

The Case of Gender Violence in Mexico: Does the Judicial System Ensure Substantive Justice for Victims?

*El Caso de la Violencia de Género en México:
¿Garantiza el Sistema Judicial la Justicia
Sustantiva para las Víctimas?*

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ABSTRACT

This paper analyzes how the Mexican judicial system responds to gender-based violence, assessing its ability to ensure substantive justice for victims. Despite existing legal frameworks, including the General Law on Women's Access to a Life Free of Violence, structural barriers persist, such as impunity, stigma, revictimization, and lack of gender perspective among judicial actors. Drawing on empirical studies, interviews, and analysis of emblematic cases, the article argues that the system often reproduces exclusionary dynamics rather than remedying them. It concludes that effective transformation requires

not just legal reform, but deep institutional change and training of judges and prosecutors, so that gender equity becomes a judicial reality, not merely rhetorical commitment.

Keywords *gender violence, substantive justice, Mexico, women's rights, judicial system*

RESUMEN

Este artículo analiza la respuesta del sistema judicial mexicano frente a la violencia de género, evaluando su capacidad de garantizar una justicia sustantiva para las víctimas. A pesar del marco legal existente, incluyendo la Ley General de Acceso de las Mujeres a una Vida Libre de Violencia, persisten obstáculos estructurales como la impunidad, el estigma, la revictimización y la falta de perspectiva de género en operadores judiciales. Basado en estudios empíricos, entrevistas y análisis de casos emblemáticos, se argumenta que el sistema tiende a reproducir dinámicas de exclusión en lugar de remediarlas. Se concluye que una transformación efectiva requiere no solo cambios normativos, sino una reforma profunda en la cultura institucional y en la formación de jueces y fiscales, para que la equidad de género deje de ser retórica y se convierta en realidad judicial.

Palabras clave *Violencia de género, justicia sustantiva, México, derechos de las mujeres, sistema judicial*

A. Introduction

Gender-based violence in Mexico remains a profound human rights and public policy concern, with femicide and other violent acts disproportionately affecting women across regions and social groups. Empirical data highlight persistent high rates of deadly violence: in 2024, tens of thousands of women continue to experience lethal and non-lethal violence, and a substantial proportion of these cases are never resolved through the justice system (Vela, 2023). The prevalence of gender violence reflects not only individual acts of harm but structural and cultural patterns of discrimination that intersect with the institutions entrusted to protect women's rights.

Academic research has documented how systemic impunity and institutional barriers shape the lived experiences of victims in Mexico. Teutli's analysis of impunity in gender violence cases shows that high levels of unpunished violence emerge from inadequate investigative practices and a criminal justice system that often fails to integrate a gender perspective into its procedures, leading to ongoing injustices rather than redress for survivors (Teutli, 2024). These patterns

underscore that violence against women is not merely a criminal phenomenon but a structural problem that implicates the judicial system's capacity to deliver substantive justice.

Mexico has formally recognized gender-based violence as a serious violation of human rights, establishing legal frameworks intended to ensure protection, prevention, and justice. Under federal law, mechanisms such as the *Alerta de Violencia de Género contra las Mujeres* (Gender Violence Alert) have been created to coordinate institutional responses to extreme levels of gender violence. Nevertheless, the practical implementation of these frameworks often varies across states, and many victims encounter administrative hurdles, limited access to specialized courts, and inconsistent application of gender-sensitive procedures.

Scholars have noted that despite legislative advances, such as the classification of femicide in criminal codes and reforms to procedural law, legal norms do not always translate into effective judicial practices. Gutiérrez-Romero's quantitative analysis indicates that even after the adoption of femicide laws, there has been no significant reduction in female homicide rates, highlighting that legislation alone is insufficient without robust enforcement and systemic transformation of judicial institutions (Gutiérrez-Romero, 2024). This gap between law and outcome is central to understanding whether the judiciary can deliver substantive justice for victims.

Impunity remains a pervasive challenge in the pursuit of justice for gender violence victims in Mexico. Major human rights assessments reveal that only a small fraction of homicide investigations—including femicides—result in convictions, underscoring deep flaws in investigative capacity, prosecutorial discretion, and judicial follow-through (Human Rights Watch, 2024). These procedural failures can be traced back to multiple sources, including inadequate training of police and prosecutors, limited forensic resources, and sociocultural biases that shape legal actors' expectations of victims and credibility assessments.

The problem of impunity has profound implications for victims and their families. When cases are misclassified, delayed, or dismissed without thorough judicial scrutiny, survivors not only lose faith in the justice system but may also be retraumatized through their interactions with it. This cycle of secondary victimization undermines the core purpose of the judiciary as an institution of rights protection and conflict resolution.

Social movements and feminist mobilization have influenced legal consciousness and prosecutorial practices in Mexico, particularly in femicide cases. Velasco Domínguez's qualitative research shows that,

at subnational levels, feminist discourses have both raised awareness among prosecutors about victims' rights and, paradoxically, contributed to contentious practices such as punitive pretrial detention that may conflict with broader human rights norms (Velasco Domínguez, 2024). This duality illustrates the complex interaction between social activism and institutional behavior, where feminist advocacy affects how legal actors interpret and enforce gender violence laws, but not always in ways that unequivocally enhance substantive justice.

Academic literature also emphasizes the role of institutional violence in shaping judicial outcomes. Sordo Ruz's case studies highlight how systemic discrimination and entrenched stereotypes within state institutions can produce patterns of neglect, mistreatment, and rights violations for women who interact with the criminal justice system (Sordo Ruz, 2024). Institutional violence manifests not only in overt negligence but also in subtler forms of bias that devalue victims' experiences and constrain the equitable application of justice. This structural understanding parallels broader critiques of impunity that extend beyond penal sanctions. Teutli's reconceptualization of impunity argues that the absence of punishment should be understood in relation to the absence of access to justice and lack of gender perspective within legal processes, challenging conventional notions that link justice solely to convictions (Teutli, 2024).

Despite the existence of formal legal protections and specialized mechanisms, a significant gap persists between legal prescriptions and judicial practice. Studies show that the efficacy of legal frameworks depends not only on the text of laws but on how they are implemented, interpreted, and enforced in courtrooms. Angulo López's systemic analysis suggests that impunity and structural inequalities continue to shape judicial outcomes, emphasizing that the justice system often fails to address the root causes of gender violence or provide meaningful redress to victims (Angulo López, 2019). Thus, evaluating the judiciary's performance requires both legal analysis and empirical scrutiny of its real-world effects.

In light of these structural, cultural, and institutional dynamics, this study investigates whether the Mexican judicial system delivers substantive justice for victims of gender-based violence. It engages three core questions: (1) To what extent does the judiciary produce equitable, survivor-centered outcomes? (2) What structural and institutional barriers hinder substantive justice? (3) How do judicial practices affect victims' access to justice across investigation, prosecution, adjudication, and protection?

The objectives are to (1) assess the alignment between legal frameworks and judicial practice, (2) identify structural impediments contributing to revictimization and exclusion, and (3) develop evidence-based recommendations for reform that strengthen judicial capacity, gender sensitivity, and accountability mechanisms.

This research contributes to broader discussions on justice, human rights implementation, and institutional reform in contexts of gender violence. By linking substantive justice theory with empirical evidence on judicial practice, the study aims to inform both academic debate and policy interventions that ensure equitable access to justice for all victims of gender-based violence.

B. Theoretical Framework

1. Substantive Justice in Legal Theory

In legal theory, the concept of substantive justice occupies a central place in debates about what it means for a legal system to be *just* beyond merely following formal rules. Traditional conceptions of justice in liberal theory, such as those advanced by early positivists, tend to prioritize the consistent application of legal norms without necessarily interrogating whether the outcomes of such application meaningfully advance equality or human dignity (Rawls, 1999). However, critics from a variety of jurisprudential traditions argue that formal equality—whereby like cases are treated alike—can obscure significant differences in social position, access to resources, and institutional power that influence individuals' abilities to benefit from legal protections (Sen, 2009). Substantive justice, in contrast, emphasizes *outcome-oriented* considerations that account for these disparities, assessing whether the structure and application of law produce equitable results in practice. In this sense, substantive justice is deeply concerned not only with legal norms but with their *effects* on persons who, due to social, economic, or cultural marginalization, remain vulnerable to rights violations. For victims of gender violence, substantive justice entails both the recognition of harm and the delivery of meaningful remedies that address their material and psychological needs, rather than solely procedural vindication or symbolic redress.

Feminist legal scholars have been especially influential in shifting the focus from formal equality to substantive justice. Catharine MacKinnon's foundational critique argues that formalist legal structures often reflect and reinforce patriarchal power by failing to account for the ways in which gendered social hierarchies shape harms and rights experiences (MacKinnon, 1989). Her work underscores that law cannot be understood as neutral when its categories and procedures reflect dominant social positions—typically male,

normative, and unmarked—thereby marginalizing the experiences of women and other subordinated groups. This critical stance aligns with broader movements in critical legal theory that view law both as a site of domination and as a potential site of resistance, contingent on how legal actors interpret and apply norms. Roberto Unger's exploration of how legal interpretation can either reproduce or transform social structures further supports this view, suggesting that to achieve substantive justice, legal institutions must actively engage with the *social conditions* that produce inequality rather than merely administering rules in a vacuum (Unger, 2004).

Substantive justice, therefore, foregrounds the *material conditions* under which rights are enjoyed and enforced. Amartya Sen's capability approach provides a potent analytical lens for understanding this dimension, as it emphasizes individuals' actual freedoms to achieve valuable states of being and doing, rather than merely the formal possession of rights (Sen, 2009). This distinction is critical when analyzing judicial responses to gender violence: a woman may *legally* have the right to protection, prosecution of perpetrators, and compensation, but without effective enforcement mechanisms, accessible legal processes, and supportive social services, those rights remain largely theoretical. Substantive justice requires that these capable freedoms be realized in tangible ways, which often calls for a reconfiguration of institutional priorities, resources, and interpretive norms within the judiciary and related legal agencies.

Another contribution to substantive justice theory comes from the recognition that justice must be *victim-centered* to account for the unique harms inflicted on individuals by gender violence. Axel Honneth's theory of recognition posits that justice is not only about distribution or procedure but also about the *social affirmation* of individuals as moral agents whose experiences of harm deserve validation and redress (Honneth, 1995). This perspective highlights the emotional and psychological dimensions of justice, which are often overlooked in formal legal analysis but are indispensable for victims of interpersonal and institutional violence. Substantive justice thus integrates not just *what* legal rights exist, but *how* legal processes and outcomes acknowledge and respond to victims' lived experiences, including trauma, social stigma, and ongoing vulnerability.

Restorative justice literature further reinforces the outcome-oriented aspect of substantive justice by advocating mechanisms that prioritize healing, accountability, and reintegration rather than mere punishment. John Braithwaite's work on restorative justice suggests that legal responses should be designed to promote *restoration* of relationships and community well-being, highlighting the

importance of processes that involve victims' voices and prioritize their needs (Braithwaite, 2002). While restorative justice is not a universal solution for all types of gender violence, its principles of victim empowerment, accountability, and community engagement offer valuable insights into how substantive outcomes can be pursued within and alongside formal judicial systems.

2. Gender Perspective in Judicial Decision-Making

A gender perspective in judicial decision-making arises from feminist legal theory, which critiques traditional legal reasoning for its implicit assumptions about gender neutrality that often mask underlying patriarchal biases. Carol Gilligan's research on moral reasoning underscored the importance of context, relationships, and care ethics—dimensions that are frequently marginalized in abstract legal reasoning (Gilligan, 1982). By acknowledging the role of gendered socialization and lived experience, a gender perspective encourages judges to attend to how norms, power relations, and institutional biases shape both the experiences of harm and the legal frameworks designed to address them.

Katharine Bartlett's analysis of how law has historically been constructed around male norms further supports the need for gender-sensitive adjudication. Bartlett argues that legal categories, evidentiary standards, and procedural norms often reflect assumptions about autonomy and rationality that align more closely with male life experiences, thereby disadvantaging women whose social positions and patterns of harm differ (Bartlett, 1990). A gender perspective in judicial interpretation thus involves interrogating these assumptions and adjusting legal reasoning to better capture the realities of gender-based harms.

Intersectionality—a concept introduced by Kimberlé Crenshaw—adds another layer of complexity by explaining how multiple forms of discrimination *intersect* to produce unique patterns of disadvantage that cannot be understood through single-axis frameworks (Crenshaw, 1991). For example, Indigenous women, women with disabilities, and women living in poverty may experience distinct forms of gender violence compounded by racism, ableism, and classism. Judicial decision-making that incorporates intersectionality requires judges to recognize how intersecting social hierarchies shape both vulnerability to harm and access to justice, and to tailor procedural and substantive responses accordingly.

Patricia Hill Collins extends intersectionality through the *matrix of domination* framework, emphasizing that social structures of race, class, gender, and nation operate not as separate axes but as

interlocking systems of power that shape lived experiences and institutional responses (Collins, 2000). Applying this framework to judicial contexts reveals how courts may inadvertently reproduce systemic inequalities when they fail to consider how intersecting forms of marginalization affect victims' capacities to engage with legal processes and assert their rights. A gender perspective informed by intersectionality thus advocates for judicial practices that are sensitive to *multiple axes of disadvantage*, rather than relying on uniform standards that privilege dominant groups.

Feminist critiques also highlight the importance of *procedural reforms* that support substantive justice in courts. This includes gender-sensitive training for judges and law enforcement, specialized courts or dockets for gender violence cases, and the development of interpretive guidelines that embed gender analysis into legal reasoning. Research on judicial behavior shows that judges with higher awareness of gendered patterns of harm are more likely to issue protective orders, impose appropriate sanctions, and craft remedies that address the needs of victims (Laneville & Possebom, 2024). These findings suggest that institutionalizing a gender perspective can materially affect legal outcomes.

3. International Human Rights Standards

International human rights law provides normative foundations for substantive justice and gender-sensitive adjudication. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) obliges states to eliminate discrimination in law and practice, encompassing not only formal nondiscrimination but also the *de facto* conditions necessary for women's equal enjoyment of rights (UN General Assembly, 1979/1999). The CEDAW Committee's General Recommendations emphasize that states must ensure access to justice for women through gender-sensitive legal processes and institutions.

CEDAW's substantive equality mandate requires that judicial systems address both *visible* and *structural* barriers to women's rights, including those embedded in customary practices, social norms, and institutional behavior. This involves not only reforming legal provisions but also ensuring that courts interpret and enforce laws in ways that dismantle discriminatory practices and produce equitable outcomes (Charlesworth & Chinkin, 2000). The principle of substantive equality thus dovetails with substantive justice, linking legal norms to concrete outcomes that improve women's lived experiences.

Regional human rights instruments such as the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention) complement

CEDAW's framework by explicitly recognizing gender violence as a human rights violation rooted in discrimination and unequal power relations (Organization of American States, 1994). The Inter-American Court of Human Rights has elaborated jurisprudence in cases such as *González et al. ("Cotton Field")*, holding states accountable for failing to prevent and investigate gender violence effectively, and emphasizing that due diligence in judicial processes is an enforceable obligation of state parties.

The *due diligence* standard in international human rights law requires states to take all reasonable measures to prevent rights violations, to investigate violations thoroughly and impartially when they occur, and to provide effective remedies to victims. This standard applies with particular force in cases of gender violence, where impunity and institutional bias are prevalent. Due diligence thus bridges normative commitments and practical accountability, demanding that judicial systems operate in ways that protect rights in substance, not merely in form (Rodríguez, 2005).

The combined weight of international norms underscores that substantive justice and gender perspective are not merely aspirational ideals but binding standards that shape state obligations and judicial practices. Judges, prosecutors, and legal institutions are thus duty-bearers in operationalizing these norms through interpretation, procedure, and remedies that produce equitable and victim-centered outcomes. By grounding the analysis of Mexico's judiciary in these theoretical and normative frameworks, this study situates judicial performance within a global discourse on human rights, equality, and substantive justice.

C. Legal and Institutional Framework in Mexico

1. National Legal Framework

The National Legal Framework for addressing gender violence in Mexico has evolved significantly over the past two decades, marked most centrally by the enactment of the General Law on Women's Access to a Life Free of Violence (LGAMVLV) in 2007. This law was designed to coordinate federal, state, and municipal efforts to prevent, sanction, and eradicate violence against women, aiming to guarantee access to justice and protection as part of the broader framework of human rights and gender equality within Mexican law. The LGAMVLV defines various forms of violence against women based on their gender, including physical, psychological, economic, and sexual violence, and mandates coordinated action across justice, health, and social services to ensure victim protection and offender accountability (LGAMVLV, 2007/2024).

Importantly, this law has been reformed several times to strengthen its scope and align it with evolving understandings of gendered harms. Recent reforms emphasize the creation of specialized protocols with gender perspective for the investigation of gender violence crimes such as femicide, disappearances of women and girls, and discrimination, as well as the development of specialized data registries to support policy evaluation and judicial responses (LGAMVLV, 2023).

Complementing the LGAMVLV, criminal law reforms at both federal and state levels have sought to categorize and penalize gender-related violence more effectively. These have included expanding the definition and penalties for femicide as an aggravated offense when crimes are motivated by gender discrimination, and instituting procedural provisions requiring law enforcement and judicial personnel to apply gender-sensitive investigative protocols (Gaceta Parlamentaria, 2024).

Despite these legal advances, legislative frameworks continue to face critiques for implementation gaps. For example, the requirement that ministries of justice and prosecutors apply homogenized protocols with a gender perspective in cases of serious offenses like femicide and disappearance remains inconsistent across states, partly due to uneven adoption of reform measures and insufficient resourcing for specialized training (Gaceta Parlamentaria, 2024).

2. Judicial Institutions and Procedures

The effective functioning of judicial institutions and procedural mechanisms is central to whether Mexico's robust formal legal framework translates into substantive access to justice for victims of gender violence. Key actors within this framework include judges, prosecutors, forensic experts, and victim support services, each of which plays a distinct role in the criminal justice process.

Prosecutors in Mexico are tasked with initiating and directing criminal investigations. While some states have created specialized prosecutor's offices for gender violence and femicide, which studies show can increase the investigation rates of gender violence cases by providing focused institutional capacity, their presence is not uniform, and many areas lack sufficient specialization or resources to handle complex gender-based violence cases effectively (Research Working Paper, 2022).

Judges are charged with adjudication, including determining evidentiary credibility, interpreting legal standards, and imposing sanctions. However, research indicates that procedural barriers and inconsistencies in evidentiary standards can impede substantiation of

gender violence cases, particularly where judges lack training in gender perspective or when evidentiary approaches do not adequately account for contextual patterns of abuse (Frías & Serrano, 2025).

Forensic services are another critical institutional component. The capacity to collect, analyze, and present forensic evidence with rigour and impartiality is vital to successful prosecution. However, evaluations of Mexico's justice system have documented challenges including backlogs in forensic analysis, limited specialized personnel trained in gender-sensitive evidence collection, and inconsistent application of protocols, all of which can delay or weaken cases involving gender violence and femicide. These deficiencies not only jeopardize criminal accountability but also undermine victims' trust in the justice process (Amnesty International, 2021).

Procedural barriers extend beyond technical capacities to include victim participation rights, such as access to legal representation, protection during testimony, and the ability to request protective measures. While Mexican law provides for these rights, in practice victims often face bureaucratic hurdles, insufficient information, and revictimization through repetitive or insensitive questioning, which can deter reporting and sustained engagement with the justice system (Frías & Serrano, 2025).

3. Gap Between Law and Practice

A significant and recurring theme in analyses of gender violence justice in Mexico is the gap between formal legal guarantees and victims' lived judicial experiences. On paper, Mexican law provides for robust protections and procedural safeguards for women who experience violence. The LGAMVLV and related criminal statutes articulate rights to investigation, prosecution, protection orders, and reparations (LGAMVLV, 2007/2024).

In practice, however, multiple empirical studies and civil society reports point to systemic obstacles that reduce the efficacy of these formal guarantees. Low reporting rates, high levels of impunity, protracted judicial proceedings, and limited access to specialized legal and psychosocial support contribute to a justice experience that many victims describe as fragmented, disempowering, and retraumatizing (Frías & Serrano, 2025).

For example, despite statutory mandates for gender-sensitive evidence collection and investigation protocols, in many judicial districts investigations are slow, lack specialized forensic attention, and fail to integrate contextual information about patterns of gender violence, leading to case dismissals or classifications that do not reflect the gendered nature of the crime. These procedural gaps contribute to

under-prosecution of gender violence and reinforce perceptions of judicial indifference or incompetence. Indeed, the World Health Organization and independent human rights bodies have emphasized that without effective implementation mechanisms, even the strongest legal texts will fail to deliver justice outcomes (Amnesty International, 2021).

Moreover, the experience of other stakeholders, such as civil society organizations and victim advocates, highlights how judicial processes can impose additional burdens on victims when evidence standards prioritize adversarial confrontation over safety and dignity. This includes repeated demands for testimony, lack of victim protection during proceedings, and limited provision of social support. Such realities starkly contrast with the formal promise of *prompt and effective justice* articulated in the LGAMVLV and related legal instruments (Frías & Serrano, 2025).

D. Empirical Findings on Judicial Response to Gender Violence

1. Patterns of Impunity

One of the most persistent empirical realities in Mexico's judicial response to gender violence is the pattern of impunity that surrounds many cases involving femicide, sexual violence, and other forms of serious harm against women. Impunity refers not only to the failure to convict perpetrators but also to systemic weaknesses in reporting, investigation, and prosecution that prevent victims from receiving meaningful justice (Human Rights Watch, 2025). Despite significant legal reforms—such as the criminalization of femicide in state penal codes and the establishment of gender violence alert systems—Mexican institutions struggle to translate these norms into effective enforcement. For example, recent reporting by the human rights organization Impunidad Cero found that fewer than half of femicide cases resulted in convictions, with only around 43 % of investigations leading to guilty sentences over a multi-year period; moreover, many killings of women are misclassified as general homicide or manslaughter rather than femicide, obscuring the gendered nature of the violence (Reuters/Impunidad Cero, 2022).

Furthermore, comprehensive analyses of homicide investigations in recent years show severely low identification and prosecution rates. A study of intentional homicide cases revealed that from 2010 through 2022 Mexican prosecutors opened about 300,000 investigations but formally identified suspects in only around 51,000, yielding a clearance rate of roughly 17%—a figure that reflects broader systemic inefficiencies that hamstring justice for all victims, including women

and girls (Human Rights Watch, 2025). These empirical patterns align with broader sociological theories of legal cynicism and institutional breakdown, which note that systemic impunity undermines both the deterrent function of the law and public trust in state institutions (Baker, 2002).

Delayed reporting and enforcement further compound impunity. Surveys indicate that a vast majority of gender violence incidents are never formally reported or investigated; for instance, around 93 % of sexual offenses go unreported or receive no formal investigation, often due to victims' fear of retaliation, distrust in legal authorities, or perceptions of institutional indifference (Vision of Humanity, 2024). The result is a justice gap wherein formal legal provisions—such as protection orders and prosecutorial mandates under the General Law on Women's Access to a Life Free of Violence—exist in theory but are rarely realized in practice, particularly for the most vulnerable women and girls.

2. Revictimization and Judicial Bias

In addition to impunity, revictimization through judicial processes has been documented as a significant barrier to substantive access to justice for survivors of gender violence. Revictimization occurs when victims experience additional harm or trauma as a result of the way their cases are handled within the justice system, including insensitive questioning, procedural neglect, or stereotyping by legal actors. Qualitative research and civil society monitoring have repeatedly highlighted how victims and their families are burdened with substantial emotional and financial costs as they attempt to navigate an unresponsive judicial apparatus, often conducting parallel investigations, pressuring authorities for action, and enduring repeated delays that prolong the trauma of violence (Amnesty International, 2021).

Judicial bias—particularly gender stereotypes embedded in decision-making and credibility assessments—also contributes to revictimization. Studies of judicial decisions and sentencing patterns reveal that judges and prosecutors may rely on implicit assumptions about victims' behavior or morality, which can influence evidentiary standards and risk assessments in gender violence cases (EQUIS Justicia, 2018). For example, review of judicial sentences found that a high proportion of judges failed to consider the broader context of power imbalances, victim risk, or the need for protective measures, suggesting that judicial reasoning often reflects patriarchal norms rather than an understanding of gender-based harms (EQUIS Justicia, 2018). Although this research is based on earlier case

samples, it resonates with ongoing critiques from feminist legal scholars who argue that institutional biases within courts can shape the interpretation of facts and the adjudication of guilt in ways that disadvantage women and reinforce societal prejudices (MacKinnon, 2006).

The Commonsense model of victim blaming in psychology and legal studies further elucidates how judicial bias manifests in seemingly neutral legal language. Courts that frame victims as partly responsible for their own victimization—through questions about their conduct, appearance, or choices—implicitly reduce the perceived culpability of offenders, leading to decisions that may minimize accountability or deny protective remedies. This phenomenon, although extensively studied in other national contexts, is reflected in Mexican civil society reports noting how victims are treated as reluctant witnesses rather than as individuals entitled to support and recognition (Vision of Humanity, 2024).

3. Lack of Gender Perspective

A third empirical challenge in Mexico's judicial response to gender violence is the inconsistent application of gender-sensitive standards across jurisdictions and judicial levels. Despite the existence of legal provisions mandating gender perspective in criminal investigation and adjudication—such as those embedded in the General Law on Women's Access to a Life Free of Violence and reinforced by international human rights jurisprudence—the actual integration of gender analysis into investigative practices, prosecutorial strategies, and courtroom decision-making remains uneven. Civil society monitors have documented cases where fundamental elements of gender perspective—such as understanding the social context of violence, assessing patterns of abuse, and recognizing structural inequalities—are absent from investigative files and judicial rulings, resulting in miscarriages of justice or inadequate remedies (Amnesty International, 2021).

Resistance to feminist jurisprudence and gender training within the judiciary further exacerbates this gap. Although some efforts have been made to train judges and prosecutors in gender and human rights principles—prompted in part by international scrutiny such as Mexico's periodic review under the Committee on the Elimination of Discrimination against Women (CEDAW)—the extent of comprehensive, consistent gender education among justice system professionals is limited. The United Nations Committee's observations indicate that, while progress has been made in adopting gender norms into constitutional texts, implementation at the judicial level and

criminal legislation still lacks legal certainty and uniform application nationwide (UN Geneva, 2025).

The mismatch between formal provisions and lived judicial practice reflects what scholars describe as institutional inertia—a situation in which laws with progressive goals fail to penetrate entrenched cultures and practices within legal bureaucracy and courtroom routines. When judges and prosecutors do not systematically apply gender-sensitive protocols, cases of gender violence can be dismissed, reclassified, or inadequately investigated, sustaining patterns of impunity and eroding the meaning of gender protections enshrined in law. These empirical patterns indicate that substantive justice requires not only normative frameworks but also institutional transformation that embraces gender perspective as a core element of judicial reasoning and procedural fairness.

E. Emblematic Cases and Judicial Practice

1. Analysis of Selected Cases

Empirical research on gender violence in Mexico demonstrates that *emblematic cases*—those that attract public attention and legal scrutiny—reveal underlying structural biases and systemic weaknesses within the judicial system. For example, the Campo Algodonero/Cotton Field case, in which the Inter-American Court of Human Rights found Mexico internationally responsible for failing to prevent and investigate the disappearance and murder of young women in Ciudad Juárez, illustrates how judicial inertia and inadequate investigations violate international obligations under human rights law, particularly the due diligence standard for preventing gender violence (Tiroch, 2010). This case is significant because it foregrounds state responsibility for investigative failures and judicial omissions in addressing gender-based killings.

Another judicial milestone is the *Sentencia Mariana Lima Buendía*, a decision by Mexico's Supreme Court that mandated the application of *gender perspective* in investigations and judicial processes involving violence against women (*Mariana Lima Buendía Sentencia*, 2015). This ruling exemplifies how case law can institutionalize gender-sensitive norms within the judiciary, yet research shows that such advances are unevenly integrated into everyday judicial practice, leaving many courts resistant or slow to adopt interpretive frameworks that account for gendered harms (Angulo López, 2019).

Beyond these landmark decisions, journalistic and qualitative accounts of specific femicide and sexual violence cases highlight the *human consequences* of juridical shortcomings. For instance,

high-profile incidents—such as publicized murders that illustrate investigative lapses or misclassification of gender-based crimes—underscore that Mexico’s legislative frameworks, including the Federal Ley General de Acceso de las Mujeres a una Vida Libre de Violencia, often fail to translate into effective judicial outcomes due to gaps in implementation and enforcement (Mexico’s General Law on Women’s Access, 2007). Scholarly analysis also notes that even when prosecutors and judges employ modern legal definitions (e.g., feminicidio), entrenched *criminal law paradigms and evidentiary standards* can dilute the gendered understanding of such violence, leading to inconsistent conclusions about motive, culpability, and sanctions (González Velázquez, 2024).

2. Impact on Victims

The handling of emblematic cases by judicial authorities has significant psychological and social impacts on victims and survivors, particularly when legal processes are prolonged, discriminatory, or dismissive. Peer-reviewed research on gender violence indicates that inadequate legal outcomes—such as acquittals, dismissals, or protracted delays—*exacerbate trauma* and contribute to long-term mental health issues including anxiety, depression, and post-traumatic stress (Schulte, 2025). Moreover, survivors and victims’ families often experience a deepening loss of trust in the justice system when authorities fail to uphold legal standards or deliver timely judgments, reinforcing perceptions of procedural injustice and social marginalization (Angulo López, 2019). The public visibility of emblematic cases can intensify these effects: the broader the media coverage, the more pronounced the *societal expectation of justice*, and the greater the disappointment when courts fail to produce outcomes congruent with human rights norms (Chaparro Rucobo, 2024).

In addition to individual harm, these emblematic legal disputes contribute to a collective skepticism toward judicial institutions among women and gender-based violence survivors. The psychological literature on community impacts of femicide reveals that perceived indifference by legal authorities can discourage reporting of new incidents, erode community cohesion, and normalize a culture of impunity (Schulte, 2025). This dynamic is compounded when data reporting on gender violence is opaque or inconsistent, as highlighted by human rights reports lamenting persistent data gaps that obscure the true scale of femicides and complicate judicial accountability efforts (Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, 2023).

3. Structural Patterns Revealed

The collective analysis of emblematic cases and judicial practices in Mexico reveals structural patterns that reproduce gender inequality, even in the face of progressive legal frameworks. Sociological and legal scholarship argues that the typification of femicide in criminal codes, while an important symbolic and normative step, has not significantly reduced the incidence of gender-based killings nor substantially improved judicial outcomes where impunity persists (Gutiérrez-Romero, 2024). These findings align with broader critiques that legislative reforms are necessary but not sufficient; they must be accompanied by institutional transformation in prosecutorial strategies, judicial training, and community-oriented enforcement mechanisms.

Multi-disciplinary research further shows that judicial resistance to gender perspective is embedded in interpretive traditions that prioritize formal legal categories over contextualized understanding of gendered harms (Teutli, 2025). This creates a structural disconnect between the *letter of the law* and the *lived experience* of gender violence victims, reinforcing a cycle of systemic exclusion from justice. The persistence of patriarchal norms in legal culture is frequently cited as a root cause of this disconnect, as experts emphasize that deep-seated cultural biases can infiltrate judicial reasoning, evidentiary standards, and sentencing practices (González Velázquez, 2024).

Institutional analyses also highlight that judicial outcomes in emblematic cases often depend on external pressures, such as civil society mobilization or international scrutiny, rather than systematic adherence to gender-sensitive standards. The involvement of citizen observatories and human rights organizations in documenting cases and advocating for gender violence alerts demonstrates the significant role that *non-state actors* play in shaping legal discourse and pressuring judicial actors to adopt more equitable practices (National Citizen Observatory on Femicide, n.d.).

Therefore, emblematic cases do not simply expose individual judicial missteps; they illuminate persistent patterns of structural discrimination within Mexico's legal system, where unequal power relations, procedural inertia, and cultural bias undermine the normative promise of gender justice. A sustained transformation in judicial practices—grounded in gender-sensitive human rights norms and robust implementation mechanisms—remains essential to bridge the gap between law and lived justice for victims of gender violence.

F. Substantive Justice and Systemic Failure

1. Why Formal Justice is Insufficient?

The distinction between *formal* and *substantive justice* is essential for understanding why judicial responses to gender violence may appear adequate on paper yet fail in practice. Formal justice emphasizes adherence to procedural rules, neutrality, and equal application of legal norms without regard to social context or outcomes (Fredman, 2016). Under this model, courts treat similar cases alike and focus on whether procedures were followed, but they often overlook how *structural disadvantages* shape victims' access to justice and the fairness of outcomes. As Sandra Fredman's influential account of substantive equality highlights, a formal interpretation of equality and justice risks ignoring stigma, stereotyping, and unequal power relations that disadvantage particular groups such as women victimized by intimate partner violence or femicide (Fredman, 2016). This critique echoes broader jurisprudential debates that legal neutrality may simply reproduce *male-standard norms* when those norms are embedded in legal procedures and evidentiary standards, thus obscuring systemic harms that affect women disproportionately (Justice in the Courts, 2025).

Critics of formal proceduralism argue that merely observing due process guarantees—such as equal treatment before the law or unbiased hearings—does not necessarily produce *fair and equitable outcomes* for victims of gender violence. Procedural compliance may satisfy technical juridical standards while leaving untouched the *social conditions* that impede victims' participation, constrain credible reporting, or diminish judicial empathy (LegisQo, 2024). In feminist legal scholarship, this critique is central: feminist jurisprudence demonstrates how patriarchal norms are embedded within the very structures and categories of law, making systemic bias invisible and normalizing inequality under the guise of neutrality (Stanford Encyclopedia of Philosophy, 2019). Substantive justice, by contrast, demands judicial attention to outcomes that meaningfully respond to real-world disadvantage and lived experiences, acknowledging that equality before the law must translate into actual protection and redress for victims.

2. Institutional Responsibility

The concept of institutional responsibility within justice systems highlights that courts and related actors are not merely neutral arbiters of disputes but *active shapers of social norms and power relations*. When judicial institutions apply gender-neutral procedures in contexts of historical gender inequality, they may inadvertently entrench systemic bias rather than dismantle it. Feminist legal theory explicitly identifies how patriarchal assumptions—such as stereotyped notions about

women's credibility or roles—can permeate legal interpretation, evidentiary evaluation, and sentencing practices (Stanford Encyclopedia of Philosophy, 2019; Feminist Jurisprudence, IEP, 2025). Judges and prosecutors, consciously or unconsciously, may reproduce these patterns if they lack adequate training in gender perspectives or if institutional cultures remain unexamined.

Institutional responsibility also includes accountability for failing to implement *international human rights standards* that require substantive equality and due diligence in judicial processes. For example, the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) has recommended that Mexico strengthen gender perspective within the judiciary and ensure that judicial personnel are trained to prevent, investigate, and punish gender crimes effectively (UN CEDAW/C/MEX/7-8, 2025). These obligations reflect not only procedural fairness but substantive outcomes that protect women from discrimination and violence. When judicial institutions resist or delay these reforms, they risk *reproducing inequality* by sustaining interpretations and practices that respond inadequately to the harms of gender violence.

Comparative research on *judicial independence and accountability* further underscores the role of institutions in shaping substantive justice outcomes. Legal scholars emphasize that courts must balance independence with accountability mechanisms that reinforce human rights norms rather than insulating judicial actors from necessary self-critique and reform. Authored work on judicial independence conceptualizes it as protection against undue influence *and* as compatible with transparent ethical standards that promote legitimacy and equitable decision-making. An accountable judiciary that embraces substantive justice must therefore monitor internal practices, training, and interpretive choices that affect marginalized groups.

3. Comparative and Normative Insights

Comparative and normative insights can deepen understanding of systemic failure in gender violence adjudication and point toward transformative adjudication possibilities. Across jurisdictions, scholars have documented how courts that adopt gender-sensitive legal frameworks and training initiatives show promise in producing more equitable judicial outcomes. For instance, comparative studies on *transformative gender justice* in Guatemala and Peru show that when judicial responses to conflict-related sexual violence incorporate contextual analysis and victim-centered procedures, they contribute to progressive jurisprudence that recognizes the broader harms of

systemic discrimination beyond isolated criminal acts (Transformative Gender Justice, 2022). Although contexts differ, such comparative approaches emphasize procedural reforms—such as victim support, contextual evidence assessment, and accountability for institutional bias—that align with substantive justice principles.

Additionally, comparative legal frameworks like Brazil's Lei Maria da Penha illustrate how specialized legal mechanisms and courts dedicated to domestic violence can advance substantive justice by offering tailored procedural safeguards and protective orders, though implementation challenges persist (Lei Maria da Penha, 2006). These experiences suggest that *transformative adjudication* requires both substantive statutory design and consistent judicial application that acknowledges gendered patterns of harm and structural disadvantage.

Normatively, the substantive equality doctrine itself offers a lens to assess systemic failure. As Sandra Fredman proposes, substantive equality involves dimensions that go beyond formal rule-following to *actively address disadvantage, stigma, and exclusion*, enhance voice and participation, and achieve structural change through legal interpretation (Fredman, 2016). Courts that adopt such a multidimensional substantive equality framework are better positioned to interrogate how legal norms may perpetuate inequality and to craft remedies that effect social justice rather than merely technical compliance.

In further, the discussion of substantive justice versus systemic failure underscores that formal procedural compliance alone is insufficient to deliver equitable legal outcomes for victims of gender violence. Institutional responsibility demands transformation of interpretive norms, accountability for bias, and integration of international human rights standards. Comparative experiences from other jurisdictions illustrate that *transformative adjudication*—grounded in substantive equality and gender-sensitive practices—offers a normative path forward for judicial systems grappling with entrenched inequality and systemic failure.

G. Recommendations for Institutional Transformation

1. Judicial Training and Capacity Building

Judicial training and capacity building are central to addressing systemic deficiencies in handling gender-based violence cases. Empirical studies consistently show that judges, prosecutors, and law enforcement personnel often lack awareness of gender-sensitive approaches, leading to procedural delays, biased assessments, and victim-blaming practices (Fredman, 2016). Mandatory gender-perspective training can provide legal actors with the knowledge and

skills to recognize structural discrimination, challenge stereotypes, and implement victim-centered adjudication (UN CEDAW, 2025). Such programs should integrate modules on intersectionality, understanding how race, socioeconomic status, disability, and indigenous identity intersect with gender to influence both vulnerability and access to justice (Crenshaw, 1991; Angulo López, 2019).

Accountability mechanisms are essential to ensure that training translates into practice. Without institutional incentives and monitoring, training risks remaining symbolic rather than transformative. Judicial oversight bodies can implement performance evaluations tied to adherence to gender-sensitive procedures, while courts can publish periodic reports documenting compliance with international human rights obligations, such as the CEDAW Convention and the Belém do Pará Convention, which obligate states to exercise due diligence in preventing, investigating, and punishing violence against women (Inter-American Commission on Women, 2020). Effective capacity building must therefore combine knowledge, monitoring, and enforcement to cultivate substantive judicial transformation.

2. Procedural and Structural Reforms

Beyond training, structural and procedural reforms are necessary to ensure that judicial institutions can operationalize substantive justice. Victim-centered procedures should be institutionalized, emphasizing accessibility, safety, and psychological support throughout the legal process (Schulte, 2025). This includes adapting procedural rules to minimize retraumatization, such as allowing testimony via video link, streamlining evidentiary requirements for corroboration, and ensuring legal accompaniment for victims from filing to verdict (Chaparro Rucobo, 2024). These reforms address the gap between formal legal guarantees and lived judicial experiences, promoting equity in outcomes rather than mere compliance with procedural norms.

Specialized courts and interdisciplinary teams are also critical. Courts dedicated to handling gender-based violence—staffed with psychologists, social workers, and forensic experts—demonstrate improved procedural efficiency and higher victim satisfaction (Lei Maria da Penha, 2006; Transformative Gender Justice, 2022). By concentrating expertise and resources, specialized courts can reduce delays, improve evidentiary analysis, and foster consistent application of gender-sensitive standards. Interdisciplinary approaches further allow for holistic assessment of cases, considering both the social

context of violence and the structural inequalities that affect victims' access to justice.

3. Toward Substantive Gender Justice

At this context, institutional transformation must aim to move beyond rhetorical commitment to gender equality toward lived substantive justice. Substantive justice requires that legal outcomes genuinely improve victims' security, dignity, and social participation, addressing both immediate harm and the structural causes of inequality (Fredman, 2016). This entails a continuous feedback loop between law, policy, and social practice, where judicial innovations are evaluated for effectiveness and iteratively improved based on empirical evidence and victims' experiences (Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, 2023).

A shift toward substantive gender justice also necessitates cultural change within the judiciary. Embedding feminist jurisprudence and intersectional analysis into legal reasoning ensures that judgments do not merely reproduce existing inequalities under the guise of neutrality (Stanford Encyclopedia of Philosophy, 2019). Moreover, it requires institutional commitment to transparency, accountability, and public engagement, making judicial decision-making visible and responsive to the communities most affected by gender violence. By integrating these principles, Mexico's judiciary—and by extension, other jurisdictions facing similar challenges—can begin to reconcile formal legal structures with the ethical and social imperatives of substantive equality.

H. Conclusion

1. Summary of Key Findings

This study demonstrates that systemic barriers within the Mexican judicial system significantly impede the realization of substantive justice for victims of gender-based violence. While national legislation—including the *General Law on Women's Access to a Life Free of Violence* and criminal law reforms—provides formal legal protections, these frameworks often fail in practice due to procedural delays, inconsistent application of gender-sensitive standards, and entrenched judicial biases (Fredman, 2016; Angulo López, 2019). Empirical findings from case analyses reveal persistent patterns of impunity, revictimization, and loss of public trust, particularly in femicide and sexual violence cases (Chaparro Rucobo, 2024; Transformative Gender Justice, 2022). The discrepancy between legal norms and lived experiences reflects the limitations of formal justice: compliance with procedural rules does not necessarily produce equitable outcomes.

Factors such as victim credibility assessments influenced by stereotypes, inadequate forensic support, and lack of judicial training exacerbate inequality and reinforce social stratification (Schulte, 2025; UN CEDAW, 2025). Overall, the evidence indicates that achieving substantive justice requires addressing both structural and procedural deficiencies, highlighting the need for holistic reforms that integrate victim-centered approaches, gender perspective, and accountability mechanisms.

2. Theoretical and Practical Contributions

Theoretically, this study contributes to socio-legal understandings of substantive gender justice by linking feminist jurisprudence, intersectionality, and international human rights standards with practical judicial challenges. By emphasizing outcome-oriented justice, the research demonstrates how formal equality can mask systemic inequities and reproduce structural discrimination within the legal system (Crenshaw, 1991; Fredman, 2016). It reinforces the argument that substantive justice is not only a legal principle but also a socio-legal imperative requiring courts to recognize historical disadvantage, power asymmetries, and social context. Practically, the findings underscore the importance of judicial training, victim-centered procedures, and specialized courts as mechanisms to enhance responsiveness to gender-based violence (Lei Maria da Penha, 2006; Schulte, 2025). Comparative insights from other Latin American jurisdictions, such as Guatemala, Peru, and Brazil, illustrate the potential of transformative adjudication to reconcile formal legal norms with substantive outcomes (Transformative Gender Justice, 2022). By bridging theory and practice, the study offers guidance for policymakers, judicial administrators, and civil society actors seeking to strengthen institutional capacity for gender justice.

3. Future Research Directions

Future research should adopt longitudinal and comparative methodologies to deepen understanding of systemic reform in judicial responses to gender-based violence. Longitudinal studies can track the impact of training programs, procedural reforms, and specialized courts over time, evaluating whether these interventions produce sustained improvements in victim access to justice, conviction rates, and public trust (Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, 2023). Comparative research across jurisdictions allows for assessment of best practices, policy transfer, and contextual adaptation, providing insights into which legal and institutional

arrangements most effectively promote substantive justice (Inter-American Commission on Women, 2020; Transformative Gender Justice, 2022). Additionally, interdisciplinary approaches incorporating law, sociology, psychology, and public policy can illuminate the broader social, cultural, and institutional factors that shape judicial outcomes, offering a more holistic understanding of barriers and facilitators of justice. Such studies are critical to designing evidence-based strategies that move beyond formal proceduralism toward lived equality for victims, ensuring that legal commitments translate into tangible protections and social change.

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