

EXCERPTS FROM FINAL DECISION
Jessica Lenahan (Gonzales) v. United States
Inter-American Commission on Human Rights
Final decision published August 2011

In Jessica Lenahan's (formerly Gonzales) human rights petition against the United States, the Inter-American Commission on Human Rights decided in favor of Jessica and her three daughters, finding that:

“Gender-based violence is one of the most extreme and pervasive forms of discrimination, severely impairing and nullifying the enforcement of women's rights.” (¶ 110)

“The systemic failure of the United States to offer a coordinated and effective response to protect Jessica Lenahan and her daughters from domestic violence, constituted an act of discrimination, a breach of their obligation not to discriminate, and a violation of their right to equality before the law under Article II of the American Declaration [on the Rights and Duties of Man].” (¶ 170)

This is the first time the United States has been held accountable under international law for violating the human rights of a domestic violence survivor. The United States is obligated to provide a response to the Commission's decision, delineating the steps it will take to address the Commission's specific findings and recommendations.

Some of the Commission's specific findings note that:

- “Even though the State recognized the necessity to protect Jessica Lenahan and Leslie, Katheryn and Rebecca Gonzales from domestic violence, it failed to meet this duty with due diligence,” which constituted discrimination and a human rights violation. (¶ 160)
- This failure was a result of a “fragmented, uncoordinated and unprepared” response to the children's disappearance by local police, lack of adequate training on the dynamics of domestic violence, and the absence of protocols and/or directives to instruct the police in responding. (¶ 150)
- “These systemic failures are particularly serious since they took place in a context where there has been a historical problem with the enforcement of protection orders; a problem that has disproportionately affected women – especially those pertaining to ethnic and racial minorities and to low-income groups – since they constitute the majority of the restraining order holders.” (¶ 161)
- Restraining orders provide critical protection for victims of domestic violence, but are only effective if they are diligently enforced.
- “When a State issues a protection order, this has safety implications for the women who requested the protection order, her children and her family members. Restraining orders may aggravate the problem of separation violence, resulting in reprisals from the aggressor directed towards the woman and her children, a problem which increases the

need of victims to receive legal protection from the State after an order of this kind has been issued.” (¶ 166)

- Police mistreatment, such as the insensitive response Jessica received to her pleas for help, “results in a mistrust that the State structure can really protect women and girl-children from harm, which reproduces the social tolerance toward these acts.” (¶ 167)
- The United States has not sufficiently implemented laws and programs to ensure that law enforcement officials in all states and localities are trained and given directives on how to appropriately respond to domestic violence and enforce protection orders.
- “State inaction towards cases of violence against women fosters an environment of impunity and promotes the repetition of violence ‘since society sees no evidence of willingness by the State, as the representative of the society, to take effective action to sanction such acts.’” (¶ 168)

The Commission’s decision concludes with its recommendations that the United States (¶ 215):

1. “Undertake a serious, impartial and exhaustive investigation with the objective of ascertaining the case, time and place of the deaths of Leslie, Katheryn, and Rebecca Gonzales.”
2. “Conduct a serious, impartial and exhaustive investigation into systemic failures that took place related to the enforcement of Jessica Lenahan’s protection order as a guarantee of their non-repetition, including performing an inquiry to determine the responsibilities of public officials for violating state and/or federal laws, and holding those responsible accountable.”
3. “Offer full reparations to Jessica Lenahan.”
4. Adopt and/or reform legislation at the federal and state levels that will 1) “mak[e] mandatory the enforcement of protection orders and other precautionary measures to protect women from imminent acts of violence, and to create effective implementation mechanisms,” and 2) include “protection measures for children in the context of domestic violence.”
5. “These measures should be accompanied by adequate resources destined to foster their implementation; regulations to ensure their enforcement; training programs for the law enforcement and justice system officials who will participate in their execution; and the design of model protocols and directives that can be followed by police departments throughout the country.”
6. “Continue adopting public policies and institutional programs aimed at restructuring the stereotypes of domestic violence victims, and to promote the eradication of discriminatory socio-cultural patterns that impede women and children’s full protection from domestic violence acts, including programs to train public officials in all branches of the administration of justice and police, and comprehensive prevention programs.”
7. “Design protocols at the federal and state levels specifying the proper components of the investigation by law enforcement officials of a report of missing children in the context of a report of a restraining order violation.”