



The lack of classification of the crime of feminicidal suicide by induction or assistance in the Comprehensive Organic Criminal Code

The lack of classification of the crime of feminicide suicide by inducement or aiding and abetting in the Organic Comprehensive Penal Code

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Resumen

Introducción: El presente estudio aborda la construcción de un marco conceptual del suicidio feminicida por inducción o ayuda, respaldado por doctrinarios que han validado esta terminología desde décadas atrás. Además, se realiza un análisis de los marcos legales internacionales que han regulado este delito, seguido por un estudio comparativo entre El Salvador y Chile. Posteriormente, se presentan dos casos ecuatorianos que evidencian la perpetración de este tipo de suicidio en contextos de violencia de género. **Objetivo:** El objetivo principal de esta investigación es demostrar la necesidad de tipificar el delito de suicidio feminicida por inducción o ayuda en el Código Orgánico Integral Penal, utilizando la información y colaboración de jueces multicompetentes y un agente fiscal para enriquecer este análisis. **Metodología:** La investigación se llevó a cabo mediante la recopilación de información de doctrinarios y análisis de marcos legales internacionales. Se seleccionaron dos países latinoamericanos, El Salvador y Chile, para realizar un estudio comparativo, seguido por la identificación de casos ecuatorianos que ejemplifican este tipo de delito. La colaboración de jueces multicompetentes y un agente fiscal enriqueció considerablemente la información recopilada. **Resultados:** Los resultados obtenidos refuerzan la necesidad de tipificar el delito de suicidio feminicida por inducción o ayuda en el Código Orgánico Integral Penal. Los casos analizados muestran cómo las víctimas, tras sufrir violencia física, psicológica y sexual, se ven impulsadas al suicidio en un contexto de discriminación y subordinación. **Conclusión:** La tipificación de este delito en el marco legal espera ser un punto de partida para la implementación de políticas públicas y la intervención legislativa necesaria para erradicar la violencia de género. Es imperativo abordar este problema que cobra la vida de mujeres a través de la inducción al suicidio, promoviendo así una sociedad más justa e igualitaria. **Área de estudio general:** Derecho Procesal Penal y Litigación Oral. **Área de estudio específica:** Derecho Penal y Violencia de Género

Abstract

Introduction: This study addresses the construction of a conceptual framework of feminicidal suicide by induction or aiding and betting, supported by doctrinaires who have validated this terminology since decades ago. In addition, an analysis is made of the international

femicide,
typification.

legal frameworks that have regulated this crime, followed by a comparative study between El Salvador and Chile. Subsequently, two Ecuadorian cases are presented that demonstrate the perpetration of this type of suicide in contexts of gender violence. Objective: The main objective of this research is to demonstrate the need to typify the crime of femicide suicide by inducement or aid in the Organic Comprehensive Penal Code, using the information and collaboration of multicompetent judges and a prosecutor to enrich this analysis. Methodology: The research was carried out through the collection of information from doctrinarians and analysis of international legal frameworks. Two Latin American countries, El Salvador and Chile, were selected for a comparative study, followed by the identification of Ecuadorian cases that exemplify this type of crime. The collaboration of multicompetent judges and a prosecutor considerably enriched the information gathered. Results: The results obtained reinforce the need to typify the crime of femicide suicide by inducement or aid in the Organic Comprehensive Penal Code. The cases analyzed show how the victims, after suffering physical, psychological and sexual violence, are driven to suicide in a context of discrimination and subordination. Conclusion: The typification of this crime in the legal framework is expected to be a starting point for the implementation of public policies and the necessary legislative intervention to eradicate gender violence. It is imperative to address this problem that takes the lives of women through the induction of suicide, thus promoting a more just and egalitarian society.

Introduction

This scientific article is based on the perpetual violence against women, a fact that constitutes a scourge of Ecuadorian society, which despite the various public policies implemented and the constant work carried out by the multiple representatives of state organizations, to prevent, address, punish and eradicate gender violence and the murder of women for the fact of being women, this cannot be suppressed. The most regrettable thing is that in its extreme and irreversible version it ends with the death of the victim.

Accordingly, Ecuadorian criminal legislation, through the Comprehensive Organic Criminal Code (2014), defines the crime that most closely approximates the situation described above, which is femicide, stating that:

Any person who, as a result of power relations manifested in any type of violence, kills a woman for the fact of being a woman or for her gender condition, will be punished with a prison sentence of twenty-two to twenty-six years. (Article 141)

In parallel to the legal panorama described as femicide, we have devastating cases such as that of Paola del Rosario Guzmán Albarracín, who committed suicide on December 13, 2002, after learning that she was pregnant by the vice-chancellor of the institution where she was studying, and who had sexually abused Paola del Rosario for two consecutive years, so she decided to ingest white phosphorus or diablillos, an atrocious act that caused her death. It is also essential to bring up the case of Gabriela Díaz Cañizares, who committed suicide on April 5, 2014 due to the emotional crisis, depression and psychological affectation due to the rape carried out against her by two subjects (Mera, 2023).

From this, the question arises in a timely and precise manner: how does the impunity of cases of feminicidal suicides by induction or assistance influence in the Ecuadorian state and what impact would the specific legal classification of this crime have on justice in the Comprehensive Organic Penal Code?, knowing that in Ecuador in 2021, 1,332 deaths were due to homicides and 880 deaths were due to suicides; However, a striking fact is that, in 2021, the number of suicides among women exceeded that of homicides, resulting in 177 and 127 figures respectively (INEC, 2022).

This is why, in faithful adherence to the cases and figures mentioned above, there was an immediate need to analyze the crime of feminicidal suicide by inducement or assistance, through doctrine and comparative law, in order to propose its classification in the Comprehensive Organic Penal Code, which would truly constitute a legislative novelty in the Ecuadorian state and even in Latin America, thus establishing Ecuador as one of the few countries to classify it worldwide, following El Salvador, Chile and other countries; thus focusing this research on an exhaustive typical analysis, comparative law, doctrine and jurisprudence at an international level.

To tell the truth, once this scientific article has been developed, and when concluding the importance of the typification of feminicidal suicide within Ecuadorian legislation, the imperative importance of the rights possessed by each one of the women who live in Ecuador is evident from miles away, and exclusively those who are victims of any type of gender violence, managing to prevent the violation of the right to life, the right to personal integrity, the right to the protection of honor and dignity, the right to freedom, among other rights, at the same time that a prison sentence is imposed on those who induce or help a woman to end her life.

Theoretical framework

Gender violence

Femicide suicide does not arise as an individualistic social problem, on the contrary, it is the result of a series of gender violence phenomena, which lead to a devastating end; and this pandemic, which is the instigator of the 21st century, encompasses a multitude of behaviors, and several of them are still unnoticed by society, or at their worst, conceived as a common occurrence.

A vast example of what corresponds to gender violence is the case of suicides of women caused by the mistreatment received by their romantic partners and even by their ex-partners; therefore, as the correlation between gender violence and the suicide that occurs in women as a result of this is evident, in this section the subject will be addressed through a timeline, that is, starting with its history, conceptualization, causes and effects, to gradually delve into the imputation of criminal responsibility.

Regarding gender violence against women, it must be said that it is a phenomenon that has been present in the earthly world for decades, so the most accepted definition is the one proposed by the United Nations Organization (as cited in Francisca, 2011), which states that it is:

Any act of gender-based violence that has as a possible or actual result physical, sexual or psychological harm, including threats, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. (p. 20)

In this framework, gender violence is conceptualized as the coercion exercised on a certain person with the purpose of corrupting their will and forcing them to carry out a specific act. In this way, different lines can be adopted, such as physical, verbal, psychological, sexual, social, economic, patrimonial, etc.; representing certain types of coercion that have been exercised, to a greater or lesser extent, over time.

On the other hand, the obvious and everyday reality of gender violence is that it is a derivation of a sexist culture established in society and that occupies numerous spaces, such as education, work, sports, politics, and especially in homes, thus generating an unbreakable structure reflected through the subordination of women to men. Thus, Lagarde's (2005) argument that places gender violence seems correct:

Within the framework of patriarchal gender supremacy of men [...] as a mechanism of control, subjection, oppression, punishment and harmful aggression that in turn generates power for men and their formal and informal institutions. Patriarchal persistence cannot be sustained without the violence that we now call gender violence. (p. 16)

Based on the above, it can be deduced that the fundamental cause of gender violence is the discrimination suffered by women as a consequence of the notorious inequality established to distribute social roles, a fact that exposes a woman to perform certain functions such as gestation, tending to the kitchen, cleaning the house, washing clothes, caring for her husband and children, and enduring all kinds of violence, inhibiting her from working in order to participate in earning her own income and be able to exercise financial independence; therefore, by fostering an absolutist dependency, the probability of suffering from depression, anxiety and post-traumatic stress disorder will increase in them, which will induce in the first instance to suicide attempts to the point of perpetrating such an idea.

Femicide

However, when physical, psychological, sexual, patrimonial, financial, political, and other types of violence are sustained over a prolonged period, it has the effect of giving rise to femicide, which is conceived as a systematic expression of violence exercised against women for strictly gender-based reasons. Although the conceptualization and subsequent legal meaning is significantly new in the Ecuadorian state, its construction, use, and legal establishment is a historic feminist, academic, and institutional achievement.

From Diana Russell, the precursor of the conceptualization of femicide, to Marcela Lagarde, who spread the term in Mexico and Latin America, many authors seek to analyze the unquantifiable situation of women's deaths from a feminist and gender perspective, such that for Russell (2006), femicide represents "the misogynistic murder of women by men, which is conceived as a form of sexual violence" (p. 16). The contexts of hatred, repulsion or rejection that men externalize towards a woman have the consequence of causing their death.

Paradoxically, Russell (2006) considers that other cases beyond murders are recognized as femicide, thus maintaining that:

Femicide encompasses murder and mutilation, murder and rape [...] calling femicide misogynistic murder disambiguates the sexless terms homicide and murder [...] Femicide is the extreme end of a continuum of anti-female terror that includes a host of forms of verbal and physical abuse... whenever these forms of terrorism result in death they are femicide. (p. 56)

This gender violence exercised by men would be a way of maintaining the patriarchy and controlling women who step outside the line drawn by men, because according to the author, it is a line drawn by men in a sharp and unquestionable way. Violence in this perspective is exercised by the same men who, when they feel threatened or challenged,

typically feel they have the right to use whatever force is necessary to maintain their power over women.

On the other hand, we have the contribution provided by the renowned Mexican anthropologist, Lagarde (2005), who asserts that: “femicide is the culmination of violence against women, [...] the violence of injustice and impunity are added to homicides” (p. 151). The definition outlined by the author highlights the designation of the term femicide, once the impunity that passes through the phenomenon was visualized, as well as the state's inaction in responding to them.

From this perspective, gender violence is structural, sustained by a patriarchal gender supremacy that allows men to exercise some kind of power over women, and for this reason, at an international level several countries have recognized the crime of femicide or, in the majority, that of feminicide, after regulating it in their respective laws or penal codes.

The Ecuadorian State, for its part, in its criminal regulations called the Comprehensive Organic Criminal Code (2014), classifies the crime of femicide by providing the following:

Any person who, as a result of power relations manifested in any type of violence, kills a woman for the fact of being a woman or for her gender condition, will be punished with a prison sentence of twenty-two to twenty-six years. (Article 141)

To tell the truth, it was with the tragic case of Karina del Pozo, after the death of a twenty-year-old woman from Quito, that Ecuadorian society, tired of extremist violence directed against the female gender, sought refuge in the unforgettable law that bore her name, "Karina del Pozo Law", to later be embodied in the legal figure of femicide within the legal system, with the aim of not leaving the perpetrators of this death unpunished and at the same time seeking that the application of the criminal type be absolute and certain, which would contribute to the reduction and elimination of this social phenomenon.

It is essential to emphasize once again that the concept of femicide is not simply a new criminal offense. The origin of the concept has to do with a much broader political debate, but the legal issue, accompanied by jurisprudential precedents, gained relevance in the cases of murders carried out against Ecuadorian women, due to the particular characteristics in which hundreds of cases occurred.

However, although gender inequality puts women's safety and integrity at risk, this factor is not sufficient to prove the commission of femicide as such. Similarly, gender violence in a couple is not sufficient to prove this crime, because:

Femicide occurs when the violent death of a woman occurs due to her status as a woman or for reasons of gender, which requires proving not only intentionality in the woman's death, but also that this intention was motivated by hatred or contempt for women because they are women or for reasons of gender. If this intention and motivation cannot be proven, it is not possible to attribute responsibility for the crime of femicide. Convicting a person for the crime of femicide without the specific elements of this type of crime having been established, far from contributing to the fight against femicides, ends up making the seriousness of this crime invisible. (Judgment No. 393-17-EP/23, 2023, para. 13)

Absolutely all violent deaths of women must be addressed with a gender perspective, so that in the pre-trial and even procedural stages it is determined whether or not gender was actually the main factor that ended the life of a woman in the specific case, since only through this will it be possible to deduce the procedural truth and differentiate the crime of femicide from that of a homicide committed by a man.

Suicide

Suicide is defined by the World Health Organization (as cited in Vega, 2021), “as the deliberate act of killing oneself, which is considered a serious public health problem” (p. 108). Hence, it is understood that suicide is a premeditated act by which a subject cuts short his or her life with knowledge and expectation of a fatal outcome.

However, beyond completed suicide, suicidal behaviors occur in very diverse ways, responding to different motivations that also require different intervention pathways. Thus, the person who exhibits suicidal behavior will be subject to three vital components when carrying out an act that harms his or her life, which occur at the following levels:

a) on an emotional level, intense suffering; b) on a behavioural level, a lack of psychological resources to cope with it; and c) on a cognitive level, a deep hopelessness about the future, accompanied by the perception of death as the only way out. Therefore, suicide is not a moral problem. That is to say, those who attempt suicide are neither cowards nor brave, they are just people who suffer, who are overwhelmed by suffering and who do not have the slightest hope for the future. (Echeburúa, 2015, p. 118)

In accordance with the above quote, in the basic component of the emotional level, the person has a feeling of suffering and intense stress, and feels that his/her life is divided between dying and continuing to live; on the other hand, in the behavioral level, the passive subject has a lack of psychological resources to face his/her problems that drags on for a long period of time; and finally, in the cognitive level, it is the place in which the

person has a discouragement about things to come, and where he/she sees death as the only option to face and make the problems that overwhelm him/her disappear.

It is therefore concluded that suicide remains one of the main causes of violent deaths worldwide. According to the latest estimates from the World Health Organization (2021), and based on the statistics obtained, it is known with certainty that:

More people die each year from suicide than from HIV, malaria or breast cancer, or even from war and homicide. In 2019, more than 700 000 people died by suicide, or 1 in 100 deaths, prompting WHO to develop new guidance to help countries improve suicide prevention and care. (p.1)

Suicide rates are also high among the most vulnerable groups, such as girls, adolescents and adult women, and when they feel that life is already unbearable, either because of gender violence experienced on a long-term basis, which eats away at the psychological factor, women proceed to forge the idea that death is the only way out, and they externalize it through verbal or non-verbal means, heading towards the planning of this atrocious act, until committing suicide as such.

However, many people who commit suicide do not want to die. In fact, authors claim that there are many more suicide attempts than completed suicides. All they want is to stop suffering and that is why they can be happy not to have died once the suffering has been controlled and, at an extreme point, they have managed to suppress the tragic end that they initially conceived.

On the other hand, it is pertinent to mention that there is a link between suicide and mental disorders, particularly depression, and that in the vast majority of cases they occur in people who commit suicide impulsively in crisis situations in which their ability to cope with life's stresses, such as economic problems, relationship breakups or chronic pain and illnesses that occur in their lives, is compromised (World Health Organization, 2021).

Furthermore, living in an environment full of conflicts, catastrophes, acts of violence, abuse of power, gender violence, loss of loved ones and a feeling of isolation from those with whom one has personal attachment or esteem, can be the main factors that lead people to conceive certain suicidal behaviors and carry them out fully.

Femicide suicide

The concept of femicide suicide was coined by social psychologist and feminist activist Diana Russell in her book entitled “Femicide, a global perspective”, where she explains in detail that at the International Conference on Violence, Abuse and Women's Citizenship, held in Great Britain in 1996, several of the participants emphasized in their speeches the fact that some women committed suicide, driven to do so by the misogyny

of their male partner and in the face of this problematization, it was she who proposed the conceptualization of femicide suicide.

Thus, the term femicide suicide is described as “the social phenomenon of suicides of women who were led to take their own lives by the misogyny of their partner, or even without any relationship as a couple or family” (Russell, 2001, p. 106). Thus, femicide suicide entails an action of deprivation of life, by self-induction, attached to violence against women for reasons of gender, denoting several elements that characterize it, such as the presence of sexual crime, abuse of power, lack of family networks, and even absence of coercion from government bodies.

In parallel to the legal panorama of femicide, since the 1990s, Lagarde (2005) has observed suicide as a problem with gender traits closely related to what she called “women's captivities” (p. 762). From this perspective, men and women are directed towards different modalities, means, ages and reasons for suicide; institutionalized and transversalized by local culture. However, she referred in her first edition that:

Statistically, men complete suicide in greater numbers; however, women stand out in the parameter of attempts: “Men commit suicide in greater proportion than women, and women, on the other hand, make more suicide attempts, whose purpose is not death but salvation: out of compassion, solidarity, for absolution, for atonement, for punishment.” (Lagarde, 2005, p. 763)

Hence, logic can be found in the figures reflected in the Ecuadorian state, within the vital statistics provided by the National Institute of Statistics and Censuses (INEC), which reflect that, in 2022, 4,451 deaths were due to homicides and 1,143 deaths were due to suicides and that, of this last cause of violent death, 892 were executed by men and 251 by women (2023).

Now, it is pertinent to bring up the regulation in international regulations regarding the crime of femicide suicide, considering in this way the state of El Salvador, which, aware of the commitments it adopted in 1995 when it ratified the Convention of Belém do Pará, and of the problem represented by the suicide of women linked to gender violence, at the end of 2010 the Salvadoran legislator specified as a criminal offense femicide suicide by inducement or assistance, in a new gender criminal law, this due to the fact that the data that were counted on suicides of women were alarming in the country, especially in young people and adolescent women, since in 2009, around 476 adolescent women committed suicide.

The aforementioned Latin American country is the world's pioneer in recognizing and classifying the crime of femicide suicide, after an unwavering struggle by the women who made their own the pain of the victims who lost their lives, and who, to tell the truth, at

first their complaints were not taken, and if at best they were entered, the accompaniment in the investigation was not consistent, making clear the negligence of the institutions in charge, as well as the lack of state action; However, over the years, when it became evident that the figures that justified a close relationship between suicides and the abuse and violence suffered by women before taking their lives, were innumerable and were going unpunished, they decided to incorporate it into the Penal Code through a legal reform.

Comparative law

The crime of feminicidal suicide by inducement or assistance has been regulated by certain countries worldwide, with El Salvador and Chile being the pioneers in the American continent and even in the international field, who have classified it as a basic criminal figure in their regulations, in response to the social problem of suicide committed by women linked to gender violence.

For its part, the State of El Salvador, through Decree No. 520, after issuing the Special Comprehensive Law for a Life Free of Violence for Women (2011), recognized the crime of femicide suicide by inducement or assistance, providing that:

Anyone who induces a woman to commit suicide or assists her in committing suicide, using any of the following circumstances, shall be punished with imprisonment of five to seven years:

- a) That it is preceded by any of the types or forms of violence contemplated in this law or in any other law.
- b) That the accused has taken advantage of any risk situation or physical or mental condition in which the victim may have found himself, due to the use of any of the types or forms of violence contemplated in this or any other law.
- c) That the inducer has taken advantage of the superiority generated by the pre-existing or existing relationships between him and the victim (art. 48).

The Salvadoran penal regulations establish two governing verbs for the perfection of the crime under study, constituting the initial verb to induce and in a secondary level to help the woman to consummate the act of attempting against her life, whose acts coming from the active subject are closely related to three modalities of violence, such as community violence, which is perpetrated by acts and omissions of individual or collective agents that infringe the fundamental rights of women, giving rise to symbolic violence; in another field there is institutional violence that falls on the actions by any public or private servant that hinder the use and enjoyment of the rights of women, perfecting in such a way a violence of an economic nature, and omissions; and finally the modality of labor

violence that is developed in the work centers, reflected through physical, psychological and emotional violence.

At the same time, the State of Chile has recognized the crime of femicide suicide, after the promulgation of Law No. 21,523 (2022) or better known as the Antonia Law, which "modifies various legal bodies to improve procedural guarantees, protect the rights of victims of sexual crimes, and prevent their re-victimization" (header), providing for several modifications to the Penal Code (1874), and which in its relevant part provides the following:

Anyone who, on the occasion of previous acts constituting gender violence, committed by the latter against the victim, causes the suicide of a woman, will be punished with a maximum degree of minor imprisonment or a minimum degree of major imprisonment as the perpetrator of femicide suicide.

Gender violence shall be understood as any action or omission based on gender, which causes death, harm or physical, sexual or psychological suffering to women, wherever this occurs, especially those circumstances established in article 390 ter. (art. 390)

Undoubtedly, the Antonia Law enacted in recent years has provided the Chilean state with essential guidelines to protect the rights of women, victims of gender violence that results in their death, and who in most cases, when resorting to ordinary justice, were humiliated and even re-victimized, a fact that is not foreign to the Ecuadorian reality.

The crime of femicide suicide prescribes as a governing verb the causing of the death of a woman, in strict compliance with gender violence, assuming that the active subject of this crime is the man, and who perfects it due to various circumstances, such as the refusal by the female to enter into a relationship of a sexual or sentimental nature, the consequence of the female having exercised some type of occupation in the sexual field, such as prostitution. Likewise, the crime under study fits after the commission of a rape, or misogyny due to the sexual orientation or gender identity of the victim, as well as due to a perpetratable subordination of power relations between the aggressor and the victim (female).

For its part, the Republic of Ecuador recognizes a criminal figure that is very similar to the crime of femicide suicide classified by Latin countries and cited above, recognizing in this way in the Comprehensive Organic Criminal Code (2014) the figure of instigation to suicide, in whose criminal norm it is provided that:

Any person who induces or directs, by means of threats, advice, specific orders, challenges, or any type of verbal, physical, digital or electronic communication, a person to cause harm to himself or herself or end his or her life, provided that it is

demonstrable that such influence was a determining factor in the harmful result, shall be punished with imprisonment for one to three years. (Art. 154.1)

Ecuadorian criminal regulations only punish the conduct of instigation to suicide, this as of 2019 after a reform to the legal text, whose nature of the crime lies in the perpetration of acts that endanger the protected legal asset such as life or personal integrity, either through severe injuries or even the consummation of the same leading to the death of the passive agent, all this due to the persevering incitement or suggestion of the active subject, entailing a countless number of psychological and social factors, which contribute to the consummation of the atrocious act.

The instigation to suicide by establishing the life of the suicide as a legal asset, demands interdisciplinary work, both from the constitutional as well as from the criminal law, strictly because the Constitution of the Republic of Ecuador (2008) recognizes and guarantees the "right to the inviolability of life" (Art. 66, num. 1), establishing the duty of the State to establish mechanisms for the prevention and eradication of this behavior in society.

On the other hand, the presence of the active subject of the crime is required, who must have legal capacity to carry out the typical, unlawful and culpable conduct, which induces or directs the passive subject to act injuriously against himself, with the control of the event being in his hands, thus constituting itself in an autonomous criminal type. Hence, several doctrinal scholars analyze the instigation to suicide from a perspective of co-authorship.

Now, from the field in which the passive subject operates as such, which could well be of the female or male gender, this in accordance with the global approach to the typification of instigation to suicide, the psychological factor will be the main source of analysis in this type of crime, being essential the practice of a psychological autopsy, performed by a forensic psychologist expert, accredited by the Council of the Judiciary, since said expert evidence allows to know the historical reality of the facts, thus being that:

Psychological autopsy is a technique used when there is doubt between the hypotheses of accident, suicide or homicide and seeks to reconstruct the behavioral style of the deceased, by evaluating several aspects: (i) whether the person had a motive to commit suicide; (ii) their vulnerabilities; and (iii) the study of their personality based on a retrospective evaluation of their life. (Digna Ochoa and Family v. Mexico Case, 2021, para. 126)

The expertise that responds to the psychological autopsy has as its sole objective the assessment of the mental state of the passive subject at the time of the execution of the

act, since suicide is part of a group of violent deaths, and therefore it becomes essential to rule out whether it is in fact a homicide disguised as suicide or whether the victim actually ended his own life. In addition, it is imperative that this expertise be carried out since it constitutes an auxiliary means for the judge to issue his decision in accordance with the conclusions reached within the report, which will be closely related to the historical truth of the facts.

Cases of femicide suicide in Ecuador

In this section, we will discuss some of the most controversial cases in the Ecuadorian state where the consummation of a crime of feminicidal suicide is evident and which, because this legal figure is not classified within the legal system, have been resolved through a legal figure with greater proximity and, in the worst of cases, several have gone unpunished. Thus, in order to exemplify cases associated with this crime, we resort to narratives that have been constructed through reports in the media, interviews with family members and friends of the victims, jurisprudence and analogy of international media cases.

The first controversial case is that of a teenager named Paola del Rosario Guzmán Albarracín, who, while studying at the Dr. Miguel Martínez Serrano Technical College of Commerce and Administration, and at only sixteen years of age, decided to end her life on December 13, 2002. This event caused great commotion among her classmates, friends, and of course her family, who were divided in pain and indignation at what had happened, because:

[...] from the age of 14 she was abused by the school's vice-principal, a man of almost 60 years of age, who relied on the silence of teachers, doctors, parents, as well as state authorities, to abuse not only Paola, but also other girls at the school. After two years of sexual and psychological abuse, Paola, who felt "in love" with her exploiter, decided to ingest white phosphorus to end her life. (Palomo, 2021, p. 247)

At the beginning of the 21st century, violence against women and girls within the educational framework was of great dimension, even more so within the Ecuadorian environment, where girls and adolescents were located in the first lines to become victims of their teachers and administrative authorities, due to the macho culture that prevailed at that time, calling them "typical aggressors" (Palomo, 2021, p. 248), as reflected in the case of Paola Guzmán Albarracín, who at the instigation of an educational authority of the institution in which she studied, she maintained relations with him, in order to have a certain type of benefit in her school performance; and the degree of dominance that the aggressor exercised over the victim under study was imperative, to the point of exercising total subjection that would result in the suicide of the female.

Curiously and advantageously, the victim left three letters before her death. “The text of two of them (one in draft), were addressed to the Vice-Chancellor, expressing that she felt “deceived” by him, who had “had” other women, so she decided to take poison because she could not bear “so many things she suffered” (Palomo, 2021, p. 249). From this it follows that Paola was not the only victim of that aggressor, but on the contrary, it was only through this case that the Vice-Chancellor was stripped of a position poorly performed against the students. Thus Moreno (2014) confirms that:

Gender-based violence linked to school has effects on poor performance, irregular attendance, school dropout, absenteeism and low self-esteem. Violence can also have implications for physical or psychological health and can have serious long-lasting effects. (p. 9)

The consecutive acts of sexual violence carried out against Paola Guzmán Albarracín were reflected in her suicide after eating the little devils, and as a consequence of the high degree of suffering she endured, mostly psychological, affecting her rights in such a way, such as the right to life and personal integrity of the woman. In this way, the Inter-American Court of Human Rights (Case Guzmán Albarracín et al. v. Ecuador, 2020) held that:

[...] The suicidal behaviour showed the extent to which the psychological suffering was severe. The direct attacks on the girl’s rights and the institutional tolerance of them generated obvious harmful consequences for her. The situation of violence indicated, therefore, implied an infringement of Paola Guzmán Albarracín’s right to a dignified existence, which was closely linked to the suicidal act she committed. (paragraph 257)

In parallel, the case of Ms. Gabriela Díaz Cañizares, who committed suicide on April 5, 2014, is a faithful example of the violence exercised against women, thus disturbing their emotional and psychological stability, thereby degenerating their integral development, as well as their freedom and security. In truth, this event occurred due to:

[...] the emotional crisis, depression and psychological impact that she suffered when she was raped by Mr. Iván Rivadeneira and Mr. Fausto Saavedra on July 22, 2013, in the evening, when they were in a meeting at Mr. Saavedra's home, located on Princesa Toa and Condorazo streets, in the city of Riobamba-Ecuador. (Pino, 2023, p. 28)

The unfortunate media case of Gaby Díaz was aired through a public action, since it was directed by the crimes of attack against modesty, rape and statutory rape, where the woman, unable to bear all the trauma as a result of the physical and emotional affectation that she carried upon herself due to the acts committed against her, decided to end her

life, crystallizing a feminicidal suicide, where the conduct of the active subjects and that of the victim are visualized, however, at that time and until now, the criminal type that adapts such conduct has not been typified in Ecuadorian criminal legislation, in order to punish the perpetrators according to the circumstances.

The Criminal Court based in the Riobamba canton, in its written sentence, considered that they caused a post-traumatic stress disorder and included an analogy between the condition generated in the victim and the fear factors supported by the World Health Organization (WHO), to the point of concluding the following symptoms:

1. Gabriela Díaz's fear of losing her life, for her physical and emotional integrity.
2. Permanent fear of re-victimization, due to acute depressive symptoms, which caused the depression to increase.
3. Re-experimentation, which is the manifestation of all the symptoms such as irritability, sweating, dizziness, changes in character, all of this generates post-traumatic stress with a picture of moderate anxiety with risks, that is, with suicidal thoughts, which led her to make a decision. According to the data collected, post-traumatic stress occurs due to a case of extreme sexual violence, which affects her emotionally to the point of entering a degree of fear for her physical integrity and fear of strange factors [...]. (Attack on modesty, rape and statutory rape, 2015, p. 24)

The traumatic experience that Gabriela Díaz lived plunged her into an acute depression as explained in the preceding paragraph, who from the beginning feared for her safety, and how could she not do so, if she was raped by two subjects who, according to her mother's versions, were known to be former schoolmates. On the other hand, within the case in which the case of the female in question was aired,

[...] a psychological autopsy was carried out in court, which covers the psychological and social aspects. The accredited specialists said that this case has all the symptoms of a case of rape, and that it also involves a case of gender violence, and that as a result of the assault, she suffered post-traumatic stress, according to the professionals who were able to indicate that what she said and the emotional state she was presenting were consistent with a crime of sexual abuse. (Attack on modesty, rape and statutory rape, 2015, p. 50)

Curiously, the Criminal Guarantees Court based in the canton of Riobamba found the defendants Iván Vinicio Rivadeneira Luna and Fausto José Saavedra Cuadrado guilty of the crime of rape, which at the time the imputable act was classified in Art. 512, numeral 2 of the Penal Code, currently repealed. This sentence has been greatly analyzed in undergraduate and graduate degree work, since the death of the female as such was never considered as a result of violence to the right to sexual freedom, going so far as to consider that "the principle of proportionality and legal certainty of the defendants was violated"

(Pino, 2023, p. 28), because "the illicit conduct of the perpetrator of the transgression must be proportional to the legal asset affected and the culpability with which the perpetrator acted" (Case of the La Rochela Massacre v. Colombia, 2007).

Methodology

The research was based on a solid qualitative approach, which included an exhaustive bibliographic review and a solid theoretical foundation. This phase required a detailed study of the background, generalities, meaning and interpretation of the crime of femicidal suicide by inducement or assistance. A high-level descriptive approach was adopted, which allowed for the identification of relevant criteria from authors and doctrinaires who are experts on the subject, as well as for the analysis of specific cases in which Ecuadorian women were instigated by their aggressors to the point of deliberately making the decision to end their lives.

The methods used were mainly inductive-deductive, starting from particular ideas to reach general conclusions. Multiple reliable sources related to authors who defend the existence of the crime of femicidal suicide by induction or assistance were used. In addition, the analytical-synthetic method was applied to break down and synthesize the information collected from the interviews conducted with experts. To complement the analysis, the comparative method was used, which allowed comparing the international legislation that criminalizes the crime of femicidal suicide by induction or assistance in El Salvador and the crime of femicidal suicide in Chile, establishing similarities and differences with Ecuadorian legislation as a contribution to this study.

Regarding the techniques used, a documentary review and interviews were carried out. The instruments used were the registration and the questionnaire, considered ideal for the purposes of this research. The main objective was to gather information that would allow the evaluation of the need to classify the crime of femicide suicide by inducement or assistance in the Comprehensive Organic Criminal Code of Ecuador, based on legal precedents and thus enriching the legal debate in the country.

Results

This scientific article was based on interviews with three participants, who were two judges from the Multi-Competent Judicial Unit based in Gualaquiza – San Juan Bosco canton, Morona Santiago province, and the Public Prosecutor of the same canton. The activities were carried out in the natural environments of the institutions in which they work, and who were previously informed of the terms of the research and the informed consent, so that it could be accepted and answered by the participants.

1. How would you describe the crime of femicide suicide by inducement or assistance?

Judge 1.- Suicide is understood as a way of causing harm to oneself by taking one's own life, and the term "femicide" comes from the word "female" and refers to crimes in which exclusively a person of the female gender is identified as the victim, and the induction or assistance is suggesting something to someone or helping someone do something, so it would be deduced that the crime of "femicide suicide" by induction or assistance involves the death of a woman because someone invites her to kill herself or incites her through words, acts or in turn helps her to perfect her death.

Judge 2.- It is essential to make a distinction between two things that are already established in the Comprehensive Organic Criminal Code, the instigation to suicide and harassment, because it is quite subjective to determine whether a woman's suicide was caused by instigation by her partner, which should be related to gender violence, or on the contrary, whether a woman was harassed to the point of taking her own life, which makes it very complex to define said crime as such.

Prosecutor.- The crime of suicide-femicide is not defined in Ecuadorian criminal law, but it could be considered as the intentional act by a person who creates an environment of violence to instigate a woman to commit suicide; however, Art. 154.1 of the Comprehensive Organic Criminal Code defines the instigation to suicide, whose causal link converges in that a person induces or directs another to cause harm to himself or herself or to take his or her own life; a crime that is quite similar to the one mentioned at the beginning, with the difference that the legislator never made an explicit relationship to women as victims, so the possibility that the legislator can create a specific and autonomous criminal type regarding suicide-femicide would not be diminished.

2. What legal challenges does the Ecuadorian state face in the face of gender violence that results in the death of women?

Judge 1.- The Ecuadorian state has a great debt with its population, because at the international level there is always an attempt to fight against femicide, but Ecuador has not been able to counteract this type of crime that has to do with women, so it could be said that the challenges are of great magnitude since it should implement a policy that combats femicide at its roots, whether because someone kills a woman or because someone induces a woman to commit suicide.

Judge 2.- I consider that in order to determine whether a femicide suicide has been committed, it is not a question of whether it is classified in the Comprehensive Organic Criminal Code, but on the contrary, this would be proven through a forensic autopsy study in which a multidisciplinary team participates, including psychologists, psychiatrists, doctors, among other professionals, with the aim of determining the existence of a causal link between the suicide of a woman and the responsibility of her partner or ex-partner,

which to tell the truth, I consider impossible because the penal system is insufficient to determine this type of conduct.

Prosecutor: There are many challenges, starting from public policies as well as from the point of view of the classification of a crime with an explicit context such as femicide suicide. With regard to public policies, we would talk about those for crime prevention and protection of people who find themselves in a cycle of violence, and policies regarding the punishment of certain acts that constitute gender violence.

With regard to the crime of femicide suicide, it is difficult to understand it as an autonomous and specific criminal type, for the simple reason that the death of the woman motivated by certain oppressive behaviors on the part of the partner or ex-partner is not the result that the person who is oppressing would have been looking for, because, when one seeks to punish a person from a criminal point of view, he or she is normally punished for the acts that he or she wanted to cause, not for the acts that were caused unintentionally, thus creating the space for a preterintentional homicide.

3. How can the Ecuadorian state help eliminate the stigma associated with gender-based violence that ends the lives of women?

Judge 1.- One of the first ways out is education from the first years of school, where we should work on gender equality and conditions, as well as addressing the issue of sexuality between men and women, delving into the area of biology, denoting the difference exclusively in the biological aspect of each man and woman; however, constituting ourselves as people, we all have the same rights and obligations. Logically, certain things differentiate us, such as studies, economic position, culture, etc., but that is no impediment to respecting others.

Judge 2.- It should be noted that gender-based violence has a greater presence in rural and indigenous communities, and this regrettable fact is due to the lack of policies for the prevention of gender-based violence, to such an extent that in most cases where protective measures are issued in favor of women, the perpetrators have become victims, since women who have been subjected to violence are discriminated against by their partners, using colloquial terms such as "Ah, you reported me, now you're not going to have anything to eat," so it would be considered appropriate that when granting protective measures, these should be accompanied by their own means of subsistence, because as long as they continue to be economically dependent on their perpetrators, they will have to endure any type of violence, which in the long run would lead to a possible suicide of the victims.

Prosecutor. - Society has given way to certain deep-rooted thoughts, which lead to the belief that certain roles are assigned to certain people based on their gender, as well as

certain behaviors, which would lead to one of the main causes of gender violence, which is why it would be necessary to work on education from the early school classrooms in children, girls, adolescents, in order to uproot these causes from their intellectual canons. This would lead to generating an understanding from their most intimate conscience in these subjects, that people are born equal and that therefore all are holders of rights, only in this way could devastating cases such as feminicides and suicides by instigation be avoided.

4. Do you consider it necessary to criminalize the legal figure of feminicidal suicide by inducement or assistance in Ecuadorian criminal legislation? Why?

Judge 1.- Yes, it could be considered for a legal reform, in order to classify the crime with its respective governing verbs and thus comply with international parameters regarding the defense of the female gender; however, we must be aware that if we are going to establish a criminal type, we must have the pertinent and precise tools for it to be effective, that is, for it to reach a happy sentence, because it would be useless to have multiple criminal types if they are not applied properly.

Judge 2.- I personally believe that classifying the crime of femicide suicide by induction or assistance would be a dead letter, because the Ecuadorian state is not prepared to provide the technical and legal tools to determine that a woman committed suicide by such chance, which would lead to an impossible fact, since we are talking about the subjectivity of a person who dies, because it would have to be demonstrated that the responsibility of the active subject in this fact, which should be typical, illegal and culpable, since suicide in itself is a conduct exercised by the suicidal person, and it should be proven that in effect her partner or ex-partner instigated or helped her to consummate it.

At the same time, I would like to comment on an experience that concerns a marriage, where the husband was having an extramarital affair and, after his wife found out, she proceeded to complain to him; however, the husband cynically told her that “if she did not agree with him having a lover, she should commit suicide like her daughters.” This fact was not brought to court as such because the woman accepted the relationship and decided to continue with her marriage; however, a case of induced suicide by femicide could have been perfected here, since the husband suggested that she end her life.

Prosecutor: I do not consider the classification of this criminal figure to be transcendental, since the crime of instigation to suicide is already regulated, so working on and developing a specific criminal type for feminicidal suicide by induction or assistance would not help to eliminate gender violence. On the contrary, I maintain that creating a criminal type linked to the crime of psychological violence, developed in Art. 157 of the Comprehensive Organic Criminal Code, would be positive, in the sense that, if

psychological violence has caused the death of the woman, in the form of suicide, demonstrating that the conduct of the alleged aggressor and the causal link to the result are present, it should be considered with the same seriousness as femicide.

5. How can the judicial system improve its response to crimes of induced or assisted femicide suicide?

Judge 1.- The judicial function could improve the treatment of these crimes, thus specializing judges at a national level, since in the same canton of Gualaquiza there are multi-competent judges who know multiple cases of all subjects, forcing them to study and train themselves to resolve in a correct manner according to the Law, since if the judge specializes, the judge deepens his knowledge of gender violence or femicidal suicide, he will have a much more specific view to resolve cases of this nature.

Judge 2.- The most essential thing that the judicial system must do is to provide all the mechanisms and personnel, in each of the public institutions, such as doctors, psychologists, social workers, to deal with emergencies in cases that involve violence against women, since the Ecuadorian reality and exclusively that of Gualaquiza is devastating, to such an extent that this Multi-Competent Judicial Unit does not have a multidisciplinary team, made up of a doctor, psychologist, social worker and other professionals who should intervene in cases of domestic violence.

This is the case of a psychologist, who plays a fundamental role in verifying the degree of affectation suffered by a woman, whether mild, severe, moderate or whether the affectation suffered could lead to suicide, because we as judges have to base our decision on real facts, duly verified, with the certainty and security of the facts.

Prosecutor. - I would like to point out that if it were to be developed, the positive thing would be to incorporate it as one of the types of psychological violence. In this case, first of all, it would be up to the agencies in charge of investigating this type of crime to have trained personnel to carry out the essential expert procedures, which in this case would be fundamental, as it is a complex investigative technique and one that very few professionals specializing in forensic psychology can undertake.

In this way, it is necessary that the Attorney General's Office adopt public policies in accordance with the effective investigation of everything related to this type of situation, because as it happens today, when a woman commits suicide, no type of investigation is carried out, since it is quickly assumed that no crime was involved, leaving the possible connection between psychological violence and the suicidal decision of that woman forgotten.

Analysis and interpretation of results

From the interviews carried out, it can be stated that the crime of feminicidal suicide by inducement or assistance exclusively protects the life of the woman, as long as she is under any of the circumstances of domestic violence, that is, either the partner or ex-partner, after causing constant psychological, physical, economic, sexual, among other violence, to the woman, suggesting that she cause harm to herself, attacking her personal integrity, or in its most extreme point, he helps her to perfect said atrocious act, with the purpose of the woman committing suicide.

In the face of the constant deaths of women, it would be necessary to consider the implementation of public policies to prevent femicides and femicide suicides, protection against domestic violence, rigorous punishment for acts of gender violence, and strict consideration of the classification of new legal figures that regulate criminally punishable acts.

Beyond the policies that the Ecuadorian State could very well implement to counteract all types of gender violence, its first duty would be to seek its eradication, which would be possible through a rigorous education, where equality of conditions between the female and male genders would be instilled, thus preventing the development of sexist behavior, forms of discrimination, "stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination" (Belém do Pará Convention, 1994), in order to allow the use and enjoyment of the rights that protect the human being, fully recognized by the Constitution of the Republic of Ecuador and international treaties.

With regard strictly to the consideration of a possible classification of the legal figure of femicide suicide by induction or assistance, a division of positions is perceived, since from one angle the regulation of said crime is considered pertinent, but with the rigor of establishing its governing verbs in a clear and concise manner, which to tell the truth, would have to be the instigation and assistance to the female, which would be encouraged by the active subject, who radically would be a man, to attempt against her life and personal integrity.

On the other hand, there is the refusal to regulate a new criminal figure, due to the simple fact that the Ecuadorian State is not able to carry out said punishable act, since it requires an accurate implementation of technical and legal instruments to determine the responsibility of the active subject and thus confirm a favorable sentence for the victim. In addition, a criminal figure closely related to the crime of feminicidal suicide by induction or assistance is considered to already exist, such as the instigation to suicide, which is contemplated in Art. 154, numeral 1 of the Comprehensive Organic Criminal Code.

However, what the legislator could consider is the development of a third section within the crime of psychological violence stipulated in Art. 157 of the Comprehensive Organic Criminal Code, where reference would be made to this type of violence in its maximum expression that produces the death of the woman, thus understanding it as a preterintentional homicide.

In this line of thought, the function of the judicial system is evident, which is essential in the face of the constant suicides of women by inducement or assistance, since for many decades the specialization of judges in many cantons of the country has been ignored, requiring them to administer justice as one of their imperative duties, lacking specialization in certain matters, since only in this way would the person in charge of the case have the appropriate preparation to resolve specific cases. Additionally, the implementation of mechanisms and a professional community specialized in various sciences would be required.

Conclusions

- The concept of induced or assisted femicide suicide represents a significant innovation worldwide, emerging at the beginning of the 21st century as a response to the tragic reality of women who, as victims of gender violence, go so far as to take their own lives. Feminist activists, upon seeing this problem, sought to conceptualize it in order to urge states at an international level to criminalize it, with the primary objective of protecting women's lives and punishing those, mainly men, who exert a negative influence that leads the victim to suicide, whether through physical or psychological violence.
- At the international level, two countries have stood out for being pioneers in the classification of this crime in their criminal legislation. El Salvador, through the enactment of the Special Comprehensive Law for a Life Free of Violence for Women in 2011, recognized femicide suicide by inducement or assistance as a crime. For its part, Chile incorporated the crime of femicide suicide in Law No. 21,523, known as the Antonia Law, enacted in 2022. These advances reflect the state's will to counteract the influence of the aggressor on the victim, whether through oppressive words or actions, that lead them to suicide.
- In the Ecuadorian context, there have been devastating cases such as that of Paola del Rosario Guzmán Albarracín and Gabriela Díaz, who were victims of sexual and psychological violence that culminated in suicide. This is evidence of the negligence of public institutions and the lack of state action in protecting these women. Judges have pointed out the lack of mechanisms and specialized personnel to address these cases, urging the need for a legal reform that classifies the crime of feminicidal suicide by inducement or assistance in the Comprehensive Organic Criminal Code. This reform is in line with the provisions

of international treaties, which seek to protect the integrity and right to life of women.

Conflict of interest

There is no conflict of interest in relation to the submitted article.

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