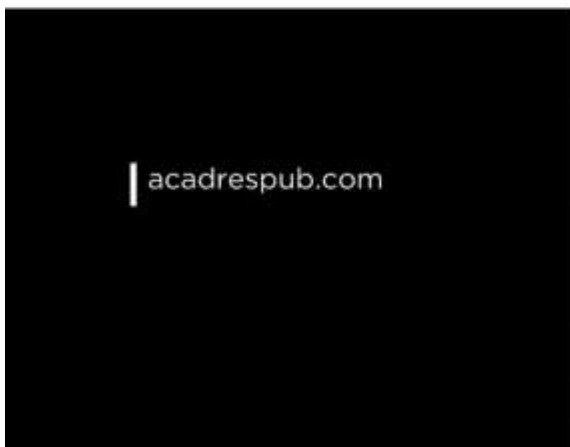

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REFRAMING FEMICIDE AS A HUMAN RIGHTS VIOLATION: INTERNATIONAL LAW AND STATE ACCOUNTABILITY

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ABSTRACT

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Femicide, the gender-based killing of women and girls has historically been prosecuted under generic homicide statutes, a doctrinal choice that systematically obscures its patriarchal, structural, and discriminatory dimensions. This paper advances the argument that femicide must be reconceptualized as an autonomous human rights violation under international law, thereby triggering heightened state accountability that extends beyond individual criminal prosecution to encompass systemic state failure. Drawing on recent jurisprudence from the Inter-American Court of Human Rights (IACtHR), including the landmark *García Andrade et al. v. Mexico* (2025), the Council of Europe's Istanbul Convention monitoring framework, and reports from UN special rapporteurs (2020–2025), this study employs a doctrinal legal analysis complemented by comparative case study methodology. The research addresses five interrelated objectives: tracing the evolution of femicide within international human rights instruments; identifying critical gaps in state responsibility frameworks; analyzing the due diligence standard as applied to gender-based lethality; evaluating the efficacy of reparative justice mechanisms; and proposing concrete enforcement protocols for international and regional bodies. The findings reveal that while significant normative advances have been achieved most notably through CEDAW General Recommendation No. 35 and the IACtHR's transformative reparations jurisprudence states continue to evade meaningful accountability through procedural fragmentation, inadequate gender-disaggregated data collection, institutionalized impunity for perpetrators, and chronic underfunding of prevention and response mechanisms. The paper concludes that when femicide occurs on a widespread or systematic basis, it constitutes a distinct crime against humanity under international criminal law, and recommends the adoption of binding treaty obligations specifically criminalizing femicide, the establishment of independent international monitoring bodies with coercive enforcement powers, and mandatory gender-sensitive judicial training programs.

Keywords: Femicide, Human Rights Violation, International Law, State Accountability, Due Diligence, Transformative Reparations and Gender-Based Violence

Introduction

Despite decades of feminist legal activism and incremental international normative development, the scale of gender-based lethal violence remains staggering. In 2024 alone, an estimated 47,000 women and girls were killed intentionally by intimate partners or family members globally (UNODC & UN Women, 2024). The term "femicide" emerged in the 1970s to capture the specifically gendered nature of these killings their roots in patriarchal power structures, systemic inequality, and institutionalized misogyny yet international law has been conspicuously slow to operationalize it as a distinct human rights violation (Radford & Russell, 2020). Instead, femicide continues to be subsumed under broader legal categories such as torture, extrajudicial killing, or generalized violence against women, a conceptual dilution that diminishes political will and obscures the specific contours of state responsibility for patterns of gender-based lethality (Kouta et al., 2021).

This paper argues that femicide must be reframed as a standalone human rights violation that triggers positive obligations on states under existing treaty regimes, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Convention of Belém do Pará), and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention). Current state accountability mechanisms including periodic human rights reporting, individual complaints procedures, and regional court adjudication remain structurally underutilized and insufficiently punitive to deter systemic failures (Safari & Mutua, 2023). The Inter-American Court's December 2025 ruling in *García Andrade et al. v. Mexico* declaring Mexico internationally responsible for multiple human rights violations in the context of the femicide of Lilia Alejandra García Andrade represents a watershed moment in this evolving jurisprudence, reinforcing that passive or delayed state responses may themselves constitute breaches of international obligations .

This study provides a critical legal analysis of how international law can and must evolve to hold states accountable for failing to prevent, investigate, and sanction femicide. The central thesis is that reframing femicide as an autonomous human rights violation is not merely a semantic exercise but a legal imperative that would activate stronger due diligence obligations, enable transformative reparations, and ultimately save lives.

Statement of Problem

The central legal problem addressed by this study is the persistent conceptual fragmentation of femicide within international human rights law. While normative advances have occurred—most notably CEDAW General Recommendation No. 35 (2017), which explicitly recognizes gender-based violence as a form of discrimination—no binding international treaty specifically defines or criminalizes femicide as an autonomous violation. This lacuna enables states to evade accountability by recharacterizing femicide as private criminal conduct falling outside the scope of international legal obligation. Furthermore, the existing due diligence framework lacks operational specificity, leaving states uncertain as to the precise content of their positive obligations in the context of gender-based lethal violence.

Objectives of the Study

1. To trace the legal evolution of femicide within international human rights instruments and case law (2020–2026).
2. To identify gaps in state accountability under current due diligence frameworks.
3. To analyze how reparative justice mechanisms have addressed femicide in victim-centered jurisprudence.
4. To evaluate the efficacy of monitoring bodies (e.g., CEDAW Committee, GREVIO) in reducing femicide rates.
5. To propose a binding international protocol on femicide as a distinct human rights violation.

Research Questions

1. How has international law conceptualized femicide between 2020 and 2026, and what normative shifts have occurred?
2. What are the principal legal and procedural gaps that allow states to evade accountability for femicide?
3. In what ways have reparations (e.g., financial compensation, memorialization) been ordered in femicide cases, and have they achieved transformative justice?
4. To what extent do existing monitoring bodies influence national policies on femicide prevention?
5. What elements should a binding international protocol on femicide include to ensure state compliance and victim redress?

Literature Review

The Evolution of Femicide in International Legal Instruments

From General Violence to Gender-Specific Harm

The journey of femicide from feminist activism to international legal recognition has been neither linear nor uncontested. The 1979 CEDAW Convention, while groundbreaking in its comprehensive prohibition of discrimination against women, notably failed to explicitly address violence against women, let alone femicide.

This normative void necessitated interpretive evolution through the CEDAW Committee's general recommendations, culminating in General Recommendation No. 35 (2017), which explicitly recognizes gender-based violence against women as a form of discrimination and emphasizes state obligations to exercise due diligence in prevention, investigation, prosecution, and punishment

However, as scholars have noted, the CEDAW framework suffers from significant limitations: its general recommendations are not legally binding, numerous state parties have formulated reservations incompatible with the treaty's object and purpose, and critical states including Iran and the United States have not ratified the Convention. These structural weaknesses have prompted regional bodies to develop more specific instruments, though these too remain limited in scope and enforceability.

Regional Innovations: The Inter-American and European Systems

The Inter-American system has emerged as the most robust jurisdictional framework for femicide accountability. The 1994 Convention of Belém do Pará was the first binding international instrument to expressly define violence against women as a violation of human rights, establishing the critical link between gender inequality and state due diligence failures

The IACtHR's jurisprudence has progressively strengthened this framework, beginning with *María da Penha v. Brazil* (2000) and reaching its most sophisticated expression in *González et al. ("Cotton Field") v. Mexico* (2009), where the Court articulated the concept of "reinforced due diligence" obligations in contexts of systemic gender violence

The *Cotton Field* judgment was particularly transformative in its reparative dimension, ordering Mexico to establish standardized investigative protocols for sexual violence cases, create a national database on missing women and girls, and implement

comprehensive training programs for state officials involved in preventing, investigating, and prosecuting gender-based violence

These "guarantees of non-repetition" marked a shift from individual redress to structural transformation, establishing that reparations in contexts of structural discrimination must aim to change the pre-existing situation rather than merely restore victims to their prior condition

More recently, the December 2025 *García Andrade* ruling reinforced these standards, finding Mexico liable for violations of the rights to life, personal integrity, and personal liberty under both the American Convention and the Convention of Belém do Pará

The Court emphasized that the state's inadequate institutional structure and regulatory mechanisms contributed directly to the femicide, establishing that states cannot evade responsibility through procedural inertia or institutional deficiency.

In Europe, the 2011 Istanbul Convention represents the most comprehensive regional approach to violence against women, establishing monitoring mechanisms through GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence). However, scholars have criticized the Convention for failing to adopt an intersectional perspective and for essentializing certain forms of violence as culturally specific, undermining its credibility and effectiveness

Moreover, like its Inter-American counterpart, the Istanbul Convention lacks coercive enforcement mechanisms, leaving significant discretion to states in implementation.

The Normative Gap in International Criminal Law

A critical lacuna remains at the level of international criminal law. While femicide could theoretically be prosecuted as a crime against humanity, genocide, or war crime, the definitional and contextual elements of these categories render them poorly suited to capture the specific legal nature of femicide

The Rome Statute of the International Criminal Court does not explicitly criminalize femicide as a standalone offense, and the gender jurisprudence of international criminal tribunals has been criticized for subsuming sexual and gender-based violence under broader categories rather than addressing their distinct harms. This absence of specific criminalization at the international level represents a profound failure of the international community to respond to a phenomenon

rooted in widespread misogynistic attitudes and structural inequalities that transcend national borders

Gaps in State Responsibility and Due Diligence Standards

The Due Diligence Doctrine: From Theory to Practice

The due diligence standard has become the cornerstone of state accountability for femicide under international human rights law. Originating in general international law and adapted to the gender context through feminist legal advocacy, the standard requires states to take reasonable steps to prevent human rights violations by private actors, investigate violations when they occur, prosecute perpetrators, and provide adequate remedies to victims. In the gender-based violence context, the IACtHR has developed a "reinforced due diligence" standard, acknowledging that women face special and differentiated risks requiring heightened state vigilance

The IACtHR's jurisprudence has clarified that due diligence obligations crystallize at different moments. In *Cotton Field*, the Court found that while Mexico's failure to prevent the disappearances did not per se establish international responsibility (as the state lacked knowledge of real and imminent danger to specific individuals), once the disappearances were reported, the state became aware of real and imminent risks of sexual abuse, ill-treatment, and killing, triggering strict due diligence obligations

This "two-moment" analysis has been both praised for providing clarity and criticized for potentially allowing states to evade responsibility for contextual risks that should trigger preventive obligations.

The December 2025 *García Andrade* ruling further refined this standard, finding that Mexico's systemic failures including inadequate investigation despite DNA evidence linking the crime to individuals connected to other femicides, and failure to protect the victim's mother from subsequent threats and assassination attempts constituted violations of the duty to investigate with due diligence

The Court emphasized that states must maintain adequate institutional structures and regulatory mechanisms to address contexts of violence against women, moving beyond individual case responses to systemic capacity requirements.

Persistent Implementation Gaps

Despite these jurisprudential advances, empirical evidence reveals persistent and systemic gaps in state

implementation of due diligence obligations. The CEDAW Committee's monitoring of state parties consistently identifies common failures: inadequate enforcement of existing laws, fragmented legal frameworks, insufficient gender-disaggregated data collection, chronic underfunding of prevention and response mechanisms, and weak accountability structures

South Africa's experience illustrates these gaps starkly. Despite adopting comprehensive legislative frameworks and a National Strategic Plan on Gender-Based Violence and Femicide (NSP-GBVF), the CEDAW Committee found that the country suffers from significant implementation deficits: inadequate coordination between national and provincial governments, insufficient resources for the National Council on Gender-Based Violence and Femicide (which was not operationalized until May 2024 despite legislative enactment), and poor execution of programs designed to combat gender-based violence

The Committee emphasized that "having substantive legal frameworks alone is insufficient without robust enforcement, institutions and implementation mechanisms"

Similarly, UN Special Rapporteurs have documented how states routinely fail to investigate gender-based killings with the required promptness, effectiveness, thoroughness, independence, impartiality, and transparency

The Minnesota Protocol on the Investigation of Potentially Unlawful Deaths (2016) provides detailed guidelines for such investigations, yet compliance remains uneven at best. The Special Rapporteur on violence against women has noted that failure to properly investigate killings with a view to holding perpetrators accountable constitutes a grave violation of international human rights law, yet impunity remains the norm rather than the exception

Data Deficits and Institutional Fragmentation

A critical but underexamined gap concerns the systematic failure of states to collect and maintain gender-disaggregated data on lethal violence. Without reliable data disaggregated by sex, age, ethnicity, disability, and other intersectional factors, states cannot effectively identify patterns of risk, allocate resources, or measure the efficacy of interventions

The IACtHR's order in *Cotton Field* for Mexico to establish a national database on missing women and girls represented recognition of this foundational requirement, yet implementation has been slow and incomplete

Institutional fragmentation compounds these data deficits. In many jurisdictions, responsibility for preventing and responding to gender-based violence is distributed across multiple ministries, agencies, and levels of government without clear coordination mechanisms. The CEDAW Committee's review of South Africa found that "the existing legal framework for addressing GBV is fragmented" and recommended "effective coordination between national and provincial departments to ensure a cohesive and comprehensive approach"

Similar fragmentation has been documented in the United Kingdom, where Domestic Homicide Review recommendations often lack mandatory implementation mechanisms and agencies are not obligated to respond to or implement recommendations

Reparative Justice Mechanisms: From Individual Redress to Structural Transformation

The Transformative Reparations Framework

The IACtHR has pioneered what scholars term "transformative reparations"—measures that go beyond compensating individual victims to address the structural conditions that enabled violations. In *Cotton Field*, the Court explicitly stated that "when violations occur in a context of structural discrimination, reparations cannot simply return victims to the situation they were in before the violation took place; instead, reparations should aim to transform or change the pre-existing situation"

This transformative approach has several innovative dimensions. First, it recognizes that femicide is not merely an individual tragedy but a manifestation of systemic discrimination requiring structural responses. Second, it expands the temporal scope of reparations from past harms to future prevention. Third, it imposes positive obligations on states to reform institutions, laws, and practices that contribute to gender-based violence.

The Court has progressively refined this framework through subsequent cases. In *IV v. Bolivia* (2016), concerning forced sterilization, the Court ordered Bolivia to publish educational materials on women's sexual and reproductive rights and to implement permanent education programs for medical professionals to combat gender-based stereotypes

In *Angulo Losada v. Bolivia* (2022), the Court ordered legislative reform to make the absence of consent, rather than the use of physical force, the constitutive element of sexual violence crimes, and mandated the

integration of sexual education emphasizing consent into official school curricula

Limitations and Implementation Challenges

Despite their innovative potential, transformative reparations face significant implementation challenges. Monitoring compliance with IACtHR judgments remains difficult, with some states failing to fully implement ordered measures years after judgments are rendered

The Bolivian government's failure to develop the mandated education program in *IV v. Bolivia* illustrates how even clear judicial orders may be resisted or ignored when they require sustained institutional commitment and resource allocation

Moreover, the transformative reparations framework has been criticized for potentially overburdening courts with quasi-legislative and administrative functions. There remains a tension between the need for context-specific, creative remedies and the requirements of legal certainty and democratic legitimacy when courts order broad structural reforms.

Reparative Justice Beyond the Inter-American System

Outside the Inter-American context, reparative justice mechanisms for femicide remain underdeveloped. The CEDAW Committee's individual complaints procedure (under the Optional Protocol) has limited capacity to order transformative remedies, and the Committee lacks enforcement powers. The Istanbul Convention's GREVIO monitoring mechanism focuses primarily on legislative and policy compliance rather than individual case remediation. International criminal law provides for reparations through the ICC Trust Fund for Victims, but the Court's limited jurisdiction and the absence of femicide as a specific crime constrain its utility.

Femicide as a Crime against Humanity: The Case for International Criminalization

The Threshold of Widespread or Systematic Attack

This paper advances the argument that when femicide occurs on a widespread or systematic basis—as documented in contexts such as Ciudad Juárez, Mexico; the femicide epidemic in Central America's Northern Triangle; and conflict-related sexual violence in multiple jurisdictions—it constitutes a crime against humanity under customary international law and the Rome Statute. The elements of crimes against humanity require a widespread or systematic attack directed against any civilian population, with knowledge of the broader attack. Femicide patterns frequently meet these threshold requirements: they are

widespread (involving large numbers of victims), systematic (following predictable patterns rooted in patriarchal structures), and directed against a civilian population (women and girls as a gender-defined group).

The failure of international criminal law to explicitly recognize femicide as a distinct crime against humanity has significant practical consequences. Prosecuting femicide under existing categories such as murder, torture, or sexual slavery requires prosecutors to fit gender-specific harms into gender-neutral frameworks, often losing the discriminatory intent and structural context that define femicide. Moreover, the Rome Statute's requirement that crimes against humanity be committed "pursuant to or in furtherance of a State or organizational policy" creates interpretive challenges when femicide is perpetrated by private actors in contexts of state acquiescence rather than active state policy.

Toward a Specific International Crime of Femicide

The current absence of femicide from international criminal law represents what scholars have termed a "normative void" that results in "inconsistent and vague definitions, uneven protection regimes, and inadequate enforcement mechanisms across jurisdictions"

. Addressing this void requires either amendment of the Rome Statute to include femicide as a specific crime against humanity, or the development of a dedicated international convention on femicide that establishes individual criminal responsibility and state accountability mechanisms.

A dedicated convention would have several advantages. First, it would provide a uniform definition of femicide that captures its gender-specific nature, distinguishing it from generic homicide. Second, it would establish clear state obligations for prevention, investigation, and punishment. Third, it could create an independent monitoring body with coercive enforcement powers, addressing the current lack of effective international oversight. Fourth, it would elevate political will by signaling that the international community recognizes femicide as a distinct and grave violation of human rights.

Proposed Enforcement Protocols and Institutional Reforms

Binding Treaty Obligations

The paper recommends the negotiation of a dedicated international convention on femicide, building on existing regional instruments but addressing their limitations. Such a convention should:

Define femicide autonomously as the gender-based killing of a woman or girl, encompassing killings by intimate partners, family members, and strangers where gender is a determining factor, including killings following sexual violence, in the context of human trafficking, or targeting women human rights defenders. Establish explicit state obligations to prevent femicide through comprehensive data collection, risk assessment, and early warning systems; to investigate femicides with due diligence and gender sensitivity; to prosecute perpetrators effectively; and to provide transformative reparations to victims and their families. Create an independent monitoring body with the authority to conduct country visits, receive individual complaints, issue binding decisions, and recommend sanctions for non-compliance, addressing the current lack of coercive enforcement in existing frameworks

. Mandate gender-sensitive judicial training for all actors in the criminal justice system, including police, prosecutors, judges, and forensic personnel, to combat gender stereotypes and ensure effective handling of femicide cases

Strengthening Existing Mechanisms

Pending the adoption of a dedicated convention, existing mechanisms can be strengthened through:
CEDAW Committee: Enhanced use of General Recommendation No. 35 to hold states accountable for femicide-specific failures, including systematic evaluation of state data collection and institutional coordination capacities

. IACtHR: Continued development of transformative reparations jurisprudence, with enhanced compliance monitoring and follow-up procedures to ensure states implement ordered measures

. Istanbul Convention/GREVIO: Expansion of monitoring to explicitly address femicide as a distinct phenomenon, with intersectional analysis that captures the compounded vulnerabilities of migrant women, indigenous women, women with disabilities, and LGBTQ+ persons

. UN Special Procedures: Increased attention to femicide in country visits and thematic reports, with specific recommendations for legislative reform, data collection, and institutional strengthening

National-Level Implementation

International obligations must be operationalized at the national level through:

1. Specialized femicide legislation that criminalizes femicide as an autonomous offense with aggravated penalties, distinct from generic

homicide, following models developed in several Latin American countries

2. Femicide review committees (or Domestic Homicide Review mechanisms) with mandatory powers to investigate all suspicious deaths of women, issue binding recommendations, and track implementation
3. Comprehensive data systems that record femicides with standardized definitions, disaggregated by intersectional factors, and made publicly accessible to enable civil society monitoring and academic research
4. Adequate resource allocation to prevention programs, victim services, and criminal justice responses, with gender-responsive budgeting mechanisms to ensure sustained funding

Conclusion

Femicide represents not merely an episodic, individual tragedy but a systemic manifestation of gender inequality, institutionalized discrimination, and state failure. This paper has argued that reframing femicide as an autonomous human rights violation under international law is essential to triggering the heightened state accountability necessary to prevent, investigate, and punish these crimes effectively. The jurisprudential advances of the Inter-American Court, particularly the *García Andrade* (2025) and *Cotton Field* (2009) rulings, demonstrate that international courts can develop robust frameworks for state accountability when they approach femicide as a structural problem requiring structural remedies

Yet significant gaps persist. States continue to evade accountability through procedural fragmentation, inadequate data collection, impunity for perpetrators, and chronic underfunding of prevention and response mechanisms

- International criminal law's failure to explicitly recognize femicide as a distinct crime leaves a normative void that undermines consistent protection across jurisdictions
 - Regional instruments, while pioneering, lack coercive enforcement mechanisms and universal reach
- The path forward requires binding international treaty obligations specifically addressing femicide, independent monitoring bodies with enforcement powers, and sustained investment in gender-sensitive institutional reform. When femicide occurs on a widespread or systematic basis, it constitutes a crime against humanity, and the international community must respond with the gravity and urgency that characterization demands. The lives of women and girls depend on moving beyond rhetorical commitments to enforceable legal standards that recognize femicide for what it is: not a private tragedy, but a public human rights violation demanding state accountability.

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