your daughter, do you want her or not?” And families had no certainty (interview, March 2014; see also Monárrez Fragsoso 2013).

In light of the results of this initial investigation, JPNH insisted that the EAAF should continue its work. During a second visit, the EAAF carried out investigations into files and the remains of bodies between 2004 and 2008. Two more Chilean and Colombian forensic specialists, Pedro Díaz and Raúl Cofre, joined the investigation at the request of JPNH between 2007 and 2009 (Norma Ledesma, interview March 2014).

This second visit allowed Alma, Norma and other members of JPNH to work more closely with these investigators. The EAAF had also worked with NHRC, the grassroots organization based in Ciudad Juárez. As a result, grassroots actors gained expertise on how proper investigations and body identification procedures should be carried out. Norma told me that from working with the EAAF and the Colombian and Chilean specialists she and other JPNH members had learned “how to review a file, how to analyze it, not just to read it, but to how to understand the lines of inquiry, how they should be concluded, to view the files in a horizontal and not only a vertical manner, and all of that was very useful” (interview, March 2014). Norma and JPNH eventually joined NHRC in Ciudad Juárez to share their expertise with other groups of families of the missing and murdered women (interview, March 2014).

In turn, Alma worked with the EAAF for five years, trying to trace what had happened to each body (interview, March 2014). At the end of these five years, they had been able to identify 29 out of 33 bodies, including the remains of cotton field victims Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal. However, as they progressed many more unidentified bodies were discovered, so that 80 more bodies remained unidentified. At the core of this problem were the irregularities concerning the preservation of the crime scene and other evidence documented in the Recommendation #44/98 and its relation to institutionalized gender discrimination (JPNH and CEDEHM 2007).

Importantly, for Norma the presence of these forensic specialists represented the “international surveillance” to which the government of Chihuahua was being subjected as a result of filing complaints with the IACHR, the IACtHR [and the CEDAW Committee] (interview, March 2014). This international surveillance represented political opportunities that provided her with
“new opportunities, but also new constraints” (Della Porta and Kriesi 1999, 21). Pedro Díaz and Raúl Cofre told Norma that she had to take advantage of the fact that Paloma’s case counted as an “emblematic case” that had been admitted to the IACHR to push for the permanent review of files in order to access justice. Displaying once again her commitment to the human rights approach, Norma decided to quit her job as a group supervisor at the maquiladora in which she worked to then be in charge of a group to review the files. For her, this was a matter of preventing the government from “individualizing the case of one family” which ultimately precludes the family from seeing their case “as part of a group” (interview, March 2014).

In the aftermath of the IACHR decision in the case of her daughter Paloma Escobar Ledesma (Report 51/13), Norma’s efforts led to the creation of the Specialized Unit in Feminicidio and Gender Crimes (interview, March 2014). As a result, Norma was able to personally choose the staff to review 25 cases of JPNH. However, this Unit seems to have been short lived. A few months after its creation on March 29, 2011 – the anniversary of the discovery of Paloma’s body – the Unit was replaced by a Special Prosecutor to Attend Women Victims of Crime (see also Torres Ruiz 2011). Although the Special Prosecutor ended up being a person “approved by the women’s movement in Chihuahua,” Norma pointed out that the creation of this institution was “for show” because it lacked a budget (interview, March 2014). At the same time, Norma insisted that “she had achieved what she wanted” (interview, March 2014).

This example of the contradictory outcomes of transnational legal activism is a reminder that state power shapes this process (Santos 2007). Yet despite these contradictions, it would be amiss to disregard altogether the influence that the collaborative work of forensic specialists and grassroots organizations to create supranational political and discursive opportunity structures. For example, Mercedes Doretti, one of the EAAF forensic investigators used the results of these collaborative investigations to testify against the Mexican state before the IACtHR during the litigation of the “Cotton Field” case (Chapter 3). Likewise, this evidence shaped the recommendations issued by UN CEDAW Committee in response to the inquiry under Article 8 of the Optional Protocol that had been initiated by Esther Chávez Cano. The CEDAW Committee observed…

…that there [had] been no serious and thorough investigation of each case and that complaints by relatives [had] even been ignored and evidence and proof destroyed.
Impunity has prevailed for an entire decade, in which these crimes have been treated as common acts of violence belonging to the private sphere, and the existence of a pattern of discrimination, whose most brutal manifestation has been extreme violence against women, has been ignored (para. 273).

As I examine in Chapter 4, these decisions were central for paving the way for the criminalization of feminicidio, and, consequently, for institutionalizing the engagement of grassroots activists with international human rights law to broaden traditional understandings of state responsibility for gendered violence (c.f. Nash 2012).

In sum, the intervention of the EAAF and the other forensic specialists was the result of the interaction of grassroots activists with NGOs and actors that possessed legal knowledge and facilitated the submission of complaints to the IACHR, the IACtHR and the UN CEDAW Committee. Put differently, it was part and parcel of the complex processes of transnational legal activism that bring grassroots activists together with differently positioned actors in specific historical and political contexts (Santos 2007). What is more, Norma Ledesma argued the following: “The complaints at the IACHR and their subsequent admissibility opened up a window for us: a little window of which we took advantage, because every window that is opened for us is a window that we use to get in [our demands]” (interview, March 2014; emphasis added). These windows become “frames to ask for things” (interview March 2014).

These powerful worlds capture the agency of grassroots actors like her, who, despite their initial lack of knowledge about international human rights law or law in general, were able to simultaneously engage in transnational legal activism and transnational human rights advocacy. As part of these processes, Norma learned the language of human rights, but she also mobilized international human rights law by taking advantage of the political and discursive opportunities offered by supranational arenas and even creating new such opportunities.

Norma’s trajectory of activism therefore calls into question the claims of the work on vernacularization related to the inability of grassroots actors to access international human rights law, as well as the arguments regarding the separation of human rights as ideas for social movements and as law. Alma’s experiences with Amnesty International, the EAAF and her collaboration with JPNH also complicate these assumptions. Therefore, transnational legal activism allowed grassroots activists to both mobilize and create transnational and supranational
opportunities in the context of transnational human rights advocacy, with real albeit at times limited impacts for their struggles.

**Discussion and Conclusion**

In this chapter, I have analyzed how grassroots activists like Alma Gómez (CEDEHM) and Norma Ledesma (JPNH) went from having no knowledge of human rights to becoming central actors in the construction of the responsibility of the Mexican state for violations of women’s rights in Chihuahua. By tracing their stories, I have pointed out the limitations of the vernacularization framework (Levitt and Merry 2009; Merry 2006a, 2006b) to understand how human rights became linked to the struggle against gendered violence in this context. My critique has focused on two main assumptions of this framework, the notions that there is a divide between grassroots and translators that prevents the former from engaging in transnational human rights advocacy and that there is a distinct divide between human rights as ideas for social movements and as law. This second divide obscures transnational legal activism as another important strategy through which grassroots actors are able to make rights claims against the state vis-à-vis supranational institutions for the protection of human rights.

This is not meant to ignore the inequalities rooted in the positions of actors involved in the multiscalar processes of the *Ni Una Más* campaign. Rather, it is meant to highlight the fluidity of these binaries and the importance of taking account of the ways in which grassroots activists actively engage with national, transnational, and supranational opportunities. Alma and Norma, like many other grassroots actors in Ciudad Juárez and Chihuahua (see Aikin Araluce 2011, 2012), were ultimately able to operate on both sides of the divide. More importantly, they marshaled the frame of *feminicidio* as an extension of the language of gender discrimination embedded in international human rights treaties on women’s rights to broaden traditional understandings of state responsibility for gendered violence at the IACHR hearings. Highlighting this type of interaction renders visible the ways in which grassroots activists tried to influence the process of institutionalizing their interpretations of international human rights law, not to mention feminist theory (Nash 2012; Thayer 2013).

In sum, the aim of this chapter has been to contribute to the literature on human rights and social movements by tracing the relationship between grassroots actors and specialized NGOs or
networks that are typically involved in transnational advocacy and supranational litigation. By examining the participation of grassroots activists not only in transnational human rights advocacy, but also in transnational legal activism, the chapter has drawn attention to their involvement in the complex processes that have shaped the institutionalization of human rights in Mexico. As I explore in the next chapter, the role of the Inter-American Human Rights system cannot be ignored here. The Inter-American Human Rights system is a salient supranational arena that provided activists with arguably more opportunities to interact with international human rights law than the UN system.

Nevertheless, the role of the Inter-American system has been neglected in the work on vernacularization in particular and on human rights and social movements more generally (see e.g. Meyer 1999 on the lack of scholarly attention to the Inter-American Commission on Women; but see Friedman 2009; Santos 2007). Given the focus on the UN that dominates this body of research, the interdependence of the UN and the Inter-American and European human rights systems has been ignored (García-Del Moral and Dersnah 2014). More problematic is that taking the UN in general and the CEDAW Committee in particular as the spaces of transnational modernity where women’s human rights are created contributes to the notion that transnational and/or supranational arenas are always more readily open to women’s human rights, in contrast to the local. However, the limited existing jurisprudence on violence against women in the Inter-American system illustrates that the adoption of a gender perspective to adjudicate claims that women’s human rights had been violated has not come naturally to supranational institutions (Quintana Osuna 2008; Palacios Zuloaga 2008). It must be constantly reproduced and reaffirmed. This, I argue, is an important process that grassroots activists like Alma and Norma were able to shape through their involvement in transnational human rights advocacy and transnational legal activism.
Chapter 3. 
Gendering the Supranational: Transnational Legal Activism and the "Cotton Field" Case

According to Guadalupe (Lupita) Ramos Ponce, the coordinator of the CLADEM in the Mexican state of Jalisco, the strategic litigation of emblematic cases is an important form of activism for this transnational feminist network (interview May 2013). She defined an emblematic case as having “the potential to change women’s lives by transforming and expanding national and international juridical and normative structures through supranational litigation.” The murders of Claudia Ivette González (20), Laura Berenice Ramos Monárrez (17) and Esmeralda Herrera Monreal (14) in Ciudad Juárez, whose bodies were found in a cotton field along those of five other women in November 2001, constituted such a case. In partnership with the Citizen Network for Non-Violence, the Centre for Women’s Integral Development (CEDIMAC), and the National Association of Democratic Lawyers (ANAD), the CLADEM became part of the team of representatives working on behalf of the mothers of the three victims in the case of González and Others “Cotton Field” v. Mexico (see Table 3.1. below). 27

Table 3.1. Participants in the Litigation of the “Cotton Field” case

<table>
<thead>
<tr>
<th>Role</th>
<th>Name/Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plaintiffs</td>
<td>Josefina González, Benita Monárrez, Irma Monreal</td>
</tr>
<tr>
<td>Mothers of the victims</td>
<td></td>
</tr>
<tr>
<td>Representatives</td>
<td>Citizen Network for Non-Violence, Centre for Women’s Integral Development (CEDIMAC)</td>
</tr>
<tr>
<td></td>
<td>National Association of Democratic Lawyers (ANAD)</td>
</tr>
<tr>
<td></td>
<td>Latin American and Caribbean Committee for the Defense of Women’s Rights (CLADEM)</td>
</tr>
</tbody>
</table>

At stake in the litigation of this case before the Inter-American Court of Human Rights (IACtHR), Lupita argued, was the integration of a gender perspective in the legal process: “It was very important for the CLADEM to incorporate a gender perspective because, if we did not manage to show that gender was the central component in the acts of violence against [the three
young women], then little would have been done in this respect. This is gender-based violence, this is *feminicidio*” (interview May 2013). Put differently, Lupita’s words suggest that the IACtHR’s adoption of a gender perspective to adjudicate the case and define the responsibility of the Mexican state for this violence was not something that activists could take for granted.

The Court’s landmark judgment in “*Cotton Field,*” decided in 2009, is now touted “as the most progressive decision regarding the recognition and application of a gender-perspective analysis in the Inter-American human rights jurisprudence” (Acosta 2012, 23). Significantly, the Court declared for the first time that the state’s failure to respond to acts of violence against women at the hands of private actors in a context of systematic gendered violence constituted gender discrimination. Taking into consideration the systematic violence against women documented by domestic, transnational and supranational organizations since 1993 (Chapter 2), the Court found that the Mexican state had failed to prevent the crimes, given the lack of an effective response to the disappearances of the three women and to act with due diligence in the investigation and punishment of the murders. Consequently, the Court ruled that the Mexican state had violated the right to life, personal integrity, and personal liberty of Claudia Ivette González, Laura Berenice Ramos Monárez, and Esmeralda Herrera Monreal enshrined in the American Convention of Human Rights (ACHR) and in relation to its obligations under the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém Do Pará Convention).

This chapter extends the feminist framework on gendered multi-scalar processes developed in the earlier part of this dissertation to analyze the Court’s adoption of a gender perspective in relation to transnational legal activism (Santos 2007). According to Acosta (2012, 24), “in previous cases [the Court] had either ignored this possible approach or addressed it in a marginal way.” In this chapter, I therefore explore how the arguments presented to the IACtHR were shaped by the interpretations of the murders of women and girls in Chihuahua as a human rights violation and as *feminicidio* that emerged in the context of the *Ni Una Más* campaign, as well as the Mexican state’s response to them. I also examine the extent to which the judgment reflects these understandings gendered violence and its domestic and supranational implications.

To carry out this analysis, I draw on Ferree’s (2012) conceptualization of court decisions and laws as “authoritative texts” as well as “networks of meaning” that emerge through discursive
framing work in the interaction between actors and institutions. For Ferree (2012, 14), these texts are “authoritative” in that they encapsulate the “institutionalized results of past interventions to frame issues.” As such, they provide “discursive opportunity structures,” that is “gradients of relative political acceptability to specific packages of ideas” (Ferree 2003, 309). Court decisions and laws constitute a “network of meaning” because they anchor the interaction of these opportunity structures with the “active framing efforts” of actors with agendas (Ferree 2012, 13). This conceptualization dovetails neatly with legal scholarship that recognizes the role of social movements in constructing legal meanings and how these meanings are expressed in court decisions, leading to change in legal doctrines and/or practices (Greenhouse and Siegel 2010, 2012; Siegel 2001, 2010, 2013). At the same time, I take into consideration a) the Court’s role as a producer of knowledge (Çali 2010); b) its relationship to the Inter-American Commission on Human Rights (IACHR) (Bettinger-López 2009), and c) its context as a supranational institution that both restricts and is restricted by state power (Conti 2011; Dezalay and Garth 2002; Hagan, Levi, and Ferrales 2006; Madsen 2013, 2014; Helfer and Slaughter 2005). Using this framework, I analyze the “Cotton Field” judgment as a text that is imbricated in gendered multi-scalar social processes involving the production of legal knowledge, the ongoing negotiation of meaning, and the contestation of state power.

The point of engaging in this analysis is to examine the complex interactions between differently positioned activists, the Mexican state, and the IACHR and how these structured, in part, the Court’s adoption of a gender perspective to adjudicate the “Cotton Field” case. I argue, in turn, that the Court’s implementation of a gender lens in this decision represented the twofold opportunity to rearticulate and reaffirm international norms on women’s human rights at the supranational level and to gender this legal-political arena. To elaborate: My argument is, on the one hand, that the Court’s incorporation of a gender perspective in “Cotton Field” solidified the meaning of women’s human rights and simultaneously provided, to a certain extent, the opportunity to introduce the new understandings of gendered violence and state responsibility that grassroots and transnational activists had developed in the context of the Ni Una Más campaign (Chapter 2). On the other, I argue that this process represented the gendering of the IACtHR as an institution of global governance that had not taken gender into consideration in a systematic manner in previous decisions concerning violence against women. In making this argument, I build on the literature on gender, human rights, and global governance. This
scholarship has long identified the reluctance of supranational organizations to adopt a gender perspective, despite the success of feminist advocates in establishing women’s human rights. This finding calls into question the notion that “transnational spaces of modernity” are more readily open to a gender perspective than local arenas that is implicit in the literature on vernacularization (Levitt and Merry 2009; Merry 2003a; 2006a, 2006b). In short, I suggest that the IACtHR’s adoption of a gender perspective in “Cotton Field” was a contingent and contested process tied to transnational legal activism. As such, the chapter seeks to show that transnational legal activism is not only a means to produce change in the local or national arenas, but also at the supranational level (see Cichowski 2002, 2004, 2007, 2013).

To analyze the “Cotton Field” judgment as a network of meaning and examine how the Court implemented a gender perspective, I focus on the nexus between the legal principle of due diligence and the frame of violence against women as gender discrimination. The link between due diligence and the gender discrimination frame is enshrined in international legal instruments pertaining to women’s human rights like the CEDAW, the 1993 UN Declaration on the Elimination of Violence against Women (DEVAW), and the Belém Do Pará Convention. As such, it represents the success of the transnational feminist advocacy campaign to create the category of violence against women as a human rights violation in the early 1990s (Benninger-Budel 2008; García-Del Moral and Dersnah 2014). My analysis traces how local and transnational activists mobilized the discursive opportunities offered by these international legal instruments through their framing efforts throughout the Ni Una Más campaign and, subsequently, how these frames were introduced in the litigation process through their interactions with the Mexican state, the IACHR and the IACtHR. Ultimately, I show that the link between due diligence and the frame of gender discrimination is the locus of struggles over the responsibility of the Mexican state for the murders of women in Ciudad Juárez.

The chapter begins with a review of the literature on gender, human rights and global governance. It then provides a background section on the emergence of the norm of state responsibility for gendered violence through the incorporation of the legal principle of due diligence in international legal instruments pertaining to women’s human rights. This is followed by an account of the nexus between this legal principle and the frame of gender discrimination as a defining feature of the gender perspective embedded in this norm. Through a discussion of the
jurisprudence on gendered violence in the Inter-American Human Rights system, I then show that a gender perspective to assess violations of women’s human rights was not a self-evident choice for the Court. At the same time, I suggest that the growing jurisprudence on this matter arguably signaled the Court’s potential receptivity to arguments that were framed using a gendered lens (c.f. Greenhouse and Siegel 2010, 2012). The next section analyzes the “Cotton Field” judgment as a network of meaning, showing that the due diligence and gender discrimination nexus needed to be consistently rearticulated and reaffirmed for the Court to produce a gendered interpretation of the Mexican state’s breach of its international legal obligations to prevent, investigate, and punish violations to the human rights of the three young victims. Through this analysis, it becomes evident that the Court’s adoption of a gender perspective was in part contingent on the cumulative, recursive, and iterative processes through which local and transnational activists targeted multiple institutions at the local, national, transnational and supranational levels to mobilize discursive opportunity structures that allowed them to claim that the Mexican state had failed to respond effectively to these feminicidios. In the conclusion, I discuss the implications of understanding the “Cotton Field” judgment as a discursive opportunity structure at the supranational and domestic levels.

Gender, Human Rights, and Global Governance

Feminist scholarship on gender, human rights, and global governance has long identified a gap between the creation of international norms on women’s rights and the extent to which they are subsequently implemented in institutions of global governance (Meyer and Prügl 1999). Some scholars have argued, for example, that the creation of specific international legal mechanisms pertaining to women’s human rights like the CEDAW initially led to their “marginalization within the ‘mainstream’ system for the promotion and protection of human rights” (Benninger-Budel 2008, 7; Charlesworth 2005; Charlesworth and Chinkin 2000; Miller 1999). These scholars also found that the CEDAW Committee itself was marginalized among other treaty bodies in the UN structure (Meyer and Prügl 1999). The Inter-American Commission on Women (CIM), the autonomous commission within the OAS responsible for drafting the Belém Do Pará Convention, faced a similar situation (Meyer 1999).

Even the dawn of gender mainstreaming in the UN, the European Union or the Council of Europe did not do away with the obstacles to norm implementation within these supranational
institutions. Critical feminist assessments of this policy tool point out that feminist understandings of gender inequality often become diluted through technocratic language (Charlesworth 2005; Hafner-Burton and Pollack 2002a, 2002b; Lombardo and Meier 2008; Pietila 2002; Tiessen 2007; Verloo 2005). Alternatively, they may be coopted in ways that seek to justify the cutting of resources to specialized women’s units within these institutions (Charlesworth 2005; True 2010). Despite its transformative potential, True (2010, 197) therefore argues, “Mainstreaming has made small achievements toward breaking down masculine hegemonies and their organizational and policy norms.” As such, feminist activism has continued to be necessary to apply the content of human rights norms and “make women’s rights real” in these organizations (Miller 1999).

This literature illustrates that the emergence of norms on women’s human rights in supranational and transnational arenas is not equivalent to their instant application or to the adoption of a gender perspective on the part of institutions of global governance. This insight contradicts the notion that “transnational spaces of modernity” are open to a gender perspective in ways that local arenas are not (Levitt and Merry 2009; Merry 2006a). To be specific, the work on vernacularization does take account of the negotiation of meaning in the production of international legal instruments related to women’s human rights, for example, at the UN. This is what is known as “transnational consensus building,” a process that brings together actors like government representatives and/or activists “simultaneously as locally embedded people and as participants in a transnational setting that has its own norms, values, and cultural practices” (Merry 2006a, 37; emphasis added). Building transnational consensus involves creating a language that can navigate local and transnational cultures and the various understandings of women’s position in society embedded in them. However, this definition suggests that the norms, values, and practices embedded in transnational modern spaces are ultimately not subject to contestation in the process of creating international law. Since the work on vernacularization identifies gender equality and selfhood as core values of this “transnational culture of modernity,” or what world polity scholars would view as “world culture,” it becomes evident that underlying this definition is the notion that transnational and supranational institutional spaces are ultimately already open to women’s rights and a gender perspective.
As I suggested in the previous chapter, this assumption is likely tied to this literature’s near-exclusive emphasis on the CEDAW and the Committee that monitors its domestic implementation (see Levitt and Merry 2009; Merry 2003a, 2006a). It goes without saying that a gender perspective would structure the CEDAW and the workings of its Committee. But this is not necessarily the case in other institutions of global governance, like international courts. International courts play an increasingly important role in the politics of global governance (Romano, Alter and Avgerou 2013; Dezalay and Garth 2002; Conti 2011; Madsen 2013). According to Lupu and Voeten (2011, 419), international courts perform their “most important governance functions through the building of a precedent-based jurisprudence. Through precedent, [they] seek to legitimize [their] lawmaking, to structure argumentation of applicants and defendant States, and to persuade States to comply with findings of violation.” Through this judicial rule making capacity, these institutions have also been recognized as potential agents of domestic and transnational social change (Cichowski 2002, 2004, 2007, 2013; García-Del Moral and Dersnah 2014; Helfer and Voeten 2014). As such, I conceptualize international courts as spaces in which norms on women’s human rights and their attending gender perspective may be contested, rearticulated and reaffirmed, with important implications for future litigation as well as legislation in domestic and supranational arenas. Nevertheless, research on gender, human rights, and global governance has tended to neglect international courts, how a gender perspective has become institutionalized there, and whether it has fallen prey to the shortcomings of mainstreaming that operate in other organizations.

The international court hearing cases about individuals that seems to have received most attention by feminist scholars is the International Criminal Court (ICC) (see Chappell 2008, 2011; Spees 2003; True 2010). Most of the analyses have been carried out by feminist lawyers or actors involved in the process of introducing gender into the Rome Statute that established the ICC against the background of their experience with gender crimes in the International Tribunals for the former Yugoslavia (ICTY) and for Rwanda (ICTR) (e.g. Copelon 2000; Oosterveld 2005). Drawing on these analyses, political scientists writing about the ICC view it as a successful example of gender mainstreaming, since an alliance between “insiders [to the Court] (gender sensitive lawyers and government officials) and outsiders (women’s movements and human rights advocacy groups)” prevented the marginalization of gender justice concerns (True 2010, 192). Although some legal scholars have begun to examine the broader implications of the
ICC’s decisions in the gendered politics of global governance (e.g. Engel 2005; Halley 2009; Halley et.al. 2006; McGlynn and Munro 2010), social and political scientists have yet to fully consider what has happened after feminist actors succeeded in their quest and whether the ICC’s judicial rulemaking capacity has provided them with more opportunities to expand or reinforce a gender perspective. Put differently, this literature has yet to examine whether the ICC has continued to implement a gender perspective in the adjudication of cases in a consistent manner and, if so, what have been the factors prompting it to do so and its implications for its future jurisprudence.

Cichowski’s (2002, 2004, 2007, 2013) research on the transformation of the Court of the European Union (ECJ) into a platform for individual women, activists, and lawyers to demand that EU Member States observe women’s equal rights sheds light on these issues. Cichowski points out that, originally, the Treaty of Rome governing the European Economic Community, now the EU, had little to do with women’s rights. Instead, a central preoccupation was the protection of businesses from unfair competition that might result from a wage gap between women and men, so that a provision mandating that equal work should be remunerated with equal pay through the principle of non-discrimination was introduced through Article 119 (now 141). Cichowski documents how a young feminist Belgian lawyer and her client, a flight attendant, mobilized this Article in the successful litigation of several cases at the ECJ to argue that female flight attendants were entitled to the same wages and benefits as male flight attendants. As such, she identifies a link between litigation at the ECJ and the institutional evolution of the sex equality policy in the EU. Ultimately, Cichowski argues that institutional change is the outcome of the interaction between actors who strategically mobilize legal resources and the Court, with direct consequences for the legislation of the EU, its Member States, and the rights that their citizens can claim.

These are the types of interactions that I seek to capture through an analysis of the IACtHR’s “Cotton Field” judgment as a network of meaning. In doing so, I suggest that these iterative processes both create and take advantage of the discursive opportunities that structure the transnational mobilization of law. My work thus builds on and expands the literature on gender, human rights, and global governance by analyzing the social processes that led the IACtHR to adopt a gender perspective in the adjudication of the “Cotton Field” case and the ways in which
the norm of state responsibility for gendered violence was challenged, reformulated, and reconstituted.

Establishing the Norm of State Responsibility for Gendered Violence: Due Diligence and Violence against Women as Gender Discrimination

In establishing violence against women as a human rights violation in the early 1990s (Bunch and Reilly 1994; Friedman 2003; Joachim 1999, 2007; Keck and Sikkink 1998), feminist advocates pushed for a reconceptualization of state responsibility in international human rights law that would recognize the gendered politics of violence. Through the principle of attribution, the traditional doctrine of state responsibility stipulates that states can only be held accountable for violating citizens’ human rights if state agents or institutions are the perpetrators (International Law Commission 2001; see also Hessbruegge 2004; Marshall 2008). For feminist advocates, this understanding of state responsibility depoliticized most acts of violence against women, since they take place primarily at the hands of private actors and/or within the so-called private sphere (Benninger-Budel 2008; Charlesworth and Chinkin 2000; Cook 1994; Hasselbacher 2010; Romany 1994). The struggle to dismantle this public/private divide resulted in the inclusion of the legal principle of due diligence in international legal instruments concerning women’s rights, most notably the 1992 Recommendation No. 19 to the CEDAW, in Article 4 of the DEVAW, and Article 7 (b) of the Belém Do Pará Convention (Benninger-Budel 2008; Ertürk 2008; García-Del Moral and Dersnah 2014; Radacic 2007). In 2011, the Council of Europe created the Convention for Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) that also integrates the due diligence standard.

In international human rights law, due diligence represents a set of standards to determine whether a state has breached its international legal obligations through omission or failure to take reasonable steps to prevent, investigate, and punish violations, even if it is non-state actors who perpetrate them (International Law Commission 2003; see also Bourke-Martignioni 2008; Hessbruegge 2004). As such, it is commonly understood as “indirect” state responsibility (Hessbruegge 2004). The due diligence standard has its origins in the 17th century writings of legal thinkers like Hugo Grotius, Richard Zouche and Samuel Pufendorf and their attempts to understand the responsibility of the sovereign for the actions of his subjects (Hessbruegge 2004).
It was introduced in the domain of international human rights law through the first contentious case litigated at the IACtHR: the case of Velásquez Rodríguez v. Honduras, decided in 1988 (Bourke-Martignioni 2008; Hessbruegge 2004).

This case concerns the forced disappearance of Ángel Manfredo Velásquez Rodriguez, a teacher and graduate student, and father of three, during the Honduran dictatorship. The IACtHR held Honduras responsible for this crime (allegedly) perpetrated by private actors “not for the act itself, but because of a lack of due diligence to prevent the violation or to respond to it as required by the [American] Convention [Article 1(1)]” (para. 172). This Article stipulates that states are obligated to respect the rights enshrined in the ACHR without any discrimination. The Court claimed that failure to take serious measures to effectively prevent or investigate the actions of private actors that violate an individual’s rights meant that “those parties are aided in a sense by the government, thereby making the State responsible on the international plane” (para. 177). It is linked to Article 2 on domestic legal effects, which dictates that states must develop policies that allow it to guarantee and protect the human rights of its citizens to comply with its obligations under the ACHR. Velásquez Rodríguez thus constituted a momentous “shift” in the legal conceptualization of state responsibility (Marshall 2008). This shift provided feminist advocates with the opportunity to argue that states could be held responsible for gendered violence as a violation of women’s human rights, whether it was committed by private actors and/or in the private sphere (García-Del Moral and Dersnah 2014).

Against the background of UN conferences on women’s rights (Joachim 1999, 2007; Friedman 2003), this understanding of state responsibility was integrated in international legal instruments that constructed violence against women as a form of gender discrimination, thus creating an international norm on this issue (García-Del Moral and Dersnah 2014; see also Benninger-Budel 2008; Friedman 2009; Meyer 1999). Article 1 of the CEDAW defines discrimination in terms of any distinction, exclusion, or restriction that contributes to denying women the exercise of their human rights and freedoms, even when discrimination was not intended. Although the CEDAW did not originally include provisions on violence, the CEDAW Committee specified in its General Recommendation No. 19 that “The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately” (para. 6). The Committee incorporated the due diligence principle by
arguing that states are obligated to prevent violence as part of their commitment to CEDAW (para. 9), since “gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence” (para. 6; see Byrnes and Bath 2008). The Committee further linked this obligation to Article 2 of CEDAW, which refers to states’ duty to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women (paras. 10, 11).

Articulated through the language of discrimination, due diligence became tied to understandings of gendered violence anchored in the structural character of gender inequality that sought to call into question the depoliticization of the private sphere vis-à-vis the public sphere. By spotlighting the structural roots of gendered violence, the actions of private actors or acts committed in the private sphere could no longer be construed as independent from the broader social context in which they occur and can arguably come under the purview of the state. This is evident in the characterization of violence against women as a “manifestation of historically unequal power relations between women and men” in the DEVAW and the Belém Do Pará Convention (Abi-Mershed 2008, 131; Friedman 2009). The non-binding DEVAW declares that this historical gender inequality has led to “domination over and discrimination against women by men and to the prevention of the full advancement of women.” It also emphasizes that “violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.” The Belém Do Pará Convention, a binding treaty, makes specific reference to the DEVAW in its preamble. As such, states’ duty to act with due diligence to prevent, investigate, and punish gendered violence, even if it is committed by non-state actors, follows from their obligation to eliminate gender inequality in its cultural, economic, social and political manifestations. It is, in this sense, part and parcel of their obligation to respect, protect, and fulfill women’s human right to non-discrimination (Benninger-Budel 2008; Miller 1999).

In sum, the incorporation of due diligence in international legal instruments pertaining to women’s human rights is the product of a feminist agenda to expand the boundaries of state responsibility for gendered violence (García-Del Moral and Dersnah 2014). By linking this legal principle to conceptualizations of violence against women as a form of gender discrimination, the structural character of gender inequality at the core of gendered violence emerged as the
subject of the norm of state responsibility (Edwards 2011). This is arguably what a gender perspective in the adjudication of claims that women’s rights have been violated seeks to capture (see Miller 1999). Yet the implementation of this gender perspective in the Inter-American system was by no means something that emerged of its own accord, despite the fact that it was the cradle of the transfer of the due diligence standard into human rights law.

The Inter-American Case Law on Gendered Violence

The implementation of a gender perspective to assess violations of women’s human rights in the Inter-American Commission and Court as the two bodies for the protection of human rights in the Organization of American States (OAS) has been uneven. This unevenness can be in part attributed to the different roles, powers and functions of these supranational institutions. While the Commission has contentious and promotional functions, the Court has contentious and advisory roles (Bettinger-López 2009). These different roles and functions are, at the same time, reflective of the historical and political context in which these institutions were created (Cavallaro and Brewer 2008; Grossman 2008).

Formally, the OAS was established in 1948, when the member states of what had formally been known as the Pan American Union adopted the OAS Charter in response to the atrocities of World War II (Cerna 2004). As the “constitutional text of this organization,” the OAS Charter enshrines human rights standards for all the OAS members (Bettinger-López 2009, 582). These principles were elaborated in the American Declaration of the Rights and Duties of Man, also adopted in 1948, although this instrument “does not contain a ‘general obligations’ clause, which require states to undertake positive measures to protect rights” (Bettinger-López 2009, 583). As such, some states, most notably English-speaking ones, have refused to accept that the Declaration has any binding force despite being under the jurisdiction of the Commission (Cerna 2004, 196).

The OAS created the Commission against the background of the Cuban Revolution through a political resolution issued in 1959 (Cerna 2004). In the beginning, the Commission only had the “very limited function of observing and studying the human rights situation in the Americas” (Cerna 2004, 197). In 1965, its powers were expanded to have a contentious function, so that it could receive and adjudicate individual complaints against states party to the OAS Charter, the
American Declaration and, later, other Inter-American instruments like the Belém Do Pará Convention (Cerna 2004). The Commission’s decisions are issued in the form of reports and recommendations that explain its findings, whether it found violations to the relevant human rights instruments, and the suggested remedies (Bettinger-López 2009, 583). These recommendations are not, however, legally binding. The Commission’s promotional function developed only in the years following the entry into force of the American Convention on Human Rights (ACHR) in 1978, nine years after it was originally adopted (Cerna 2004). This function currently reflects its political role as a presider of thematic hearings and producer of thematic or country-specific reports on problematic human rights situations (Bettinger-López 2009, 584).

When the ACHR entered into force as a binding treaty, it also constituted the Court as a fully judicial body that could issue legally binding decisions in cases to it submitted by the Commission (Cavallaro and Brewer 2008, 778). In other words, the Court’s ability to exercise its contentious function depends on the Commission, since complaints must be first presented and resolved there. If states fail to comply with the recommendations or the parties are unable to settle the case, the Commission may forward the complaint to the Court if the state in question has ratified the ACHR and its Optional Protocol (Bettinger-López 2009, 584). The Commission only sent the first contentious case to the Court in 1986: Velásquez Rodríguez v. Honduras (Cavallaro and Brewer 2008, 781).

The Court thus began to operate during a time period characterized by the rise of dictatorial regimes in Latin America that systematically committed egregious human rights violations (Cavallaro and Brewer 2008; Grossman 2008). This context fundamentally shaped the development of its jurisprudence and institutional practices (Cavallaro and Brewer 2008; Grossman 2008; Huneeus 2011). For example, Huneeus (2011, 500) asserts that “this context meant that the Court would play a leading role in developing international doctrine on disappearance, amnesties, the victim’s right to the truth, the obligation of states to prosecute, and judicial guarantees.” It also meant that the Court had to face significant challenges related to its ability to establish its own legitimacy vis-à-vis regimes that were outwardly hostile toward it (Cavallaro and Brewer 2008; Huneeus 2011). Yet, in contributing to the creation of human rights norms that delegitimized the practices of dictatorial regimes, the Commission and the Court
ultimately strengthened the democratization process in Latin America (Cavallaro and Brewer 2008; Grossman 2008).

The adoption of a gender perspective in the Commission and the Court is imbricated in this institutional history, and this process has also arguably been shaped by the different roles and functions that these institutions are able to exercise. For instance, by virtue of having both a contentious and promotional role, the Commission was able to develop a gender perspective earlier and more systematically than the Court. Indeed, according to Bettinger-López (2009, 584), “the Commission’s promotional authority is broader and more flexible than its adjudicatory role and allows it to address large structural or historic inequities which would not necessarily be cognizable through the individual petition process because of jurisdictional or substantive limitations” (emphasis added). Most notably, the Commission set up a Rapporteurship on the Rights of Women after the Belém Do Pará Convention entered into force in 1994, allowing it to mobilize the due diligence standard to identify and combat situations of abuses to women’s human rights in Latin American countries through special or country-specific reports (Abi-Mershed 2008, 128; Burgorgue-Larsen 2011, 437; Medina Quiroga 2003).

The visit of IACHR Rapporteur Marta Altolaguirre to Ciudad Juárez in the context of the Ni Una Más campaign and her ensuring special report, The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to be Free from Violence and Discrimination (OEA/Ser.L/V//II.117, Doc. 44, March 2003), were products of this function. Previously, the Rapporteur had issued reports on women’s human rights in Haiti (1995), Brazil (1997), Ecuador (1997), Mexico (1998), the Dominican Republic (1999), Colombia (1999), Perú (2000), Paraguay (2001) and Guatemala (2001, 2003). After releasing the report on Ciudad Juárez, the Rapporteur issued special reports on Violence and Discrimination against Women in the Armed Conflict in Colombia (OEA/Ser/L/II.124/Doc.6, 18 October 2006) and on Access to Justice for Women Victims of Violence in the Americas (OEA/Ser.L/V/II. Doc.68, 20 January 2007). As my analysis will show, the report on Ciudad Juárez and on women’s access to justice generated important discursive opportunities for the petitioners and the Commission to make claims concerning the state’s failure to act with due diligence in the “Cotton Field” case and for the Court to legitimize its response to them.
As part of its contentious function, the Commission investigated women’s claims of sexual violence at the hands of state actors in the cases of *Raquel Martín de Mejía v. Perú* (Report no. 05/96, Case 10.970) and of *Ana, Beatriz and Celia González Pérez v. Mexico* (Report 53/01, Case 11.565), but it did not apply the Belém Do Pará Convention. It did so for the first time in 2001, when it adjudicated the case of *Maria Da Penha Fernandes v. Brazil* (Report 54/01, Case 12.051), a case concerning domestic violence and thus the actions of a private actor. Maria Da Penha Fernandes was left a paraplegic after her ex-husband’s repeated attempts kill her, but the Brazilian authorities failed to take effective measures to prosecute and punish him in the 16 years following the last attack. Acting in her representation, the transnational feminist network CLADEM claimed that this case was emblematic of the widespread impunity that perpetrators of domestic violence enjoyed in Brazil. Invoking the Belém Do Pará Convention and drawing on the Rapporteur’s report on the rights of women Brazil, the Commission declared that Brazilian state had failed to act with due diligence and found that its tolerance for the discriminatory practices of domestic violence within its territory made it complicit in it (paras. 55-57, see also Abi-Mershed 2008; Medina Quiroga 2003; García-Del Moral and Dersnah 2014; Santos 2007).

In contrast to the Commission, the role of the Court in developing a gender perspective was characterized by Chilean feminist jurist Cecilia Medina Quiroga, who served as the President of the IACtHR when the “*Cotton Field*” case was adjudicated, as “*prima facie* extremely modest” in 2003 (Medina Quiroga 2003, 908). She was not alone in this assessment. Feminist analyses of the Inter-American case law on violence against women consistently point out that the Court missed opportunities to apply a gender perspective in its decisions prior to the mid-2000s (Celorio 2011; Quintana Osuna 2008; Palacios Zuloaga 2007). Yet, according to Palacios Zuloaga (2007, 3) the Court’s lapse in addressing the rights of women adequately cannot be attributed to the Commission’s failure to forward cases – an explanation voiced by Judges Sergio García Ramírez and Antônio Augusto Cançado Trindade in the judgment of the case of the *Miguel Castro-Castro Prison v. Peru* (see also Burgorgue-Larsen 2011, 439).

Decided in 2006, this was the first case in which the Court used a gender perspective to assess the claims of female detainees who were attacked by Peruvian military forces in 1992 (Quintana Osuna 2008). These detainees had been accused of terrorism in the context of the Peruvian armed conflict. The unprovoked attack was carried out with the use of military weapons and
tactics over four days, killing 41 inmates and injuring another 185. The injured survivors were taken to a police hospital. There, female inmates were subjected to physical, sexual, and psychological abuse, including forced nudity in the presence of armed soldiers and a digital vaginal examination by hooded persons (paras. 187, 197 (48, 49)). Other survivors were moved to different prisons, where they were also mistreated. In its analysis of these facts, the Court drew on the CEDAW General Recommendation No. 19, the work of the UN Special Rapporteur on Violence against Women, case law from the European Court of Human Rights (ECtHR) (*Aydin v Turkey*) and the International Criminal Tribunal for Rwanda (ICTR) (*Akayesu*) to argue that the abuse to which women had been subjected constituted sexual violence (see para. 223, 303-313). It ultimately found that the Peruvian state’s had violated women’s right to humane treatment, due process and judicial protection (Articles 5, 8, and 25 of the ACHR) and its obligations under the Inter-American Convention to Prevent and Punish Torture and the Belém Do Pará Convention.

In his Concurring Opinion, Judge García Ramírez remarked that the Court “had not received until then a litigation whose main actor was a woman” and claimed that this was the first case that “put in evidence considerations linked directly and immediately with the victim’s female condition” (para. 6). He thus argued that “the applicability of the Belém Do Pará Convention ha[d] been presented for the first time” (para. 8). It is interesting to note, however, that it was the petitioners’ common intervener who insisted that the Convention be applied, not the Commission (para. 370; see also Burgorgue-Larsen 2011, 439). On his part, Judge Trindade declared that “it had always seemed surprising, if not enigmatic, to [him] that more than a decade of the entry into force of the Belém Do Pará Convention, the Inter-American Commission ha[d] never sought the hermeneutics of the Court on said Convention” (para. 67). Through a detailed analysis of the Court’s case law, Palacios Zuloaga (2007) shows, however, that the Court had opportunities to apply a gender perspective in previous judgments, but did not do so.

For example, the Court failed to declare that the forced nudity of a woman held in captivity constituted inhuman treatment in the case of *Caballero-Delgado and Santana v. Colombia* (1995) (Palacios Zuloaga 2007, 12-13). More controversial was the Court’s reasoning in *Loayza Tamayo v. Peru*, decided in 1997, where it argued that the physical abuse of a woman held in arbitrary detention amounted to a violation of the right to humane treatment, but not her rape (Quintana Osuna 2008, 302; Palacios Zuloaga 2007, 14). Finally, in 2004 the Court recognized...
for the first time the gendered implications of sexual violence against women at the hands of state actors in the case of the *Plan de Sánchez Massacre v. Guatemala* (para. 49.19).

Nevertheless, Palacios Zuloaga (2007, 18) finds that the Court “fell short in backing up its gendered analysis with concrete compensation [for the survivors of sexual violence vis-à-vis other victims], rendering its advancements in the recognition of women’s rights violations empty in practice.” Salient here too is the fact that these cases explicitly involve state actors, and not private actors.

In sum, a review of the Inter-American case law on violence against women shows that the creation of the norm of state responsibility for gendered violence in the early 1990s did not immediately translate in its systematic implementation in these supranational arenas. The gender perspective encapsulated in this norm was, in fact, institutionalized in an uneven manner in the Commission and the Court prior to the litigation of the “*Cotton Field*” case. Analysis of this process reveals, therefore, that not all supranational legal-political arenas are automatically open to women’s human rights by virtue of the development of legal norms on this matter. I argue, consequently, that the gender perspective that the IACtHR adopted in “*Cotton Field*” was in part tied to the strategic mobilization of discursive opportunity structures by local and transnational activists through transnational legal activism. In other words, based on its case law, it would have been possible for the Court to examine the “*Cotton Field*” case and conclude that the rights of Claudia Ivette, Laura Berenice and Esmeralda had been violated without employing a gender perspective. That said, the statements of Judges Trindade and García-Ramírez in the case of *Miguel Castro-Castro Prison v. Peru* suggest that the Court could be potentially receptive to arguments that framed the violations of women’s human rights in gendered terms.37

**The “Cotton Field” Judgment as a Network of Meaning**

The original “*Cotton Field*” judgment is a 165-page long document written in Spanish; the English translation is 161 pages.38 My analysis is based on both versions, although I exclusively cite from the English version. It also takes into consideration the concurring opinions of Judge Diego García-Sayán and Judge Cecilia Medina Quiroga. According to Çali (2010, 316), judgments are the product of international human rights courts as “supranational institutional sites that provide specialized vocabulary, structure, and opportunities for participation in addressing state violence and the process of acknowledgment.” They bring together the claims of
individuals against their states with the result of the courts’ investigation of the alleged wrongdoings as well as the state response to these claims. Judgments constitute, therefore, “complex legal texts that provide accounts of facts, attitudes, denials, claims, and counterclaims about truth” (Çali 2010, 317). At the same time, these texts cannot be separated from the social conflict that gave rise to the dispute (Coleman, Nee and Rubinowitz 2005; c.f. McCann 1996).

In this section, I incorporate this understanding of judgments in my analysis of the “Cotton Field” decision as a network of meaning (Ferree 2003, 2012) to illustrate that the Court’s gender perspective was in part produced through activists’ mobilization of discursive opportunity structures. It is also important to mention in this regard that the composition of the Court when the “Cotton Field” was decided had, for the first time in its history, a larger number of female judges (n = 4) than male judges (n = 2). The judges included Cecilia Medina Quiroga (President), Diego García-Sayán (Vice President), Manuel E. Ventura Robles, Margarette May Macaulay, Rhadys Abreu Blondet and Rosa María Álvarez González (Judge ad hoc, i.e. appointed by the state). This composition made the IACtHR the international court with the highest ratio of women to men: “this increasingly even balance was due in large part to the efforts of civil society, in particular human and women’s rights groups and NGOs that have written to foreign ministries in American states, requesting that they nominate women to the position of judge” (Terris, Romano and Swigart 2007, 186). Based on her research on the ECJ, Kenny (2002, 258) argues that the incorporation of women in the bench reflects gender mainstreaming efforts and their aim to introduce a gender lens to change judicial behaviour. Although no similar research exists with regards to the IACtHR, it is plausible that the gender perspective of the Court in the adjudication of the “Cotton Field” case was partly shaped by its composition (see Burgorgue-Larsen 2014).

Even more salient than the gender composition of the Court was arguably the fact that some of its members were committed to feminism and women’s rights. For example, Judge Margarette May Macaulay is a women and children’s advocate in Jamaica and has written on domestic violence (e.g. Macaulay 1999). Judge Cecilia Medina Quiroga is a feminist lawyer who “always had a special interest in women’s rights” (Terris, Romano and Swigart 2007, 187). For Medina Quiroga, who had already made critical remarks regarding the “extremely modest” role of the Court in developing a gender perspective, a balanced ratio between women and men in the Court
was important to show that “equality is being respected, [...] but also in the sense of making progress for women’s rights” (in Terris, Romano and Swigart 2007, 186). In an interview, she specified: “For this, you not only need a woman on the court, you need one who is sensitive to the problems of being a woman and who is sensitive to doing whatever it takes to make people see that some of the situations that women undergo are actually violations of human rights” (in Terris, Romano and Swigart 2007, 186). And this was certainly what the “Cotton Field” case needed. Against the background of the sentiments expressed by Judges Trindade and García Ramírez in the judgment of Miguel Castro-Castro Prison v. Peru, the fact that the Court was also integrated by women like Judges Medina Quiroga and Macaulay may have rendered it more receptive to arguments that framed the experiences of violence of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal in gendered terms.

Analyzing the “Cotton Field” judgment as a network of meaning represents a different way to seek an answer to the question that Annelise Riles (1999, 810) asked in her ethnographic account of the production of legal documents at UN conferences: “What does it take to make an international document, [...] and what is a document once it is made?” Riles focuses on the actions of delegates to conceptualize documents as “a set of social practices” instead of “concrete objects.” In turn, I examine the interactions between the representatives, the Commission, the Court, and the Mexican state taking into consideration the practices of transnational human rights advocacy and transnational legal activism of the Ni Una Más campaign. I show that the negotiation of meaning over the responsibility of the Mexican state for gendered violence in this case is multi-scalar; it reflects and is itself part of efforts to address gendered violence over the span of several years through the involvement of different national, transnational, and supranational organizations and different state institutions. Put differently, my analysis seeks to capture how feminist grassroots and transnational activism influenced the Court’s interpretation of the responsibility of the Mexican state for gendered violence in this case and its subsequent impact for the Court’s jurisprudence and in Mexico (c.f. Greenhouse and Siegel 2010, 2012; Siegel 2001, 2006, 2010). In short, I conceptualize the judgment not only as a network of meaning, but also as an anchor for new discursive opportunity structures that have been mobilized in the Mexican context and beyond.
My analysis is restricted to the Court’s evaluation of the case as it concerns the violation of the rights of the three young women. For the sake of space, I omit an analysis of the Court’s conclusions regarding the violations of the victims’ next of kin as well as the reparations, which included guarantees of non-repetition aimed at dismantling the structural context of gender discrimination at the root of violence against women and the failed state’s response to it. Feminist legal scholars have already analyzed in detail how a gender perspective was introduced in the reparations to the victims’ next of kin and their (potential) shortcomings (see e.g. Acosta 2012; Burgorgue-Larsen 2011; Celorio 2011; Rubio-Marín and Estrada-Tanck 2013; Rubio-Marín and Sandoval 2011). I also do not engage in analysis of the testimonies, or the 11 amicus curiae briefs that were submitted in support of the petitioners, although I recognize their connection to the documents produced as part of the Ni Una Más campaign and thus their influence in shaping the arguments that were presented to the Court (see Figure 3.2).

My analysis thus focuses on the ways in which the Court responded to the arguments of the Commission and the representatives that sought to challenge the Mexican state’s denial of responsibility for its deficient response to the murder of the three young victims. I also highlight how the Mexican state tried to assert its power by questioning the Court’s competence to rule on the violations to the Belém Do Pará Convention and undermining the claims of the representatives and the Commission. By tracing these interactions, I illustrate that the Court’s gender perspective is anchored in the nexus between the principle of due diligence and the frame of violence against women as gender discrimination that acts as a discursive opportunity in the arguments of the representatives and the Commission and which reflects the actions of differently positioned actors involved in the Ni Una Más campaign.

Building the Network of Meaning, Constructing the Gender Perspective

This section argues that the reports and recommendations that domestic, transnational, and supranational institution issued during the Ni Una Más campaign constitute discursive building blocks that structure the Court’s decision in the “Cotton Field” judgment and its gender perspective. The reports invoked international legal instruments on women’s human rights and, in so doing, encapsulated the link between due diligence and the frame of gender discrimination as a discursive opportunity structure that the representatives, the Commission, and even the
Court were able to mobilize in their arguments concerning the responsibility of the Mexican state for violating the rights of Claudia Ivette, Laura Berenice, and Esmeralda.

Indeed, the reports were integrated into the briefs of the representatives, the Commission, and even the state. In turn, the Court uses the reports as one of the main sources of evidence to assess the claims of the different parties. The salience of the reports is evident in the numerous times that they are cited. Below is a table that provides information on the most frequently cited reports, including the date and institution that created them in chronological order (Table 3.2).

Each report builds on the next, solidifying the notion that Mexican authorities had failed to act with due diligence to respond to the numerous disappearances and murders of young women and that this institutional failure was tied to gender discrimination (Figure 3.1). In this sense, it is possible to think of the arguments of the reports as nested within each other. In tracing how these reports are discursively linked, I seek to illustrate how the “Cotton Field” judgment constitutes a network of meaning (Figure 3.2).

Table 3.2. List of the Most Frequently Cited Reports in the “Cotton Field” Judgment

<table>
<thead>
<tr>
<th>Date</th>
<th>Institution</th>
<th>Title</th>
<th>Citation #</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>Amnesty International</td>
<td>Intolerable killings: 10 years of Abductions and Murders or Women in Ciudad Juárez and Chihuahua</td>
<td>30</td>
</tr>
<tr>
<td>2005</td>
<td>CEDAW Committee</td>
<td>Report on Mexico and the reply from the Mexican Government (CEDAW/C/2005/OP.8/MEXICO)</td>
<td>54</td>
</tr>
<tr>
<td>2006</td>
<td>UN Special Rapporteur on VAW</td>
<td>Integration of the human rights of women and a gender perspective: violence against women (E/CN.4/2006/61/Add.4)</td>
<td>47</td>
</tr>
</tbody>
</table>
The Recommendation #44/98 of the Mexican National Human Rights Commission (CNDH) (1) was the first to use the CEDAW and the Belém Do Pará Conventions to argue that the Office of the State Prosecutor of Chihuahua had failed to carry out the investigations of over 100 cases of murdered of women from 1993 to 1998 with due diligence and identified gender discrimination as a root cause for this institutional failure and this violence (Chapter 2). The reports issued by the IACHR Rapporteur (2), Amnesty International (3), the CEDAW Committee (5), the SRVAW (6) build on the Recommendation #44/98 to critique the interrelation of impunity and the victim-blaming strategies of public officials in charge of investigating and prosecuting the crimes. The CNDH does the same in its own 2003 follow-up report (4), further institutionalizing the discursive link between due diligence and the frame of violence against women as gender discrimination.

Figure 3.1. A Map of the Discursive Concatenation between the Most Frequently Cited Reports in the IACtHR “Cotton Field” Judgment

For example, the IACHR (2003) report concludes that Mexico’s failure to comply with the CNDH Recommendation #44/98 five years after it was issued clearly constituted a violation of the state’s obligation to act with due diligence to respond to acts of violence against women, as stipulated in the Belém do Pará Convention. This report characterizes a lack of due diligence as “reflecting the fact that [the murders] are not considered a serious problem. Impunity sends the
message that violence against women is tolerated, thus facilitating its perpetuation” (para. 7). It adds that this lack of effective official response is thus part of a larger context of discrimination based on gender and of the state’s failure to prioritize women’s right to not be objects of violence (para. 36). Amnesty International (2003) made a similar argument. Likewise, as institutions authorized to monitor states’ compliance with the CEDAW and the DEVAW, the CEDAW Committee and the SRVAW declared that violence against women in Ciudad Juárez was not only social, but also cultural given that it was maintained and reinforced through stereotypes that constructed women as inferior to men. In fact, the CEDAW Committee used as evidence the Mexican state’s own acknowledgement that these murders were part and parcel of “a culture of gender discrimination” to claim that it had not duly fulfilled its duty to change cultural patterns to prevent this violence, carry out investigations in an effective manner, and combat impunity. Last but not least, the report by the Citizen Observatory to Monitor the Delivery of Justice in Cases of Feminicidio in Ciudad Juárez and Chihuahua (later the OCNF) (7) used these reports to challenge the claims of the Special Prosecutor for the Investigation of Homicides of Women (FEIHM) of the state of Chihuahua that argued that the irregularities in the murder investigations had been rectified. In addition, it sought to extend the gender perspective embedded in these reports, through the active effort to frame the murders of women in Ciudad Juárez and Chihuahua City and the systematic failure of the state to respond to them as feminicidio. The state submitted the FEIHM report as part of its brief to the Court (not portrayed in Figure 1).

Together, the reports ultimately gave institutional visibility to the local struggles of the victims’ mothers and feminist activists (Chapter 2) to officially recognize the violence against women and girls in Ciudad Juárez and Chihuahua City as a social problem, as opposed to isolated incidents. Second, they registered the magnitude of the problem, taking into consideration the specific social and cultural context of these cities. Indeed, all reports situate the problem of violence against women in Ciudad Juárez and in Chihuahua City in the context of historical and cultural patterns of gender and material inequalities that are exacerbated by the cities’ proximity to the border with the United States, the maquiladora industry, and presence of drug trafficking. Third, they highlighted the systematic pattern of shortcomings of Mexican municipal, state, and federal level institutions to investigate the disappearances and subsequent murders of women and girls: shortcomings which were understood as the state ignoring the CNDH’s Recommendation #44/98. Through this process, the activists’ claims and the state’s institutional responses (or lack
thereof) were turned into data, which became systematized and later analyzed in relation to the international human rights treaties to which Mexico is a signatory. In other words, these reports engaged in standardized data collection to prove that the Mexican state’s response to violence against women in Chihuahua was systematically biased and used international law to interpret this evidence. More importantly, the reports represent the cumulative, recursive, and iterative multi-scalar process through which local, national, and transnational actors began to develop a gender perspective to assess the responsibility of the Mexican state for this violence by invoking the nexus between due diligence and the frame of violence against women as gender discrimination.

In sum, the reports operate as building blocks in the network of meaning that structures the judgment and thus the Court’s adoption of a gender perspective. As I will show in the next section, the discursive concatenation between the reports organizes in part the arguments of the Commission and the representatives and as such it seeps into the “Cotton Field” judgment. In this sense, they can be conceptualized as a discursive scaffold through which the Court legitimates the claims of the Commission and the representatives that the Mexican state’s failure to act with due diligence to prevent, investigate, and punish the murders of Claudia Ivette González, Laura Berenice Ramos Monárrez, and Esmeralda Herrera Monreal constitutes gender discrimination. Ultimately, the “Cotton Field” judgment and its gender perspective cannot be separated from the production of knowledge that took place as a result of transnational human rights advocacy and transnational legal activism in the context of the Ni Una Más campaign. However, this does not mean that this perspective went unchallenged. On the contrary, this perspective was contested terrain.

Contested Terrain: State Responsibility and the Gender Perspective in “Cotton Field”

In this section, I map out the Court’s response to the Mexican state’s efforts to pre-empt its adoption of a gender perspective as well as the arguments and framing efforts of the representatives and the Commission. In so doing, I show how the “Cotton Field” judgment emerged as a network of meaning that linked the discursive opportunity structures embedded in the above mentioned texts to the Court’s application of international legal instruments on women’s rights and relevant case law.
Figure 2 captures this conceptualization and the interactions that I trace in the analysis below to elucidate a) how the Court’s gender approach was in part socially constructed through transnational legal activism (as well as transnational advocacy) and b) how the litigation process served as an opportunity to reformulate and reassert the norm on state responsibility for gendered violence and its attending to the gender perspective.

The Gender Perspective and the Belém Do Pará Convention

The Commission and the representatives, that is, the Citizen Network for Non-Violence, CEDIMAC, ANAD, and CLADEM working on behalf of the mothers of the three victims, made gendered arguments about the responsibility of the state in the “Cotton Field” case that mobilize the nexus of due diligence and the frame of violence against women as gender discrimination elaborated through the above mentioned reports. Both argued that the Mexican state should be held accountable for failing to provide measures of protection to the victims; the lack of prevention of gender crimes, despite full knowledge of the existence of a documented pattern of gendered violence before the victims’ abduction and subsequent murder took place; the authorities’ failure to respond to the disappearance of the victims; and the lack of due diligence in the investigation of the victims’ murders, as well as the denial of justice and the failure to provide adequate compensation to their next of kin. As such, they claimed that the victims’ right to life (Article 4), humane treatment (Article 5), personal liberty (Article 7), fair trial (Article 8),
dignity (Article 11), judicial protection (Article 25) and the rights of the child (Article 19) of the ACHR had been violated in relation to the state’s obligations enshrined in Article 1(1) (Obligation to Respect Rights) and Article 2 (Domestic Legal Effects). Moreover, both requested that the Court should rule on violations to the Belém Do Pará Convention under Article 7, which enshrines the principle of due diligence.

For example, the Commission suggests that this Convention

…establishes that the duty to apply due diligence has special meaning in cases of violence against women. This Convention reflects uniform concern throughout the entire hemisphere regarding the seriousness of the problem of violence against women, its relationship with the discrimination that historically they have endured, and the need to adopt integral strategies to prevent it, punish it, and eradicate it. The Convention of Belém Do Pará recognizes the critical link that exists between women’s access to judicial protection when suffering from acts of violence, and the elimination of the problem of violence as well as the discrimination perpetuating it (para. 141; emphasis added).

The representatives further requested that the Court apply Article 8 and examine violations to Article 9. Article 8 stipulates that states have to undertake measures to dismantle cultural and social structures that contribute to the prevalence of violence against women, as well as providing women who have been victims of violence with access to appropriate services. Article 9 obligates states to take account of other axes of inequality that exacerbate women’s vulnerability to violence.

However, the Commission and the representatives framed their arguments in different ways. The Commission focused on reinforcing the notion that gender discrimination was both the root cause of the violence to which the three young women had been subjected as well as the failed state response to it. In particular, the Commission drew on the report of the Inter-American Rapporteur on the Rights of Women and her thematic report on women’s access to justice in the Americas. It did not explicitly argue for the need to have a gender perspective in the analysis of the case or go beyond the gender discrimination frame to understand the violence against the victims.
Yet, the representatives, the Citizen Network for Non-Violence, CEDIMAC, ANAD, and CLADEM, adopted a different approach and, as such, their brief openly stressed the importance of a gender lens. First, as the excerpt from my interview with Lupita Ramos Ponce (CLADEM) at the beginning of the chapter illustrated, it was important for them to make an active effort to frame the murders of women in Ciudad Juárez as feminicidio, understood here as the “maximum expression of misogynous violence against women” (p. 18). Conceptualizing them as feminicidio, they argued, “takes into consideration the pattern of grave and systematic violations of the rights of women and girls, as well as the lack of an effective response on the part of the State to prevent, eradicate, and punish these violations” (p. 18). In so doing, their argument built on the work of Julia Monárrrez and Marcela Lagarde, but also reflected the transformation of this academic concept into a frame through grassroots activism (Chapter 2; see also García-Del Moral, forthcoming). Furthermore, the representatives cited the Separate Opinion of Judge Cançado Trindade in the case of Miguel Castro-Castro Prison v. Peru, highlighting his own reflections on the importance of a gender perspective to analyze cases of violence against women (p. 156). They elaborated their position by pointing out how a gender perspective allows for analysis of the ways in which gender operates in relation to and within the state:

A gender perspective renders visible how systemic discrimination and violence against women are gendered. In analyzing a concrete case like “Cotton Field” this perspective operates as a framework to understand how violence against women constitutes a human rights violation that is tied to social structures and the structure of the State (p. 157).

In making this argument for a gender perspective, they ultimately linked their active effort to frame the murders of Claudia Ivette González, Laura Berenice Ramos Monárrrez, and Esmeralda Herrera Monreal as feminicidio to the discursive opportunity structures institutionalized in the nexus between due diligence and the gender discrimination frame embedded in the Belém Do Pará Convention.

The Mexican state attempted to prevent the Court from adopting a gender perspective to adjudicate the “Cotton Field” case. It did so not only by opposing the representatives’ efforts to frame the murders as feminicidio, but also by introducing a preliminary objection to the Court’s competence to rule on violations to the Belém Do Pará Convention. As such, the Mexican state claimed that gender discrimination did not affect the investigations. At stake in the Mexican
state’s preliminary objection was thus the Court’s ability to draw on the meanings of the norm of state responsibility for gendered violence in this text both in order to challenge how Mexico framed its arguments and to respond to the framing efforts of the Commission and the representatives.

The Court acknowledged that the Belém Do Pará Convention did not explicitly grant it jurisdiction, but it pointed out that Article 12 of this treaty allowed the Commission to receive petitions to rule on violations. Since the Court is dependent on the Commission to hear cases, the Court argued that it implicitly had jurisdiction to rule on violations to Articles 7, 8, and 9 of this legally binding instrument. The Court further argued that by virtue of having ruled on violations to the Belém Do Pará Convention in the case of the Miguel Castro-Castro Prison, it had also declared its jurisdiction over it (para. 75). However, the Mexican state argued that the Court had no jurisdiction whatsoever because “the object and purpose of the Convention of Belém do Pará is the total elimination of violence against women,” but “this ultimate purpose should not be mistaken for [...] the judicialization of the system of rights and obligations that regulates the instrument” (para. 60).

To respond to this challenge, the Court applied the Vienna Convention on the Law of Treaties to interpret the meaning of this convention (see Rubio-Marín and Sandoval 2011). Ultimately, the Court conceded that its jurisdiction was restricted to Article 7 (see Rubio-Marín and Sandoval 2011), although it simultaneously argued that not being able to rule on violations to the Belém Do Pará Convention would defeat the purpose of the treaty:

…it is essential to recall the specificity of human rights treaties and the effects that this has on their interpretation and application. On the one hand, their object and purpose is the protection of the human rights of individuals; on the other, they signify the creation of a legal order in which States assume obligations, not in relation to other States, but towards the individuals subject to their jurisdiction (para. 62).

Echoing the arguments of the Commission and the representatives, the Court added:

The adoption of this Convention reflects a uniform concern throughout the hemisphere about the severity of the problem of violence against women, its relationship to the
discrimination traditionally suffered by women, and the need to adopt comprehensive strategies to prevent, punish and eliminate it. Consequently, the purpose of the existence of a system of individual petitions within a convention of this type is to achieve the greatest right to judicial protection possible in those States that have accepted judicial control by the Court (para. 61).

In other words, the Court reasoned that its jurisdiction over the Belém Do Pará Convention was tied to its own legitimacy as the arbiter of the relationship between citizens and the state. Moreover, it specified that the legitimate exercise of its power involved taking into consideration a gendered conceptualization of state responsibility for violence against women.

The Court thus both drew on and reasserted the institutionalized nexus between the principle of due diligence and the frame of violence against women as gender discrimination anchored in the Belém Do Pará Convention. In sum, the Court legitimized its adoption of a gender perspective through the precedent that it had established previously (Lupu and Voeten 2011), in addition to drawing on institutionalized shared understandings of law (Brunnee and Toope 2010) that cemented the nexus between due diligence and the frame of gender discrimination.

Yet, the Court needed to continuously reassert, rearticulate and reaffirm this nexus to actually produce this gendered interpretation of state responsibility and dismiss the efforts of the state to argue that gender discrimination had not influenced the response of its public officials to the murder investigations. To do so, the Court relied extensively on the reports produced as part of the Ni Una Más campaign, in addition to the testimonies of witnesses and experts proposed by the representatives and the Commission as well as the amici curiae briefs.

The Network of Meaning and the Gender Perspective

The Mexican state made a partial acknowledgment of its responsibility for the irregularities that permeated what it identified as a “first stage” in the murder investigations from 2001 to 2003, but it argued that these irregularities had been rectified in the “second stage” after 2004 (para. 20). As such, it acknowledged that “the mental integrity and the dignity” of the victims’ next of kin had been affected, although it claimed to have made reparations to them (para. 20). It asserted, however, that it had not violated the right to life, to humane treatment, and to personal liberty of the three victims (para. 20). Indeed, in what could be construed as an effort to uphold the
public/private divide that the principle of due diligence seeks to undermine, Mexico claimed that no state agents had been involved in these violations and, as such, it could not be held responsible for them (para. 111). It also declared that “impunity does not exist, [since] the investigations into the cases are still open and measures are still being taken to identify those responsible” (para. 111). What is more, it sought to curtail the impact of the Commission and the representatives’ claims about the relationship between gender discrimination, violence against women, and the actions (or omissions) of public officials, although it recognized that it faced a problem “owing to the situation of violence against women in Ciudad Juárez” (para. 115). Not surprisingly, it thus opposed the representatives’ active effort to introduce feminicidio as a frame to conceptualize the murders of women in Ciudad Juárez in general and of the three victims in particular.

To respond to the state, the Court began by analyzing the context in which the disappearance and subsequent murder of Claudia Ivette, Laura Berenice, and Esmeralda took place, taking as a starting point the arguments of the Commission and the representatives. According to the Commission and the representatives, the Citizen Network for Non-Violence, CEDIMAC, ANAD, and CLADEM, the context of violence against women in Ciudad Juárez had been amply documented by national and transnational organizations and, as such, it was known to the state. The Court acknowledged these documents (para. 116) and used them to establish that violence against women in Ciudad Juárez constituted a significant social problem, despite the lack of consensus among the different reports on the concrete number of murders and disappearances (para. 121). It further drew on them to determine the relationship between this violence and systematic gender discrimination, countering the state’s arguments to the contrary (para. 133). In so doing, the Court strengthened its adoption of a gender lens.

For example, the Court noted that, “despite the State’s denial that there is any kind of pattern in the motives for the murders of women in Ciudad Juárez, it told CEDAW that ‘they are all influenced by a culture of discrimination against women based on the erroneous idea that women are inferior’” (para. 132). It also pointed to the report from Amnesty International, which states that the gender of the victims appears to have been a significant factor leading to the murders (para. 133). It referenced the report of the IACHR Rapporteur, which indicates that the violence “has its roots in concepts of the inferiority and subordination of women.” Once more, the Court
emphasized the CEDAW’s findings that the murders and disappearances of women in Ciudad Juárez “are not isolated, sporadic or episodic cases of violence; rather they represent a structural situation and a social and cultural phenomenon deeply rooted in customs and mindsets” (para. 133). It also drew on the SRVAW’s explanation of this violence as linked to a “context of ‘socially entrenched gender inequality [and machismo]’” (para. 134). Last but not least, the Court mobilized reports by one of the state’s own agencies, the Commission to Prevent and Eradicate Violence in Ciudad Juárez (Ciudad Juárez Commission), created in 2004 by the Secretariat of the Interior (Chapters 2 and 4). The Ciudad Juárez Commission disqualified…

…the emphasis placed by the Special Prosecutor’s Office on domestic violence and on the significant changes in the social structure [of Ciudad Juárez as a result of the maquiladora industry and the growing sex trade] as reasons for sex crimes because ‘it does not take into account the elements of the violence that are related to gender-based discrimination that specifically affects women, and this merges gender-based violence with social violence, without examining how it specifically affects women’ (para. 135).

On this basis, the Court legitimated the argument of the representatives that the murders exemplified gender-based violence, where the “issue of gender is the common denominator of the violence”, which “occurs as a culmination of a situation characterized by the reiterated and systematic violation of human rights” and “as a culmination of this public and private violence” (para. 128).

However, the Court only partially supported the representatives’ effort to introduce the frame of feminicidio. The Court noted that this term was used in the testimonies of expert witnesses Julia Monárrez, Marcela Lagarde – the feminist scholars who introduced this concept in the Mexican academia – as well as in the reports of the OCNF and several amici curiae briefs. In so doing, it dismissed the arguments of the Mexican state that this was not a legitimate concept. The Court in fact emphasized that feminicidio was recognized in the names of important state agencies like the Ciudad Juárez Commission and the Special Commission to Examine and Monitor the Investigations of Feminicidio in the Mexican Republic of the Chamber of Deputies, as well as in the notion of feminicidal violence (violencia feminicida) found in Mexican law (para. 142; see Chapter 4). Taking this into consideration, it declared that it would use the term “gender-based murders of women, also known as feminicidio” to refer to the murders of Claudia Ivette, Laura
Berenice and Esmerlada, but that was not in fact “necessary or possible to make a final ruling on which of the [other] murders of women in Ciudad Juárez constitute gender-based murders of women” (para. 144).

This decision is interesting in that it reveals the attempt of activists to introduce new understandings of state responsibility and gendered violence that arguably extend the language of gender discrimination. It further reflects the extent to which the Court was receptive to feminist arguments. As such, I argue that the Court’s partial incorporation of feminicidio in its gender perspective should not be seen as a failure. In the next chapter, I show that this limited success served to pave the way for the full-fledged criminalization of feminicidio in Mexican law, transforming the way in which state actors, federal and local, began to conceptualize their own responsibility for gendered violence in the process.

In sum, although the Court qualified its gender approach, its reliance on the reports produced against the background of the Ni Una Más campaign ultimately structured its interpretation of the context in which the acts of violence against the three young women occurred. Importantly, this allowed the Court to further link this context to the irregularities in the murder investigations that took place both before and after the cotton field murders. Drawing on the above mentioned reports, including the CNDH Recommendation #44/98, the Court specified that some of these irregularities included delays in starting the investigations, negligence in gathering evidence and examining it, as well as in the body identification process, not to mention the failure to “consider the attacks as part of a global phenomenon of gender-based violence” (para. 150). The Commission and the representatives argued that these irregularities resulted in impunity and were the outcome of discriminatory stereotypes that permeated the attitudes of public officials responsible for carrying out these investigations. The Court agreed with their argument, pointing out that various sources affirmed that the context of gender-based discrimination had an impact on the way state officials responded to the crimes, including with the police and prosecutors going so far as to blame the women for their alleged low moral standards (para. 153). But the Court went beyond this, speaking on behalf of the Mexican state:

In this regard, the State indicated that the culture of discrimination against women contributed to the fact that “the murders were not perceived at the outset as a significant problem requiring immediate and forceful action of the part of the relevant authorities.”
The Tribunal observes that, although the State did not acknowledge this during the proceedings before the Court, it did forward the document in which this acknowledgement appears [i.e. its response to the CEDAW report]; accordingly, it forms part of the body of evidence that will be examined in accordance with sound judicial discretion (para. 152; emphasis added).

This statement illustrates the power of institutionalized discursive opportunity structures embedded in the reports in legitimating the Court’s gendered interpretation of the claims put forth by the Commission and the representatives, but also in restricting alternative interpretations that were mobilized by the state. In this regard, it can be argued that the Mexican state’s sustained interaction with local and transnational activists and organizations throughout the Ni Una Más campaign resulted in what Risse (2000) characterizes as a state’s discursive “self-entrapment.” That is, a process through which the state was “forced” into dialogues with local and transnational activists using a “common normative framework” (Risse 2000), here the language of gender discrimination and human rights to frame violence against women that was formulated with each new report.

Not surprisingly, in its concluding remarks about the irregularities on the investigations of the murders of women in Ciudad Juárez, the Court was able to draw a relationship between the context of gender discrimination and a state tolerated climate of impunity. As a result, this conclusion facilitated the Court’s application of a gender perspective to evaluate the facts of the case and whether the Mexican state had acted with due diligence to prevent, investigate, and punish the murders of Claudia Ivette González, Laura Berenice Ramos Monárrrez, and the Esmeralda Herrera Monreal.

Applying the Gender Perspective: Rearticulating and Reaffirming the Norm on State Responsibility for Violence against Women

In light of the analysis of the context of gendered violence in which the cotton field murders and their investigation happened, the Court proceeded to apply its adopted gender perspective by rearticulating and reaffirming the nexus between the legal principle of due diligence and the frame of violence against women as discrimination. It did so in two interrelated ways. First, it declared that the murders of the three young women constituted ‘violence against women’ under
the ACHR and the Belém Do Pará Convention. Second, it explicitly examined the relationship between the context of a culture of gender discrimination and the Mexican state’s obligation to respect, guarantee, and protect the human rights enshrined in the ACHR, which ultimately establish the state’s duty to act with due diligence to prevent, effectively investigate, and punish violations of these rights even if committed by private actors. In so doing, the Court was able to produce an interpretation of the case that incorporated a feminist understanding of gendered violence and state responsibility in ways that reflected the institutionalized discursive opportunities of the *Ni Una Más* reports, international legal instruments, and its own and other relevant case law on violence against women.

The Court’s decision to ascertain whether the violence to which the three young women had been subjected constituted ‘violence against women’ “before establishing the possible international responsibility of the State in this case” (para. 224) arguably required it to draw on the discursive opportunity structures embedded in international legal instruments on women’s human rights as well as to invoke its own case law on gendered violence. Indeed, the Court specified that in addition to the Belém Do Pará Convention, the CEDAW was to serve as its “reference for interpretation” since both “instruments complement the international *corpus juris*, which the American Convention is part of, as regards the protection of the personal integrity of women” (para. 225). Recalling once more the Mexican state’s own acknowledgement to the CEDAW Committee that a “culture of discrimination” prevailed in Ciudad Juárez (para. 227); that domestic and transnational organizations had characterized the violence in this city as based on gender; and that the victims had been more vulnerable to violence given their underprivileged social background, the Court legitimated its interpretation that the murders could in fact be conceptualized as gender-based murders. What is more, doing so facilitated linking a gender perspective to its evaluation of whether Mexico’s response to this violence had breached its international legal obligations to respect, guarantee and protect the victims’ right to life, humane treatment, personal liberty, access to justice.

The Court explained that the Mexican state’s obligation to respect entails the state’s commitment to abstain from violating rights. In turn, its duty to act with due diligence to prevent, investigate, and punish human rights violations arises from its obligations to guarantee and protect rights. Here, the Court emphasized that the Belém Do Pará Convention expanded the meaning of these
obligations. The Mexican state argued that it had “complied with its obligations of prevention, investigation and punishment in each case” (para. 251). Thus, in examining the relationship between the state’s lack of due diligence to prevent the murders of Claudia Ivette, Laura Berenice, and Esmeralda and the context of gender discrimination, the Court mobilized the reports produced during the Ni Una Más campaign as well as the CNDH Recommendation #44/98 to argue that it had not, in fact, “adopted effective measures of prevention that would have reduced the risk factors for the women” (para. 279).

Being aware, nevertheless, that “a State cannot be held responsible for every human rights violation committed between private individuals within its jurisdiction,” the Court identified “two crucial moments in which the obligation of prevention must be examined. The first prior to the disappearance of the victims and the second is before the discovery of the bodies” (para. 281). Although the Court declared that the Mexican state could not be held responsible for failing to prevent the victims’ disappearance, that is, in regards to the first moment, it did find the state responsible for its actions in the second moment. For the Court, the fact that public officials had summarily dismissed the claims of the victims’ mothers regarding their daughters’ disappearance and had not acted promptly to find them alive in the context of gender violence prevalent in Ciudad Juárez amounted to the state’s violation of the young women’s right to life, personal integrity and personal liberty enshrined in the ACHR and in relation to the obligations of Article 7 (b) and (c) of the Belém Do Pará Convention (para. 285). Likewise, the absence of policies that would ensure an appropriate response on the part of these public officials contributed to the Court’s conclusion (para. 285). Importantly, the Court pointed to the case of Maria Da Penha Fernandes as well as the two important decisions of the CEDAW Committee that mirrored this decision – A.T. v. Hungary and Yildrim v. Austria – in order to legitimize its conclusion.  

Drawing on its decision in the case of Velásquez Rodríguez, the Court also found Mexico responsible for failing to investigate these murders and, given the resulting impunity, for preventing the victims’ next of kin from accessing justice. The duty to investigate, according to the Court, “is an obligation of means and not of results, which must be assumed by the State as an inherent legal obligation and not as a mere formality preordained to be ineffective” (para. 289). Emphasizing that the Belém Do Pará Convention enhanced the scope of this obligation, the
Court focused on the measures that the Mexican state took upon the discovery of the bodies. The Commission and the representatives argued that numerous irregularities permeated the investigation, including the improper handling of the crime scene and evidence, negligence in the autopsies and body identification processes, and the failure to look for patterns in the cases, not to mention the fabrication of guilty parties. Moreover, they pointed to the state’s failure to punish public officials who had been accused of negligence in the investigations. They based their arguments not only on the evidence documented in the reports generated throughout the Ni Una Más campaign, but also on the work that local activists like Alma Gómez and Norma Ledesma in conducted alongside the Argentine Forensic Anthropology Team (EAAF) in Chihuahua City and Ciudad Juárez, as illustrated in Chapter 2.

The Court took into consideration the Mexican state’s partial admission of responsibility for irregularities committed between 2001 and 2003, yet it ultimately agreed with the arguments of the Commission and the representatives and the evidence that they presented. As a result, it dismissed the Mexican state’s claims that it had fully redressed these irregularities after 2004. Moreover, it challenged the state’s assertion that “the only common element in the three cases is the discovery of the bodies in the same field” (para. 365). Not only did the Court find that the state’s approach undermined the context of gender-based violence in Ciudad Juárez and its relationship to institutionalized gender discrimination, but that the lack of due diligence inherent in it allowed impunity to exist in the instant case: “This judicial ineffectiveness when dealing with individual cases of violence against women encourages an environment of impunity that facilitates and promotes the repetition of violence in general and sends a message that violence against women is tolerated and accepted as part of daily life” (para. 388).

In addition, the Court explicitly examined the state’s obligation not to discriminate, as stipulated in Article 1(1) of the ACHR. This point was especially relevant for the Court’s ability to cement its gender perspective, since the Mexican state insisted that “the investigation into the disappearances and murders of Mss. González, Herrera and Ramos, does not reveal any element that could allow it to be supposed that there was discrimination” (para. 392). For the Commission and the representatives, however, “it was essential to understand the relationship between violence against women and the discrimination that perpetuates it so as to appreciate the scope of the obligation of due diligence in this case” (para. 390; emphasis added). The
representatives, the Citizen Network for Non-Violence, CEDIMAC, ANAD, and CLADEM, further indicated that the victims’ experience of gender discrimination intersected with their class origin, resulting in a “double discrimination” (para. 391). Thus, it is here that the Court was able to integrate extensively the discursive opportunities embedded in the Belém Do Pará Convention and the CEDAW on the norm on state responsibility for gendered violence to point out the contradictions in the Mexican state’s claims.

For example, the Court mobilized the definitions of violence against women and discrimination in these treaties and, once more, it used the CEDAW report against Mexico. Furthermore, it made reference to its decision of in the case of the Miguel Castro-Castro Prison as well as the decision of the European Court of Human Rights (ECtHR) in the case of Opuz v. Turkey. This was the first time that the ECtHR recognized that violence against women constituted gender discrimination. Echoing the findings of the CNDH Recommendation #44/98 a decade earlier, the Court ultimately used these texts to emphasize that the attitudes of the local authorities in towards the victims was based on stereotypes and discriminatory attitudes that contributed to fostering a climate of impunity and therefore “reproduc[ing] the violence it claims to be trying to counter, without prejudice to the fact that it alone constitutes discrimination regarding access to justice […]” (para. 400). As such, the Court arrived at the conclusion that “in the instant case, the violence against women constituted a form of discrimination, and declare[d] that the State violated the obligation not to discriminate […]” (para. 400).

To summarize, the Court’s adoption of a gender perspective to interpret the responsibility of the Mexican state for failing to respond effectively to the disappearances and murders of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal is in part a product of social processes that involved the production of knowledge in the context of the Ni Una Más campaign through the practices of transnational human rights advocacy and legal activism. The gender perspective became, as such, a site for contesting state responsibility, where the Mexican state sought to exert its power to deny or circumvent the grounds for findings of violations as well as to challenge the gendered arguments of the Commission and the representatives. To fully recognize this point, it is necessary to understand the multi-scalable struggles of local and transnational activists that contributed to the construction of the disappearances and murders of women in Ciudad Juárez and Chihuahua into a social problem.
rooted in gender inequality. In so doing, it is possible to render visible how the litigation process contributed to gendering the Court as a supranational legal arena.

In this regard, it is worth pointing to the Concurring Opinions of Judge García-Sayán and Judge Medina Quiroga. These Opinions illustrate that the gendering of the Court as a supranational arena is still a work in process. On the one hand, Judge García-Sayán sees the “Cotton Field” judgment as a means to reinforce the scope of a gendered understanding of the state’s obligation to act with due diligence to prevent violence against women. More specifically, he argues that it allows taking into consideration the state’s obligation to develop policies in this regard to distinguish what constitutes the international responsibility of states from the criminal activity of individuals (para. 15).

For Judge Medina Quiroga, the gender approach of the Court needs to be extended. She argues that the Court could have gone further in its analysis of the responsibility of the Mexican state, since there were elements that would have allowed it to declare that the violence against the three young victims constituted torture (para. 1). Drawing on case law from the ICTY, she argues that the Court had the opportunity to go beyond the definitions of torture enshrined in international legal instruments on this matter that still uphold a public/private divide that exclude the acts of private actors and thus the extreme violence to which women like Claudia Ivette, Laura Berenice, and Esmeralda were subjected from qualifying as torture (para. 14). The litigation of the “Cotton Field” arguably opened opportunities for the Court to further cement and expand its gender perspective.

**Discussion and Conclusion**

According to Anaya Muñoz (2011, 347), *Ni Una Más* campaign activists succeeded in their advocacy efforts because they framed the murders and disappearances of women in Ciudad Juárez and Chihuahua City in terms of “a clear and uncontested international and regional norm on state responsibility to protect the human rights of women” (emphasis added). Contrary to Anaya Muñoz, in this chapter I have argued this norm is far from uncontested. My analysis of the “Cotton Field” judgment as a network of meaning (Ferree 2003, 2012) reveals that contestations to this norm and its gender perspective in fact structure the interactions between the plaintiffs and the Citizen Network for Non-Violence, CEDIMAC, ANAD, and CLADEM, the organizations
that were acting as representatives on their behalf, the Commission, the Mexican state and the Court. I have thus illustrated that the Court’s application of a gender perspective to interpret the actions and omissions of the Mexican state in this case is not an epiphenomenon tied to the existence of a norm on state responsibility for gendered violence. Rather, it is a product of complex multi-scalar processes involving the practices of transnational legal activism of differently positioned actors in the context of the *Ni Una Más* campaign as well as transnational advocacy.

Drawing on the literature on gender, human rights, and global governance, I have also argued against conceptualizations of transnational and supranational arenas as more readily open to gender than local arenas. In so doing, I expanded on the critique of the literature on vernacularization developed in Chapter 2. This conception of “transnational spaces of modernity” (Levitt and Merry 2009; Merry 2006a) is linked to a narrow research focus on the work of the CEDAW Committee and to the notion that these spaces have their own “transnational modern culture” that is not subject to normative challenges. Indeed, the focus of this literature on the process of norm translation from “the global to the local” leaves little room for considering how the application of the gender perspective encapsulated in them is contested and reconstituted in transnational and supranational spaces (Krook and True 2010). Put differently, my analysis captures how the norm on state responsibility for gendered violence and its gender perspective are actively constructed and reproduced through the transnationalization of local struggles, especially through the simultaneous mobilization of human rights as ideas for social movements and as law, as discussed in the previous chapter. As a result, I argue that the “Cotton Field” case has produced opportunities not only to reassert norms on women’s human rights, but also to gender the IACtHR as a supranational legal arena.

The implications of this decision both at the supranational and domestic levels have already been manifold. At the supranational level, the decision has worked to ground a gender perspective more firmly in the context of the Inter-American Human Rights system by setting a precedent that established standards on women’s human rights in four key areas: violence against women, discrimination, due diligence, and access to justice (see Celorio 2011). For example, the IACtHR recently used the “Cotton Field” judgment in the adjudication of the case of *Véliz Franco v. Guatemala* (2014). The decision characterizes the vicious sexual abuse and subsequent murder of
María Isabel Véliz Franco (15) as a feminicidio and finds Guatemala responsible for failing to act with due diligence to prevent, investigate, and punish this crime. The “Cotton Field” judgment also functioned as a discursive opportunity for the Commission’s arguments in its 2011 decision in the landmark case of Jessica Gonzales (Lenahan) v. the United States. Jessica Lenahan (formerly Gonzales) was unable to access justice through the American domestic legal system after the police failed to enforce a restraining order against her husband, which led to the murder of her three daughters. Although the United States is not a signatory to the ACHR or the Belém Do Pará Convention, the Commission drew on its own case law as well as “Cotton Field” to argue that the state’s obligation to act with due diligence constituted customary international law (paras. 123-127) (see Bettinger-López 2008; García-Del Moral and Dersnah 2014). Ultimately, it declared that the United States had failed to prevent the violence that led to the murders of the three girls, to properly investigate the crimes, and had not provided Ms. Lenahan with access to information on the investigations.

In addition, the Court and the Commission have incorporated the analysis of due diligence and gender discrimination in “Cotton Field” in other cases against Mexico concerning violence against women. For example, the IACtHR drew on it to determine whether the Mexican state had breached this principle in the investigation and punishment of the rape of two indigenous women at the hands of soldiers in the state of Guerrero in the cases of Rosendo Cantú and Others v. Mexico (2010) and Fernández Ortega v. Mexico (2010). The Commission further cemented the importance of this decision for dealing with other feminicidios of Ciudad Juárez and Chihuahua City, as in the cases of Paloma Escobar Ledesma, Lilia Alejandra García Andrade and Silvia Arce (Chapter 2). In turn, these decisions have provided grassroots activists in Ciudad Juárez and Chihuahua City with “windows of opportunity” to make demands vis-à-vis the Mexican state, as Norma Ledesma of JPNH put it (Chapter 2).

The “Cotton Field” judgment has also had important effects in Mexico. It has led in part to the development of important institutions and policies to combat gendered violence, including the criminalization of feminicidio (Chapter 4). At the same time, it is necessary to emphasize here that the development of these policies has not been equivalent to the successful compliance with the “Cotton Field” judgment. The murders of Claudia Ivette, Laura Berenice, Esmeralda, Paloma, Lilia Alejandra, Silvia and many others remain in impunity, while gender discrimination
and sexism continue to influence how investigations are carried out or how judges adjudicate cases in the state of Chihuahua and across other Mexican states. In this regard, the lack of full compliance with the “Cotton Field” judgment (since the murders remain in impunity) may be arguably tied to the fact that, like any other judgment issued by a supranational court, it addresses exclusively the executive branch of government (Huneeus 2011). As such, the Court “requests that [the executive] take specific remedial actions that [it] cannot take single-handedly” (Huneeus 2011, 469). The judgment thus fails to take into consideration the conflicts and tensions that exist between the different branches of the state, at the local and federal levels, as well as the role of local courts in the administration of justice (Huneeus 2011; Santos 2007).

Things may start to change now that the Supreme Court of Mexico issued a landmark judgment that mobilized “Cotton Field” to provide guidelines for the implementation of investigation protocols with a gender perspective in cases of violence against women in March 2015. This decision originated in a complaint against the Office of the Public Prosecutor of the State of Mexico and its response to the murder of 29-year old Mariana Lima Buendía in June 2010 at the hands of her husband, a police agent. The OCNF, acted as the representative of Irinea Buendia, Mariana’s mother. The OCNF argued that her husband first altered the scene of the crime to make it look like a suicide and then proceeded to interfere with the investigation. The agents of the Public Prosecutor of the State of Mexico subsequently ignored Irinea’s claims that her daughter had likely been murdered. The SCJN declared that the case displayed a lack of due diligence, as stipulated by international legal standards. It remains to be seen, therefore, whether the decision of the SCJN will result in more tangible change in the administration of justice.

The following chapter analyzes how Mexican federal and local legislators responded to the claims that grassroots activists made in the context of the Ni Una Más campaign. In particular, I focus on how these state actors adopted the language of feminicidio to conceptualize the responsibility of the state for gendered violence in Chihuahua and how the “heterogeneous” character of the state (Santos 2007) and the state’s gender regime (Connell 1990) constrained the ability of legislators to respond to this violence.
Chapter 4.
How _Feminicidio_ Became the Language of State Responsibility

When I was interviewing Alma Gómez at the CEDEHM, a young woman was escorted out of the premises through the backdoor and put safely into a taxi. Alma explained that the woman was a survivor of domestic violence and had sought the Centre’s help to bring her case to court. Then she made the following comment:

Look, we often say ‘Wow, the women’s movement fought for Belém Do Pará and for the CEDAW, and later here in Mexico we fought for the General Law of Women’s Access to a Life Free of Violence (LGAMVLV). The women’s movement is awesome (es muy fregón)!’ We convinced, we managed to get legislators to… well… _we twisted legislators’ arms_ (les hicimos manita de puerco a los legisladores) to draft and pass this law. And yes, the law is there, very pretty and all, but what the fuck is the law good for (_de qué chingados sirve la ley_), if there is nobody to help these women to have [them] applied to their case? That’s what we do here; we bring all that down (_bajamos todo eso_), so that it is helpful to that woman who left the CEDEHM (interview, March 2014).

Alma’s comment reveals the tensions underlying how law and activism came together in the context of the Mexican state and their implications for women’s access to justice. Her remark that local activists had “twisted legislators’ arms” to enact laws aimed at securing women’s rights highlights the reluctance of the Mexican state to attend to their demands and activists’ ability to overcome such reluctance. Yet Alma’s words also express frustration with the lack of implementation of these laws and, consequently, with the power of the state to limit the outcomes of feminist struggles, whether local or transnational (c.f. Santos 2007).

This chapter explores these tensions by examining the response of federal and local legislators to the claims of local feminist activist groups in the context of the _Ni Una Más_ campaign and the impact of the “_Cotton Field_” judgment. In the previous chapters, I have applied the framework developed in the introduction to trace the complex set of social interactions that shaped grassroots activists’ engagement in transnational advocacy and transnational legal activism and their culmination in the judgment of the IACtHR in the “_Cotton Field_” case. The Mexican state has been in the background as a seemingly ineffective and potentially willfully violent actor. In
this chapter, I put the actions that Mexican state actors undertook to address gendered violence in Ciudad Juárez and later Chihuahua City at the forefront and show that the “heterogeneous” character of the Mexican state (Santos 2007) contributed to rendering them largely ineffective. This chapter thus points to a hidden dimension in Alma’s words: the set of institutional constraints that state actors themselves faced as they tried to define and act upon their responsibility for the murders and disappearances of women and girls in the state of Chihuahua and their impunity.

To capture the tensions between law and activism and their relationship to the heterogeneous character of the Mexican state, the chapter focuses on how feminicidio became the language of state responsibility among federal and local legislators and its ensuing criminalization at the federal level and in 31 out of the 32 federal entities that constitute Mexico, with the exception of Chihuahua. I identify this process as the “regendering” of the Mexican state (Lazarus-Black 2003). Lazarus-Black (2003, 980) defines regendering the state as “the process of bringing to public and legal attention categories and activities that were formerly (and formally) without name but that constituted harm to women, denied them rights, silenced them, or limited their capacity to engage in actions available to men.” I show that the adoption of an explicitly radical feminist term to conceptualize the role of the state in the perpetuation of violence against women and to develop legislation to redress it cannot be exclusively attributed to external pressure on state actors tied to the domestic and transnational advocacy and legal strategies of local feminist activists from Chihuahua.

The incorporation of feminicidio in federal and local legislators’ conceptualizations of state responsibility also resulted from the struggles within the legislature waged by often female legislators belonging to the Gender and Equity Commission and/or those legislators who managed to institute a special commission on these murders. As Amenta and Caren (2007, 462) argue, “explaining challengers’ state-related consequences requires addressing and understanding other actors inside and outside the state who may be pressing in similar or different directions.” Indeed, much like activists, these legislators strategically mobilized the political opportunities that accompanied the diffusion of international human rights norms in Mexican politics and the advocacy strategies of the Ni Una Más campaign. At the same time, legislators’ struggles were
embedded within broader conflicts with the federal and local executive and disputes over the jurisdiction of the federation over the local investigation of the crimes.

These conflicts and disputes contributed to the adoption of *feminicidio* in the production of innovative legal mechanisms to address the situation of women in Chihuahua and respond to the “*Cotton Field*” judgment, while simultaneously limiting what legislators and activists saw as their potentially positive impact. Put differently, the federal organization of the Mexican state and the separation of power between the legislature, the executive and judiciary at the municipal, local and federal level resulted “in a more limited capacity of the state to act” (Kriesi 2007, 70). In turn, this limited capacity to act was exacerbated by institutional corruption, especially in the administration of justice at the local level. In short, this chapter points to an irony: the Mexican state itself thwarted the real efforts that some legislators made to become responsible state actors and to produce a semblance of legitimacy in the eyes of its citizens and the international community by responding to gendered violence. I argue that this ironic outcome is deeply gendered; it reveals how the gendered structure of state power affects the “regendering” of the Mexican state.

Throughout the chapter, I highlight how legislators can act as human rights advocates (Merry 2006a, 164). However, my analysis is more heavily focused on the fragmented character of the state, how it affected state actors’ capacity to act in relation to state institutions and local and transnational activists, and how these factors also structured the regendering process. I illustrate this point through analysis of the debates of the Mexican federal Chamber of Deputies (CD) (n= 52) and the Chamber of Senators (CS) (n= 45) from the LVII Legislature (1997-2000) to the LXI Legislature (2009-2012) and of the Congress of the state of Chihuahua (CH) from the LIX Legislature (1998-2001) to the LXII Legislature (2007-2010) (n= 187). To situate this analysis, the chapter first provides a brief background on women’s rights and gendered violence in the context of Mexican law and politics in the late 20th century. This section also applies and extends my conceptual framework to understand how the gendered structure of the Mexican state shaped the process of its own regendering. I then trace how the murders of women and girls in Ciudad Juárez (and later Chihuahua City) became a concern for federal and local legislators and the subsequent adoption of *feminicidio* as the language of state responsibility among state actors. By
way of conclusion, I discuss activists’ perspectives on the criminalization of feminicidio and its implications.

**Women’s Rights, Mexican Law, and the Gendered Structure of State Power in the Late 20th Century**

In her analysis of the development of the Domestic Violence Act as an example of the regendering of Trinidad, Lazarus-Black (2003, 982) identifies three important factors that contributed to this process: nationalist narratives that aimed to construct the Trinidadian state as modern in light of its colonial past; women’s unprecedented access to education and the labour market; and the influences of the global and local women’s movement. Arguably, similar factors were at play in the Mexican context (see Craske 2005; Dore and Molyneux 2000; González 2001; Gutiérrez Castañeda 2004b; Macías 2002). However, this section emphasizes the interrelation of the first and third factors, while illustrating that the participation of women in politics and the gendered structure of state power, or what Connell (1990) calls the state’s “gender regime,” were other important factors that shaped the regendering of the Mexican state (see De Barbieri 2003).

Mexico was the site of the UN First World Conference on Women in 1974. This conference not only set the stage for the UN Decade for Women and the transnational feminist campaign to create violence against women as a human rights violation in the 1990s, it also ushered in an era of changes in Mexican legislation on women’s rights and gendered violence (Chapter 1). For example, Article 4 of the Mexican Constitution was reformed to recognize the juridical equality between women and men one day before the start of 1975, declared as the UN First International Women’s Year; the first year of the UN Decade for Women (Toto Gutiérrez 2002, 402). For Toto Gutiérrez (2002, 407), the creation of the CEDAW in 1979, as well as the subsequent World Conferences on Women in Copenhagen (1980) and Nairobi (1985) succeeded in “sensitizing the internal and external environment to exert pressure in the juridical terrain to construct an alternative juridical discourse on sexual violence.” This alternative discourse was necessary to challenge deeply patriarchal understandings of men’s violence against women in Mexican law (De Barbieri and Cano 1990; Gargallo 2002; Lang 2003; Torres Falcón 2002).
According to Pablo Navarrete, the Coordinator of Juridical Affairs of the Mexican National Women’s Institute (INMUJERES), “Mexico’s patriarchal, macho, and misogynous culture is reinforced through an understanding of law that comes from the Roman tradition in which women were nothing and simply had no rights” (interview, March 2014; see also Alonso 1995). This culture was clearly reproduced in Mexican legislation of violence against women that existed prior to 1997. To illustrate: Until 1987 the criminal code of various Mexican states stipulated that “chastity” and “honesty” were preconditions for the crime of rape; also reflecting Catholic notions of femininity (Lang 2003, 75; see also Alonso 1995; Varley 2000). Likewise, sexual assault was conceptualized as an “attempt against honour” (De Barbieri and Cano 1990, 350). Shockingly, the theft of a cow was more severely penalized than the rape of a woman (Torres Falcón 2002, 238).

It took intense feminist organizing at the level of civil society and among women legislators to produce the first reforms to the federal criminal code in 1988 and 1991 with the support of then President Carlos Salinas de Gortari, who used this issue to gain political legitimacy in the aftermath of the electoral fraud that gave him the presidency (De Barbieri and Cano 1990; Lang 2003). Although the reforms contributed to turning Mexican women into subjects of rights, Lang (2003) argues that Mexican law continued to legitimate patriarchal understandings of women as mothers and wives who owed obedience to their husbands, as opposed to autonomous individuals with a right to self-determination. Thus defined, law almost “automatically subsumed women’s interests under those of ‘the family’” (Lang 2003, 82; Varley 2002). Until 1997, “defending” the family legally justified rape in marriage, especially if the husband claimed the act was for “the purpose of procreation,” and a lack of support for policies dealing with domestic violence that had a gender perspective (Lang 2003).

Introducing this gender perspective and the feminist understanding that violence against women is a product of gender inequality thus became a central goal for many female legislators, especially in the aftermath of the UN Fourth World Conference on Women in Beijing in 1995 and Mexico’s adoption of the Belém Do Pará Convention in 1997. Achieving this goal prompted the development of stronger relationships among women in the legislature across party lines, who were also concerned with the low percentage of women in the federal and local legislatures.
Yet before proceeding with this analysis, it is necessary to ground it in the historical background of the party system in Mexico.

In the late 1990s, when this story begins, there were three main parties: the Institutional Revolutionary Party (PRI), the National Action Party (PAN), and the Democratic Revolution Party (PRD). As described earlier in this dissertation, the PRI was the heir to the hegemonic party that emerged in 1928 in the aftermath of the Mexican Revolution, the National Revolutionary Party (PNR). According to De Barbieri (2003, 8), this party aimed to “agglutinate and discipline all revolutionaries in order to harness their support in consolidating a state apparatus strong enough to govern in [the post-revolutionary era].” Although the revolutionary hero Plutarco Elías Calles, its founder, had imagined the party to be a harbinger of the rule of law, its strong relationship to the figure of the President prevented it from doing so (p. 8). Instead, the party created a relationship of dependence between the will of the President and the multitude of organizations of workers, peasants, and the popular sector that it absorbed (p. 8).

The President’s role as the party leader further stifled the development of democratic practices among its members as well as in electoral matters, thus setting the stage for the “corporatism” that characterized its successors, the Party of the Mexican Revolution (PRM, 1938-1947) and later the PRI (p. 8). The PRI remained in power until 2000, when Vicente Fox, the PAN’s presidential candidate, won the elections.

De Barbieri (2003, 9) situates the emergence of the PAN, a right-wing party, in the post WWII context as a means to prevent the rise of a one-party regime that could engender fascism. In contrast to the populist character of the PRI, the PAN aimed to incorporate educated middle class individuals into its ranks. Historically, PAN members have also had a strong intellectual affiliation to the social teaching of the Catholic Church (p. 9). De Barbieri indicates, however, that the same historical conditions did not produce a strong left-wing party. A contributing factor was arguably the political marginalization of the Mexican Communist Party (PCM), in existence since 1919, during the Cold War period. It was not until 1989, under the leadership of Cuauhtémoc Cárdenas, that the PRD was born as a viable left-wing alternative to the authoritarianism of the PRI (p. 9). Cuauhtémoc Cárdenas is the son of former President and revolutionary leader Lázaro Cárdenas (PRI). Originally affiliated with the PRI, Cárdenas left this party in 1988 to protest the appointment of Carlos Salinas de Gortari as its presidential candidate.
as well as the party’s turn to neo-liberal politics. Indeed, the PRD’s platform emphasizes socialist ideals. Since the mid-1990s, other minor parties like the Workers’ Party (PT), the Green Party (PVEM), the New Alliance Party (PANAL), the Social Democratic and Peasant Alternative Party, (PASC), and the Citizen Movement Party (MC) have begun to gain some political ground. Yet, in the 1997 electoral process the PRI, PAN and PRD jointly obtained 93% of the votes (De Barbieri 2003, 9).

Despite this increased diversification of the Mexican political system, women occupied only 90 out 500 seats (18%) in the Chamber of Deputies in the LVII Legislature (1997-2000) (Espinosa Torres 2002). Similarly, women constituted less than twenty percent of the 159 Senators during this legislative period. Moreover, it was only at this time the Gender and Equity Commissions of the Chamber of Deputies and the Senate were granted official status, since they had formerly been sub-commissions (De Barbieri 2003; Espinosa Torres 2002). Women were also underrepresented in the Congress of Chihuahua. During the LIX Legislature (1998-2001), there were six women out of 33 Deputies, and in the LX Legislature (2001-2004) there were only three women. In other words, prior to the late 20th century, female legislators were restricted in their ability to issue legal opinions on or push for the legislation to address gender inequality. The triumph of Vicente Fox, PAN’s candidate in the 2000 presidential elections opened new opportunities for the increased participation of women in politics as well as the a greater opening to international human rights norms (Aikin Araluca 2011). Nevertheless, gender inequality continued and continues to permeate Mexican politics, consequently affecting the role that legislators can play as human rights advocates.

This context clearly reveals the gender regime of the Mexican state (Connell 1990). Connell (1990) uses the concept of “gender regime” to analyze how the state organizes gender relations in its institutions as part of the wider configuration of the gender order in society. This gendered structure of state power has four dimensions (Connell 2002: 53-68): a gender division of labour, gender relations of power, a structure of cathexis, and gender culture and symbolism. The gender division of labour refers to the gendered organization of relations of production and consumption, including the gendering of occupations. By gender relations of power, Connell refers to the way in which gender shapes the exercise of control, authority and force and, consequently, how gender permeates organizational hierarchies and legal power. The structure of
cathexis can be understood as the gendered pattern of emotion and human relations, including feelings of solidarity, prejudice and disdain that structure attachment and antagonism among people and groups. Last but not least, the notion of gender culture and symbolism denotes the prevailing beliefs and attitudes about gender embedded in a given culture.

Women’s underrepresentation in Mexican federal and local legislatures points to the first two dimensions of the gender regime of the Mexican state. Not only does it signal the association of political occupations with men, masculinity and the public sphere, but it also undergirds women’s restricted ability to exercise power within the legislature as well as vis-à-vis the executive and judicial branches of the state. The third factor of the gender regime is arguably visible in the creation of alliances among female legislators across party lines to combat both women’s political underrepresentation and gender inequality. The last element of the gender regime is apparent in the patriarchal understandings of femininity that permeate Mexican law, as described above. Indeed, feminist law and society scholars have argued that law is a cultural product that embodies and expresses social ideologies about gender (e.g. Berkovitch 1997).

With this in mind, in the next section I show how the federal and local configurations of the state’s gender regime shaped how legislators engaged in its regendering process by adopting feminicidio to conceptualize their responsibility for the murders of women and girls in Chihuahua and their impunity. I also highlight how these conditions functioned as institutional constraints that neutralized the potential effectiveness of the actions that legislators took to address this violence.

The Federal and Local Regendering of the Mexican State

How did feminicidio, understood as the misogynous killing of women and girls in a context of state-sanctioned institutionalized gender discrimination, become the frame for the murders in Chihuahua in legislators’ minds? Or, to be more specific, how did this frame become incorporated into their conceptualizations of state responsibility, prompting them to take legislative action to respond to these crimes? At the federal level, feminicidio did not enter into the language of legislators until the end of 2002, five years after the topic of these horrible crimes was first discussed when the Coordinating Group approached federal Deputies in 1997. Yet, once introduced, it rapidly permeated how legislators talked about the killing of women not
only in Ciudad Juárez, but also in the whole country. Arguably as part of an effort to comply with the “Cotton Field” judgment, feminicidio was criminalized after its incorporation in the Federal Criminal Code on June 14 through the reform of Article 325. It took local legislators longer than their federal counterparts to first adopt the language of feminicidio; but here too it is possible to identify the rapid traction that the concept gained after its introduction in 2003. Interestingly, Chihuahua remains the only federal entity that has not yet criminalized feminicidio. This section maps out the sets of complex conditions that shaped these outcomes and analyzes how legislators, as actors inserted in the state’s gender regime, conceptualized and acted upon their own responsibility for gendered violence in the process.


The story begins on November 6, 1997. On this day, then President Ernesto Zedillo (PRI) agreed to sign a bill elevating intra-family violence to a federal crime by reforming the Civil and Criminal Codes and the Codes of Civil and Criminal Procedures for the Federal District and the Republic (see De Barbieri 2003). Yet the celebratory tone of the session in the lower house was dampened when Deputy Angélica Vucovich Seele (PRD) read the letter that the Coordinating Group of Pro Women NGOs, under the leadership of Esther Chávez Cano, had sent to the Gender and Equity Commission (Chapter 2). With this act began the discussion of the murders of women and girls in Ciudad Juárez that continues until this day.

As described in the previous chapters, Deputy Vucovich Seele responded to this letter by submitting a formal complaint to the National Human Rights Commission (CNDH) that resulted in the Recommendation #44/98. This intervention also paved the way for the creation of a Special Prosecutor to Investigate the Homicides of Women (FEIHM) in Ciudad Juárez (see Chapters 2 and 3). Equally important was her attempt to produce an interpretation of these crimes and their impunity as a product of gender inequality. After reading the letter, she expressed the following:

It is regrettable, fellow legislators, that despite the spirit of juridical equality of the sexes enshrined in Article 4 of the Constitution, we continue to witness that women do not have an equitable access to justice. By and large the problem has been negligence and the lack of political will of governments and authorities to follow through with their
investigations. This means that the problem is not only not resolved, but that it goes on to increase in an alarming manner, affecting primarily young, working-class and poor women. Do these women, given their social background, not deserve justice?

With these powerful words Vucovich Seele pushed her fellow legislators to think of these murders and the victims’ lack of access to justice as a gendered structural problem that intersected with class and age and directly involved the actions of representatives of the state. As such, she demanded that the Chamber of Deputies exhort the governor of the state of Chihuahua to address this issue.

During this session, Vucovich Seele received the support of other female legislators, who used the growing concern with gender inequality in the Zedillo administration as a political opportunity to demand greater attention to these murders. However, violence against women in Ciudad Juárez did not become a main topic of discussion during this Legislature. It was only discussed one more time in 1997 and another in 1999. On both occasions, the discussion took place on November 25, the International Day for the Elimination of Violence against Women. This issue was not incorporated in debates in the Senate.

November 25 is an important date to commemorate victims and survivors of gendered violence, and also feminist struggles to combat it. Officially, the UN began to celebrate November 25 in 1999. However, feminist activists had observed this day since 1981 in honour of the memory of the three Mirabal sisters, political activists in the Dominican Republic who were assassinated in 1960 on orders of Dominican dictator Rafael Trujillo. Mexican Deputies commemorated this day for the first time in 1997 and used it to introduce feminist conceptualizations of violence against women as a public and not a private problem, and therefore as a human rights violation.

The commemoration of this date ultimately functioned as a political opportunity for legislators to bring attention to the murders of women and girls in Ciudad Juárez in this and future Legislatures. For example, using the feminist slogan of the UN Fourth World Conference on Women in Beijing “without women’s rights, there are no human rights,” Deputy Vucovich Seele argued, “the authorities of Ciudad Juárez must address the demand of local women’s groups and civil society to create a Special Prosecutor to investigate these acts of violence. Tolerance and impunity make the authorities complicit in the many crimes that have not been punished” (CD
In so doing, Vucovich Seele implicitly began to use the language of international human rights law to draw a link between impunity and the so-called ‘private’ character of gendered violence. These arguments were validated in the momentous findings of the CNDH investigation that resulted in the Recommendation #44/98 (Chapters 2 and 3).

Nevertheless, the commemoration of this date and thus the ability to use it to discuss the killing of women in Ciudad Juárez was not a given. Deputies did not observe this day in 1998. On November 25, 1999 Vucovich Seele began her speech by remarking that she was speaking to an almost empty room that signified the lack of interest of her fellow male legislators in issues affecting women and what female legislators had to say about them (CD 25.11.99). Expressing her disapproval, she declared that honouring victims and survivors of gendered violence, especially the women of Ciudad Juárez, was not a “merely symbolic act.” On the contrary, it constituted the obligation of legislators as social representatives of millions of Mexican women. These interventions set in motion the regendering of the Mexican state in the subsequent legislatures.

The LIX Legislature of the Congress of Chihuahua (1998-2001)

The government of Francisco Barrios Terrazas (PAN) in Chihuahua did not welcome the intervention of the CNDH on behalf of Deputy Vucovich Seele. Although his government was over and Patricio Martínez (PRI) had become governor, PAN legislators sought to undermine this intervention. Thus, during this legislative period, the murders of women in Ciudad Juárez were not discussed as such. Rather, PAN Deputies presented a “point of agreement” (punto de acuerdo) to request that the Federal Congress investigate the performance of Mireille Rocatti as President of the CNDH in relation to the investigation that resulted in the Recommendation #44/98 (CH 20.10.98, CH 19.03.99). PAN Deputies argued that the CNDH had lacked jurisdiction to carry out an investigation of the murders of 104 women and girls that had taken place between 1993 and 1998. The point of agreement was dismissed. The attempt to undermine the authority of the CNDH can, nevertheless, be interpreted as an exercise of local state power to delegitimize the findings of Recommendation #44/98 as well as the claims of the Coordinating Group of Pro Women NGOs and the victims’ next of kin.
During the LVIII Legislature, Deputies discussed the murders of women and girls in Ciudad Juárez in 16 sessions and Senators addressed this topic in ten debates. One of the main obstacles to the process of regendering of the Mexican state in this legislative period were the legal definitions of federal versus common law crimes structuring the boundary between federal and local jurisdictions. Enshrined in the federal criminal code, federal crimes (*crímenes del fuero federal*) constitute those acts that not only affect the federation or the Republic, but the public good. Trafficking in drugs or arms are examples of federal crimes. In contrast, common law crimes (*crímenes del fuero común*) affect private, as opposed to public goods and fall under the jurisdiction of the individual states. These definitions and their attending jurisdictional boundary, I argue, denote a gendered public/private divide (Chapter 3) are thus deeply imbued in the state’s gender regime.

Notwithstanding the patterns found across the murders of women and girls in Ciudad Juárez that suggested a potential relation to organized crime (Monárrez Fragoso 2002), they were legally considered common law crimes. Female Deputies and Senators alike soon became aware of the constraints that the lack of federal jurisdiction over the investigation of these crimes placed on their power to facilitate the access to justice of the victims and their next of kin. In other words, legislators recognized that the inability to define the murders of women and girls as federal crimes obscured their systemic character, while preventing the intervention of federal institutions that could preside over or rectify the investigations of the crimes to end impunity. This concern became heightened in the aftermath of the cotton field murders in November 2001, prompting legislators to argue that the rigid jurisdictional divide contributed to impunity. Legislators conceptualized impunity as “a shield that protects the perpetrators of these crimes, the gang rapes and the torture to which the victims were subjected” (CD 08.11.01; CS 26.11.02).

As a first strategy to respond to the cotton field murders and the broader context of gendered violence, Deputies belonging to the Gender and Equity Commission presented a point of agreement to create a Special Commission to Follow Up the Investigation of Homicides of Women in Ciudad Juárez, CD Special Commission hereafter (CD 15.11.01).² While this point of agreement was successful, other proposals to exhort President Vicente Fox to instruct the Office of the Attorney General (PGR) to intervene or to construct this violence as an issue of
Although legislators were always unanimous in their support of these initiatives, the commissions that examined them found alleged faults in the legal basis of their arguments (see e.g. CS 20.03.03). For example, Senator Martha Sofía Tamayo (PRI) presented an initiative to reform the Federal Code of Criminal Procedures arguing that “issues of social transcendence” like the murders of women and girls in Ciudad Juárez should come under federal jurisdiction and thus allow for the intervention of the PGR (CS 20.03.03). However, the Commissions on Justice and Legislative Studies of the Senate declared that this aim could only be achieved through constitutional reform (Senator Jorge Zermeño Infante, PAN, CS. 20.03.03). For Senator Tamayo, opting for the route of constitutional reform would be too lengthy a legislative task and, in the meantime, “the number of crimes that should make legislators ashamed could double or triple” (CS. 20.03.03). In addition, the PGR consistently argued that legislators had failed to prove the relation of these murders to organized crime so that they could not be considered federal offenses or a problem of public safety (CS 19.12.02; CS 08.04.03). The PGR claimed, for instance, that there was no evidence that “the murders had been committed by three or more people acting together to engage in delinquent actions in a permanent or reiterative manner, or that [the crimes] could be attributed to arms trafficking” (CS 08.04.03).

Despite their failure, through these efforts female legislators advanced the message that they “should not remain at the margins of these crimes.” To illustrate: After the discovery of the cotton field victims in November 2001, Deputy Hortensia Enríquez Ortega (PRI) asserted that “this problem [of violence against women in Ciudad Juárez] demands the greatest effort of the competent authorities at the federal, state and municipal levels in collaboration with effective action on the part of this Legislature, since, as Deputies, we cannot remain at the margin of so much evil and cruelty.” Deputy Flor Añorve Ocampo (PRI) adopted a similar position: “The Legislative Branch of the state and the Chamber of Deputies in particular, as the maximum organ of popular representation, cannot and must not remain at the margin of such serious crimes that harm our society” (CD 08.11.01). Acting to the contrary would make “impunity, negligence, and irresponsibility the defining characteristics of the powers of the State.” On her part, Deputy Hortensia Aragón Castillo (PRD) reiterated that federal Deputies “could neither remain at the margin of these horrible murders,” nor “could [they] exclude [themselves] from the irrevocable responsibility that the three powers of the state have to guarantee the life, integrity, and safety of
all of those whom [they] represent” (CD 08.11.01). In sum, for federal Deputies dismantling jurisdictional boundaries would allow them to become both central actors in the combat of gendered violence in Ciudad Juárez and responsible and legitimate state representatives.

Furthermore, the notion that legislators “should not remain at the margins” of the crimes operated as a powerful trope that revealed the gendered politics of the jurisdictional divide and, as such, the state’s gender regime. Using this language, female Deputies and Senators consistently questioned the arbitrariness of the required proof to link the murders of women in Ciudad Juárez to organized crime. For them, these requirements did not factor in gender inequality and its intersection with a macho culture and poverty as a root cause of violence. For example, without hiding her sarcasm, Senator Dulce María Sauri Riancho (PRI) exclaimed: “These women did not only have to suffer the tragedy of being murdered, their bodies mutilated and discarded in the desert, but they were killed with knives as opposed to a caliber 45 gun or a weapon that, according to the PGR, would allow it to exercise its jurisdiction. What irony!” (CS 04.09.03). The response of Senator Martha Sofía Tamayo (PRI) to the rejection of her initiative to reform the Federal Code of Criminal Procedures by the Commissions on Justice and Legislative Studies of the Senate, as discussed above, also exemplifies this point (CS 20.03.03). What is more, Senator Tamayo disqualified attempts to uphold the jurisdictional boundaries between the federation and the local state as arbitrary by pointing to the international human rights regime and the globalization of law:

Today we talk about ‘the globalization of justice’ and we allow the creation of international tribunals that stand over and above the jurisdictional sovereignty of states to deliver justice and vindicate the international human rights regime. Yet contrary to this trend, today in our country even the Federal Executive dismisses the possibility of bringing the investigation of the crimes against women in Ciudad Juárez under federal jurisdiction using the excuse of issues of competence.

Echoing the sentiments of many other legislators, she asked: “How many more women must die in order for this issue to be considered part of the federal agenda?” And she added, “I refuse to think that the attitude of the President and the failure to pass this initiative may be linked, because this would render us all complicit [with the crimes and their impunity]. Do we have to
wait for international institutions to dictate another recommendation or resolution that will point to our criminal omission?” (CS 20.03.03; CS 18.03.03).

Indeed, Senators and Deputies alike had become increasingly aware that the growing international attention attracted by the Ni Una Más campaign threatened the legitimacy of the Mexican state (Chapters 2 and 3). As such, another strategy that they pursued to challenge the jurisdictional divide and its underlying gendered logic involved arguing that the failure to respond to violence against women in Ciudad Juárez constituted a violation of Mexico’s obligations under international human rights law. This strategy intersected with legislators’ support of the Ni Una Más campaign as well as with the commemoration of November 25 and March 8, International Women’s Day.

For instance, in a session honouring March 8, Deputy Hortensia Aragón Castillo (PRD) argued that “the official attitude toward these crimes against women not only goes against morality and common sense, but against our laws and the international treaties on human rights that Mexico has ratified, in particular the Belém Do Pará Convention” (CD 07.09.03). Likewise, Deputy Ramón León Morales (PRD) claimed: “The life of over 300 women and the disappearance of over 500 more cannot continue to be considered an isolated or unimportant phenomenon. The risk that there will be more victims must push us to find rational and definitive solutions. I hope next International Women’s Day can actually be a day for celebration” (CD 05.03.03). And, according to Senator María Del Carmen García (PRD): “The negligence of the municipal, state, and federal authorities, the lack of efficiency in the administration of justice and the lack of will to effectively investigate these cases exemplify the explicit lack of capacity of our country to comply with the international legal obligations to which it committed by ratifying the CEDAW” (CS 18.03.03). Importantly, these legislators ended their interventions by exclaiming Ni una muerta más! in support of the Ni Una Más campaign.

It was against this background that feminicidio made its debut in the federal Congress. Senator Sauri Riancho (PRI) used this concept for the first time on December 12, 2002, when she advocated for the intervention of the federation in the investigation of the murders of women and girls in Ciudad Juárez in light of the international recommendations issued by the UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions, Asma Jahangir, the UN Special Rapporteur on the Independence of Judges and Lawyers, Dato’Param Cumaraswamy, and the
Emphasizing the gendered nature of the crimes and its relation to the authorities’ lack of political will to end impunity, Senator Sauri Riancho (PRI) thus argued:

> A society without gendered violence is a matter of human dignity and democratic progress. Women have the right to live without violence and this right creates obligations for the Federation. As Senators, we have the obligation to guarantee this right and thus to guarantee that *feminicidio* in Ciudad Juárez becomes a priority in the life of the Republic.

Senator Sauri Riancho did not explain the meaning of *feminicidio* in her speech. In fact, she seems to mention it almost in passing. Her words, however, hint already at one reason why *feminicidio* likely became the language of state responsibility in future legislatures. From the start, *feminicidio* was tied to the notion that securing women’s human rights is a hallmark of a responsible state, representing the achievement of democracy and the status of a modern state (Lazarus-Black 2003). At the same time, the use of *feminicidio* at the end of this legislative period expanded to incorporate arguments about the dehumanization and social and economic marginalization of women as a root cause of violence. Moreover, these arguments considered how the role of the state in perpetuating these conditions violated national and international law (Senator Tamayo CS 18.03.03). As such, *feminicidio* became a promising tool for legislators to continue to challenge the jurisdictional divide in the subsequent Legislatures while responding to activists’ concerns and building the state’s legitimacy.

The LX Legislature of the Congress of Chihuahua (2001-2004)

In contrast to the previous legislative period, the LX Legislature of the Congress of Chihuahua showed a growing concern with the murders of women and girls in this state. This topic was discussed 71 times, although *feminicidio* was only mentioned in the last year. The main argument of local Deputies during this Legislature was that violence against women in Ciudad Juárez constituted a problem of a lack of public safety (*inseguridad pública*), but gender was absent from conceptualizations of what public safety should look like. Likewise, there was no acknowledgement of the relationship between gender inequality and women’s experiences of violence. The murders of women and girls in Ciudad Juárez and later Chihuahua City were thus mostly mentioned as an extreme example of the wave of criminality assailing the state of
Chihuahua alongside drug trafficking and other forms of organized crime. This outcome was shaped by a different set of conditions that structured how the gender regime of the Mexican state at the local level affected the actions of local Deputies, resulting in the delayed incorporation of feminicidio into their repertoire. Most salient here were the role of party politics, the arguably more direct impact of organized crime, and institutional corruption.

Only a month after the LX Legislature started, the bodies of eight women were found in a cotton field in Ciudad Juárez. This discovery led to the first discussion of violence against women in Ciudad Juárez in this legislative period (CH 08.11.01). Like federal legislators, local Deputies identified “impunity as a shield that protects the perpetrators behind the murder, gang rape, mutilation and torture of women in Ciudad Juárez.” They also claimed that they “should not remain at the margins” of this decade long problem. However, they did not use this language to introduce a gendered understanding of the phenomenon that they were facing. Not once did local Deputies mention gender inequality in their speeches.

An interesting fact here is that the local Special Commission to Monitor the Homicides of Women in the Municipality of Juárez (CH Special Commission) created in the aftermath of these murders was subscribed to the Commissions on Justice and Human Rights, as opposed to the Commission on Equity, Gender, and the Family. The local Special Commission’s main task involved organizing the First Forum on Public Safety of Ciudad Juárez on December 15, 2001 to bring together members of local civil society and experts on this matter. In its report to the local Congress on this forum, this Special Commission did not develop an explicit gendered analysis of the problem of violence against women.

Against the background of a decade of irregular investigations and impunity, the rapid arrest of the two alleged perpetrators of the cotton field murders soon raised suspicion among the nascent Ni Una Más activists, the general public, as well as local legislators belonging to the opposition. For example, in a letter to local Deputies, JPNH demanded that the authorities “act with responsibility” to stop the crimes: “We will not accept scapegoats who will only contribute to impunity and shield the real killers” (CH 16.04.02). PAN Deputies presented points of agreement urging Governor Martínez and Jesús Silva Solís, the Chihuahua State Prosecutor (PGJE) not only to intervene in a “quick and expedited” manner, but also to appear before the local Congress to provide information on the arrests and the status of the investigations as a matter of public safety
PRI Deputies blocked these points of agreement and vehemently defended Governor Martínez and the State Prosecutor. They argued that violence against women and girls in Ciudad Juárez had started during the government of Francisco Barrios Terrazas and was thus an “inherited problem” (Deputy Domínguez Alarcón, PRI, CH 13.02.02). Likewise, PRI legislators argued that “public safety is not the exclusive responsibility of the PGJE and the State Prosecutor is only in charge of the administration of justice.” They maintained this stance even after the alleged perpetrators claimed that they had been tortured to confess, and municipal police agents shot one of these men’s lawyers under suspicious circumstances. The police argued that they “confused him” with a member of organized crime. In the meantime, many more women were murdered and disappeared.

Not surprisingly, Ni Una Más activists as well as the reports by the IACHR and Amnesty International issued in 2003 claimed that the Martínez administration lacked the political will to combat these crimes and their impunity. In an attempt to legitimate his government, Martínez instructed the local Congress to reform the criminal code of Chihuahua to increase the penalty in cases were the murder victim was a woman as a means “to respond to the collective needs and demands in the recent history of the state of Chihuahua” (CH 26.10.03). However, the discovery that State Prosecutor Silva Solís and his agents had close ties to organized crime toward the end of this Legislature undermined these actions.

Arguably, this crisis of legitimacy prompted the turn to the adoption of the concept of feminicidio towards the end of this Legislature, although initially legislators mentioned it only infrequently and as a synonym for homicide (see CH 29.05.03, CH 10.07.03, CH 10.09.03, CH 04.12.03). The parliamentary discussion of the report of the UN Office on Drugs and Crime (UNDC) on its visit to Ciudad Juárez of April 2004 (CH 11.05.04) and the report of the Women’s Institute of the State of Chihuahua (ICHMUJER) (CH 15.07.04) set the stage for a change in its use in the next Legislature. Importantly, these parliamentary debates took place after the concept of feminicidio had been introduced among federal legislators, as I will illustrate below, as well as in the Ni Una Más campaign (see García-Del Moral, forthcoming). As part of V-Day International, the Ni Una Más campaign organized the First Awareness Tribunal on the
Violation of Women’s Human Rights in Ciudad Juárez and Chihuahua where Marcela Lagarde, by then a federal Deputy, and feminist scholar Julia Monárrez Fragoso presented their work on feminicidio (Aikin Araluze 2011). This event provided Lagarde with the opportunity to fully insert her definition of feminicidio as a state crime in an activist setting (see Lagarde 2004). Thus, following this definition of feminicidio, the ICHMUJER report characterized it as “a crime against humanity” given “the great social damage that it implies” (CH 15.07.04). In turn, the UNDC report stated: “The Government of Chihuahua has recognized that gender based violence is present in all societies and develops in a cultural context structured by unequal relations between women and men in the public and private spheres” (CH 11.05.04). These reports ultimately prompted local legislators to discuss the implications of Mexico’s international legal obligations for the state of Chihuahua. This question became one of the foci of the LXI Legislature and another step in the regendering of the Mexican state at the local level.

The Federal LIX Legislature (2003-2006)

During the LIX Legislature, Deputies debated the murder of women and girl in Ciudad Juárez 19 times and Senators 23 times so that discussions on feminicidio as well as efforts to stop it gained momentum. This momentum was arguably tied to the efforts of the previous Legislature, but also to the transnational advocacy strategies of the Ni Una Más campaign. The most remarkable outcome of this legislative period was the General Law for Women’s Access to a Life Free of Violence (LGAMVLV), which criminalizes feminicidal violence (violencia feminicida) and incorporates international legal instruments on women’s human rights. In a way, federal legislators achieved their goal of playing a more central role in the combat of gendered violence in Chihuahua and its impunity. Nevertheless, this accomplishment was fragile, especially given the inconsistent, if not contradictory actions of the federal executive in this matter. Moreover, legislators had to recognize that many of their efforts to respond to activists’ claims had been less effective than expected. Thus, despite the overwhelming adoption of feminicidio as the idiom to capture the obligations of the Mexican state to guarantee women’s right to a life free of violence, tensions over the scope of the responsibility of the federal versus local governments still permeated the debates. In sum, the regendering of the Mexican state at the federal level was fraught with tensions within its institutions.
By the time the LIX Legislature started, the federal executive had begun to change its steadfast position on the jurisdictional divide that allegedly prevented the federation from intervening in the investigations of the murders of women and girls in Ciudad Juárez. On April 2003, the PGR exercised its jurisdiction over the investigation of 14 murders to ascertain whether these cases represented a violation of the Federal Law against Organized Crime. In August, the PRG and the PGJE of Chihuahua entered into an agreement to create a Mixed Agency for the investigation of crimes that shared similar patterns or characteristics. In October, President Fox instructed the Secretariat of the Interior to create the federal Commission to Prevent and Eradicate Violence against Women in Ciudad Juárez (Ciudad Juárez Commission). And, in January 2004, the PGR created a federal Special Prosecutor to Investigate the Homicides of Women in the Municipality of Juárez (FEADHM) through the Agreement A003/04. What is more, two feminist lawyers were put in charge of these newly created institutions: Guadalupe Morfín Otero was appointed Commissioner and María López Urbina Special Prosecutor.

The apparent change in attitude of the federal executive responded to the intersection of the “boomerang pattern of advocacy” of the Ni Una Más campaign (Aikin Araluce 2011; Keck and Sikkink 1998) and the demands of federal legislators during the LVIII Legislature. This strategy allows activists who are blocked at the domestic level to reach out to the transnational and supranational levels to advocate for change, which in turn exerts pressure back against the state (Keck and Sikkink 1998, 12; Zippel 2004, 59). For example, in the Agreement A003/04, then Attorney General Rafael Macedo de la Concha argued that the creation of the FEADHM and the actions that preceded it “fulfilled the international legal obligations of the Mexican state” under numerous international treaties, among them the ACHR, the Belém Do Pará Convention, the CEDAW and the DEVAW. They also responded to the recommendations of national and international organizations to “incorporate all levels of government in the investigation of the unsolved cases and to guarantee the supervision of public servants in charge of the investigation processes […].”

The effect of the boomerang was evident in the fact that, despite these actions, Deputies and Senators continued to express a preoccupation with the claims of national, transnational and supranational organizations about the state’s lack of due diligence in the response to the murders of women in Ciudad Juárez (CS. 25.11.03). In particular, they were concerned with the shame
that the inability to respond effectively to this violence brought upon the Mexican state as a whole, and not only the state of Chihuahua. Senator Emilia Patricia Gómez Bravo (PVEM) thus argued that their “obligation as Senators is to contribute in any way possible to strengthening women’s human rights and dignity. Today, we must condemn the impunity, negligence and corruption in the case of las muertas de Juárez. Unfortunately, our lack of action, our inability to solve this problem, has caused international shame for Mexico.” Likewise, Deputy Pedro Vázquez González (PT) claimed: “Ni una muerta más en Juárez ni en México! (Not one more woman murdered in Juárez or in Mexico!) It is a matter of shame that our country is the object of attention of international organizations and the international community.”

Indeed, the notion that the Mexican state should be ashamed of “failing to guarantee women’s right to life in Ciudad Juárez” (Senator Aracely Escalante y Jasso (PRI) CS 07.10.03) led Deputies and Senators to develop a vision of state responsibility that incorporated the principle of gender equality as a cornerstone of the rule of law and a truly democratic state. This vision of state responsibility is most strongly articulated through the concept of feminicidio. The work of academic/activist turned Deputy Marcela Lagarde (PRD) was instrumental here. Although the concept of feminicidio had already been introduced in the LVIII Legislature, the legislators who used this term did not fully explain its meaning or its implications for the responsibility of the Mexican state. On November 25, 2003, Deputy Marcela Lagarde publically defined feminicidio as follows:

The International Day for the Elimination of Violence against Women is an opportunity for this Legislature to assert that gender violence and feminicidio constitute some of the most serious problems in this country. Feminicidio is the most extreme form of gender violence; it is misogynous genocide against women and it takes place when women’s integrity, health, liberties and lives are threatened. Feminicidio takes place in the context of war and peace. [...] Feminicidio takes place because the state does not provide women with guarantees or with conditions of safety. This is why feminicidio is a state crime; if the state fails, crime can flourish and feminicidio will not end.

This definition of feminicidio as a state crime diffused rapidly among Deputies and Senators, who stopped referring to the murders of women in Ciudad Juárez as homicides. For some legislators, it became a useful term to integrate an intersectional understanding of gender equality
that could not be separated from the eradication of poverty and other forms of marginalization. Referencing the maquiladora industry, Deputy Pablo Gómez Álvarez (PRD), argued that feminicidio in Ciudad Juárez would continue occur if the state did not address structural inequalities that were linked to global capitalism and stripped women of their citizenship in their own country. He added: “A country cannot progress in this way, under conditions of the complete irresponsibility of the state in its municipal, local, and federal levels” (CD 01.09.03; see also CS 01.06.05).

Although feminicidio became symbolically linked to Ciudad Juárez, the introduction of the concept in the legislative repertoire also became an opportunity for other legislators to talk about the killing of women as a national problem. This resulted the creation of the Special Commission to Make Known and Monitor Feminicidios in Mexico and Secure Efforts to Justice in Such Cases in April 2004, with Deputy Lagarde as its president. As such, legislators no longer focused on feminicidio as a problem exclusive to Ciudad Juárez. This, I argue, was another important strategy to legitimate subsequent claims for federal intervention, especially when legislators realized that the Ciudad Juárez Commission and FEADHM were concessions on the part of the federal government that did not yield the expected results.

Guadalupe Morfín Otero completed important tasks while she was in charge of the Ciudad Juárez Commission, including paving the way for the intervention of the Argentine Forensic Anthropology Team (EAAF), whose work was instrumental to arrive at the correct identification of the victims’ remains (Chapter 2) (Monárrez Fragoso 2013, 217). She also incorporated the concept of feminicidio into her reports, identifying it as an egregious human rights violation. But according to Mexican scholars, Morfín Otero’s contribution to fighting impunity was insufficient, since she was unable to provide the victims’ next of kin with access to justice (Monárrez Fragoso 2013, 218). The tenure of María López Urbina as head of the FEADHM was even more disappointing. She was removed from her post after only one year. During this period, she charged 177 public officials with negligence and irregularities, although the charges were dropped for all but two (Monárrez Fragoso 2013, 217; Staudt 2008, 123). Initially, she enjoyed the support of Ni Una Más activists and federal legislators, but this support was short lived. López Urbina tried to explain away the murders of women and girls in Ciudad Juárez as the outcome of domestic violence, denying the existence of feminicidio and claiming the number of
disappeared women was insignificant (Monárrez Fragoso 2013, 218; Staudt 2008). Ni Una Más activists characterized her report as “a joke” (Jiménez 2007). López Urbina was replaced with Mireille Rocatti, the former president of the CNDH when it issued its Recommendation #44/98. Rocatti quit after being in her post for three months to become a cabinet member of the government of Enrique Peña Nieto in the State of Mexico. Not surprisingly, her quick resignation raised suspicions regarding the political will to combat feminicidio and impunity (Staudt 2008).

To make matters worse, President Vicente Fox made several statements that undermined the seriousness of violence against women and girls in Chihuahua. For example, he declared that the majority of the crimes had been resolved and characterized the media coverage of a new wave of murders in Ciudad Juárez as refriteado, that is “rehashed,” only a few days after the brutal rape and murder of seven-year old Airis Estrella Pando and of ten-year old Anahí Orozco in Ciudad Juárez. Airis Estrella Pando was kidnapped on her way back home from a convenience store. Her dismembered body was found in a vat of cement by a highway. Anahí Orozco was raped and stabbed in her own home while her parents were out one night. These events forced federal legislators to recognize that achieving federal involvement had not ended impunity and the real limitations of their efforts against gendered violence in Chihuahua.

Most Deputies and Senators critiqued President Fox and demanded more accountability of the PGR, although there were PAN legislators who defended the federal executive arguing that the federal government should not bear the brunt of the responsibility for these murders. Instead, they marshaled the notion of corresponsabilidad, that is the “co-responsibility” of all three levels of government (CS 01.06.05). The words of Deputy Julián Ángulo Góngora (PAN) illustrate this concept: “A sense of co-responsibility has to be established, so as to prevent us from trying to make it smaller or bigger by wanting to throw the ‘hot potato’ from one level to the other. The Executive at the Federal, local, and municipal levels has a co-responsibility to implement measures of prevention as part of the judicial system” (CS 01.06.05). Senator Jorge Zermeño Infante also argued that “blaming the President” would accomplish nothing and ignored the actions that the Federal Executive had taken to respond to the recommendations of national and international human rights organizations (CS 01.06.05).
These examples illustrate the efforts that PAN legislators put in deflecting the responsibility of the federal government and the President in particular in the context of a heterogeneous, federal state. However, legislators from the opposition questioned the notion of co-responsibility. For Deputy Diva Hadamira Gastelum Bajo (PRI), this concept was an effort to make municipalities responsible for the task of prevention and security, thus “diluting” the responsibility of the federal executive. She also incorporated feminicidio in her critique of the President and Senator Zermeño’s assertions: “These are not dead women; they are murdered women, which is not the same thing. If women are brutally murdered every day, what constitutes a ‘rehash’? How is it possible that car theft or drug trafficking become federal matters, but not feminicidio, which is a crime against humanity and has tainted Mexico internationally?”

In this context, Deputies and Senators made numerous claims about the role of law as a tool to combat crime and impunity, as well as their responsibility to create laws that could do this effectively. Salient here were the arguments of female legislators concerning the importance of introducing a gender perspective into these laws to avoid “weav[ing] in gender inequality into social structures” (Senator Dulce María Saurí Riancho CS 12.12.03). At stake was the responsibility of the legislators to “give legal certainty to women in country, especially those who are victims of aggression, threats, and other violent acts that law protects them. Women have a right to a life free of violence. The State has the obligation to guarantee this right” (Senator Aracely Escalante y Jasso (PRI) CS 25.11.04). At the same time, Senator Tamayo (PRI) recognized that “the actions of the Legislative Branch of the state are not enough; it is necessary for the Federal Executive to recognize, once and for all, that these crimes represent a configuration of what in international law is considered a situation of grave and systematic violations to the human rights of women and girls” (CS 18.05.05).

This position paved the way for the creation of the LGAMVLV, which entered into force in 2007, and subsequent efforts to criminalize feminicidio. For Deputy Marcela Lagarde, “criminalizing feminicidio [would] contribute to eliminating the social silence and the lack of concrete state actions that permeate this problem” (CD 07.12.04). In so doing, it would send the message that the Mexican state does not tolerate impunity. Criminalizing feminicidio would therefore involve the prosecution and punishment of state actors who act with negligence in the investigation of the disappearance and/or murder of women. In other words, it would “allow
women to access their fundamental rights while punishing those that transgress them, even if it is the state itself that does so” (CD 02.02.06). This law is an example of the regendering of the Mexican state. It institutionalized a vision of state responsibility linked to women’s right to a life free of violence and, consequently, to the notion that the state should create the conditions to prevent, investigate, and punish feminicidio. Although feminicidio as such was ultimately not incorporated into the law, feminicidal violence as a violation of women’s human rights in the public and private spheres and as a product of a climate of impunity tolerated by the state became part of the LGAMVLV.

The LXI Legislature of the Congress of Chihuahua (2004-2007)

The debates of the LXI Legislature of the Congress of Chihuahua on violence against women and girls in Ciudad Juárez and its spread to Chihuahua City marked a tangible change in the local government’s approach to this issue. The language of gender inequality and feminicidio are at the core of the 70 debates on this topic, as are the language of international human rights and criminal law. In fact, Deputies debated two initiatives to criminalize feminicidio and passed their own State Law on Women’s Access to a Life Free of Violence (LEAMVLV). Yet in the context of ongoing murders and impunity, local Deputies had to contemplate more seriously their role as lawmakers in combating gendered violence. In this sense, the regendering of the Mexican state at the local level began to resemble the process at the federal level more closely.

In the inaugurating session of the LXI Legislature, the new Governor José Luis Reyes Baeza (PRI) identified feminicidio as a great problem in the state of Chihuahua and vowed to “be diligent in putting an end to it and its impunity” (CH 04.10.04). A few days later, Deputy Jaime García Chávez (PRD) reminded the Governor and his fellow legislators that “feminicidio is a central topic because it put Chihuahua and Ciudad Juárez in particular in the spotlight of the international community, since the UN, Amnesty International and other prestigious human rights institutions have identified it as a site of the extreme abandonment of human rights” (CH 07.10.04). It was, therefore, necessary for local Deputies to consider the question of their responsibility in ending feminicidio (CH 12.10.04). Channeling the language of the Ni Una Más campaign and the work of Marcela Lagarde, Deputy Beatriz Huitrón Ramírez (PRD) argued that “feminicidio exists when the state provides no guarantees for society in general and women in particular. […] It happens when the authorities do not carry out their function to prevent, avoid
and punish crime efficiently” (CH 13.10.04). On November 4, 2004 local Deputies created the new Special Commission to Follow the Feminicidio Investigations in the State of Chihuahua. Remarking on the significance of this new commission, Deputy García Chávez claimed, “adopting this terminology [feminicidio] is not empty of signification or commitments” (CH 11.11.04). He added: “it represents the recognition that a myriad of civil society organizations have won a cultural, political and juridical battle to break the silence that the previous administration had tried to impose on this topic.” In short, within the first month of the LXI Legislature, the Governor and Deputies paved the way for institutionalizing the concept of feminicidio and acknowledged the impact Ni Una Más campaign in this process.

A central preoccupation for local Deputies was the need to reestablish the legitimacy of the government of the state of Chihuahua, especially in light of murders like that of seven-year old Airis Estrella Enríquez Pando and the release of new international reports that continued to emphasize the local state’s failure to act with due diligence (see Chapter 3). As such, they argued that their responsibility as lawmakers should go beyond monitoring the actions of the PGJE or soliciting information on the investigation to deal with the “crisis in public safety” and the resulting feminicidios (CH 17.05.05). Local Deputies pursued three different strategies: First, they had their Special Commission on Feminicidio engage in various activities aimed at clarifying the irregularities in the investigation of the murders. It began to collaborate more closely with the newly elected State Prosecutor, Patricia González Rodríguez, the Special Commission on Feminicidio of the federal Chamber of Deputies, American experts on violence, academics of the Autonomous University of Ciudad Juárez as well as the EAAF (CH 08.02.05). Second, Deputies issued points of agreement urging the federal and local executive to make use of all available resources to prevent, investigate, and punish feminicidio (e.g. CH 24.05.05). Third, Deputies drafted and passed the LEMAVLV (CH 09.11.06) and they debated two additional initiatives to criminalize feminicidio (CH 06.03.07, CH 17.04.07, CH 03.05.07, CH 19.09.07). For Deputy Huitrón Ramírez (PRD), these efforts were necessary since “local women’s civil society organizations and citizens are convinced that the authorities have not assumed 100% of their responsibility in each and every case of murdered women in Juárez.” Likewise, Deputy García Chávez (PRD) argued that “today, Juárez is in the spotlight given our institutional incapacity to respond to feminicidio” (CH 14.03.06).
The LEMAVLV recognizes the international legal obligations of the Mexican state under the CEDAW and the Belém Do Pará Convention, and the commitment of the State Governor “to provide juridical instruments that address violence against women as an obstacle of social development and a culture of gender equality” (Deputy Victoria Chavira Rodríguez, PAN, CH 09.11.06). For Deputies, this law responded to the recommendation of the CEDAW Committee and other supranational organizations that stipulated that Mexican federal entities should go beyond domestic violence to have more encompassing legislation on violence against women. It also represented a response to local feminist civil society organizations, since they had been involved in the drafting the law. Deputy Chavira Rodríguez acknowledged the participation of these organizations, among them JPNH and the CEDEHM (CH 09.11.06, CH 19.09.07).

The law did not criminalize feminicidio or feminicidal violence, but it operated as a political opportunity to introduce initiatives to do so. Yet these initiatives were unsuccessful and exposed the legal and political difficulties of “translating feminicidio as an anthropological and sociological concept into a concrete juridical order, since it describes such a complex phenomenon” (Deputy Chavira Rodríguez CH 19.09.07).

Deputy Chavira Rodríguez (PAN) as President of the Commission on Equity, Gender, and Family introduced the initiative to criminalize feminicidio as a crime against humanity during a session to commemorate International Women’s Day (CH 06.03.07). According to her, this law would harmonize state legislation with the LGAMVVLV, which recognized feminicidal violence. She argued that criminalizing feminicidio would “transform women’s experience with justice, through the true application of the law and the reparation of damages, so as to lead women to have trust in legality and justice institutions.” In fact, in another session she acknowledged that this initiative constituted a response to the request of JPNH and Ni Una Más activists, since “as mothers they had not found the legal framework to access justice for their daughters, especially since there was a statute of limitations preventing the investigation of public servants who acted with negligence when their daughters were disappeared” (CH 19.09.07).

Grounding the initiative to criminalize feminicidio not only in international human rights law, but also in international criminal law complicated the discussion on state responsibility (CH 17.04.05). Deputies argued that the Rome Statute could not be applied locally and that only the Federation had the power to do so. Others argued, in addition, that the Rome Statute did not
allow for Deputies to legislate for the benefit of only one gender, so that feminicidio could not be a crime against humanity (CH 17.04.05). Deputies ultimately came to the conclusion that feminicidio constituted a federal crime and it was not up to them to criminalize it, but to federal legislators. Although, for Deputy Lilia Aguilar Gil (PT), it was still necessary “to recognize that the topic of the murder of women as gender hate crime cannot be solved by saying, yes we acknowledge it, but we’re sending it to the Federation. The social transcendence of this topic and the emblematic status of Ciudad Juárez and Chihuahua in this regard could not be ignored” (CH 17.04.05).

Thus, this first initiative to criminalize feminicidio was dismissed, but a week before the end of this legislative period Deputy Chavira Rodríguez presented another second proposal. This initiative sought to define feminicidio as a crime against life and physical integrity based on gender. For Deputy Chavira Rodríguez, this second attempt thus sought to “make visible in the criminal system what has previously been invisible. It requires, however, political maturity to acknowledge what feminicidio seeks to capture and to identify the conditions under which it takes place in order to punish those who perpetrate it or fail to investigate it” (CH 19.09.07). Nevertheless, it was no longer debated during this legislative period.


The recognition that feminicidio was not a problem exclusive to Ciudad Juárez, but a national problem was undoubtedly one of the most important achievements of the LIX Legislature and signaled the regendering of the Mexican state. But, as a consequence, feminicidio in Ciudad Juárez became a less discussed topic during the LX and LIX Legislatures. In fact, during the LX Legislature, this issue was brought up only in seven debates among Deputies and in six Senate discussions.59

For the most part, references to feminicidio were inserted in sessions to commemorate March 8 and November 25. This did not mean that it ceased to be an important topic. Rather, it points to the contradictions that accompany the regendering of the state. Legislators and feminist activists succeeded in obtaining institutional recognition of this problem. In fact, feminicidio had become the language of state responsibility. Yet, this did not translate into action or an increased concern to address it. At times, there was resistance to take action, even within the Congress. For
example, the Senate had initially refused to reinstitute a Special Commission on *Feminicidio* (CS 22.03.07). As such, legislators belonging to the Gender and Equity Commission faced an uphill battle to criminalize *feminicidio*. However, the release of the IACtHR “*Cotton Field*” judgment on November 16, 2009 functioned as a political opportunity for these legislators to successfully advance this demand during the LXI Legislature. As a result, the murders of women in Ciudad Juárez became a (somewhat) more central topic of discussion once again. Deputies discussed this topic 14 times and Senators eight times.

During the LX Legislature, Deputies and Senators belonging to the Gender and Equity Commission found the reluctance to criminalize *feminicidio* puzzling, if not frustrating given the widespread acknowledgment that this phenomenon was now a national problem. The words of Deputy Aida Marina Arvizu (PASC) during a session commemorating March 8 make a relevant point in this respect:

*Feminicidio*, understood as the violent death of a woman because of her gender, takes place in a *macho* and conservative social context that validates this violence. [Although *feminicidio*] is an alarming reality in our society, our legislation refuses to recognize it as a crime. *Feminicidio* must be included in Mexican legislation, otherwise commemorating International Women’s Day becomes a bureaucratic festivity that is “feminist for show” but does not contribute to taking effective steps to secure women’s rights (CD 10.03.08).

With this statement, this Deputy exposed the hypocritical investment of the Mexican state in women’s rights. The notion that this investment was only “feminist for show” indicated that it was legitimacy that the state was after, not acting to address violations to women’s rights.

For Deputy Holly Matus Toledo (PRD), this failure to act and its attending perpetuation of gender inequality constituted “state violence” (CD 25.11.08). In a scathing intervention during a session to commemorate November 25, she argued that the Congress itself was complicit in gender inequality. The following words highlight not only this point, but also how the state’s gender regime is reproduced in the Congress, despite law proposals on the prevention and elimination of discrimination or the LGAMVLV. According to Deputy Matus Toledo,
...the majority of proposals in the Chamber today lack a gender perspective and the allocation of funds has been done with regard to personal interest and not for the benefit of women. In fact, today the Congress has an enormous debt with women, since of the over 500 legal reforms that have been effected in 1917, only seven have benefitted women.

Against this background, Deputies during this Legislature resorted to mobilizing the promise of the status of a modern state implicit in feminicidio to argue for its criminalization. For example, Deputy Arvizu claimed that criminalizing feminicidio would represent a real commitment not only to women’s rights, but also to the rule of law and true democracy: “Violence against women is the most flagrant indicator of social, cultural, and democratic atavism. Criminalizing feminicidio will renew our criminal justice system to make it worthy of a true democratic state.” And, like her colleagues, she also tried to legitimate her claim by pointing out that transnational and supranational human rights institutions had shamed Mexico for failing to act to end impunity.

Although this strategy failed during the LX Legislature, it proved to be successful after the release of the IACtHR’s judgment in the “Cotton Field” case at the start of the LXI Legislature. As soon as it was issued, the judgment and the obligation to comply with it became a source of concern for Deputies and Senators. For example, in a session to commemorate November 25, Deputy Diva Hadamira Gástelum Bajo (PRI) argued that in light of the judgment, it was “urgent to strengthen the juridical mechanisms to prevent and punish violence against women” (CD 25.11.09). Using the judgment as well as the second pronouncement of the European Parliament on Mexico’s inability to put an end to impunity in the matter of the feminicidios of CJ, Deputy Teresa Guadalupe Reyes Sahagún (PT) pushed once more for the need to criminalize feminicidio. She argued that the resistance to doing so in previous legislatures was a sign of the “double morality” of the Congress (CD 25.11.09):

I say that this is a sign of a double morality because on the one hand we are creating laws that violate women’s human rights, that limit women in their development as human beings, and that criminalize their [sexual and reproductive choices]. On the other hand, we have been incapable, even in this Congress, to criminalize feminicidio despite the fact
that there have been proposals to do so from six years ago. Instead, we use November 25 only to talk about the importance of fighting for women’s rights.

Thus, like Deputy Arvizu in the previous Legislature, Deputy Reyes Sahagún exposed the Janus-faced approach of the state to women’s rights. As such, Deputy María Guadalupe García Almanza (MC) claimed, “The Mexican state is far from being able to comply with its obligations [to respect women’s rights], especially when it rewards the ineptitude to solve the feminicidios of Ciudad Juárez with the post of Attorney General” (CD 25.11.09).

Deputy García Almanza’s statement refers to then President Felipe Calderón’s appointment of Arturo Chávez Chávez as Attorney General, even though the CNDH’s Recommendation 44/98 and local feminist civil society organizations of Chihuahua had identified him as a negligent actor that had contributed to impunity during his tenure at the PGJE in the 1990s. President Calderón’s decision was a source of heated debated among Senators, some of whom made the argument that appointing Chávez Chávez to the PGR would constitute a step backwards in the matter of feminicidio and women’s human rights (CS 14.09.09).

Against this background, Deputy Mary Telma Guajardo Villareal (PRD) and Deputy Teresa Icháustegui Romero (PRD), another feminist academic turned activist and politician, presented a point of agreement to urge the Secretariat of the Interior to set in motion the institutional mechanisms to comply with the “Cotton Field” judgment (CD 13.01.10, CD 20.01.10). In it, they argued: “Compliance with the judgment of the Inter-American Court of Human Rights is fundamental to guarantee Mexican women’s right to a life free of violence” (CD 27.01.10).

Deputy Rosi Orozco (PAN) who presented her own point of agreement to the same aim a few months later, declared that “it is the duty of the Legislative Power to ensure the compliance with the “Cotton Field” judgment” (22.04.10).

Three additional judgments of the IACtHR in the cases of Valentina Rosendo Cantú, Inés Fernández Ortega, and Rosendo Radilla Pacheco (CD 25.11.10), the fatal shooting of JPNH activist Marisela Escobedo in front of the government palace of Chihuahua (CD 04.01.11), the rape and murder of Susana Chávez – the creator of the Ni una más! slogan – (CS 11.01.11), a second attempt on the life of NHRC founder Norma Andrade (CS 07.02.12), a third pronouncement of the European Parliament condemning Mexico for its ongoing resistance to
address feminicidio in Ciudad Juárez, and pressure from the United Nations (CD 08.03.11) intersected to create conditions for legislators to demand once more that the Mexican state comply with the “Cotton Field” judgment and to criminalize feminicidio. Finally, in December 2011, the Chamber of Deputies approved a set of reforms that defined feminicidio as a federal crime. Deputies argued that, in so doing, Mexico would be complying its international legal obligations as well as with the “Cotton Field” judgment.

In April 2012, the Senate admitted these reforms. On June 14, 2012, feminicidio was incorporated in the Federal Criminal Code through the reform of Article 325. This Article establishes that feminicidio is committed when a woman is deprived of her life for gender reasons. The Article considers that gender reasons exist when one of the following circumstances is present:

I. The victim presents signs of sexual violence of any kind;
II. The victim bears signs of shameful or degrading injuries or mutilation inflicted upon her, prior or subsequent to the deprivation of life or acts of necrophilia;
III. A background or information of any kind of violence in the realm of the family, work, or school perpetrated by the active subject against the victim;
IV. The existence of a sentimental or affective relationship or a relationship of trust between the active subject and the victim;
V. The existence of information that establishes that there were threats related to the delinquent act, harassment or injuries exercised by the active subject against the victim;
VI. The victim has been incommunicated, regardless of the time previous to the deprivation of life;
VII. The body of the victim is exposed or exhibited in a public place.

The Article imposes a penalty of forty to sixty years in prison and fines that amount to the payment of 500 to 1000 days of minimum wage. In addition, it stipulates that public servants, whose actions hinder or delay the process of the administration of justice, whether maliciously or because of negligence, will be punished with three to eight years in prison and 500 to 1,500 days of fines measured in terms of the daily minimum wage. Moreover, the public servant will be
removed from public service and prevented from occupying such a position again in the next three to ten years.

**The LXII Legislature of the Congress of Chihuahua (2007-2010)**

During the LXII Legislature (2007-2010), feminicidios in Chihuahua continued to be a central topic of debate among local Deputies. It was discussed during 43 sessions. There was, however, a marked change in the way in which feminicidios were initially approached in the new legislative period in comparison to the previous one. The LXI Legislature ended with attempts to criminalize feminicidio, but this topic was no longer discussed during the LXII Legislature. This Legislature began with strong resistance to even instituting a Special Commission on Feminicidio. The eventual creation of the Special Commission was the outcome of struggles of some Deputies as well as local feminist civil society organizations, including JPNH and the CEDEHM. In fact, during this legislative period local feminist civil society engaged in intense advocacy efforts to pressure the local Congress to carry out actions to respond to the sharp increase in the already high rates of women’s murders and the dismissive attitude of public servants in charge of the investigations. Last but not least, the litigation of the case of González and others “Cotton Field” v. Mexico before the Inter-American Court of Human Rights renewed concerns among Deputies regarding their legitimacy and the image of the state of Chihuahua in the world. Overall, the debates in this legislative period reveal the fragility of the gains made in previous legislatures at the local and federal levels as well as the paradoxes that accompanied the institutionalization of feminicidio as the language of state responsibility.

The reluctance to create a Special Commission on Feminicidio was arguably frustrating for Deputy Víctor Manuel Quintana (PRD), who first presented his initiative for this purpose in early November 2007. He argued that the prevalence of feminicidio in the state of Chihuahua was “an irrefutable fact” that, as legislators, they had to face. His initiative emphasized the relationship between normalization of gendered violence and its relationship to other forms of social and institutional violence. He emphasized, therefore, that legislators had the duty to fight the invisibility of gendered violence that resulted from its normalization and to create a new Special Commission on Feminicidio (CH 12.11.07). Nevertheless, he was forced to make the case for the creation of this Commission five more times (CH 16.03.08, CH 25.03.08). To legitimate his cause, Deputy Quintana had to resort to pointing out
that the UN High Commissioner for Human Rights had shamed Chihuahua once more for the impunity of numerous feminicidios and to mobilizing the local feminist civil society organizations. Indeed, women associated with JPNH and the CEDEHM once interrupted a session yelling out “Our daughters are not a myth! Ni una más! We want a Commission on Feminicidio now!” although they were removed by security (CH 03.03.08).

Unfortunately, this was only one of the struggles that Deputy Quintana, the members of the new Special Commission on Feminicidio, and local feminist society organizations had to face during this legislative period. Given a sharp increase in the murders of women in Chihuahua City, organizations like JPNH and the CEDEHM approached the Special Commission to institute a “gender alert” in accordance with the LGAMVLV. A “gender alert” refers to a series of institutional mechanisms and protocols that should be set in motion to respond to systematic gendered violence. However, there was a lack of support for this measure. Legislators who opposed the “gender alert” disputed the information on the number of murders presented by civil society organizations and thus the need to respond with a “gender alert.”

For example, even as he expressed solidarity with the next of kin of victims of feminicidio, Deputy Fernando Rodríguez Moreno (PRI) argued that “it was necessary to verify the accuracy of these numbers” (CH 01.07.09). After saying that he was “again against feminicidio,” he added:

Let’s not engage in self-flagellation, because the only thing we’re doing is to give a bad image of our State, like what happened with Ciudad Juárez. Unjustifiably so, there have been and continue to be movies and books about this, as if only these murders happened only in Juárez or Chihuahua. It is regrettable that Chihuahua is suffering from this unfounded shaming campaign. […] As Deputies, we are here as representatives of Chihuahuan society and of our State before our country, and this responsibility obligates us to be very objective in the review of information and of the resources that we can count with to determine whether it is appropriate to issue a gender alert.

In a perverse way, this Deputy’s words attempted to change the narrative of state responsibility that feminicidio had established. He suggested that being a responsible state actor entailed being objective so as to not engage in “unfounded” tainting of the state of Chihuahua, as opposed to responding to gendered violence. Other Mexican feminist scholars writing on feminicidio in
Ciudad Juárez have identified similar patterns in the statements of other state officials (see Akin Araluce 2011; Monárrez Fragoso 2013; Staudt 2008, 2009). As a response, Lucha Castro of the CEDEHM, who was present during this session, lifted up a sign with the words “Ignorant” written on them.

Similar preoccupations with the image of Chihuahua in the world permeated discussions of the litigation of the “Cotton Field” case. Nothing captures this better than a debate concerning the release of the PGJE report “The Homicides of Women in Ciudad Juárez. Justice is Done Combating Impunity” (CH 30.04.09). In this report, State Prosecutor Patricia González Rodríguez claimed to have solved the majority of the murders of women in Ciudad Juárez. The report was inserted in local newspapers. Nevertheless, the Argentine Forensic Anthropology Team (EAAF) exposed the inaccuracy of the report in a press release that was printed in the major national newspapers.

Although some Deputies were ashamed of these actions, others, like Deputy Moreno Rodríguez, sought to undermine the magnitude of the incident. First, he claimed that the EAAF had only been able to intervene because the local government had, in good faith, agreed to it: “The thing is, the State Government could have rejected this intervention, it was not mandatory, the Government showed that it was open to it.” As such, he claimed that although it was necessary to investigate the allegations of the EAAF regarding the PGJE’s report, it was equally necessary “to take into consideration and to exalt the positive things that have been done to redeem the name of Juárez and Chihuahua, not to only point out what is wrong and the mistakes that were made to make the State Government and Chihuahua look bad.” To this, Deputy López Sandoval (PAN) responded: “Our duty is to investigate the inaccuracies of the PGJE report, not to denigrate the work of the EAAF. […] What matters are the families of the murdered women.”

Deputies foresaw the negative sentence that Mexico would receive from the IACtHR and tried to encourage their fellow Deputies to consider how the judgment would affect their work (Deputy Manuel Jurado Contreras, CH 30.04.09). Nevertheless, the local Congress paid little attention to the judgment once it was issued. It was only discussed in May 2010, when Deputy Quintana (PRD) presented a point of agreement urging the local executive to inform the local Congress on the plan of action to comply with the judgment (CH 13.05.10). He argued:
The judgment obligates the Mexican state to take a series of actions to repair the damages and to adopt measures of non-repetition so that there will no longer be such cases of \textit{feminicidio} in the state of Chihuahua. These measures involve institutional and legal reforms and the creation public policies to prevent and respond to violence. Colleagues, time is running out [for us to take steps to comply with the judgment]! This Legislature must leave its mark in this respect. We must make sure that the Special Commission on \textit{Feminicidio} has a [positive] impact on the compliance with the “\textit{Cotton Field}” judgment.

Unfortunately for him, time did run out. The state of Chihuahua has not yet fully complied with the judgment and no gender alert has been instituted, despite the ongoing murder and disappearance of women and girls. Efforts to criminalize \textit{feminicidio} have not yet succeeded, even though federal legislators have urged local Deputies to harmonize their legislation with federal law. In short, the regendering of the Mexican state is an ongoing and uneven process that is imbricated in struggles within the legislature that are, at the same time, shaped by the local and federal configuration of the state’s gender regime as well as its heterogeneous nature.

\section*{Discussion and Conclusion}

Undoubtedly, \textit{feminicidio} as the language of state responsibility for gendered violence has penetrated Mexican federal and local politics, with important consequences for Mexican legislation on women’s rights. In this chapter, I have argued that this can be understood as an example of the regendering of the Mexican state (Lazarus-Black 2003). At the same time, I have shown that this regendering process is not a \textit{fait accompli}. On the contrary, the federal and local configurations of the state’s gender regime (Connell 1990, 2002) and other contextual factors continue to pose challenges to the ability of the state to act as human rights advocates and to respond effectively to feminist activists’ demands to address gendered violence and its impunity.

In this sense, the regendering of the Mexican state has been accompanied by paradoxes and contradictions that are also related to the limitations of transnational legal activism (Santos 2007). Although it has legitimated feminist activists’ claims, it has also functioned as a tool for state actors – even those who have expressed a genuine concern with the problem of gendered violence – to seek legitimacy in the eyes of its citizens and the international community. This finding substantiates the work of feminist socio-legal scholars, who have consistently argued that
legal or rights-based strategies are necessary, but not sufficient to effect substantial change in women’s experiences of violence and their access to justice (Brown 1990; Boyle and Preves 2004; Lazarus-Black 2003; Santos 2007, 52; Tripp 2006). It is clear that law is still a tool of state power, even when it is a product of alliances between legislators and activists and their joint struggles. As such, the criminalization of feminicidio has had contradictory implications for the activists that engendered this process, as I will discuss in the Conclusion, where I suggest that the practice of regendering the state as and its implications for defining its responsibility for gendered violence as processes linked to transnational legal activism is more complex than implementing the law.
Chapter 5.
Conclusion

I arrived in Chihuahua City on March 10, 2014 to conduct interviews with three grassroots feminist organizations that were involved in the *Ni Una Más* campaign and belong to the National Citizen Observatory of *Feminicidio* (OCNF): JPNH, the CEDEHM, and *Mujeres por México en Chihuahua* (Women for Mexico in Chihuahua, MXM). These organizations had been busy in the previous days organizing the commemoration of March 8, International Women’s Day, but also the funeral of 19-year old Esperanza Chaparro Sáenz, the city’s latest *feminicidio* victim. Posters with this young woman’s face were visible on lampposts in the Plaza Hidalgo in the vicinity of the cross of nails, which already bore a ribbon in her name.

This *feminicidio* had “hit close to home,” according to Graciela Ramos, the coordinator of MXM. Graciela and another of her activist collaborators, Mirna González, recounted that the young woman’s mother had sought out the help of MXM when her abusive brother-in-law was jeopardizing the wellbeing of her nieces and nephews. One of the services that MXM provides is *acompañamiento solidario* to women in situations of domestic violence, that is, MXM members offer support and solidarity to survivors of violence during the legal process, although they are not lawyers. Élida Hernández, described by her fellow activists as the *acompañante estrella*, the “star companion,” had succeeded in helping her remove the children from this situation of violence. In turn, Esperanza and her mother had begun cooking in the little joint that Élida runs when she is not involved in activism. As such, MXM activists had interacted frequently with Esperanza and had not anticipated that she would have been murdered. Graciela said that they were all shocked because the goal of their organization is to prevent gendered violence and take advantage of the institutional spaces and opportunities that had been created in the aftermath of the decision of the Inter-American Commission on Human Rights (IACHR) in the case of Paloma Escobar Ledesma and “*Cotton Field*” judgment of the Inter-American Court of Human Rights (IACtHR). But they were not surprised that Esperanza’s boyfriend and presumed murderer, a man with ties to the military, would have successfully escaped justice. What does this tragic story say about the impact of the domestic encounter of the local with the transnational?
The main goal of this dissertation has been to show that the transnationalization of the struggles of grassroots feminist activists against *feminicidio* in the Mexican state of Chihuahua has contributed to reaffirming and rearticulating the meaning of women’s human rights and the responsibility of the state for gendered violence, further extending the distinct Latin American approach to international human rights law. I have argued that it is necessary to go beyond vernacularization as a framework to understand the capacity of grassroots groups for mobilizing human rights as both ideas for social movements and as law and, consequently, for engaging in transnational human rights advocacy and transnational legal activism. My analysis has pointed to the different transnational and supranational political and discursive opportunities that grassroots groups like JPNH, NHRC, and the CEDEHM utilized and generated. In so doing, I have highlighted the gendered, multi-scalar processes that shaped the trajectory of the transformation of the cotton field murders into the “*Cotton Field*” case.

I have also argued that even as the gendered structure of supranational institutions of global governance – in this case the IACtHR – and of the Mexican state shaped this trajectory, these institutions were in turn affected by the mobilization that accompanied this process. Introducing a gender perspective to the IACtHR has contributed to new judgments that have held states responsible for failing to act with due diligence to prevent, investigate and punish violence against women, cementing the notion that such violence is tied to institutionalized forms of gender inequality and gender discrimination. At the same time, the Mexican state has been “regendered” (Lazarus-Black 2003) and local and federal state actors have not only adopted feminicidio as the language of state responsibility, but also criminalized it. In short, this dissertation has sought to provide answers to some of the salient questions that Nash (2012) raised concerning the engagement of the grassroots with international human rights law and their participation in the institutionalization of human rights at the domestic level.

But does the criminalization of *feminicidio* mean that impunity in cases of extreme violence against women is no longer an issue? Or that women in Mexico now have access to justice in a less encumbered way? Or that a gender perspective dominates lawmaking and the practice of law in Mexico? Or that legal change translates immediately into social change? Not as such. Up until today, not a single case of *feminicidio* has been prosecuted under the new laws in any Mexican state. Nevertheless, many feminist activists remain heavily invested in the criminalization of
feminicidio. For example, Lupita Ramos, the coordinator of the CLADEM in the Mexican state of Jalisco and Rodolfo Dominguez Márquez, the head of litigation of the OCNF, insist that the criminalization of feminicidio has a radical potential for social transformation (interviews, May 2013, April 2014). Lupita said that the CLADEM “has pushed for criminalization and the creation of feminicidio investigation protocols because it sets the stage for creating public policies of prevention and that can make visible this patriarchal system that oppresses, dominates, and discriminates against women” (interview, May 2013). For Rodolfo, “it is essential to criminalize feminicidio. Why? Criminal law is a legal mechanism to punish behaviours that hurt society. Feminicidio is a behaviour that really hurts society!” (interview, April 2014). He added that the impact of criminalization has been important: “Do you remember ‘crimes of passion’? A crime as the outcome of ‘passion’? You know what? Now there are no ‘crimes of passion’ anymore. There are feminicidios.” The CLADEM in Jalisco is fighting to have a case of domestic violence prosecuted as feminicidio. As part of the OCNF, Rodolfo brought the case of the murder of 29-year old Mariana Lima Buendía as the result of domestic violence to the Mexican Supreme Court (Chapter 3). At stake in the case was that the murder had not been investigated as a potential feminicidio. Ruling in his favour, the Court declared in its judgment of March 25, 2015 that the investigation of a woman’s violent death should be carried out with a gender perspective in order to establish whether it constitutes feminicidio.

For Alma Gómez (CEDEHM) there is much to lose with the criminalization of feminicidio. Although she was not always of this opinion, she considers that the legal reform that instituted higher penalties for the murder of a woman during the administration of Patricio Martínez (Chapter 4) has been more useful to help the women who seek the help of the CEDEHM. She explained:

We were angry back then that Martínez had not criminalized feminicidio. But then, when my colleagues had their first case, we realized that the only thing we needed to do was to provide a copy of the victim’s birth certificate to the judge to show that she was a woman, and then the sentence would be increased. And you see what has happened in other states, you see our feminist colleagues struggling [to have cases prosecuted as feminicidios]. They have started to recognize that classifying feminicidio as a crime has turned out to be counterproductive, because the terms are such cases are prevented from
falling into this category. The state makes sure that not one case can fall into this category! As such, we here in Chihuahua say that there is no need to do more! Otherwise we would be shooting ourselves in the foot (interview, March 2014).

Alma illustrated this argument by telling me about the first case that the CEDEHM litigated:

The first feminicidio case that we litigated involved a man who killed his wife because they were separated and she had another partner. And he killed her. And he wrote a note explaining why he had done it, and in it he wrote that he loved her so much that he had not had another option. And when you go to trial, and one of the characteristics of feminicidio is that it is a hate crime, well then, the defense says “he didn’t hate her, he loved her, it is there, on that piece of paper!” I mean, how do you prove hate? How do prove misogyny? (interview, March 2014).

Once more, Alma’s words highlight the tensions that follow from the encounter of law and activism in the context of the Mexican state and their consequences of women’s access to justice. Alma is aware that law is a tool of state power, but this does not mean that feminicidio is not relevant for her. Later she readily acknowledged that feminicidio is a powerful concept, so much so that “the state [of Chihuahua] was afraid of this word and as such the authorities arranged things so that the word would not appear in the law, and that’s what happened” (interview, March 2014). In sum, the criminalization of feminicidio in Mexico has been an uneven and contradictory process. As such, violence can strike even when victims seemed to have access to organizations whose mandate is to prevent it. The pervasiveness of a macho culture and its institutionalized manifestations thus continues to reproduce gender inequality and create obstacles for the implementation of law on an everyday basis.

This finding reflects the limitations of the transnational mobilization of international human rights law as a strategy of activism. Santos (2007, 52) argues that two types of limitations characterize this strategy: First, legal mobilization contributes to promoting social change, but it is not sufficient on its own. Second, the heterogeneous character of the state complicates the enforcement on international human rights norms, even if some sectors or branches of the state at the federal or local level have expressed a formal commitment to implementing them. Indeed,
Santos emphasizes that, as a result, the “local judicial system may be untouched” by these processes, even though it is a salient institution for the enforcement of these norms (p. 52).

Although transnational legal activism against the feminicidios of Ciudad Juárez and Chihuahua City has always been accompanied by local and national activism as well as transnational human rights advocacy, some concerns that Santos (2007) identifies still seem to apply. For example, echoing the second limitation, Julia Escalante, the national coordinator of the CLADEM in Mexico told me the following: “Yes, I think there is a big distance between what we aspire to do with law and what really takes place in the heads of judges. It’s like the most terrible thing that we have in this country! The heads of judges…” (interview, March 2014). Yet how to deal with the heads of judges? Perhaps the recent decision of the Mexican Supreme Court in the case of Mariana Lima Buendía that Rodolfo Domínguez Márquez litigated as part of the OCNF will open ways for involving the judiciary in a more systematic way and thus deal with the heads of judges. In the meantime, this question begs yet another, namely why the struggle against feminicidio in national and supranational arenas has involved a turn to law, when states are also perpetrators of this violence through omission or inaction.

For some Western feminist scholars, this paradox warrants a retreat from law to seek “non-legal strategies” to challenge violence against women (Smart 1989). For example, Smart (1989, 5) sought to “discourage a resort to law as if it holds the key to unlock women’s oppression.” For her, “in accepting law’s terms in order to challenge law, feminism always concedes too much” (p. 5). Likewise, Brown (1992) problematized the politics of appeals to the state to protect women, or what she calls “the politics of protection and regulation.” Brown argues that institutionalized protection reifies women’s dependence on the state and the very gendered character of state power that reproduces not only gender, but also racial and class inequalities. According to Brown (1992, 9) appeals to the state for protection “entail the construction of some women as violable and hence protectable but also therefore the construction of women who are their violation because they are marked as sexuality.” In other words, the logic of protection is premised on a divide between women who can be protected and those who cannot. These critiques resemble more recent challenges to the emergence of what Halley (2004) identifies as “governance feminism,” namely the increased institutionalization of feminism in the “precincts of power” (Orloff and Shiff, forthcoming). For Halley (2006) institutionalization seems to reflect
a loss of in the ability of feminism to speak from the standpoint of a counter-cultural minority in that it now works to legitimate the state and the attending position that criminalization will solve social problems (see also Bumiller 2008; Engle 2005; Halley 2004, 2009; Halley et.al. 2006).

Although Mexican and Latin American feminist scholars and activist are aware of the gap between law on the books and law in action, many seem to hold a different position on the institutionalization of feminism in law and legal institutions. They are invested in law because it has allowed women to go from asking the state for “what they want” to “demanding what is owed” (Susana Chiarotti in the CLADEM Inter-regional Seminar, May 2013). In this sense, while the “heads of judges” will continue to be a ground for struggle, having access to legal mechanisms is not something that activists believe should be abandoned. On the contrary, as the program of acompañamiento solidario of MXM, or the monitoring work of JPNH and the CEDEHM in Chihuahua illustrate, it means that legal mobilization should continue to be accompanied by other forms of activism. In conclusion, that the Mexican Supreme Court has issued a ruling on feminicidio drawing on “Cotton Field” and thus reintegrating the demands and frames of grassroots activists and their allies is no small thing. It represents a transformation of the language of law and politics and thus what Ferree (2012, 14) characterizes as “one of the most radical actions that a movement can make.”

This opposition between Western and Latin American feminist perspectives may constitute an interesting future avenue for future research, especially as feminicidio has begun to travel from the Americas to the European Union and the UN, thus creating new opportunities for transnational encounters and to rearticulate and negotiate the meaning of women’s human rights and the responsibility of the state for violating them. Indeed, under the direction of Dr. Shalva Weil, a feminist scholar at the Hebrew University in Israel, the European Union has agreed fund to creation of a European Observatory on Femicide by 2017 through the Action of the European Cooperation in the Field of Scientific and Technical Research (COST) “Femicide Across Borders.” The Action has received 44 million Euros in funding and the support of 27 EU member states. Tracing the transfer of feminicidio or femicide offers an exciting opportunity to analyze the multi-directional flows of knowledge to understand how this concept gained enough traction to become the object of a transnational field of expertise. It also may provide an
interesting case study to illustrate how a distinct Latin American approach to international human rights law is contributing to the development of other human rights systems.

Future research should thus focus on the discursive and political opportunity structures that a European context may provide to differently positioned actors with different resources to make claims vis-à-vis European states, the European Union, or the Council of Europe to develop policies on feminicidio or femicide. Will actors, whether grassroots human rights activists, academics, or transnational elites draw on the newly developed Council of Europe Convention for the Combating and Preventing Violence against Women and Domestic Violence to make claims about states’ duty to prevent, investigate, and punish the misogynous killing of women? Alternatively, could they mobilize the IACtHR “Cotton Field” judgment? Or will UN treaties like the CEDAW or the DEVAW remain primary transnational discursive opportunities? How might this different context, in turn, shape actors’ efforts and their outcomes? My dissertation provides a step towards answering these questions by contributing to the study of human rights, law, and social movements as gendered multi-scalar processes.
References


http://www.cndh.org.mx/sites/all/fuentes/documentos/informes/especiales/infJrz05/Puntos/AntecedA.htm


Accessed April 2013.
Council of Europe. 2005. Resolution 1709 directed to the Committee of Ministers. 
Accessed April 2013.


McGlynn, Claire and Vanessa E. Munro, eds. 2010. Rethinking Rape Law: International and Comparative Perspectives. Oxon: UK; USA and Canada: Routlegde.


http://www.utexas.edu/law/centers/humanrights/get_involved/writing-prize07-zuloaga.pdf


Quintana Osuna, Karla I. 2008. “Recognition of Women’s Rights before the Inter-American


Accessed on June 1, 2015.

Pp. 401-414 in Feminismo en México. Revisión Histórico-Critica del Siglo que Termina,

Cambridge, UK, and New York: Cambridge University Press.

Tripp, Aili Marie. 2006. “The Evolution of Transnational Feminisms: Consensus, Conflict, and
New Dynamics.” Pp. 51-77 in Global Feminism: Transnational Women’s Activism,
Organizing, and Human Rights, Myra Marx Ferree and Aili Mari. Tripp, eds. New York

True, Jackie. 2010. “Mainstreaming Gender in Global Public Policy.” International Feminist

Tsuitsui, Kiyoteru, Claire Whitlinger, and Alwyn Lim. 2012. “International Human Rights Law
and Social Movements: States’ Resistance and Civil Society’s Insistence.” Annual
Review of Law and Social Science 8: 367-379.

Histories of Gender and the State in Latin America, Elizabeth Dore and Maxine

Practice of the Council of Europe Approach to Gender Mainstreaming and Gender


Gender, Place and Culture 12(3): 277-292.


Accessed September 6, 2015.


Documentary


CMDPDH and JPNH. 2010. El Brillo del Día se Nos Perdió ese Día.
https://www.youtube.com/watch?v=UKxaWn8_uCY
Accessed March 2015
Cases

Appendices

Appendix A. Overview of the Main Organizations/Actors involved in the Ni Una Más campaign after 2004 (Aikin Araluce 2011).

<table>
<thead>
<tr>
<th>Scale</th>
<th>Organization/Institution/Actor’s Name and Place of Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local</td>
<td>Ciudad Juárez: Citizen Network for Non Violence and Human Dignity; Women for Juárez; Centro de Crisis Casa Amiga and Grupo Ocho de Marzo (led by Esther Chávez Cano); May Our Daughters Return Home (NHRC); Center for Women’s Integral Development (CEDIMAC).</td>
</tr>
<tr>
<td></td>
<td>Chihuahua City: Justice for Our Daughters (JPNH); Women for Mexico</td>
</tr>
<tr>
<td>National</td>
<td>Mexican civil society: Catholicos for Choice; Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH); National Association of Democratic Lawyers; Elige: Youth Network for Sexual and Reproductive Rights; Epikia: Justice with Equity; the network Feminist Millennium; unions; universities; various human rights and artists’ groups</td>
</tr>
<tr>
<td></td>
<td>Federal government: Gender Equity Commission, Mexican Senate; Special Feminicidio Commission, Mexican Congress (Mexican Senate + Chamber of Deputies); Special Feminicidio Commission (Chamber of Deputies)</td>
</tr>
<tr>
<td>International</td>
<td>US civil society: Eve Ensler and V-Day International; the Washington Office for Latin American Affairs (WOLA), and Solidarity with Mexico (RSM); unions; universities</td>
</tr>
<tr>
<td></td>
<td>US government: US Congress, especially through the involvement of Congresswoman Hilda Solís</td>
</tr>
<tr>
<td></td>
<td>Spanish civil society: Feminist Network against Gender Violence; Women’s Human Rights Platform; the Women’s Network; judge Baltasar Garzón (famous for ordering the arrest of Augusto Pinochet)</td>
</tr>
<tr>
<td>Supranational</td>
<td>Inter-American Human Rights System: Inter-American Commission on Women; Inter-American Commission United Nations: Office on Drugs and Crime (UNODC); Development Fund for Women (UNIFEM); CEDAW Committee, the SRVAW Yakin Ertürk; the UN High Commissioner for Human Rights, Mary Robinson.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Institution/Organization/Actor</th>
<th>Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>Inter-American Rapporteur on the Rights of Women, Marta Altolaguirre</td>
<td>The situation of the rights of women in Ciudad Juárez, Mexico: The right to be free from violence and discrimination (OEA/Ser.L/V//II.117, Doc. 44, March 2003)</td>
</tr>
<tr>
<td></td>
<td>Amnesty International</td>
<td>Intolerable killings: 10 years of abductions and murders of women in Ciudad Juárez and Chihuahua (AMR 41/027/2003)</td>
</tr>
<tr>
<td></td>
<td>CNDH</td>
<td>Special report on the cases of homicides and disappearances of women in the Municipality of Ciudad Juárez, Chihuahua.</td>
</tr>
<tr>
<td></td>
<td>Washington Office for Latin American Affairs (WOLA): Rapporteur of the Committee on Equal Opportunities for Women and Men, Parliamentary Assembly of the Council of Europe, Ruth-Gaby Vermot-Mangold</td>
<td>Preliminary report</td>
</tr>
<tr>
<td></td>
<td>Parliamentary Assembly, Council of Europe</td>
<td>Resolution 1454 On the disappearances and murders of hundreds of women and girls in Mexico; Resolution 1709 directed to the Committee of Ministers</td>
</tr>
<tr>
<td></td>
<td>Catholics for Choice, CMDPDH, Justice for Our Daughters (JPNH), NHRC, the Women’s Network/SXXI, the National Network against Violence</td>
<td>Report of the Citizen Observatory to Monitor the Delivery of Justice in the cases of Feminicidio in Ciudad Juárez</td>
</tr>
<tr>
<td></td>
<td>WOLA</td>
<td>Still waiting for justice in Ciudad Juárez: shortcomings in Mexico’s efforts to end impunity for the murders of women and girls in Ciudad Juárez and Chihuahua</td>
</tr>
<tr>
<td></td>
<td>CLADEM, CMDPDH, FIDH, CEJIL, WOLA, and organizations in Guatemala</td>
<td>Feminicidio in Latin America; report presented to the OAS</td>
</tr>
<tr>
<td></td>
<td>CLADEM, CMDPDH, FIDH</td>
<td>International research investigation mission: Feminicidio in Mexico and Guatemala</td>
</tr>
<tr>
<td></td>
<td>US Congress, House of Representatives and Senate</td>
<td>Bill on the Murders of Women in Ciudad Juárez and Chihuahua</td>
</tr>
<tr>
<td></td>
<td>CLADEM</td>
<td>Monitoring feminicidio/feminicidio in El Salvador, Guatemala, Honduras, México, Nicaragua and Panamá.</td>
</tr>
</tbody>
</table>
Endnotes

1 The Spanish text reads: “El desconocimiento y menosprecio total por los derechos humanos ha originado actos de barbarie ultrajante para la conciencia de la humanidad.”

2 Another such cross is located on the Santa Fe Bridge at the border between Ciudad Juárez and the United States.

3 Under the traditional doctrine of state responsibility in international human rights law, human rights violations can only be attributed to states when state actors perpetrate them (International Law Commission 2001). The principle of due diligence represents a shift in this doctrine, holding states accountable for human rights violations committed by non-state actors, whether in the public or private spheres (International Law Commission 2001; Benninger-Budel 2008; García-Del Moral and Dersnah 2014). This concept is explained more fully in Chapter 3.

4 Femicide is defined as “the killing of women by men because they are female” (Russell 2002a, 3) or as “the misogynous killing of women by men” (Radford 1992, 3).

5 According to Helfer (2008), a central factor that characterizes international courts or quasi-judicial bodies as supranational institutions is their ability to “penetrate the surface of the state.”

6 The other victims have been identified as María de los Ángeles Acosta Ramírez, Mayra Juliana Reyes Solís, Merlín Elizabeth Rodríguez Sáenz, and María Rocina Galicia. One body remains unidentified. Initially, three bodies had been incorrectly identified as Guadalupe Luna de la Rosa, Bárbara Araceli Martínez Ramos, and Verónica Martínez Hernández. The first two women remain missing to this day. A body found in another location in 2002 was eventually identified as Verónica.

7 A complaint must be first presented to the IACHR. If the IACHR finds the petition admissible, it issues non-legally binding recommendations to the state. The parties may agree to settle or petitioners may request that the case be forwarded to the IACtHR if the state does not comply.
with the recommendations. The judgments of the IACtHR create legal obligations for the state. The above-related facts appear in the IACHR admissibility reports 16/05, 17/05, and 18/05.

8 Mexico ratified the CEDAW in 1981.


10 This approach challenges neoliberal and neorealist international relations perspectives on the state as an independent and unitary rational actor that exclusively seeks to further its own power in an anarchic world system (Conti 2011; Finnemore 1996). However, constructivist scholarship departs from the world polity literature in that it does not conceptualize the production and diffusion of international norms as an epiphenomenon of world culture (Finnemore 1996).

11 See the work of Boyle and colleagues on female genital cutting in African states for examples of this point point (Boyle 2002; Boyle and Corl 2010; Boyle and Preves 2000).

12 Work on the “international norms cascade” (Sikkink 2011; Sikkink and Kim 2013; Sikkink and Walling 2007) focuses on regional criminal tribunals, but not on international human rights courts. Moreover, these trials do not hold entire states accountable for violations, only political leaders. This is the same in the case of work on the International Criminal Court (ICC) or on the International Criminal Tribunal for the former Yugoslavia (ICTY) and for Rwanda (ICTR).

13 Recent reviews on the human rights and social movements have begun to recognize the importance of the IACtHR and, more often the European Court of Human Rights (ECtHR), but the discussion of these institutions is marginal in comparison with analyses of the UN, the Court of the European Union (ECJ), the ICC, ICTY and ICTR. See Simmons (2010), Edelman, Leachman and McAdam (2010), and Tsuitsui, Whitlinger and Lim (2012).

14 Female workers, especially those belonging to unions in various industries, also began mobilizing during this time to demand better wages and access to day care and maternity leave
(González 2001). However, these women mobilized as part of broader union movements and not as constituents of the early feminist movement.

15 See González (2001), García, Millán and Pech (2007) and Gutiérrez Castañeda (2002) for rich analyses and more information on the organizations that developed during this time period.

16 In *Homo Sacer*, Agamben (1998) presents a genealogy of the politicization of the body as life as such, that is, as bare life. His point of departure is the two conceptualizations of life that permeate Greek philosophy: *zoë*, which is life common to all living beings, and *bios*, which a specific way of life proper to a group. Building on the work of Foucault and Arendt, he challenges the alleged juxtaposition of *zoë* to *bios* as life constituted in the polis. He argues that *zoë* has always been included in the polis through its exclusion. This exclusion is constitutive of the state of exception. Thus, *zoë* has been political from the start in that the object of sovereign power has always been to politicize life. Using the figure of *homo sacer*, he makes the claim that the main characteristic of the modern state is that it makes this politicization of life explicit. *Homo sacer* is the life that may be killed but not sacrificed, in that it is bare life exposed to the power of the sovereign that can turn it into disposable life (p. 12).

17 Although I sustained an informal conversation with Dr. Monárrez during this event, she did not agree to its use in this research project. Instead, I refer to her work on *feminicidio*.

18 According to Levitt and Merry (2009, 447), “the transnational spaces in which global values circulate are inherently powerful because they are imbued with the appeal, power, and legitimacy of the international.”

19 Even in work that has a conceptualization of translation as horizontal (e.g. Rajaram and Zararia 2009), that is, as taking place horizontally among women’s organizations at the grassroots level, the assumption is that these groups do not participate in advocacy.

20 Alma regularly participated in these demonstrations through the group *Mujeres de Negro*, that is “women dressed in black” (Wright 2005). Wright (2005) explains that the group does not exist as a formal civil society organization. Rather, the group comes into being through the
performance of its members as they take to the streets wearing black tunics that evoke a clear association with mourning, domesticity, and femininity in order to protest against the murders of women and girls in Ciudad Juárez and Chihuahua. Through this strategy, differently positioned women, even those who “do not like each other” or have strong political disagreements, are able to come together to protest the impunity surrounding the murders (p. 284).

21 Francisco Barrios Terrazas was the governor of Chihuahua from 1992 to 1998.

22 *Voces Sin Eco* (Voices Without Echo) was the first of such groups. It was founded in 1998 after *maquiladora* worker Sagrario González Flores was disappeared and subsequently murdered (see Bejarano 2002; Ensalaco 2006; Monárrez Fragoso 2013). The group disbanded in 2001, but new organizations emerged, as I discuss in the rest of this section.

23 Only the recent abduction and killing of 43 students from the rural teachers’ college from Ayotzinapa, Guerrero, at the hands of municipal armed forces in collusion with a local drug cartel in September 2014 is likely to come close to these levels of international condemnation.

24 This does not mean that there was no conflict among the different organizations that began to get involved and the groups of mothers that began to emerge. For more details on this subject please see Aikin Araluce (2011), Bejarano (2002), and Monárrez Fragoso (2013). Instead of seeing conflict among these groups as hampering the mobilization against the *feminicidios* in Chihuahua, the widespread success of the *Ni Una Más* campaign suggests that it was in fact productive. Indeed, Polletta (2000) views conflict as a structural condition for novel rights claims.

25 Particio Martínez was the governor of the state of Chihuahua between 1998 and 2004.

26 NHRC became a key architect in the construction of the *Red Ciudadana de No Violencia y por la Dignidad Humana* (Citizen Network for Non-Violence and Human Dignity) (Martín, Fernández and Villareal 2008). This network assisted Josefina González, Benita Monárrez, and Irma Monreal to file separate complaints with the IACHR on March 6, 2002.
27 As I illustrated in the previous chapter, these organizations were tightly linked to the *Ni Una Más* campaign and the grassroots organizations created by groups of victims’ mothers, like JPNH and NHRC.

28 The creation of the Belém Do Pará Convention is sometimes seen in terms of gender mainstreaming in the OAS (e.g. Friedman 2009; Medina Quiroga 2003). However, neither the OAS nor the Inter-American Human Rights systems have been the focus of research on gender mainstreaming.

29 When an international human rights court or quasi-judicial institution finds a state responsible for human rights violations, it means that the state as a whole is held accountable for breaching the negative and/or positive obligations enshrined in an international treaty to which it is a signatory (Hessbruegge 2004). This is different from the model of accountability in international criminal law, in which individual state officials may be prosecuted and convicted (Sikkink and Kim 2014, 270). This chapter only focuses on the model of state accountability under international human rights law.

30 The UN Special Rapporteur on Violence against Women (SRVAW) and the Inter-American Rapporteur for the Rights of Women have issued important policy documents focusing on the due diligence standard that elaborate on this point. See García-Del Moral and Dersnah (2014) for a more detailed account of the role of Rapporteurs in expanding the boundaries of state responsibility through their appropriation of the due diligence principle.

31 The DEVAW defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” The Belém Do Pará Convention defines violence against women as “as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.”
In 2010, the Committee issued the General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the CEDAW (CEDAW/C/2010/47/GC.2), where it elaborates on the obligation of states to act with due diligence to prevent, investigate, and punish acts of violence against women understood as a form of gender discrimination.

It is important to emphasize that feminist legal scholars have pointed out the limitations of the language of gender discrimination to understand violence against women as a human rights violation. Edwards (2011), for example, argues that this language is limiting in that it continues to reinforce a masculine logic to determine what constitute violations to women’s human rights: women must show that they were unjustly treated differently from men or that their experience as women warranted treatment different from men (see also Charlesworth and Chinkin 2000).

These reports are available on the web site of the Inter-American Rapporteur on the Rights of Women (http://www.oas.org/en/iachr/women/reports/country.asp)

Although the attack targeted women, male inmates housed in an adjacent building also became involved in the conflict and were subsequently killed and/or injured, as were the visitors of female prisoners.

The Court had, however, issued an advisory opinion on the subject of gender equality in 1984 (Advisory Opinion OC-4/84 “Proposed Amendments of the Naturalization Provisions of the Constitution of Costa Rica”).

Greenhouse and Siegel (2010, 2012) show, for example, that the feminist movement influenced the US Supreme Court’s decision in Roe v. Wade (see also Siegel 2010). They argue that even though the decision does not express feminist frames on women’s rights to bodily and reproductive autonomy, the Court was receptive to these arguments. Importantly, they point out that the litigation of previous cases on the legality or illegality of American legislation banning abortion contributed to producing a context that would make the Court receptive to feminist claims.
The only difference that I could find between the Spanish original and the English translation concerns the concept of feminicidio. The English version translates this concept as “femicide,” but the accurate translation is feminicide (see Fregoso and Bejarano 2010).

The Court is usually composed of seven judges but due to “causes of force majeure” Judge Leonardo A. Franco did not participate in the deliberation and signature of this judgment.

Interestingly, the biography of Judge Cecilia Medina Quiroga intersects with the institutional history of the Court. Originally from Chile, she went into exile with her family after Pinochet’s coup d’état in 1973 and returned to her country only after he had ceded power through democratic elections in the 1990s. During her time in exile, Medina Quiroga, although already a lawyer, became introduced to human rights (Terris, Romano and Swigart 2007).

For example, Julia Monárrez Fragoso and Marcela Lagarde, the feminist scholars and activists behind the term feminicidio, were expert witnesses in the case. Many of the amicus curiae briefs were written by law schools in different countries, including Mexico, Canada, Colombia and the United Kingdom in partnership with various national and transnational NGOs like Amnesty International, CEJIL, and the OCNF (para. 14). Overall, the briefs built on the reports and recommendations issued during the Ni Una Más campaign to argue that the failure of the Mexican state to respond effectively to the disappearance and subsequent sexual abuse and murder of the three victims was linked to a culture of institutionalized gender discrimination. In addition, they drew on case law from the Inter-American, European, and UN Human Rights systems to sustain this argument. The Court drew on these briefs on several occasions, especially the OCNF in its discussion on feminicidio, see Table 1 and Figure 1.

The CNDH issued two subsequent follow up reports in 2005 and 2008. The 2008 report is not incorporated in the Court’s decision and the 2005 report is cited only five times. These reports expand the critique of Mexican federal and state institutions and their policies to address gendered violence in Ciudad Juárez and Chihuahua City.

The brief is only available in Spanish. The quotes from this brief are my translations.
The OCNF brief, made an almost identical argument.

In an interview with Gisela de León, a senior attorney of another large transnational organization that focuses on strategic human rights litigation at the supranational level, the Centre for Justice and International Law (CEJIL), I asked why the Court had taken this approach. She argued that the lack of agreement among feminists over the meaning of the concept of *feminicidio* versus *femicidio*, or femicide, complicated the use of this term in supranational litigation (interview, March 2014).

See García-Del Moral and Dersnah (2014) for an analysis of how the due diligence standard in relation to domestic violence was elaborated in a recursive and iterative manner through case law in the Inter-American, CEDAW, and European systems.

The latter case also mirrors the IACHR decision in *Maria Da Penha Fernandes v. Brazil* and the CEDAW case law on domestic violence, since the ECtHR found that Turkey had failed to act with due diligence to prevent the murder of a woman at the hands of her daughters’ husband, despite the awareness of the local authorities of the abuse to which the two women had been repeatedly subjected (García-Del Moral and Dersnah 2014; Londono 2009).

In fact, some of these state actors were activists as well as academics, like Marcela Lagarde and Teresa Icháustegui Romero. These women were affiliated with the leftist Party of the Democratic Revolution (PRD).

I translated all the quotes that I use in this analysis.


A point of agreement is defined as a proposal that legislators present for consideration during a plenary session that contain pronouncements about political, cultural, economic, or social issues that affect a community or a particular group. The purpose of a point of agreement is to urge other state institutions to respond to the issue or to produce a recommendation to resolve it. After
being presented, a point of agreement is submitted for examination to the relevant commission without being discussed, unless the presenter wishes otherwise. In addition, a point of agreement can be considered *de urgente y obvia resolución*, meaning that it should be resolved in an expedited manner, without being discussed in commissions. Instead, legislators are able to vote on the proposal and, if approved, the decision can be communicated to the targeted institution (http://www3.diputados.gob.mx/camara/001_diputados/007_destacados/d_accesos_directos/006_glosario_de_terminos/l_proposicion_con_punto_de_acuerdo)

52 The CD Special Commission was given the task to gather all available information on the state of the criminal investigations from the competent authorities, to meet with the victims’ next of kin and representatives of local civil society, as well as with local Deputies, the Chihuahua State Prosecutor, and the Special Prosecutor (FEIHM). The CD Special Commission issued its first report on December 15, 2001.

53 Fox actually did order the PGR to assess whether it could participate in the investigation of these crimes just as the *Ni Una Más* campaign was launched in December 2001. Nevertheless, the PRG did not act upon this order and Fox actually retracted it little over a year later. For legislators, this constituted a clear sign of the lack of political will of the federal executive to put an end to the crimes and their impunity.

54 In this sense, federal police could not intervene in this case either, since their mandate was to prevent organized crime.

55 As described in Chapter 2, UN Special Rapporteurs Jahangir and Cumaraswamy made accusatory claims regarding the complicity of the Mexican state in the impunity of the murders of women and girls in Ciudad Juárez and its relationship to institutionalized gender discrimination (see E/CN.4/2000/3/Add.3; E/CN.4/2002/72/Add.1). Likewise, the IACHR Rapporteur argued that the failure of the Mexican state to act with due diligence to respond to these crimes sent the message that violence against women is not a serious issue (OEA/Ser.L/V//II.117, Doc. 44, March 2003).
56 Feminist playwright and activist Eve Ensler founded V-Day International in 1998 as a “global activist movement to end violence against women and girls” (http://www.vday.org/about.html#.VimpQmSrTx4).

57 The Commission had the task of coordinating the participation of various federal institutions in the criminal investigations. It did not, however, have the power to investigate or prosecute the crimes. As such, federal legislators initially considered the creation of the Ciudad Juárez Commission a weak sign of the political will of the federal executive to end impunity in Ciudad Juárez. They thus advocated for the creation of a federal Special Prosecutor (CS 07.10.03, CS 25.11.03, CD 25.11.03, CS 12.12.03).

58 This was one of the few sessions in which the commemoration of March 8 or November 25 intersected with a discussion of feminicidio. In contrast to federal Deputies, local legislators did not seem to employ these dates as political opportunity structures to advance their agendas.

59 There were, however, discussions on feminicidio in other parts of the country. This tells us that the recognition of feminicidio as a national problem opened up space for legislators to discuss violence against women in other states. Although the murders of women and girls in Ciudad Juárez and Chihuahua were the emblematic cases of feminicidio, legislators could no longer focus exclusively on gendered violence in this state.

60 The European Parliament was not the first European supranational body to manifest itself against the feminicidios in Mexico. In July 2005, the Parliamentary Assembly of the Council of Europe approved recommendation 1709 and resolution 1454 regarding the feminicidios in Mexico, which called the Mexican government to implement actions to end the climate of impunity enveloping gendered violence as well as to pull through judicial reforms so that authorities will investigate crimes in an efficient, expedited and transparent manner.

61 The cases of Valentina Rosendo Cantú and Inés Fernández Ortega concern the rape of two indigenous women at the hands of military in the state of Guerrero and Mexico’s lack of due diligence in the investigation of the crimes grounded in gender and racial discrimination.
Importantly, the IACtHR declared that the rapes of these two women constituted torture. The case of *Rosendo Radilla Pacheco* concerns the forced disappearance of a political activist in the 1970s.


63 One such institutional space is the Special Prosecutor to Attend Women Victims of Crime, which was formerly the Specialized Unit in *Feminicidio* and Gender Crimes created through the efforts of Norma Ledesma (Chapter 2).

64 Although it bears the same name as the international organization Women in Black, this group is not part of this organization (see Wright 2005).