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REPORT No. 126/17
PETITION 861-03 *ET AL.*
REPORT ON ADMISSIBILITY

SILVIA ELENA RIVERA MORALES *ET AL.*
(GIRLS AND YOUNG WOMEN DISAPPEARED AND MURDERED
IN CIUDAD JUÁREZ)
MEXICO

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 SILVIA ELENA RIVERA MORALES *ET AL.*
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 MEXICO
 SEPTEMBER 29, 2017

I. INFORMATION ABOUT THE PETITION

Petitioning party:	<p>P-861-03: <i>Ramona Morales Huerta, Centro para el Desarrollo Integral de la Mujer</i> (CEDIMAC, by the Spanish acronym) and Robert F. Kennedy Human Rights (RFKHR)²</p> <p>P-425-07: Juana Rodríguez Bermúdez, CEDIMAC and RFKHR</p> <p>P-443-07: Soledad Aguilar, Mario Lee, <i>Red Ciudadana de No Violencia y Dignidad Humana</i> (RCNVDH, by the Spanish acronym), CEDIMAC and RFKHR</p> <p>P-444-07: Paula Flores Bonilla, RCNVDH, CEDIMAC and RFKHR</p> <p>P-470-07: Irma Pérez, RCNVDH, CEDIMAC and RFKHR</p> <p>P-928-07: Julia Caldera, RCNVDH, CEDIMAC and RFKHR</p>
Alleged victims:	<p>P-861-03: Silvia Elena Rivera Morales and Ramona Morales Huerta</p> <p>P-425-07: Brenda Berenice Delgado Rodríguez and Juana Rodríguez Bermúdez</p> <p>P-443-07: Cecilia Covarrubias Aguilar <i>et al.</i></p> <p>P-444-07: María Sagrario González Flores and Paula Flores Bonilla</p> <p>P-470-07: Olga Alicia Carrillo Pérez and Irma Pérez</p> <p>P-928-07: Maria Elena Chávez Caldera and Julia Caldera</p>
State denounced:	Mexico
Rights invoked:	Articles 4 (Life), 5 (Humane Treatment), 8 (Fair Trial), 11 (Privacy), 17 (Family), 19 (Rights of the Child), 24 (Equal Protection) and 25 (Judicial Protection) of the American Convention on Human Rights, ³ in relation to its Article 1.1 (Obligation to Respect Rights) and Article 7 of the Inter-American Convention on the Prevention, Punishment and Eradication of All Forms of Violence Against Women ⁴

¹ Pursuant to Article 17.2.a of the IACHR Rules of Procedure, Commissioner José de Jesús Orozco Henríquez, a Mexican national, did not participate in the discussion or the decision on this matter.

² On May 20, 2015, CEDIMAC informed the IACHR that Robert F. Kennedy Human Rights was included as a co-petitioner.

³ Hereinafter "the Convention" or "the American Convention".

⁴ Hereinafter "Convention of *Belém do Pará*."

II. PROCEDURE BEFORE THE IACHR⁵

Date on which the petition was received:	P-861-03: October 15, 2003 P-425-07: April 9, 2007 P-443-07: April 11, 2007 P-444-07: April 12, 2007 P-470-07: April 17, 2007 P-928-07: July 19, 2007
Additional information received at the at the stage of initial review:	P-444-07: May 18, 2009
Date on which the petition was transmitted to the State:	P-861-03: December 4, 2003 P-425-07: January 17, 2008 P-443-07: January 11, 2008 P-444-07: September 19, 2011 P-470-07: December 17, 2007 P-928-07: January 15, 2008
Date of the State's first response:	P-861-03: February 5, 2004 P-425-07: No observations were submitted P-443-07: July 1, 2008 P-444-07, P-470-07 and P-928-07: No observations were submitted
Additional observations from the petitioning party:	P-861-03: April 13 and March 19, 2014 P-425-07: May 15, 2015 P-444-07: December 1, 2011 P-470-07 and P-928-07: March 13, 2014 and September 29, 2015 On all the petitions: May 20, 2015, April 7 and October 31, 2016
Additional observations from the State:	P-861-03: April 1, 2005

III. COMPETENCE

Competence <i>Ratione personae</i> :	Yes, in all the petitions
Competence <i>Ratione loci</i> :	Yes, in all the petitions
Competence <i>Ratione temporis</i> :	Yes, in all the petitions
Competence <i>Ratione materiae</i> :	Yes; American Convention (deposit of instrument of ratification: March 24, 1981) and Convention of <i>Belém do Pará</i> (deposit of instrument of ratification: November 12, 1998)

IV. ANALYSIS OF DUPLICATION OF PROCEDURES AND INTERNATIONAL *RES JUDICATA*, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

Duplication of procedures and International <i>res judicata</i> :	No
Rights declared admissible	Articles 4 (Life), 5 (Humane Treatment), 7 (Personal Liberty), 11 (Privacy), 17 (Family), 19 (Child), 24 (Equal Protection) and 25 (Judicial Protection) of the American Convention, in relation to its Article 1.1 (Obligation to Respect Rights) and Article 7 of the Convention of <i>Belém do Pará</i>

⁵ The observations presented by each party were duly transmitted to the opposing party.

Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes; exception set forth in Article 46.2.c of the ACHR applies
Timeliness of the petition:	Yes; under the terms of Section VI

V. ALLEGED FACTS

Previous considerations

1. The six petitions considered in this report are connected to complaints filed by the mothers and the families of girls and young women disappeared and murdered in Ciudad Juárez, who, having filed protection mechanisms in the domestic system, were allegedly not granted appropriate answers by the State. Considering this and similar facts, by this report and following the petitioners' requests of April 7 and October 31, 2016, the IACHR decides to join petitions by virtue of Article 29.5 of its Rules of Procedure. Previously, on April 15, 2010, petitions P-470-07 and P-928-07 had been joined.

Arguments in common

2. The petitioners submit that in Ciudad Juárez, between 1995 and 2003, in a context of numerous murders and forced disappearances of women, in connection with a generalized situation of gender-based violence, a young woman aged 20 and seven girls and female adolescents aged between 24 days and 17 years were disappeared and murdered; that several were subjected to sexual violence, and that the authorities have failed to clarify the facts. They allege many irregularities in the long and unsuccessful criminal proceedings ever since the disappearances were reported. They claim that the authorities' actions have been deficient, that lines of investigation aimed at clarifying the facts and identifying the persons responsible were disregarded. They allege the fabrication of incriminatory evidence that ensures the impunity of the persons responsible, and the failure to prevent the repetition of patterns of femicide of girls and women. Besides, they claim that the information they received from the authorities was contradictory, even concerning extremely sensitive aspects as the identification of bone remains. They add that the young women's mothers and family members have been continuously scorned and aggressively treated by the authorities; they submit that they feel vulnerable and threatened, that many of them live in poverty and suffer serious health issues, and that they have had to confront the impunity of their daughters' murderers and rapists through a constant battle against the political, police and judicial authorities, including the prosecutors in charge of the criminal proceedings.

3. In this regard, the petitioners' claims concern alleged violations of the right to life and human treatment of the young women –most of whom were girls– who were not duly protected or searched for by the state authorities, to the detriment of their right to personal liberty. They also denounce the violation of the alleged victims and their relatives' rights to human treatment, due process of law, judicial protection, family, equal protection and privacy due to the Mexican State's failure to comply with its duty to act with due diligence in the face of the perpetrated crimes in order to investigate, prosecute and punish those responsible, all of the above to the detriment of the women's right to a life free of violence.

4. In turn, the State, in its reply to petitions P-861-03 and P-443-07, indicates that the phenomenon of murders in Ciudad Juárez presents particular difficulties which the State has tried to deal with from a multifactorial perspective and in cooperation with several national and international actors. It asserts that agents in charge of justice administration have filed numerous legal proceedings, which is evidenced by the creation of technical and specialized bodies for the research into the disappearance and murder of women. Moreover, it submits that a significant number of state agents have been suspended from work as a result of various administrative and criminal liabilities found in the processing of the criminal investigations; finally, that the domestic remedies have not yet been exhausted. Therefore, the State requests the Commission to consider the actions adopted to deal with the situation of Ciudad Juárez, and to declare the petitions inadmissible in view of the fact that the Mexican government has fully dealt with the complaints filed by victims' family members and relatives.

Specific arguments

P-861-03: Silvia Elena Rivera Morales' disappearance and murder

5. The petitioning party submits that Silvia Elena Rivera Morales, aged 17, went missing on July 7, 1995, as a result of which preliminary investigation 13057/95 was open. On September 1, 1995, her body was found; thus criminal proceedings 110217060/95 were filed. The petitioner indicates that for over a decade the investigation revolved around the processing of arrest warrants against one of the suspects who died in 2006. In 2009, the Prosecution filed criminal proceedings against three individuals accused of similar criminal offenses.

6. Silvia Elena Rivera Morales' mother accuses the State of abuses against the family, as she asserts that since her daughter's disappearance was reported, police and government authorities slandered the young woman and her family, delaying the search and thwarting any possibility of finding her alive. She indicates that aggressions persisted through the identification process of her daughter's remains and each time the family tried to provide background information or request procedures. She claims that the criminal proceedings have been riddled with irregularities that have ensured the perpetrators' impunity, denouncing that for over a decade and without solid proof, the Public Prosecutor's Office attributed the offenses to only one person, dismissing other investigation lines and the background information that they as the family had provided in the proceedings and which contradicted the above theory. The petitioner adds that the Prosecution has not fixed the technical flaws that persist in the investigation and which were even mentioned by the court of appeals when it ruled on the remedies lodged regarding the arrest warrants. All these situations have caused constant damage and anxiety to her.

7. The State claims that there is an ongoing investigation, and that efforts were made to have an arrest warrant issued against a likely person responsible and to continue the expert hearings. The State therefore believes that the domestic legal remedies have not been exhausted and requests that the Commission find this petition inadmissible.

P-425-07: Brenda Berenice Delgado Rodríguez's disappearance and murder

8. The petitioning party indicates that Brenda Berenice Delgado Rodríguez, aged 6 years, went missing on February 10, 2003; thus preliminary investigation 37/2003 was open. Her body was found on February 19, 2003 with signs of sexual violence and 19 stab wounds; as a result, criminal proceedings 4584/03 were filed. The petitioner submits that the authorities directed the investigation against the step-father of the girl as the main suspect, an accusation which was found groundless by the court of appeals; and that the other suspect was only summoned to testify and no longer lives in that place.

9. Brenda Berenice Delgado Rodríguez's mother claims that after the girl was reported missing, police officers failed to search for her, making it impossible to find her alive. She asserts that her body was lifted with absolute negligence and that many expert analyses were not considered in the legal proceedings, that other fundamental expert analyses were not done or were undertaken years later. She also claims that the specialized Prosecutor's Office took more than eight months before taking the case and that during the first years the case was processed by more than five different agents of the Public Prosecutor's Office. The petitioner alleges that she herself and her mother were questioned, isolated, mistreated and emotionally tortured; that during the criminal proceedings, her domicile was searched; her son then aged 8 years, questioned; her cohabitant, beaten to incriminate himself. She asserts that the investigation was incomplete, that the facts have never been clarified, and that there is a persistent violation of her right to due process, since she has been unable to access the case file, all of which has ensured the impunity of the persons responsible.

10. To the date of analysis of this report, the State has not answered the request for observations timely transmitted and retransmitted by the IACHR in relation to said petition.

P-443-07: Cecilia Covarrubias Aguilar's disappearance and murder and her daughter's disappearance

11. The petitioning party indicates that Cecilia Covarrubias Aguilar, aged 16, and her daughter of 24 days old went missing on November 14, 1995 after a health check-up. On November 18, 1995, the young woman's body was found in Loma Blanca; criminal proceedings were therefore filed, but these were unsuccessful to determine the facts. The petitioners also indicate that the family members have lodged several and continued legal remedies in order to determine the whereabouts of the missing baby girl, all of which have been unsuccessful.

12. Cecilia Covarrubias Aguilar's mother and step-father claim that when the alleged victims' disappearance was reported, the officers at the Specialized Prosecutor's Office failed to prepare a report and mocked them, impeding that the alleged victims were found alive. Moreover, they assert that the authorities contacted them only when their daughter's body was found, and that at the identification of the body, police officers forced and mistreated the step-father so that he would incriminate himself. They claim that the threats and the acts of aggression have persisted in time; that the authorities failed to consider the background information provided by the family; and that they have been denied access to the case file, thus violating their right to due process of law and placing at risk the family members' physical integrity. Therefore, they accuse the State of numerous acts of negligence that have ensured that the persons responsible remain unpunished and perpetuated their grand-daughter's disappearance.

13. The State asserts that said disappearance report is not on their records and that there is no evidence of the alleged mistreatment to the young woman's step-father, and that there are ongoing investigations led by the Specialized Prosecutor's Office. It indicates that it continues pursuing all the investigation lines in order to find the murderer of Cecilia Covarrubias Aguilar, and her daughter. It also submits that the information provided by the family has always been taken into account, and that these were given a copy of the case file as well as financial aid. Lastly, it requests the Commission to declare this petition inadmissible, since the denounced violations are under investigation and will be punished by the Mexican State.

P-444-07: Maria Sagrario González Flores' disappearance and murder

14. The petitioning party indicates that Maria Sagrario González Flores, aged 17 years, disappeared on April 16, 1998, which her family members immediately reported before the preventive police officers of Juárez municipality. On April 29, 1998, the young woman's body was found by accident in Loma Blanca, and preliminary investigation 9036/98 and case 61/2005 were filed.

15. Maria Sagrario González Flores' mother complains that, at the beginning, the authorities failed to record her report and that the Prosecutor's Office later issued a mistaken missing person report, making it impossible to find the young woman alive. She claims that when the body was found, she was not allowed to fully identify the remains; that throughout the years, many DNA tests were made, all of which produced different results partly given that the wrong body had been exhumed, a situation which has caused damage and uncertainty to her in view of the hopes that her daughter might be alive. She also indicates that she was not warned that by accepting financial aid from the State, she waived her right to new DNA tests and similar procedures, among other consequences. In addition, she alleges disregard for concrete clues, particularly those she provided. She asserts that in February 2005 Jose Luis Hernández Flores was arrested and that his testimonies were contradictory included details of the kidnap, rape and murder of the young woman and concerned other individuals who have not been identified. She indicates that on April 4, 2006 Hernández was sentenced for the criminal charges of rape and murder and that he was suddenly transferred to the prison in Jalisco, which hindered the undertaking of further procedures as well as reconstructing the crime scene to evidence the failures in the investigation. Finally, she denounces the authorities' intent to limit her access to the case file and to archive the case, despite the fact that at least two persons responsible remain in liberty, which leaves her in a state of absolute defenselessness.

16. To the date of analysis of this report, the State has not answered the request for observations timely transmitted and retransmitted by the IACHR in relation to said petition.

P-470-07: Olga Alicia Carrillo Pérez's disappearance and murder

17. The petitioning party indicates that Olga Alicia Carrillo Pérez, aged 20 years, disappeared on August 10, 1995 and that on the following day her family members reported her disappearance before the Preliminary Investigations Office. On September 9, 1995, an unrecognizable skeleton was found and the authorities claimed it belonged to the young woman missing; therefore, case 15561/95 was filed for the criminal offenses of aggravated murder, kidnap, equivalent of rape, criminal association and illegal exhumations and burials.

18. Olga Alicia Carrillo Pérez's mother asserts that the officers at the Public Prosecutor's Office mocked her when she reported her daughter's disappearance and failed to search for her, hindering that she was found alive. She complains that after the skeleton was found, there were many inconsistencies as regards the identification and they were forced by the authorities to accept the body without any evidence, which caused her and the family deep pain and uncertainty. She also indicates that the criminal proceedings included no expert studies or concrete background, and that the background information submitted by the family was rejected. However, from the beginning, an individual and his gang were accused –they had previously been accused of similar offenses. She claims that eleven years later, in 2006, these were acquitted and that ever since she has been unable to access the case files and that the specialized prosecutors abandoned the case, and that there followed new and groundless accusations that were part of a governmental strategy to "close cases." She alleges that such judicial inaction and the persistent impunity concerning the death of her daughter have eventually weakened her fragile health.

19. To the date of analysis of this report, the State has not answered the request for observations timely transmitted and retransmitted by the IACHR in relation to said petition.

P-928-07: María Elena Chávez Caldera's disappearance and murder

20. The petitioning party indicates that Maria Elena Chávez Caldera, aged 15 years, disappeared on June 20, 2000 from the place where she worked as a domestic employee. On October 24, 2004, human remains were found which, according to the Prosecutor's Office, belonged to the young woman missing; as a result, investigation 25860/2000-1501 and criminal proceedings 17/2011 were filed.

21. Maria Elena Chávez Caldera's mother claims that the authorities took fifteen days to begin searching for her daughter, which prevented that she was found alive. She indicates that after the remains were found, the evidence was not duly preserved, the clothes were lost and no routine expert analyses were undertaken. Moreover, she submits that there were many inconsistencies during the identification, that the results were contradictory, that she was officially given false results by the prosecutor, and that the final identification was made on December 5, 2005 through the exhumation done by the Argentine Team of Forensic Anthropology. In addition, she claims that she was denied access to the case file, that for four years no proceedings were filed, that the authorities refused to include the background information that she provided while, at the same time, her daughter's ex-boyfriend was mistreated by police officers so that he would incriminate himself. In 2009, the information submitted by the family was included in the proceedings and one of the perpetrators was arrested and sentenced in April 2011. Finally, she submits that since her daughter disappeared, the family's life has suffered; that they feel under threat and that the delays in the investigation have permanently damaged her physical and emotional health.

22. To the date of analysis of this report, the State has not answered the request for observations timely transmitted and retransmitted by the IACHR in relation to said petition.

VI. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

23. The petitioners claim that despite decades after the crimes in Ciudad Juárez, the proceedings remain in preliminary stage and that the authorities have not yet clarified the facts or punished the perpetrators, which proves the judicial inaction and delay attributable to the authorities and which has ensured that the persons responsible remain unpunished. For its part, the State asserts –in relation to the

cases as regards which it replied– that the remedies have not been exhausted because the criminal investigations filed by the Prosecutor's Office are still underway.

24. The Commission notes that in situations like this, where criminal offenses against life and human integrity are involved, the domestic remedies to be considered for the purpose of admissibility are those concerning the investigation and punishment of the persons responsible. In some cases, based on the information submitted, the criminal investigation has extended indefinitely or without any successful result in over twenty years. Likewise, the Commission notes that concerning the cases where final judgments were issued, according to the petitions, it appears that not all the alleged persons responsible have been investigated or punished. In view of this, the IACHR concludes that the exception to prior exhaustion of domestic remedies set forth in Article 46.2.c of the American Convention applies to this case.

25. In addition, the petitions to the Commission were received between October 15, 2003 and July 19, 2007; the purported facts matter of this complaint have taken place since the disappearances occurred between July 7, 1995 and February 10, 2003 and their consequences in relation to the alleged denial of justice, among others, seemingly persist to date. As a result, in view of the context and the characteristics of the cases included in this report, the Commission believes that the petitions were filed within a reasonable time and that the admissibility requirement of timeliness is met.

VII. COLORABLE CLAIM

26. In light of the elements of fact and law presented by the parties, the nature of the matter brought to the IACHR's attention and the context of the claims, the Commission considers that, if proved, the alleged disappearances and murders of the girls and young women –not found alive apparently in view of their family's lack of access to judicial protection and safeguards–, as well as the lack of investigation and punishment of the perpetrators, and the harassment and stigmatization of the families throughout the unsuccessful procedures might constitute violations of the rights protected by Articles 4 (Life), 5 (Humane Treatment), 7 (Personal Liberty), 8 (Fair Trial), 11 (Privacy), 17 (Family), 19 (Child), 24 (Equal Protection) and 25 (Judicial Protection) of the American Convention, in connection with its Article 1.1 (Obligation to Respect Rights). Likewise, the IACHR believes that the facts described seem to establish possible violations of Article 7 of the Convention of *Belém do Pará*.

VIII. DECISION

1. To declare the instant petition admissible in relation to Articles 4, 5, 7, 8, 11, 17, 19, 24 and 25 the American Convention, in relation to its Article 1.1; and Article 7 of the Convention of *Belém do Pará*;
2. To notify the parties of this decision;
3. To continue with the analysis on the merits; and
4. To publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved electronically by the Commission on the 29 day of the month of September, 2017. (Signed): Francisco José Eguiguren, President; Margarette May Macaulay, First Vice President; Esmeralda E. Arosemena Bernal de Troitiño, Second Vice President; Paulo Vannuchi, James L. Cavallaro, and Luis Ernesto Vargas Silva, Commissioners.