

This summary contains the cover page, the synthesis and the extract of a decision of Mexico's Supreme Court of Justice. Changes were made to its original text to facilitate the reading of the extract. This document has informative purposes, and therefore it is not binding.

**INVESTIGATION WITH GENDER PERSPECTIVE AND VICTIMS' RIGHTS  
(*INVESTIGACIÓN CON PERSPECTIVA DE GÉNERO Y DERECHOS DE LAS VÍCTIMAS*)**

**CASE:** *Amparo en Revisión* 1284/2015

**REPORTING JUDGE:** Alfredo Gutiérrez Ortiz Mena

**DECISION ISSUED BY:** First Chamber of Mexico's Supreme Court of Justice

**DATE OF DECISION:** November 13, 2019

**KEY WORDS:** right to truth, right to access to justice, right to reparation, victims' rights, investigation with gender perspective, judicial guarantees, participation of victims in criminal proceedings, femicide, gender-based violence.

**CITATION OF THE DECISION:** Supreme Court of Justice of the Nation, *Amparo en Revisión* 1284/2015, First Chamber, Alfredo Gutiérrez Ortiz Mena, J., decision of November 13, 2019, Mexico.

The full text of the decision can be consulted at the following link:

[https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emblematicas/sentencia/2020-12/AR%201284-2015\\_0.pdf](https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emblematicas/sentencia/2020-12/AR%201284-2015_0.pdf)

**SUGGESTED CITATION FOR THIS DOCUMENT:** Human Rights Office of Mexico's Supreme Court of Justice, *Extract of the Amparo en Revisión 1284/2015*, Mexico.

## SUMMARY OF THE *AMPARO EN REVISIÓN* 1284/2015

**BACKGROUND:** On October 28, 2012, KCPL was working when she suffered a fall that caused serious injuries. KCPL was transferred to a state hospital where she died the next day due to the large amount of blood she had lost. KCPL's mother and brother reported it as a possible femicide to the public prosecutor's office of San Luis Potosi. During the investigation, they were not recognized as victims, nor were they allowed to offer evidence; for this reason they file an *juicio de amparo indirecto*, which had the effect of allowing them to have access to the previous investigation. Subsequently, the public prosecutor's office brought criminal charges and the judge who heard the case issued an arrest warrant against KCPL's employer for the crime of culpable homicide. The victims brought a second *juicio de amparo* against this determination because the context of gender-based violence suffered by KCPL was not taken into consideration, nor did they take into account that the body showed signs of sexual violence and defensive wounds in one arm, among other considerations; which if taken into account, the authority would have determined that it was femicide and not culpable homicide. A district judge in San Luis Potosi determined not to rule in favor of the victims, for which they filed a *recurso de revision*, which this Court decided to exercise its authority assert jurisdiction.

**ISSUE PRESENTED TO THE COURT:** Determining whether the actions of the prosecuting authority in the investigation of the violent death of KCPL met constitutional and conventional standards for gender-based violence and the obligations derived from the access of victims to justice.

**HOLDING:** The *amparo* was granted essentially for the following reasons. This Court considered that the district judge should have studied the omissions of the public prosecutor's office in its investigative work, as they are impossible to repair and transcend the rights of the victims. It considered that the victims' right to access to justice was infringed as they were not recognized as victims; which would have enabled them to act actively in the investigation and in the criminal proceedings; they would also have been allowed to challenge the determinations made by the public prosecutor's office. Moreover, it considered that the right to truth of the victims was

infringed by not allowing them to participate in the investigation and ignoring elements that might have led the investigation to a different result; in this sense, the evidence they wished to present was critical for the clarification of the truth. Finally, the Court determined that the public prosecutor's office did not conduct a gender-sensitive investigation, mainly because it did not take into account the particular circumstance of gender-based violence under which KCPL lived in her workplace and dismissed it as a cause of death; for not following protocols in the face of possible femicide; and for not taking into account KCPL's injuries, which were not, in themselves, the result of an accident.

**VOTE:** The First Chamber unanimously decided this case by four votes of judges Luis María Aguilar Morales, Jorge Mario Pardo Rebolledo (reserved the right to a concurring opinion), Alfredo Gutiérrez Ortiz Mena, and Juan Luis González Alcántara Carrancá (reserved the right to a concurring opinion). Judge Norma Lucía Piña Hernández was absent.

The votes can be consulted at the following link:

<https://www2.scjn.gob.mx/ConsultaTematica/PaginasPub/DetallePub.aspx?AsuntoID=189134>

## EXTRACT OF THE *AMPARO EN REVISIÓN* 1284/2015

- p. 1 Mexico City. First Chamber of Mexico's Supreme Court of Justice (this Court), in session of November 13, 2019, issues the following decision.

### BACKGROUND

- p. 1-2 From the court records, it is known that KCPL worked as a hostess in a bar in San Luis Potosi. On October 28, 2012, at approximately 03:00 hours, KCPL was working there when her coworkers heard a glass-breaking-like noise in the office of the manager, *Ricardo*. The coworkers found a broken glass door and the victim on the ground bleeding to death, so they called the emergency services. On October 29, 2012, at approximately 01:15 hours, KCPL died from an artery and femoral vein injury that caused a hypovolemic shock.
- p. 2-3 On November 5, 2012, the agent of the public prosecutor's office launched an investigation into the crime of murder and ordered all necessary measures to clarify the facts.
- p. 3 During the preliminary investigation, on November 9, 2012, the victim's mother and brother (the victims) requested the public prosecutor to be recognized as interveners.
- On January 18, 2013, the victims filed a *juicio de amparo indirecto* against the public prosecutor's office for the reluctance to agree to various filings, the opposition to their consultation of the documentation of the preliminary investigation and the refusal to issue them certified copies of it.
- p. 4 A district judge in San Luis Potosi granted the *amparo* ordering the public prosecutor's office to respond to the requests made by the victims and to give them access to the investigation record and issue copies of the documentation.
- Following the investigation, on August 20, 2013, the public prosecutor's office filed criminal charges against *Ricardo* as presumed guilty of the crime of culpable homicide and

requested an arrest warrant. On September 5, 2013, the presiding judge ordered pretrial detention of *Ricardo*.

p. 5-10 On October 17, 2013, the victims filed a *demanda de amparo* against the public prosecutor's office and the Criminal Judge for: failure to recognize them as victims, informing them of the rights conferred to them by the Constitution; refusal to allow their lawyer to access and consult the investigation, especially to be present in any evidentiary procedure; refusal to interrogate witnesses, paramedics and doctors who attended KCPL, the prosecution police officers who conducted the criminal investigation, and *Ricardo*, even though he was considered the prime suspect; the non-admission and presentation of evidence from inspection of the scene; refusal to offer the forensic chemical test "luminol"; failure to keep the chain-of-custody of garments and footwear worn by KCPL; failure to conduct the requested tests in scene criminalistics; detriment to their right to know the truth; lack of effective, serious and impartial investigation into the clarification of deeds; failure to initiate a line of inquiry that considered sexual assault and labor harassment; failure to follow national and international protocols on the investigation of violent deaths of women; among others. A district judge in San Luis Potosi admitted and registered the *demanda de amparo*.

p. 12-13 On February 20, 2014, a decision was issued in which the *juicio de amparo* was dismissed, constitutional protection was denied and finally, the *amparo* was granted. Dissatisfied with the decision, the victims filed a *recurso de revision*. The district judge ordered the case to be referred to a collegiate circuit court, where it was admitted for processing on May 20, 2014.

p 13 The victims requested that this Court exercise its authority to assert jurisdiction. On July 1, 2015 it was decided to exercise it and on October 29, 2015 the filing of the case was ordered.

### **STUDY OF THE DISMISSAL DECLARED BY THE DISTRICT JUDGE**

p. 38 The district judge declared the *amparo indirecto* proceeding to be inappropriate. He considered that the omissions attributed to the public prosecutor during the investigation

and its failure to act with due diligence and gender perspective constituted violations of procedural rights, and that the way to appeal against omissions classified as procedural violations was the *amparo directo*.

p. 39 The district judge also determined that the victim's legitimacy to resort to the *amparo* is limited to situations where an acquittal decision is challenged or to the determination that releases the accused, provided his rights had not been respected. That an *amparo* against those acts is only appropriate when the victim has not been provided with legal advice or when s/he has not been informed of the rights to which s/he is entitled in each procedural instance; also, when s/he is not allowed to present information and evidence available to him or her, either in the investigation or during the proceedings and that s/he is not allowed to intervene in court. Moreover, he considered that, while it has been understood that procedural violations may also be the subject of an *amparo indirecto*, this only benefits the accused and not necessarily the victim, who may challenge them only if they transcend the outcome of the decision.

This Court does not agree that failure to investigate with due diligence and gender perspective the death of a person belonging to a historically disadvantaged group on the basis of sex-gender (in the case of a woman) is a mere procedural violation that does not involve the breach of substantive rights. As the victims argue, the conducting of a stereotypical – possibly discriminatory – negligent or careless investigation seriously compromises the rights of direct or indirect victims to access to justice, to the truth and to non-discrimination. All these rights are constitutional, the violation of which can be analyzed on their merits by constitutional judges, who can assign them the restoration consequences that may correspond to them regardless of their significance to the outcome of the final decision in the process.

p. 46-47 This Court considers that, in this case, transcendent and impossible-to-repair violations are claimed. Indeed, the lack of effective investigation may involve an act of impossible reparation which would leave victims in a state of defenselessness. It would be wrong to dismiss *a priori* and not to study the merits of cases questioning investigations related to

the death of a woman taking place under conditions that make it plausible that it was the result of acts of gender-based violence.

- p. 47-48 It is indisputable that an investigation conducted without meeting the standards of due diligence and without meeting the enhanced obligations arising from international standards on gender-based violence, and in particular the violent death of a woman, will inevitably determine the results of the criminal process, and compromise the rights of victims to truth, justice and reparation.
- p. 48 If the shortcomings of the investigation were not remedied in a timely manner, it would be hard to obtain a conviction— if appropriate – based on the evidence entered and presented to the criminal proceedings on the basis of the discretion of the public prosecutor’s office and with the intention to sustain and prove a factual scenario that is clearly removed from the claim for justice of the direct and indirect victims.
- p. 48-51 Therefore, this Court considers that the acts challenged warrant a background study which can be carried out under an *amparo indirecto*. Therefore, the judge's determination to deny the *amparo indirecto* is incorrect, and it must revoke the dismissal issued by the district judge in respect to these acts that occurred during the preliminary investigation and carry out a thorough study of: a) failure to acknowledge the complainants as victims; b) failure to notify family members of the determinations made during the investigation; c) failure to allow the victims to participate in the investigation; d) failure to investigate the death of KCPL effectively and with a gender perspective; and e) the August 20, 2013 determination of the public prosecutor’s office to bring criminal charges for the crime of culpable homicide, as well as the failure to notify the victims. From the criminal judge who heard the criminal case, the formal indictment for culpable homicide.

## **STUDY OF THE MERITS**

### **I. The victims’ right to access to justice**

- p. 51 All people enjoy the right to access to justice, which includes the right to due process, judicial safeguards, and effective judicial protection. In the case of victims, the fulfilment of these rights guarantees – in turn – their crucial rights to truth, justice, and reparation.
- p. 52 The right of access to justice is also a complex right that can be studied in three dimensions. From a formal point of view, it implies the universalist consecration of law and unrestricted entry into courts and other institutional means for the defense of rights. In its substantive aspect, it refers to the protective content of decisions on legitimate claims. Finally, a structural understanding examines the social and economic context that determines whether a court or other institutional means of defense can be used, and the form, conditions, and consequences of that. This three-dimensional conception requires looking at the inequalities that exist in the country and how they affect the processes of deduction of legitimate claims.

From this perspective, it would not be sufficient to obtain just *any* response from the legal system, but such response must be the product of a thorough and impartial investigation, where the guarantees of due process are unrestrictedly respected, and where the claims of justice of the victims have been admitted and are sufficiently considered within the institutional framework, particularly at the stage that gives them a greater possibility of interaction: the investigation. Finally, it will be the public prosecutor's office that more specifically represents their aspirations for justice and their interests in the successive stages of the process; nevertheless, the current legal order gives victims the most active role.

- p. 52-53 Gender-based violence is considered a violation of human rights. As such, it activates the specific duties of preventing, investigating, sanctioning, and repairing, qualified by the standard of due diligence, which requires careful behavior in the face of these violations. On the basis of due diligence, States should reasonably prevent them, investigate them thoroughly, sanction them proportionately and repair them fully. In a context where gender-based violence seems doomed to impunity, constitutionally supervising that investigations into the deaths of women presumably occurring in situations of gender-



based violence are conducted with due diligence involves reviewing whether the authorities have fully complied with the constitutional duty and have satisfied – within their competencies – access to justice in its three dimensions.

- p. 53-56 The rights of victims of crime have been progressively expanded to recognize their right to some degree of participation in criminal proceedings. The rights of defense in favor of the victim and those offended by the crime include, among others, the right to be informed of the rights established by the Constitution and, at their request, of the development of criminal proceedings, to contribute to the public prosecutor's office and to provide evidence, both in the preliminary investigation and in the process, to have the appropriate procedures taken, as well as to intervene in the trial and to file for the remedies in the terms provided for in the law. For this reason, if the victim has constitutionally recognized rights from the stage of the preliminary investigation, they must of course be respected at the time of assignment of the criminal case before the judge.
- p. 57 This Court understands that the investigation of a possibly wrongful event is a crucial time for victims and their claims for justice: if an investigation is conducted with a defect and there is no effective and available remedy for victims to assert their objections to that flawed conduct, these claims and aspirations would be thwarted. Undoubtedly, the public prosecutor office system can make the determinations conferred on it by the Constitution and in exercising its persecutory monopoly, which does not mean that they are not reviewable – especially when the person challenging them is the victim.
- p. 59 If it is understood that the primary relationship in the proceedings before the criminal court is between the accused and the State, the claims for justice of the victims become particularly relevant during the investigative phase, where the evidence that will substantiate and sustain the punitive claim in criminal proceedings is gathered. This Court understands that the participation of victims – especially in the investigation stage – does not create an intolerable tension with the rights of the accused. The presumption of innocence and due process are the institutional guarantee of the right to truth of the victims.

- p. 59-60 In this case, this Court notes that the victims were prevented from actively participating in the investigation, they were not informed of the procedural status of the evidence gathered nor of the procedures carried out for the corresponding indictment and the public prosecutor's office failed to gather evidence or carry out procedures that would actually clarify the facts.
- p. 60 Indeed, the victims were not notified of the procedures carried out, among them the assignment notice which solidified the State's punitive claim and motivated the choice of evidence made available to the judge, who – based on that – issued an arrest warrant and issued an indictment for the crime of culpable homicide.
- p. 60-61 Based on the documentation that makes up the preliminary investigation, there is no proceeding in which they have been recognized as victims, nor that they would have been informed of the rights that – therefore – they are entitled to. They sought to provide means of proof and requested procedures to present evidence to clarify the facts. However, the public prosecutor's office not only did not accept the evidence offered but it did not notify the victims of other procedures during the investigation – in which the accused himself even participated. Thus, the ministerial authority denied the victims the right to participate in the investigation.
- p. 61 Nor is it seen that the public prosecutor's office had reported on the progress of the investigation in a clear, precise, and timely manner to the victims. Although the first *amparo indirecto* granted them constitutional protection to provide them access to the investigation and copies of the file, the victim's relatives had access to the file almost one year after the events occurred and six months after the sentence was issued. At that time, the victims found that their requests had not been met and that the public prosecutor's office had already brought criminal charges for the crime of culpable homicide without notifying them. Therefore, the victims did not have the opportunity to object to this determination.

This Court can say that the lack of information not only prevented the intervention of the victims during the investigation stage, but – given the irregular and inadequate actions by

the public prosecutor's office – it left them in a state of defenselessness, which constituted an obstacle to the satisfaction of the fundamental rights they are entitled to.

## II. Truth and investigation

- p. 62 Gender-based violence is a violation of human rights and therefore it triggers specific duties, which include its diligent, thorough, prompt, and impartial investigation. This investigation and its results encompass the right to truth of the victims. The claim to find the "truth" in judicial proceedings is an essential component of the validity and legitimacy of justice. The right to truth is also a form of reparation.
- p. 64-65 Victims of human rights violations have the right to an effective remedy that implements their right to truth. The right to an effective remedy includes the right to an effective investigation and to the verification of facts. The truth will consist, more than anything, of the delivery of a corresponding account with the facts, sufficiently proven and arising from a thorough and diligently conducted investigation. The truth is not just any version; explanations for facts inconsistent with available evidence or the product of an arbitrary selection or interpretation of them do not satisfy the right to truth.
- p. 65 In this case, the victims claimed – among other things – the failure of the public prosecutor in charge of the preliminary investigation to recognize them as victims. As a result, their direct and active intervention and participation was not allowed during the investigative phase.
- p. 68 In resolving the *Amparo en Revision 554/2013*, this Court said that the efficient determination of truth, within the framework of the obligation to investigate a death, must be shown, with all accuracy, from the first procedures. Thus, the assessment of the opportunity and officiousness of the investigation should be made both in the urgent acts and in the development of a methodological plan or program of investigation.
- p. 68-69 This Court notes that inconsistencies and omissions existed in the investigation of death. Once the prosecutorial authority became aware of the facts through the call of one of the doctors who attended KCPL at Hospital Central, the crime scene was not preserved. The prosecutorial authority did not arrive at the site of the events until 18:30 hours on October

29, 2012; that is, almost 40 hours after the occurrence of the events. This delay could lead to the scene of the crime being altered and, consequently, valuable information for the investigation being lost, as there was no timely testimony from the witnesses and suspects involved.

- p. 69 On November 6, the public prosecutor in charge of the investigation went to the place of business where she noted that where the events had occurred had already been cleaned or washed and that only a few traces of blood and hair remained. It was not until that moment that the property was secured. Thus, it was impossible for the experts to carry out the relevant proceedings at the site of the events that would help to clarify what happened, as well as the motives that caused the death.
- p. 69-70 On April 11, 2013, the agent of the public prosecutor's office went to the property to carry out other procedures; however, she noticed that the seals that had been placed had been manipulated. Thus, the failure of the public prosecutor's office to timely and adequately preserve the place where the events occurred led to its contamination.
- p. 70-71 Failure to comply with the chain of custody prevented procedures necessary to clarify what happened: the victim's belongings – her clothing, footwear, and cell phone – were not collected by investigating authorities. Instead, it was the victim's relatives who were responsible for safeguarding and presenting them. Consequently, the expert concluded that it was impossible to study them because the garments could not be evaluated, given their advanced state of decomposition.
- p. 71 Furthermore, even though the forensic medical experts were unable to determine the causes of the injuries, the public prosecutor concluded, without any justification, that they had not been caused with the intervention of anyone or by using physical violence. The experts simply pointed out that they may have been caused while the victim received medical attention. As for the rest of the injuries – those presented by KPL since she arrived at the hospital and reported by doctors – it was not possible to determine the mechanism that caused them.

- p. 71-72 The public prosecutor's office built a story according to which she lost her life as a result of an accident. It considered that there were a number of risk factors – bad lighting, an uneven floor with low visibility, material that was not non-slip, a common glass at risk of breaking with an impact, and the type of shoes she wore that day; among others. It considered that several of them were attributable to her employer, *Ricardo*, who, despite the foreseeable risks, did not comply with the regulations to ensure the safety of his employees. This determination, in this Court's view, rules out – without sufficient justification – the possible existence of an attack, despite evidence of multiple injuries.
- p. 72 This means that the authorities failed to meet their procedural obligations in the investigation. Both the prosecutorial authority and the police officers responsible for the investigation of the events, as well as the experts, carried out various tests and procedures without notifying the victims. They also failed to admit evidence and carry out procedures that would have allowed them to determine that the assaults suffered by the victim did not necessarily correspond to an accident.
- p. 72-73 The right to truth is related to the investigation because that is where the construction of a story begins, which will culminate with the definitive explanation of a harmful event. This account may be erected as reparation to the extent that the event is given its specific and actual weight. This will not happen in the case if the investigation is not corrected and victims are not allowed timely knowledge of the results of that investigation so they can challenge the conclusion of the public prosecutor's office; question the validity and adequacy of the evidence it took into consideration in deciding how it was done; know how the evidentiary material gathered during the preliminary investigation supports the conclusion reached and how this can be disputed; analyze how the lack of conducting a gender-sensitive investigative process conditioned the assessment of evidence and lines of inquiry; assess the degree of completeness of the investigation and the extent to which the evidence they offered – having been admitted and presented – would have been efficient in substantiating a different factual hypothesis.

### **III. Gender-sensitive research**

- p. 74 In *Amparo en Revision 554/2013*, this Court set – based on the right of women to a life free from violence and discrimination – the minimum standards that an investigation must meet for the violent death of a woman to consider that it has been carried out with due diligence and gender perspective.
- p. 77-78 The gender perspective makes it possible to illuminate the differentiated social assignment of roles and tasks by virtue of the binary attribution of sexual identity; reveals the differences in opportunities and rights that follow this attribution; demonstrates the power relations originated in these differences; and demonstrates how the combination of these levels creates a context of systematic oppression that marginalizes women – and other groups of the sexual diversity spectrum – culturally, socially, economically and politically. An indubitable expression of this oppression is gender-based violence.
- p. 80 Every case of death of women, including those that *prima facie* would appear to have been caused by criminal motives, suicide and certain accidents, should be analyzed with a gender perspective, to rule out gender reasons in the death and to finally determine its motivation. In this regard, this Court considered that the investigating authorities should explore all possible investigative lines in order to determine the historical truth of what happened. There this Court pointed out that the intention to find the truth, within the framework of the obligation to investigate a death, must be shown, with all acuciousness, from the first proceedings.
- p. 81-83 Thus, in the *Amparo en Revision 554/2013*, this Court alluded to different investigative protocols that set out the technical requirements for the effective investigation of gender-based violence, particularly femicide. Based on them, it was established that the authorities investigating a violent death should at least attempt to: i) identify the victim; ii) protect the crime scene; iii) recover, preserve and not unnecessarily destroy or alter evidentiary material; iv) thoroughly investigate the crime scene; v) identify potential witnesses and obtain statements; vi) perform autopsies by competent professionals and using the most appropriate procedures; vii) determine the cause, form, place and time of death, and any pattern or practice that may have caused the death.

- p.83-84 Conduct that caused the death must be identified and the presence of gender motives or reasons for that conduct ruled out or verified. During the investigation, specific evidence on sexual violence should also be gathered and preserved and relevant expert analysis be conducted to rule out that the victim was immersed in a context of violence. In this sense, any gender-discriminatory connotations in an act of violence perpetrated against a woman should be investigated ex officio, where that act is framed in a context of violence against women in a particular geographical demarcation or social environment or in an individual relationship or situation involving disadvantage or subordination of any kind, as in the case where there was a relationship from job supra-subordination and where the fatal wound was produced right in the space where that supra-subordination was dominant, not only because it occurs in the workplace, but specifically in the management offices.
- p. 84 Despite the indications pointed out in this regard, the authorities simply ruled out that KCPL's death was due to gender-based violence. These omissions constitute a violation of the constitutional and conventional obligations of the authorities indicated as responsible. The lack of diligence and gender perspective in investigating caused the prosecutorial authority to conclude uncritically that she died as a result of an accident, despite the presence of evidence – which was not assessed for the assignment – that made the existence of acts of sexual violence presumable.
- p. 85 Biological blood samples and vaginal exudate were taken; however, there is no indication that their analysis had been given follow-up, even though the victims requested it.
- p. 85-87 In her first statement to the public prosecutor's office, KCPL's mother reported that her daughter had been the victim of femicide. She informed the public prosecutor about the harassment that KCPL suffered from her employer; she stated that *Ricardo* insisted on not paying KCPL her salary in the workplace and during working hours like the rest of her fellow hostesses. She also pointed out that he went several times to the other place where KCPL worked and requested that she be the one to serve him. She then claimed that the doctors who attended her at the hospital told them that KCPL's injuries were unlikely to

result from an accident. Finally, she argued that one of the doctors who carried out the necropsy told her about lesions on KCPL's genitalia. There is no doubt that the people in the immediate family environment of KCPL could provide specific details about her employment relationship, and the violence in it; which information should have been adequately and sufficiently considered and analyzed, since there was at least an acceptable indicative basis.

p. 87 The above evidence was sufficient to order the necessary procedures to confirm – or rule out – the hypothesis of a gender-based crime. The district judge should therefore have ordered the prosecutorial authorities to assess or supplement the evidence in an investigation by which the mistakes made were remedied; to conduct and ensure a diligent, thorough, impartial, and gender-sensitive investigation into the death, which occurred under conditions that may well reveal deliberate conduct – not accidental events – and the existence of gender motives in such conduct; and to eventually exercise a criminal action for the crime resulting from an investigation conducted by the standards developed by this Court in *Amparo in Revision 554/2013*.

p. 87-88 It should be kept in mind that this Court, when it decided the *Amparo en Revision 554/2013* stated that impunity sends the message that violence against women is tolerated, which favors its perpetuation and the social acceptance of this phenomenon, and the feeling and sense of insecurity of women. Moreover, state inaction and indifference to allegations of gender-based violence reproduce the violence that is supposed to be challenged and implies discrimination in the right to access to justice.

#### **IV. Conclusions**

p. 88-89 There were violations of the fundamental rights of victims from the beginning of the investigation, as they were prevented from actively participating; they were not informed of the procedural status of the evidence gathered, nor of the steps that were taken to carry out the assignment; and the ministerial authority failed to gather evidence or carry out the procedures that would enable it to clarify the cause of death in a satisfactory and well-founded manner. With these actions, the rights to access to justice, truth, and a life free



from discrimination and gender-based violence were not respected. The investigation concluded with a weak accusatory hypothesis and with low conformity to the aspirations for justice, produced by an investigation that was not conducted with a gender perspective, despite evidence that required incursion into a line of inquiry related to gender-based violence. The district judge should have invalidated the assignment and ordered the authorities to take all necessary steps to supplement their investigation in an exhaustive, impartial, and gender-sensitive manner, with the participation of the victims.

- p. 91 While the resolution of this case seeks to address the violations committed during the investigation, its effect extends to society at large, since in addition to initiating the procedures necessary to sanction administratively or even criminally the authorities involved for their irregular activity, the reinstatement of the investigation is ordered seeking to deter the authorities from carrying out investigations without submitting to constitutional provisions.

### **DECISION**

- p. 91-92 In conclusion, it is appropriate to grant protection to the victims, first of all to invalidate the assignment of August 20, 2013. The public prosecutor's office is ordered to take all necessary measures to investigate, with a gender perspective, the death of KCPL, in compliance with the guidelines developed in this ruling. In the development of the investigation, the public prosecutor's office shall notify and inform the victims of the progress in the investigation and the carrying out of procedures in order to enable their direct intervention. Finally, the public prosecutor's office shall exercise a criminal action for a crime that addresses the circumstances of gender-based violence in which KCPL was immersed.